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April 3rd, 2018 Minutes

Brookings County Planning & Zoning Commission
April 3rd, 2018 – 7:00 PM
Brookings City & County Government Center
310 Chambers

Chair Rochel called the meeting to order at 7:08 PM. Commission members present were: Lee Ann Pierce, Kimberly Elenkiwich, Darrell Nelson and alternate board members Tom Davis and Roger Erickson. Absent were: Darrel Kleinjan, Michael McHugh, Randy Jensen, Terrell Spence and 1 board member District 2.

Chair Rochel read **agenda item # 2: Approval of minutes from March 22nd, 2018 meeting.** Darrell Nelson moved to approve the minutes. Roger Erickson second. Chair Rochel called for a voice vote. 6-ayes and 0-nays, motion carried.

Chair Rochel read **agenda item # 3: Items to be added to agenda by commission members or staff.** a) Richard Haugen requested reading of Findings of Facts for 2017cu020 and 2018appeal001, to be heard before department reports.

Chair Rochel 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 Rochel read **agenda item # 5: Approval of Agenda.** Lee Ann Pierce moved to approve the agenda with the addition of Findings of Facts before the Department Reports. Kimberly Elenkiwich second. Chair Rochel called for a voice vote. 6-ayes and 0-nays, motion carried.

Chair Rochel stated, "We are now acting as the Brookings County Planning and Zoning Commission" read the opening statement and **agenda item # 6: Toby Morris from Dougherty & Company LLC, discussion on Tax Increment Finance District (TIF).** Chair asked Mr. Haugen to introduce Mr. Morris. Mr. Haugen stated, "Mr. Morris is here this evening to discuss a TIF district that would be located by the Soybean plant for Prairie AquaTech." Mr. Morris stated, "I am Toby Morris with Dougherty & Company LLC based in Pierre, SD and do a lot of tax increment financing around the state. I want to give you an overview of how the tax increment process works. TIFs are really a great tool to be used for

development purposes.” Mr. Morris went over a handout and a preliminary agenda that he provided to the board and displayed for the audience. Board members discussed the amount of the TIF that Prairie AquaTech was looking for, when the county makes the first payment, the length of time for the TIF, and the legal boundaries of the TIF district. Chair Rochel thanked Mr. Morris for his time.

Chair Rochel read **agenda item # 7: The Brookings County Planning Commission will hold a public hearing on proposed changes to the Brookings County Zoning Ordinance 2015-03 which re-adopted the 1997 Revised Zoning Ordinance as amended. The proposed changes to the Brookings County Zoning Ordinance 2015-03 will repeal the following articles in the 1997 Revised Zoning Ordinance of Brookings County, as amended, - Article 12.00 – Commercial/Industrial Districts.; Article 13.00 – Lake/Park Districts.; Article 14.00 – Natural Resources Districts.; Article 15.00 – Flood Damage Prevention.; Article 16.00 – Aquifer Protection.; and replace said Articles with Article IV District Requirements - Chapter 4.02. “CI” – Commercial / Industrial Districts.; Chapter 4.03. “LP” – Lake Park Districts.; Chapter 4.04. – Natural Resource Districts.; Chapter 4.05. – Flood Damage Prevention.; Chapter 4.06. – Aquifer Protection.; and the repealing of conflicting ordinances. A copy of the ordinance changes is available at the Brookings County Finance Office, Brookings County Zoning Office or online at: www.brookingscountysd.gov .** Tom Davis moved to approve. Roger Erickson second. Chair Rochel opened up for comments from the board and staff. Mr. Haugen then described and presented visuals explaining the cross reference and numbering of the old ordinance into the new ordinance. He began with the review of the **Commercial/Industrial District** changes and updates. Board members discussed cross referencing items in both the Commercial/Industrial District and Agricultural District, identified board members that worked on the review – C/I: Rochel, Spence and Kleinjan. Ag: Elenkiwich, Nelson, Jensen, Vande Weerd & Rochel. Chair Rochel asked for comments or questions from the audience, hearing none. Chair Rochel instructed Mr. Haugen to continue to next district.

Mr. Haugen then described and presented visuals going over proposed changes to the **Lake Park Districts** portion. Mr. Haugen highlighted in his report and the board discussed: 1) Board members that had worked on the review – former Chair Robbins, Pierce and Erickson. 2) Accessory building size changing to 2,000 square feet vs. 1,000 square feet with maximum of 14’ side-walls vs. 10’ side-walls. 3) No building permit required for new or used accessory building of 120 square feet or less. 4) Additional conditional uses added allowable in the district. 5) Minimum front yard of Lots not adjacent to the Lake changed from 50’ to 25’ and minimum rear yard or lake front set at 25 feet. Board member Pierce noted that Lake Associations were contacted for feedback but not many comments were received. She also noted comments had been received via an email from Catherine Carter and Mr. Haugen and board reviewed the comments. Chair Rochel asked for questions or comments from the audience, hearing none he instructed Mr. Haugen to continue on with review.

Mr. Haugen went over the updates/changes to the **Natural Resource Districts**. He noted that board members Rochel, Spence and Kleinjan had worked on the review. Mr. Haugen noted a comment had been received from a citizen (Catherine Carter) and the board members discussed her comments. Mr. Haugen noted that Jay Gilbertson from East Dakota Water Development District had been consulted and had reviewed the requested changes. Mr. Haugen then read the written comments that had been received from Mr. Gilbertson. Board members further discussed the comments received from Ms. Carter and Mr. Gilbertson. Chair Rochel asked the audience for questions or comments, hearing none. Motion made by board member Lee Ann Pierce to amend the proposed Natural Resource District Section as follows: Section 4.04.02 Permitted Uses *1. Wildlife production, wildlife habitat, wetlands, plant and pollinator protection areas, and riparian or vegetated buffer zones. Add: 7. Scientific observation, survey, or research to promote environmental integrity, and that does not compromise the natural resource area.* Darrell Nelson second. Chair Rochel asked for public comment on the change recommended, hearing none. Chair Rochel called for a voice vote on the amendment. 6-ayes and 0-nays, motion carried.

Mr. Haugen then went over changes to the **Flood Damage Prevention** portion. He noted: 1) it was set up using FEMA standards 2) Jay Gilbertson had reviewed. 3) Definition of corner lot changed. 4) Addition of severability statement and penalties for Noncompliance. Board members discussed noting of penalties. States Attorney Nesvold stated, "It had been added to all ordinance sections to have a little more teeth for noncompliance." Chair Rochel asked for questions or comments from the audience, hearing none. Board member Pierce referred to the citizen's (Catherine Carter) recommendation of adding a 50 foot riparian or vegetated buffer. Mr. Hill noted that the request was not appropriate for the flood damage prevention portion of the ordinance and Mr. Haugen noted that Jay Gilbertson had also replied as not appropriate. Chair Rochel asked for further questions or comments from the board, hearing none he instructed Mr. Haugen to continue.

Mr. Haugen reviewed the **Aquifer Protection District** and highlighted a change in Conditional Uses in Zone B – *New Class D and accumulative expansion of 250 animal units of existing Class C and D CAFO's in continuous operation since the adoption of Brookings County Zoning Ordinance on May 1976 not to exceed 750 total animal units. (Class C).* He also noted East Dakota Water Development District had reviewed and agreed with proposed changes. Mr. Haugen then read the concerns of citizen (Catherine Carter). Board members discussed concerns and Mr. Haugen noted that Mr. Gilbertson had reviewed the concerns also and had recommended not to make any of the requested changes. Chair Rochel then asked the board for any comments. Board member Nelson stated, "I do not want to accept any of those suggested changes that were made by the citizen and my problem is with the word adjacent. These would be adjacent to aquifer, shallow aquifers, streams and floodplains and I am going to interpret adjacent different than someone else and so I have a problem with that word. Also this board is very tuned in to Zones A & B and I don't believe we need to have any other change in those areas." Board member Pierce noted that the County Commission were

working on a list that the State had come up with regarding “buffer” areas and that a possible resolution for reimbursement to landowners through a reduction in taxes may occur. Chair Rochel stated, “If the public wants that (buffers) then the landowner needs to be compensated and not by just a reduction in taxes.” Chair Rochel then asked the board for any comments, hearing none he asked the audience for any questions or comments to anything that had been discussed during the ordinance review. Hearing none he asked the board a final time for questions or comments, hearing none. Chair Rochel called for a roll-call vote: Erickson-aye, Nelson-aye, Elenkiwich-aye, Davis-aye, Pierce-aye, Rochel-aye. 6-ayes, 0-nays, motion carried.

Chair Rochel noted there were 6 voting members in attendance and that for an item to pass all 6 would have to vote in favor. He then asked Mr. Hillestad if he would like the item to be tabled to the next meeting or be heard. Mr. Hillestad requested to move forward with his request.

Chair Rochel read **agenda item # 8: 2018cu006: Hillestad Farms Inc by Austin Hillestad has made an application, 2018cu006, 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: “NE1/4 NE1/4 Section 29, T109N, R51W (Oslo Township)”**. Tom Davis moved to approve the conditional use request. Darrell Nelson second. Chair Rochel opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Hillestad Farms Inc by Austin Hillestad has applied for a Class “C” Confined Animal Feeding Operation (CAFO) for a swine finishing operation consisting of a 2,400 head (960 animal units).” Mr. Haugen noted: 1) Site plan featured one (1) – 102 feet x 193 feet finishing barn with an 8 foot deep pit below the building to be used for manure storage, a loading area and feed bins. 2) All setback requirements of: 150 feet from township road right-of-way, 1,320 feet from an existing residence or private well other than operator and 200 feet from adjoining property lines would be met. 3) Brookings County gravel road #14 (219th Street) and Oslo Township roads 462nd Ave and 218th St would be used and the applicant had a road agreement letter from Oslo Township. 4) No record of a well within the setback area of 1,320 feet per the South Dakota Department of Environment and Natural Resources Well Completion Report. 5) An existing windmill tower with a well casing was located approx. 1,000 feet from proposed site and owner had noted it hadn’t been used in 35 years and gave the applicant written permission to cap the well following state regulations. 6) Nutrient Management Plan noted pit capable of holding 910,000 gallons of manure storage (365 days storage capacity), manure would be applied by direct injection and 553 acres available for manure application and only 200 acres were needed. 7) Proposed building would not be located in the Zone “A” (Wellhead Protection Areas) or Zone “B” (remainder of the mapped shallow/surficial aquifer not included in Zone “A”). 8) Zoning office had reviewed documents and made a site visit. 9) Public notices had been published and letters had been sent to adjoining landowners, Oslo Township Chairman and Clerk, Brookings County Highway Department and Kingbrook Rural Water. He then presented a visual presentation

of the site. Chair Rochel asked Mr. Hillestad to come forward and address the board. The applicant identified himself as Austin Hillestad and noted he had nothing further to add to Mr. Haugen's report. Chair Rochel opened up for questions from the board. Board members Nelson, Rochel and Pierce asked questions and discussed with Mr. Hillestad the distance from electrical and rural water source, type of building he was planning - power ventilation or a natural ventilation, supplier of swine, handling of manure during application, and past knowledge of raising hogs. Chair Rochel asked for further comments from the board, hearing none he opened up to the audience. Rick Hillestad come forward and identified himself the father of Austin and stated, "My brother and I raised pigs for 35 years until he retired then we gave up the hog operation. We have a finishing barn where they (sons) have been finishing pigs and it's to the point now where we want to do something different. I thought it would be a good opportunity for the boys to do this project." Chair Rochel asked for additional comments from the audience, hearing none he closed the public portion. Chair Rochel then asked for additional comments from the board, hearing none he asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Rochel called for a roll-call vote: Nelson-aye, Elenkiwich-aye, Davis-aye, Pierce-aye, Erickson-aye, Rochel-aye. 6-ayes, 0-nays, motion carried.

Roger Erickson noted conflict of interest on the upcoming plats and recused himself.

Chair Rochel read **agenda item # 8: Consideration of Plats: a. 2018preplat001: "Preliminary Plat Berkland Addition located in Govt Lots 3 & 4, Section 32, T109N, R50W of the 5th P.M., Brookings County, South Dakota."** Chair Rochel opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Wayne Berkland has submitted a preliminary plat for non-lake front lots located on the south west side of Lake Campbell." He noted: 1) Proposed lots would meet or exceed 20,000 square feet size requirement and non-lake setback requirements. 2) Entrance to proposed lots would be off Bortnem Beach Road/220th Street. 3) Jay Gilbertson with East Dakota Water Development District had reviewed and recommended that septic tank drain fields be located on the west side of lots away from the lake. 4) Fire Chief Darrell Hartmann reviewed the proposed plat with the recommendation that existing 33' road width of Bortnem Beach Road and proposed 33' width of Bortnem Beach Circle meet the width requirements of their fire vehicles as long as there would be no parking allowed on the street. Mr. Haugen used visuals to describe the plat. Having noted no motion had been yet made Kimberly Elenkiwich moved to approve the plat. Darrell Nelson second. Chair Rochel called Mr. Berkland forward and asked him to identify himself and address the board. The applicant identified himself as Wayne Berkland and stated, "I don't have anything further to add other than I think it would be a good opportunity for people to build in the country and not have to buy 35 acres." Chair Rochel opened up for questions from the board. Board members Davis, Elenkiwich, Pierce, Nelson and Rochel asked questions regarding: Bortnem Beach Road

width and maintenance, use of lots – homes vs. storage buildings, if the existing road that would be used was a public or private road, concerns for width of Bortnem Beach Road, if a road district or association were in place, and if an additional road could be added. Chair Rochel opened up for discussion from the audience, seeing none. Chair Rochel asked the board for questions or comments. Board member Darrell Nelson noted the board had concerns regarding the road and utility thereof and made motion to postpone the preliminary plat until the May 1st, 2018 meeting. Kimberly Elenkiwich second. Chair Rochel called for a voice vote. 5-ayes, 0-nays, motion to postpone carried. Mr. Hill noted the office would find out if there was a road association. He noted that the original Bortnem Beach plat would be reviewed by the county's legal team and that information would be provided to the board.

Chair Rochel read **agenda item b. 2018preplat002: "Preliminary Plat of Berkland West Addition located in the SE1/4 of the SE1/4, Section 31, T109N, R50W of the 5th P.M., Brookings County, South Dakota."** Darrell Nelson moved to approve the plat Lee Ann Pierce second. Chair Rochel opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Wayne Berkland has submitted a preliminary plat for lots located on farm ground west of Lake Campbell located in the Lake Park District. The current land use is agricultural and is being farmed." He noted: 1) Proposed lots would meet 20,000 square feet size requirement for Lake/Park District. 2) Lots would have agricultural ground to the north and west and would be located next to a residential small acreage site and a building site (along the east side). 3) Lots 1 & 2 would be accessed off 220th Street with a shared driveway and Lot 3 had a 30 feet easement off of 467th Avenue (Brookings blacktop County Rd 17). 4) Lots would be serviced by Kingbrook Rural Water and Sioux Valley Energy. Mr. Haugen used visuals to describe the plat. Chair Rochel called Mr. Berkland forward and asked for further comments. Mr. Berkland noted he did not have any additional comments. Chair Rochel opened up for questions from the board. Board members Elenkiwich, Nelson, Pierce and Chair Rochel discussed access to Lot 3, easement, and driveways for Lots 1 & 2. Chair Rochel opened up for questions from the board, hearing none. Chair Rochel opened up for discussion from the audience, seeing none. Chair Rochel asked the board for questions or comments, hearing none he called for a roll-call vote: Elenkiwich-aye, Davis-aye, Pierce-aye, Nelson-aye, Rochel-aye. 5-ayes, 0-nays, motion carried.

Alternate Board member Roger Erickson resumed his seat on the board.

Chair Rochel then asked Mr. Haugen to go over the Findings of Facts for denied 2017cu020. Mr. Haugen read the findings of facts for denied 2017cu020 and they were placed on file.

Chair Rochel then stated, "We are now acting as the Brookings County Board of Adjustment" read the opening statement and asked Mr. Haugen to go over the Findings of Facts for Brookings County Zoning Administrative Appeal 2018Appeal001. Findings were read by Mr. Haugen and they were placed on file.

Chair Rochel read **agenda item # 9: Department Reports**. Chair Rochel asked Mr. Hill for his Directors report. Mr. Hill announced: 1) Storm Spotter Training available on April 24, 2018 for those interested. 2) April 22-28, 2018 would be severe weather week and he reminded those in attendance to be aware of threatening weather and take appropriate action especially when in tractors. Mr. Haugen noted work was continuing on the supplemental section and the Ag subcommittee would need to reschedule their meeting. Board noted that at the May meeting any conditional uses would be under the board of adjustment. The tentative special meeting date of April 19, 2018 would not be needed.

Chair Rochel asked for a motion to adjourn. Kimberly Elenkiwich made a motion to adjourn the meeting, Roger Erickson second.

Chair Rochel adjourned the meeting at 9:38 PM.

Rae Lynn Maher
Brookings County
Development Department.