

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF APRIL 5, 2022 REGULAR PLANNING & ZONING MEETING

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, April 5, 2022. The following members were present: Chad Ford, Mike Bartley, Darrel Kleinjan, Brian Gatzke, Spencar Diedrich, Kyle Vanderwal, Neil Trooien, and Randy Jensen and alternates Roger Erickson and Dale Storhaug. 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 and via phone, Senior Planner from First District Association of Local Governments Luke Muller.

CALL TO ORDER

Chair Ford called the meeting to order at 8:01 PM

APPROVAL OF MINUTES

(Diedrich/Erickson) Motion to approve the March 1, 2022, 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

Neil Trooien would recuse from vote on 2022cu008.

APPROVAL OF AGENDA

(Bartley/Vanderwal) Motion to approve the agenda for the April 5, 2022 Meeting. All present voted aye. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY PLANNING & ZONING COMMISSION

ARTICLE IV DISTRICT REQUIREMENTS – CHAPTER 4.06

Haugen noted this was a public hearing and presented a report noting an update to Article IV Zoning Districts: Chapter 4.06 – Aquifer Protection: Section 4.06.03 Establishment and Delineation of Aquifer Protection Overlay Zones; To Amend map 3, by removing lower portion of “Map-marked Zone “A”. This area had contained a private well that had been used by Western Estates Trail Court. The water rights were cancelled on May 4, 2006, by the South Dakota Department of Environment and Natural Resources. A map presented noted the area outlined in Green being removed. Addition of Map page 11 dated April 2013, to the Wellhead Protect Area Maps. The area contains two wells located southeast of Elkton that are used by Lincoln-Pipestone Rural Water. The addition of the wells will match up with the Wellhead Protection Map located in the Minnesota side. Other updates being name changes to the state agencies and referenced Natural Resources Conservation Service document name and number

April 5, 2022

Meeting Minutes APPROVED

change. Chair Ford opened the public hearing and hearing no proponents or opponents closed the public hearing.

(Diedrich/Gatzke) Motion to approve updated to Chapter 4.06. Roll call vote: Bartley-aye, Erickson-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

CONSIDERATION OF PLATS

2022PLAT004

For property described as “Plat of Lots 1 and 2 of CKS Partners Addition in the SW1/4 of Section 20, T110N, R49W of the 5th P.M., Brookings County, South Dakota.” Submitted by CKS Partners to plat 76.25 acres into two lots; Lot 1 will be 24.5 acres and Lot 2 will be 52.7 acres. Lot 1 will be purchased by an adjoining landowner and combined with an existing parcel that has access off 34th Avenue. Lot 2 is a buildable lot for a residence and will have access off US Highway 14. Both lots are in the Joint Jurisdiction area and part of Lot 1 and all of Lot 2 are in the Floodplain.

(Vanderwal/Trooien) Motion to approve the plat. Roll call vote: Erickson-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Bartley-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2022PLAT005

For property described as “Plat of Lot 1 of Forseth Addition in Government Lot 2 of Section 4, T111N, R47W of the 5th P.M., Brookings County, South Dakota.” Submitted by the Forseth family to plat off an existing 10 acre building site from the 120 acres they own. The building site has existing access off 202nd St, a Lake Hendricks Township gravel road.

(Jensen/Bartley) Motion to approve the plat. Roll call vote: Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Bartley-aye, Erickson-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT

2022VAR005

Application by Bradley Vostad 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 and Minimum Side Yard). The property is described as: “Lot 26 of DeBoer’s Lake Tetonkaha West Subdivision in Govt. Lots 4 & 5 in SE1/4 of Section 7, T111N, R51W (Oakwood Township)” ~~ located at 43 Oakwood Shoreline Dr, Bruce, SD 57220.

(Diedrich/Bartley) Motion to remove from the table to hear postponed item.

STAFF REPORT: Applicant is requesting an after the fact variance for a deck that was built on the shoreline; a future attached screened porch and a set of stairs built for deck access closer to the side property line. Item A: The lake shore deck is 18’ wide x 42’ long

April 5, 2022

Meeting Minutes APPROVED

and extends beyond the retaining wall 31" with a 0' feet setback from the highest known water mark (HKWM). The north end of the deck follows the contour of shoreline and does not extend over the shoreline. Item B: Stairs for the deck and lake shore access are 6 inches from the side property line. They allow for access to the deck and the lake shore area. Item C: Remove existing attached deck (16x16) and screen porch as they need repair and replace with an attached 38' long x 16' wide attached deck/screen porch. The proposed deck would extend out to the closest retaining wall to the house, 27' from the highest known water mark. The stairs (Item B) are part of this deck structure. Item D: Upper deck, above the lower attached deck/screened porch will be 6'6" inches wide and 22' long, with support posts being part of the lower deck structure. The report also noted: 1) variance distance is 0 feet, as the shoreline deck extends beyond the retaining wall into the shoreline. No side yard setback distances listed for the stairs built for deck access. Setback from highest known water mark is 75 feet and the Side yard setback is 8 feet. 2) Variance was granted to applicant on November 9, 2004 for an addition with a deck to the cabin on the lakeside to be 21 feet from high water mark. 3) Applicant was approved for a shoreline modification permit by the South Dakota Department of Game, Fish & Parks to install a retaining wall. The Zoning Office did issue a building permit for the shoreline modification, the wooden deck and accessory building were not listed as part of the shoreline modification. 4) Considerations: shape and size the lot, subdivision originally platted in 1984, re-platted June 2003 (when original road was vacated and relocated). 5) Public notices had been published in the Brookings Register on February 15 & 22, 2022 and in the Volga Tribune on February 17 & 24, 2022. 6) Letters were sent to adjoining landowners, Oakwood Township Chairman, and Clerk.

PUBLIC HEARING: Applicant Bradley Vostad informed those present of hardships: 1) The lot was only 50 feet wide and had been re-platted in 2003 and the side property line shifted closer to his residence. 2) Yard had a 2:1 slope making it hard to walk on, so he had installed the stairs to cover the slope for safer access and to get rid of the maintenance hazard especially when mowing. He has owned the property for 28 years.

Proponents: A submitted letter from the adjoining property owners Larry & Juliane Wittmeier was filed. The letter noted their support of the lot improvements of the proposed deck and steps.

Opponents: None.

DISCUSSION: Board members Bartley, Ford, Gatzke and Diedrich discussed the various items. Item A) Deck: board requested deck to follow the contour of the portion of the deck that extended over the retaining wall to follow the contour and that the excess be removed within 6 months. (October 5, 2022) Item B) Stairs: board discussed issue with the stairs being only 6" from side property line, noting concerns for when maintenance would be needed and the need to stand on neighbor's property to make any repairs. Bartley noted couldn't support unless stairs would be moved back at least 18" from property line. Setback at end of discussion was left to be 6". C) Deck and Screened Porch: Remove existing deck and screen porch and replace with 16' depth x 38' width deck of which a 12' depth x 16' width area would be a screened porch. D) 2nd

April 5, 2022

Meeting Minutes APPROVED

Floor (Upper) Deck: New deck 6.5' depth x 22' width. Luke Muller was consulted and asked how far the stairway needed to be from the nearest structure, consideration for fire codes. Hill also noted that the applicant should consult with his insurance agent regarding fire concerns of deck placement. Variances would be 0" setback from highest known water mark and Side yard variance end up being 7'6".

Findings of Facts were reviewed, completed by the board, concurred with by Gatzke.

VOTE: Diedrich-nay, Kleinjan-nay, Vanderwal-nay, Trooien-nay, Jensen-aye, Bartley-aye, Gatzke-aye, Erickson-aye, Ford-aye. 5-aye, 4-nay. **MOTION FAILED.** Haugen noted all structures would need to be removed and the applicant could reapply in 6 months. The vote was an all or nothing and had each been separated out in the Findings of Facts. Mr. Vostad misunderstood how the vote would go and asked what could be done. Muller was consulted about reconsideration. He noted, since the vote was held if someone wanted to split the vote (as into 4 components), specifically it would have to be by someone on the prevailing side (the 4 nay votes) would have to make a motion of reconsideration requiring a simple majority to reconsider and then the next vote would be to split it (vote) into individual components. Summarizing with Step 1: motion to reconsider, act on that. Step 2: either a motion to split the vote or just cut out in the findings the part they do not like.

(Diedrich/Kleinjan) Motion to reconsider, split into 4 votes. All present voted aye. **MOTION CARRIED.**

(Bartley/Gatzke) Motion to split into 4 separate requests and to be voted on separately. All present voted aye. **MOTION CARRIED.**

Reconvene to hear as 4 separate items.

(Bartley/Diedrich) Motion to accept Item "A" (deck on lake shore) as written. All present voted aye. **MOTION CARRIED.**

DISCUSSION: Board members had no questions or comments regarding the item.

Item "A" an already built 18'x42' deck to have a 0' setback from the high-water mark and that no portion of the deck shall extend beyond the edge of the retaining wall into the shoreline and the deck shall be resting at grade. May be subject to SDCL 43-17-2 regulations, enforced by South Dakota Game, Fish and Parks. Deck extension to be removed in 6 months by October 5, 2022.

VOTE: Bartley-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Erickson-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

(Gatzke/Jensen) Motion to review Item "B". All present voted aye. **MOTION CARRIED.**

DISCUSSION: Board consulted with applicant on changing setback of stairs from 6" to be 18".

April 5, 2022

Meeting Minutes APPROVED

(Kleinjan/Bartley) Motion to amend Item “B” to be a setback 18” instead of 6”. All present voted aye. **MOTION CARRIED.**

DISCUSSION: Board members had no questions or comments regarding amendment.

Item “B” The south side yard setback of 18” from the south property line for a deck staircase for an attached deck.

VOTE: Erickson-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Bartley-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

(Kleinjan/Diedrich) Motion to accept Item “C” (deck attached to house) as written. All present voted aye. **MOTION CARRIED.**

DISCUSSION: Board members had no questions or comments regarding the item.

Item “C” Rebuild the existing attached 16’x16’ deck with a 16’ wide x 38’ long deck/screen porch with the staircase for the deck being 23 feet from the highest known water mark. A 6’ wide x 22’ long upper deck would be also constructed above the 16’ x 38’ deck structure.

VOTE: Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Erickson-aye, Bartley-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

Items “D” & “E” where standards and no board review action needed.

Item “D” A Brookings County Floodplain Development Permit required and follow Brookings County Floodplain Ordinance for building in the floodplain.

Item “E” Building permit with plans required, after the fact building permit fees will apply.

Complete Findings of Facts as Amended. VOTE: Vanderwal-aye, Trooien-aye, Jensen-aye, Erickson-aye, Bartley-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2022VAR007

Application by Steven Knutson for a variance. Article 19.00: Section 19.01: “Shelterbelt Setback Requirements”. The property is described as: “W1549’ of S650’ of SW1/4 of Section 5, T112N, R49W (Argo Township)” ~ located at 47318 197th St, Toronto, SD 57268.

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

STAFF REPORT: The applicant has applied for a variance to plant a shelterbelt parallel with road, 63’ from the center of 473rd Ave, a variance of 70’. Report noted: 1) Applicant wanted to plant a new 4 row shelterbelt closer to the minimum maintenance road and perpendicular to 197th Street (Brookings County gravel road #40). 2) Allowing of the

April 5, 2022

Meeting Minutes APPROVED

trees closer to the road would keep them out an area of wetter lower ground. 3) Letters were sent to adjoining landowners, Argo Township Chairman and Clerk. 4) Public notices were published in the Brookings Register on March 22 & 29, 2022 and in the White Tri City Star on March 24 & 31, 2022.

PUBLIC HEARING: Applicant Steven Knutson informed those present he had nothing to add.

Proponents: Argo Township had discussed at their March 21, 2022 meeting and had submitted a note to the Zoning office stating no issue with the variance request.

Opponents: None.

DISCUSSION: Board members had no questions or comments regarding the request. Findings of Facts were reviewed and completed by the board, concurred with by Diedrich and placed on file.

VOTE: Trooien-aye, Jensen-aye, Erickson-aye, Bartley-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2022VAR008

Application by Sylvia L. Wolters 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: "Lot 4 of Point Clara Addition in Govt Lot 3 of Section 22, T112N, R47W (Lake Hendricks Township)" ~~ located at 723 S Lake Hendricks Dr, Hendricks, MN 56136.

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

STAFF REPORT: The applicant has applied for a lake side variance to replace an existing deck in the same location and add a 3-season room 66' 6" from the highest known water mark, a variance of 8' 6". The 25' front yard and 8' side yard setbacks would be met. The report noted: 1) Considerations – shape and size of the lot, subdivision was platted April 2, 1976, prior to current zoning ordinances. 2) letters were sent to adjoining landowners, Lake Hendricks Township Chairman and Clerk. 3) Public notices were published in the Brookings Register on March 22 & 29, 2022 and the White Tri-City Star on March 24 & 31, 2022.

PUBLIC HEARING: Applicant Sylvia L. Wolters informed those present she had nothing to add.

Proponents: None.

Opponents: None.

DISCUSSION: Board members had no questions or comments regarding the request. Findings of Facts were reviewed and completed by the board, concurred with by Bartley and placed on file.

VOTE: Jensen-aye, Erickson-aye, Bartley-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2022CU006

Application by Lester Van Dyke for a conditional use for "Gravel Mining". 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 1, T110N, R49W (Aurora Township) and W631.2' of NE1/4 of Section 1, T110N, R49W (Aurora Township).

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

STAFF REPORT: The applicant is requesting a conditional use permit to mine gravel. Site is 10 acres, not in the floodplain but in Zone "B" of the Aquifer Materials Map. Test holes show gravel present to 25'. The report also noted: 1) Black dirt will be removed, stockpiled, and put back after mining is completed. 2) Berm to be constructed along road and mining area fenced in and the entrance and exit would be padlocked after hours. 3) Plan: Hours of operation 6:30 AM – 6:00 PM, Weed and dust control applied as needed, Mining proposed for 10 years, Applicant would use a Mining contractor to mine the gravel, A mining permit application would be submitted to the South Dakota Department of Agriculture and Natural Resources. 4) Entrance and exit off 208th St, an Aurora Township minimum maintenance road that intersects 478th Ave (Brookings County blacktop road #25). Contact has been made by the application with Aurora Township for a road agreement. 5) Applicant also applying for a crushing permit. 6) Letters were sent to the adjoining landowners, Aurora Township Chairman and Clerk and the Brookings County Highway Department. 5) Public notices were published in the Brookings Register on March 22 & 29, 2022 and the White Tri-City Star on March 24 & 31, 2022.

PUBLIC HEARING: Applicant Lester Van Dyke informed those present he had nothing to add.

Proponents: Haugen presented comment received from Brian Gustad, Brookings County Highway Superintendent noting no objections to the request for gravel mining and any additional signage cost would be the responsibility of the applicant.

Opponents: Those present that spoke in opposition were Mary Bowne, Dale Bowne, and Charleen Bowne. Concerns voiced were: 1) location of the proposed entrance and exit and visibility concerns 2) dangerous intersection 3) highly traveled road with hills and dales and entrance/exit point would be a bad location.

DISCUSSION: Board members Gatzke, Bartley and Ford discussed: 1) road agreement would be needed with the township whose jurisdiction it was in. 2) signage would need to be in place when pit is open, would need to be purchased thru the highway department, be paid for by the applicant and meet DOT standards. 3) highway

April 5, 2022

Meeting Minutes APPROVED

superintendent would survey and make sure correct signage was in place 4) per the pictures the sight line doesn't appear to be an issue, and Highway Superintendent doesn't have any issues as signage can handle and make people aware 5) signage would help with issue/concerns, noting had looked at sight and had requested signage be installed.

Findings of Facts were reviewed and completed by the board, concurred with by Vanderwal and placed on file.

VOTE: Jensen-nay, Bartley-aye, Erickson-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-nay, Ford-aye. 7-aye, 2-nay. **MOTION CARRIED.**

2022CU007

Application by Lester Van Dyke for a conditional use for "Rock Crushers". Article 11: Section 11.01: "A" Agricultural District, Conditional Use # 5A: "Rock crushers". The property is described as: "NW1/4 of Section 1, T110N, R49W (Aurora Township) and W631.2' of NE1/4 of Section 1, T110N, R49W (Aurora Township).

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

STAFF REPORT: The applicant is requesting a conditional use permit to process mined gravel on the site. The report noted: 2) Berm to be constructed along road, crushing area fenced in and the entrance and exit would be padlocked after hours. 3) Plan: Hours of operation 6:30 AM – 6:00 PM, Weed and dust control applied as needed, Crushing proposed for 10 years, Applicant would use a crushing contractor to process the mined gravel. 4) Applicant also applying for a mining permit. 5) Letters were sent to the adjoining landowners, Aurora Township Chairman and Clerk and the Brookings County Highway Department. 6) Public notices were published in the Brookings Register on March 22 & 29, 2022 and the White Tri-City Star on March 24 & 31, 2022.

PUBLIC HEARING: Applicant Lester Van Dyke informed those present he had nothing to add.

Proponents: None.

Opponents: Those present that spoke in opposition were Mary Bowne, Charleen Bowne, and Dale Bowne. Concerns voiced were: 1) Aurora Township Board had not given any road usage agreement to the applicant 2) signage would not slow down traffic on the road 3) corner is dangerous at that intersection, need a stop sign more than a caution sign.

DISCUSSION: Board members had no questions or comments regarding the request. Findings of Facts were reviewed and completed by the board, concurred with by Gatzke and placed on file.

VOTE: Bartley-aye, Erickson-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-nay, Jensen-nay, Ford-aye. 7-aye, 2-nay. **MOTION CARRIED.**

April 5, 2022

Meeting Minutes APPROVED

Neil Trooien recused himself and Dale Storhaug took his seat on the board.

2022CU008

Application for Joint Well Field, Inc by Gene Wilts for a conditional use permit. Article 11: Section 11.01: "A" Agricultural District, Conditional Use # 15: Water pumping stations, elevated tanks and similar essential public utilities and service structures. The property is described as: "BDK Wellfield #1A Tract N1/2 NE1/4 of Section 25, T112N, R51W (Preston Township) and Tract #4 in NE1/4 NE1/4 of Section 25, T112N, R51W BDK Wellfield #1 Tract N1/2 NE1/4 of Section 25, T112N, R51W" (Preston Township).

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

STAFF REPORT: The applicant is requesting a conditional use permit for a new pump building, ground storage reservoir, and backwash ponds to expand the pumping capacity and water storage of the Joint Well Field, Inc's (JWF) facility. Treated water from JWF is provided to the Brookings-Deuel and Kingbrook Rural Water Systems. Report noted: 1) Site is also future site of a new water treatment plant to expand the treatment capacity of the Joint Well Field facilities. Expansion project will take place on both parcels. 2) Smaller parcel was original pumping station and was in use prior to Zoning requirements, larger parcel is green space. 3) If approved the conditional use permit would allow the infrastructure expansion to use both parcels. 4) Public notices were published in the Brookings Register on March 22 & 29, 2022 and in the Volga Tribune on March 24 & 31, 2022. 5) Letters were sent to the adjoining landowners, Preston and Eureka Township Chairman and Clerk and the Brookings County Highway Department.

PUBLIC HEARING: Bjorn Seller, Engineer on behalf of Gene Wilts informed those present he had nothing to add.

Proponents: None.

Opponents: None.

DISCUSSION: Board members had no questions or comments regarding the request. Findings of Facts were reviewed and completed by the board, concurred with by Diedrich and placed on file.

VOTE: Erickson-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Storhaug-aye, Jensen-aye, Bartley-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

DEPARTMENT REPORTS

Hill reported an Engineer had spoken during the April 5, 2022 Brookings County Commission about the updating the floodplain maps that FEMA (Federal Emergency Management Agency) was in the process of doing. He also relayed weather patterns were in a cycle and to expect the weather events to possibly last 10 years – colder winters and warmer summers for the area. Hill and Haugen would be attending a Storm

April 5, 2022

Meeting Minutes APPROVED

Drainage meeting with the City on Thursday, April 7, 2022. Haugen would be presenting CAFO presentations at SDSU. Severe Weather Awareness Week is April 25-29, 2022. Storm Spotter Training would take place on Tuesday, April 26, 2022 at SDSU. Haugen reported the Joint public hearing of the Joint Jurisdictional Ordinance would tentatively be on Monday, June 13, 2022 (other possible dates June 9th, 16th or 23rd) with the time to be determined. Luke Muller reported FEMA updating Floodplain Ordinances and a request was in for maps to be digitally available, possibly by the fall.

ADJOURN

(Vanderwal/Diedrich) Motion to adjourn. Chair Ford adjourned the meeting at 10:32 PM.

Rae Lynn Maher
Brookings County
Development Department