

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF FEBRUARY 4, 2020 JOINT CITY & COUNTY PLANNING MEETING

The Brookings City Planning Commission and the Brookings County Planning & Zoning Commission met in a Joint Session on Tuesday, February 4, 2020. Brookings City Planning Commission members present were: Ashley Biggar, Gregg Jorgenson, Jacob Mills, Lee Ann Pierce, Eric Rasmussen, and City Chairperson Tanner Aiken. Absent City members were James Drew, Jason Meusburger, and Greg Fargen. Brookings County Planning Commission members present were: Chair Kimberly Elenkiwich, Tom Davis, Darrell Nelson, Darrel Kleinjan, Randy Jensen, Terrell Spence, Chad Ford, alternate County Commissioner Angela Boersma, and alternate board members Roger Erickson and Spencar Diedrich. Absent County members were Mike Bartley and Michael McHugh. Also present were City Planner Staci Bungard, Community Development Director Mike Struck, County Development Director Robert W. Hill, County Development Deputy Director Richard Haugen and from First District Association of Local Governments Payton Schafers and Senior Planner Luke Muller.

CALL TO ORDER

Chair Tanner Aiken called the meeting to order at 6:30 PM.

APPROVAL OF MINUTES FROM JANUARY 7, 2020 BROOKINGS CITY PLANNING COMMISSION AND BROOKINGS COUNTY PLANNING & ZONING COMMISSION JOINT MEETING.

(Rasmussen/Biggar) Motion by the City Planning Commission to approve the Joint Meeting Minutes. All present voted aye. **MOTION CARRIED.**

(Ford/Boersma) Motion by the County Planning Commission to approve the Joint Meeting Minutes. All present voted aye. **MOTION CARRIED.**

APPROVAL OF AGENDA

(Jorgenson/Rasmussen) Motion by the City Planning Commission to approve the agenda. All present voted aye. **MOTION CARRIED.**

(Davis/Spence) Motion by the County Planning Commission to approve the agenda. All present voted aye. **MOTION CARRIED.**

DISCUSSION AND REVIEW ON UPDATING JOINT JURISDICTION ZONING ORDINANCE DRAFT – WITH FIRST DISTRICT.

Luke Muller with First District Association of Local Governments discussed and reviewed with the boards the draft of the Aquifer Protection District section of the Joint Jurisdiction Ordinance. Muller presented board members with: 1) a chart regarding the Wellhead Protection Uses Allowed in: Existing County and JJO and Proposed JJO. 2) Map 17 Brookings County Land Use Plan Aquifer Protection Districts. Muller then went over a map of the Aquifer Protection District noting two zones contained in the district. Identifying those zones as: 1) the Shallow Aquifer mapped by DENR and areas identified on the First Occurrence Map USGS (identified were sand or gravel or aquifer being

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materials within 50 feet of the surface) 2) Wellhead Protection District – Zone A: Area where the immediate source of water for the city of Brookings is located and the area that is more heavily regulated. Discussion began with Rasmussen noting he would be proposing an amendment at the appropriate time under **Section 3.06.01. Purpose:** to have a distinction between Zone A & B pointed out. And addition of #5 regarding if there was action that would require notice to anybody in Zone A required by any other statute or Ordinance that notice would also have to be given to the city of Brookings & the city of Aurora. Struck clarified that this would apply when someone was applying for an item such as: variance, conditional use, rezoning, or appeal. Elenkiwich asked county board members for thoughts. Board members present were in agreement.

Muller then reference Zone B (remainder of the mapped shallow surficial aquifer not included in Zone A). He discussed confusion on how to administer in both Zone A & B. Identifying in the past that prohibited use language was confusing and he wanted to eliminate confusion. Noting in order to do this in this district, if not listed, not allowed, the place prohibited uses are listed was where it may be allowed in another district/under lying district. He also noted changes had been made to clean up things that had been under uses. City and County both were in agreement with changes that appeared in the draft under Zone B.

Muller then discussed the sheet charting the Existing County Wellhead Protection Uses Allowed, Existing JJO Wellhead Protection Uses Allowed and the Proposed JJO Wellhead Protection Uses Allowed. He described what was ultimately being proposed under the JJO Wellhead Protection Uses Allowed was for no structures except for signs or pumphouses. There would be no permitted uses, no allowance of building permits for structures of any kind such as a house, addition, shed, deck or garage except for signs and pumphouses. He next discussed the proposed conditional uses – Public utility and public service, Orchards and tree farms, Reconstruction of structures existing upon adoption if replaced within 1 year of destruction. Elenkiwich wanted to clarify that on the conditional use side, nothing would be able to be built, no new structures in the area. Noting: 1) If someone wanted to add on a deck, put up a grain bin, add on an addition they would not be allowed to. 2) Reconstruction of structures if not done within one (1) year, structure could not be rebuilt and also a conditional use would be required to rebuild if within the one (1) year. Rasmussen asked for the number of homes this would effect. Muller estimated there were 35 structures and about 28 of those being houses. Davis inquired if structures would be grandfathered in. Muller noted that in order for the structure(s) to be replaced, they would need a conditional use permit to be at least applied for within one (1) year of coming down or they could apply ahead of taking them down but they would need some sort of a permit in order to rebuild. During continued discussion items of interest were: 1) allowing for rebuilding without requiring a conditional use. 2) Possibility of allowance of a one-time allowance of an addition of any type onto the primary structure (living quarters/house) up to 25% of the original structures square footage. 3) Allowance of one (1) septic system per lot, no longer allowing a second on lot and possible amendment for no new septic systems in Zone A (3.06.06.1) 4) Timeline allowance to apply to rebuild/replace in the event of a natural disaster, fire, etc. 5) requiring a conditional use permit and it doesn't pass, who would buy as not a buildable site now, how is this to be handled.

Muller asked board members if reconstruction of structure and expansion up to 25% of existing/principle structure – was a permitted use or a conditional use. Aiken asked for City board responses. Those that felt a Conditional Use Permit would be required were: Aiken, Rasmussen and Permitted Use was: Pierce. Rasmussen identified that a new board would hear. Mills noted he agreed with what both Rasmussen and Pierce noted in discussion. Due to time constraints Struck asked board members to review and those on the County Board to get comments to Richard or Bob and on the city side to Struck or Bungard. The information would be shared with Muller with the possibility that all answers would be received and the next meeting could start with another topic or else the next meeting would start with Wellhead Protection topic and progress thru to finish the Aquifer Protection District by the end of the March meeting.

ADJOURN

City Chairperson Aiken and County Chairperson Elenkiwich adjourned the meeting at 7:28 PM.

Rae Lynn Maher
Brookings County
Development Department

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF FEBRUARY 4, 2020 REGULAR PLANNING & ZONING MEETING

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, February 4, 2020 with the following members present: Chair Kimberly Elenkiwich, Tom Davis, Darrell Nelson, Darrel Kleinjan, Terrell Spence, Randy Jensen, Chad Ford, alternate County Commissioner Angela Boersma and alternate board members Roger Erickson and Spencar Diedrich. Absent were: Michael McHugh and County Commissioner Mike Bartley. Also present were: Deputy Director Richard Haugen, County Development Director/Emergency Manager Robert Hill, Senior Planner Luke Muller and Payton Schafers from First District.

CALL TO ORDER

Chair Elenkiwich called the meeting to order at 7:38 PM.

APPROVAL OF MINUTES

(Ford/Nelson) Motion to approve the January 7, 2020 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

Davis items 2020cu001, 2020cu002, 2020cu006 & 2020cu007.

APPROVAL OF AGENDA

(Ford/Kleinjan) Motion to approve the agenda for the February 4, 2020 Meeting. All present voted aye. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY PLANNING & ZONING COMMISSION

CONSIDERATION OF PLATS

2020PLAT002

For property described as "Plat of Lot 10 in Block 1 in Paradise Point Addition in Govt. Lot 2, Section 22, T112N, R47W of the 5th P.M., Brookings County, South Dakota." Submitted by Lake Dreams, LLC. Plat of a lake front lot that contains 40,687 square feet. Preliminary Plat for Paradise Point had been approved by the board on August 7, 2007.

(Kleinjan/Nelson) Motion to approve the plat. All present voted aye. **MOTION CARRIED.**

2020PLAT003

For property described as “Plat of Lots 1A & 2A of Goodfellow Addition in the N1/2 of the NE1/4 of Section 18, T111N, R51W of the 5th P.M., Brookings County, South Dakota.” Submitted by Vance Goodfellow. Plat to vacate and replat Lots 1 & 2 of Goodfellow Addition of “Plats of Lots 1 & 2 of Goodfellow Addition and Lot 1 of Myrth Williamson Trust Addition” (platted on December 15, 2015) into Lots 1A & 2A for a property line adjustment. Lot 1A - 35.5 acres, a buildable lot for a residence. Lot 2A - 5 acres, existing homestead with a house and outbuildings.

(Ford/Boersma) Motion to approve the plat. All present voted aye. **MOTION CARRIED.**

2020PLAT004

For property described as “Plat of Lots 1 and 2 of Converse Addition in the SE1/4 of Section 6, T111N, R52W of the 5th P.M., Brookings County, South Dakota.” Submitted by Gordon Converse. Plat to divide existing building site and farmland. Lot 1- 34 acres, existing building site with access off 203rd St. Lot 2 – 126 acres, farmland with access off 455th Ave.

(Boersma/Nelson) Motion to approve the plat. All present voted aye. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT

Davis recused himself Diedrich took seat.

2020CU001

Application by Thomas A Davis for a conditional use. Article 11: Section 11.01: “A” Agricultural District, Conditional Use # 4: “Sand, gravel or quarry operation, mineral exploration and extraction”. The property is described as: “E1/2 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4 of Section 4, T110N, R48W (Alton Township)”.

(Ford/Spence) Motion to remove from the table.

DISCUSSION: Chair Elenkiwich reminded those in attendance that the public hearing for the mining permit (2020cu001) had been held at prior meeting (January 7, 2020). Chair Elenkiwich called Tom Davis and Tom Sterzinger forward to provide information on road agreements from Sherman and Alton Townships, road construction costs and alternate haul route. Davis gave an update using a plat book map to show locations of: mining site, hill that he proposed to cut down in grade, the proposed private haul road and location of wetlands. He noted if the board required the private haul road, he would not pursue the permit. He then presented a haul route map using 480th Avenue. Trucks will enter and exit the pit on 480th Avenue for 1.5 miles to 207th Street. The sharp angle of the service road will prevent trucks from entering from the south or exiting to the south. A signed road agreement with Sherman Township, and signed road agreement with Sherman Township that noted upgrade to road (lower approximate 7% grade hill to be 4% or less grade) were also displayed and reviewed. Davis had not received word on a road agreement with Alton Township.

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Chair Elenkiwich clarified that Davis would not be building a private road across his land to the east, the haul route would head north on 480th Avenue for 1.5 miles to 207th Street (County gravel road #8) of which ½ mile was in Alton Township & 1 mile was in Sherman Township. She called a member of the Sherman Township board and Alton Township board forward to answer questions. Craig Haber, Supervisor for Sherman Township came forward. He stated, "From a board stand point we need gravel, we realize road right now is a poor road, but their agreement is to rebuild it. We have had problems with the hill forever and if it gets cut down it will be a benefit to us." Brett Knutson, Supervisor for Alton Township came forward. Mr. Knutson noted the township board was waiting with road agreement until after the vote and decision of the Zoning Commission. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: 6-Aye, 3-Nay. **MOTION CARRIED.**

2020CU002

Application by Thomas A. Davis for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 5A: Rock Crushers. The property is described as: "E1/2 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4 of Section 4, T110N, R48W (Alton Township)".

(Ford/Boersma) Motion to remove from table the Conditional Use. All present voted aye. **MOTION CARRIED.**

(Erickson/Kleinjan) Motion to approve Conditional Use.

STAFF REPORT: Applicant is requesting a Conditional Use Permit # 5A to process mined gravel with Tom Sterzinger from Taunton, Minnesota as the crushing operator. Report given noted the operator's site plan, business plan, hours of operation, and reclamation plan.

PUBLIC HEARING: Applicant Tom Davis noted that Richard had summarized it well. Using visuals Davis then clarified for those present the area that would be mined, location of clay and location of a 5 barb wire fence to keep cattle out of proposed pit location.

Proponents: Keith Rounds, Andrew Austreim, Mike Erickson, and Mark Hayes spoke for the permit. They noted need for a new source of quality material that can be crushed for road beds, etc. as the supply available from current pits in the area was being exhausted.

Opponents: Board members had been given 14 comments that were received via letter, email or phone by the office prior to the meeting. All comments had been placed online and filed. Those present that spoke in opposition were: Mary Bowne, Lawrence Wipf, Aaron Bowne, Dale Bowne, and Bruce Westley. Concerns voiced: 1) Negative effect on family – concern for the safety of children and adults that live along and use the roads. 2) Concerned with trucks heading south onto 480th Avenue 3) Hauling before or after the

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hours of the planned hours of operation. 4) 45 degree angle of access/exit road would not prevent trucks from going south.

DISCUSSION: Jensen noted item under discussion was for just the crushing permit and asked for clarification from the operator: 1) Approximate number of days per year crushing would occur on site (10-12 days/year)? 2) Approximate tonnage being 130,000-140,000 tons? 3) Time period when crushing would occur. 4) Direction operator would use when bringing in crushing equipment. 5) Plans to crush concrete or asphalt.

Sterzinger and Davis answered: 1) Crushing would be up to 20 days per year. 2) Probably 70,000-80,000 tons per year, depending what the need is. 3) In the spring to start off with. 4) Equipment would be hauled in from the North. 5) No plans to crush concrete or asphalt at this time, if applicant wants to in the future he would come to the board to get permission.

Boersma had administrative question regarding recourse, if there was non-compliance by the applicant. Hill noted if it was in Findings of Facts the office would investigate, take to the States Attorney's office and he would be advised. In some cases the permit would be withdrawn by the office and in some cases when there was a state permit it could also be revoked by the state. There would be recourse if the pit was not in compliance. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: 5-Aye, 4-Nay. **MOTION FAILED.**

Davis returned to the Commission.

2020VAR001

Application for VanderWal Farms, Inc. by Scott VanderWal for a variance. Article 11.00: Section 11.01 "A" Agricultural District: Area Regulation # 2: Front Yard: The minimum depth of the front yard shall be one hundred (100) feet. A corner lot will have two front yards. The property is described as: "E 586' of the N 1056' of the NE1/4 SE1/4; Exc N 1 Rod, the E 285' of the N 270', and Outlot 1; but to include S 121.2' of N 1177.2' of E 300' of NE1/4 SE1/4 Exc S 61' of the N 1177.2' of the W 68' of the E 300', thereof, all in Section 15, T110N, R51W (Volga Township)" ~ located at 619 N. Samara Ave., Volga, SD 57071.

(Boersma/Nelson) Motion to approve the Variance request.

STAFF REPORT: Applicant is seeking a variance of 95 feet, required setback is 150 feet from the center of the road. The applicant wants to locate two grain bins on the site, one of which will be 55 feet from the center of Samara Ave (County Rd #5 – blacktop road). Report given noted limited space on the established building site as well as a natural gas pipeline and sub-station being located on the property.

PUBLIC HEARING: Applicant Scott VanderWal representing VanderWal Farms, Inc. informed those present they were planning to build 2 bins asking for about 60 feet from the center of the road and keeping in line with the existing bunker silo. Reason for the

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location, limited available space on the farm site, and space would allow for semi-trucks and an auger that was needed.

Proponents: None.

Opponents: None.

DISCUSSION: Davis asked if snow drifting would be an issue. Hill noted that the highway department had been informed of the request and had no issues or concerns. Nelson inquired as to how bins were loaded. VanderWal described loading and unloading of the bins with use of: long auger, double conveyor between the 2 bins and loading to occur between the 2 bins using a truck auger. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: All present voted aye. **MOTION CARRIED.**

Davis recused himself Diedrich took seat.

2020CU006

Application by Lawrence Rogge for a conditional use. Article 11: Section 11.01: "A" Agricultural District, Conditional Use # 4: "Sand, gravel or quarry operation, mineral exploration and extraction". The property is described as: "NW1/4 of Section 8, T111N, R47W (Lake Hendricks Township)".

(Boersma/Ford) Motion to approve the Conditional Use.

STAFF REPORT: Applicant is requesting a Conditional Use Permit # 4 to mine gravel on a site for a period of 5 years and has a 5 year lease agreement with the land owner. Report given noted office had received site plan, hours of operation, dust control and reclamation plan. Roads to be used were 485th Avenue and SD Highway 30. East Dakota Water Development District had reviewed the application and documents. Applicant presented board with signed road agreement from Lake Hendricks Township, and intent to mine mining permit, items were put on file.

PUBLIC HEARING: Applicant Lawrence Rogge informed those present the proposed pit was to be used for providing material for the wind tower project that would be south of Hendricks.

Proponents: Rolland Peirce identified himself as the landowner and was for the permit.

Opponents: No opponents in attendance. Haugen read comment received Jan. 21, 2020 via phone call from Vernelle Clayton. Comment had been placed online and filed.

DISCUSSION: Jensen asked for clarification on proposed usage, if long term and if state highway had any issue with approach location. Rogge noted the proposed pit was mainly to be used this year for hauling of the majority of gravel for the wind turbine project. The operation would calm down and other townships may come to the pit for

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product the other years. State Highway department was ok with the usage of the approach at the current location and would only require to be contacted if they (Rogge) wanted to widen the approach. Expiration date of Feb. 4, 2025 was noted in the Findings of Facts. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: All present voted aye. **MOTION CARRIED.**

2020CU007

Application by Lawrence Rogge for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 5A: Rock Crushers. The property is described as: "NW1/4 of Section 8, T111N, R47W (Lake Hendricks Township)".

(Boersma/Ford) Motion to approve the Conditional Use.

STAFF REPORT: Applicant is requesting a Conditional Use Permit # 5A to process mined gravel. Report given noted the proposed rock crushing area was to be located on the west side of the property running north and south along 485th Avenue. Plan of operation, reclamation plan and signed road agreement with Lake Hendricks Township were viewed, discussed and placed on file.

PUBLIC HEARING: Applicant Lawrence Rogge informed those present that the plan was as presented by Haugen, nothing had changed.

Proponents: None.

Opponents: None.

DISCUSSION: Board member had no questions or comments regarding the request. Expiration date of Feb. 4, 2025 was noted in the Findings of Facts. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: All present voted aye. **MOTION CARRIED.**

Davis returned to the Commission.

2020CU008

Application by Jesse and David W. King for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 20: Home Extended Business". The property is described as: "S 734' of E 753' Except the S 225' of W 359' of E 753' in the SW1/4 of Section 3, T112N, R49W (Argo Township) and the S 225' of W 359' of E 753' in the SW1/4 of Section 3, T112N, R49W (Argo Township)" ~ located at 47542 197th St, Toronto, SD 57268.

(Nelson/Boersma) Motion to approve the Conditional Use.

STAFF REPORT: Applicant is requesting a conditional use for a “Home Extended Business”. The proposed business would provide a drop off point, warehouse and customer pick up of bulk agricultural input products (such as: crop protection chemical products, adjuvants, surfactants and bio-stimulants). Seed products may be added in the future. Report given noted items would be stored in an existing pole shed that had a cement floor. Applicant would attain a Fertilizer and Pesticide License from the SD Department of Agriculture for a warehouse and follow state regulations. Business and site plan were presented and reviewed.

PUBLIC HEARING: Applicant Jesse King informed those present that he had an agreement with a company pending approval of his application to provide a warehouse to store crop protection products in at this time. He had been in discussion with department of Agriculture and the site would not be considered a bulk facility as all containers would be 300 gallons or less. They would require that he attain a pesticide dealer’s license and a commercial fertilizer’s license. Mike Olson from Argo Township had been contacted and the township had no issues with request and would recommend approval. Business would be seasonal (late March – August), with 1-2 trucks per week at peak times. He noted the company he would provide warehousing for: 1) had completed a site inspection. 2) Required training which he had completed. 3) Hazmat course was required and would be attended 4) Local Fire Chief from Toronto would be consulted and an emergency action plan would be developed.

Proponents: No proponents in attendance. Haugen read comment received Jan. 31, 2020 via phone call from Michael Olson, Clerk of Argo Township. Comment had been placed online and filed.

Opponents: None.

DISCUSSION: Davis and Kleinjan were concerned with containment of hazardous materials in the event of a spill and possible liability issues should a spill occur. Hill and Haugen discussed the use of “PIG” Spill Containment– one of which is a sock like tube that would provide a containment barrier. Board also discussed installation of a 6-8 concrete containment barrier placed inside the shed along the walls. King noted per the SD Department of Agriculture in Pierre, the facility would not be classified as a bulk facility as containers were under 300 gallons, so no containment system would be required. Haugen noted that any spill would be reported through the local office of emergency management, appropriate authorities and the Department of Natural Resources would dictate how the spill would need to be cleaned up. Muller asked for clarification regarding if the business would be located over shallow aquifer and if an existing building was going to be used. Haugen reported that the location was not over the shallow aquifer and an existing building on the site was to be used as the warehouse. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: All present voted aye. **MOTION CARRIED.**

DEPARTMENT REPORTS

Hill expressed well wishes and thanks from the County Commission and Zoning Board members to Kimberly Elenkiwich who was resigning from the board. He also announced that flood predictions were not looking good, be prepared for flooding. The office was making preparations and was acquiring sand bags. Hill advised the public to prepare now, acquire sandbags in preparation of filling and placing in the coming months. He also advised townships to take photos now showing that roads are travelable for possible documentation for FEMA should another disaster declaration occur. Hill announced that the position left open by Elenkiwich would be advertised. He then asked that Muller be allowed to give a brief report. Muller wanted to make the board members aware that there may be a bill dropped in Pierre related to the term "permitted special use". The Bill would clarify what a permitted special use was and clarify somethings with appeals.

Haugen asked those present how many would not be at the scheduled March meeting as it was the same day as the Township meetings. Those that may be absent: Davis, Jensen and Diedrich.

Elenkiwich noted that she would be moving out of the Brookings County area and thanked the board.

Hill announced that elections would be held at the March or next meeting for vacant seat be it for Chairperson and/or Vice Chairperson.

ADJOURN

(Boersma/Spence) Motion to adjourn. All member voted "aye." **MOTION CARRIED.**
Chair Elenkiwich adjourned the meeting at 11:17 PM.

Rae Lynn Maher
Brookings County
Development Department