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September 3, 2019 Minutes

Brookings County Planning & Zoning Commission
September 3, 2019 – 8:00 PM
Brookings City & County Government Center
310 Chambers

Chair Elenkiwich called the meeting to order at 8:02 PM. Commission members present were: Kimberly Elenkiwich, Mike Bartley, Michael McHugh, Tom Davis, Darrell Nelson, Darrel Kleinjan, Chad Ford, Terrell Spence, Randy Jensen and alternate board member Roger Erickson. Also present was States Attorney Dan Nelson.

Chair Elenkiwich read **agenda item # 2: Approval of minutes from August 6, 2019 meeting.** Mike Bartley moved to approve the minutes. Michael McHugh second. Chair Elenkiwich called for a voice vote. 9-ayes and 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 3: Items to be added to agenda by commission members or staff.** a) Robert Hill introduced States Attorney Dan Nelson.

Chair Elenkiwich read **agenda item # 4: Invitation for citizen to schedule time on the commission agenda for an item not listed. Time limited to 5 minutes per person to address the board.** No one scheduled time to address the board.

Chair Elenkiwich read **agenda item # 5: Disclosure of Conflicts of Interest: Relationship(s) to Applicant; or Ex Parte Communication.** Board member Mike Bartley noted he would recuse himself from item #12. 2019cu010 and board member Darrel Kleinjan noted he would recuse himself from item #9. 2019var010.

Chair Elenkiwich read **agenda item # 6: Approval of Agenda.** Tom Davis moved to approve the agenda. Chad Ford second. Chair Elenkiwich called for a voice vote. 9-ayes and 0- nays, motion carried.

Chair Elenkiwich stated, "We are now acting as the Brookings County Planning and Zoning Commission" read the opening statement and **agenda item # 7: Consideration of Plats: a. 2019plat015: "Plat of Lot 10A, Block 2, Sunset Point Addition in Govt. Lots 3 & 4 of Section 22, T112N, R47W of the**

5th P.M., Brookings County, South Dakota.” Mike Bartley moved to approve the plat. Darrell Nelson second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “This is plat of Lot 10A in Block 2 of Sunset Point Addition.” He noted: 1) Addition was located on Lake Hendricks and had been originally platted and approved by the Zoning Commission on November 1, 2005. 2) Lot meet the 20,000 sq. feet requirement for Lake Park District. 3) Lots platted in 2005 and not sold had been re-platted into larger lots on October 2, 2012 for tax purposes, once a lot was sold it was replatted into an original lake lot, as it was originally platted. Mr. Haugen used visuals to describe the plat. Chair Elenkiwich opened up for questions from the board, hearing none. She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, hearing none she closed the public hearing. Chair Elenkiwich asked the board for questions or comments. Board member Davis asked question regarding road approach/access and if any vision issues. Mr. Haugen stated, “It is a private road and will be put in according to their bylaws, the county and township have no jurisdiction, it is a private road and it is up to the Lake Association.” Chair Elenkiwich hearing no more questions from the board called for a roll-call vote: Bartley-aye, McHugh-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Spence-aye, Jensen-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich stated, “We are now acting as the Brookings County Board of Adjustment” read the opening statement and **agenda item # 8: 2019var009: Joel Edman has made an application, 2019var009, to the Brookings County Board of Adjustment 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 39A DeBoer’s Lake Tetonkaha West Subdivision in SE1/4 Section 7, T111N, R51W (Oakwood Township)” ~~ located at 57 Oakwood Shoreline Dr, Bruce, SD 57220.** Darrell Nelson moved to approve the variance request. Terrell Spence second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Joel Edman has applied for a variance to build an 18 feet x 28 feet residential addition 59 feet from the high water mark, a variance of 26 feet.” He noted: 1) the addition would be in line with the house and the neighboring properties on either side. 2) The cabin is situated on a ridge 12 feet above the high water mark. 3) A portion of the parcel was in the floodplain, a Flood Plan Development Permit had been completed and FEMA Floodplain standards would be followed in constructing the addition. 4) Hardships: shape and size of the lot and original and re-plat relocating the road. 5) Letters were sent to adjoining landowners and the Oakwood Township Chairman and Clerk. 6) Public Notices were published in Brookings Register (August 20 & 27, 2019) and in the Volga Tribune (August 22 & 29, 2019). Mr. Haugen then presented a visual presentation of the site and read a comment received from Dennis DeBoer an adjoining landowner that was opposed to the variance request. Chair Elenkiwich asked the applicant to come forward and address the board. The applicant identified himself as Joel Edman and stated, “The addition is to connect the house and the garage. The addition

will be farther away from the lake than the main part of the house.” Chair Elenkiwich opened up for questions from the board. Board members Davis, Elenkiwich, Bartley and Nelson discussed and reviewed: 1) distance house was from the lake vs. distance addition would be. Addition would be approximately 20 feet farther away from the lake than the main wall of the existing house. 2) Noted the home was his year round residence. Chair Elenkiwich then opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, hearing none she closed the public hearing. Chair Elenkiwich asked for additional comments from the board, hearing none she asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Elenkiwich called for a roll-call vote: McHugh-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Spence-aye, Jensen-aye, Bartley-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Darrel Kleinjan recused himself and alternate board member Roger Erickson took the seat.

Chair Elenkiwich read **agenda item # 9: 2019var010: Chad Wosje has made an application, 2019var010 to the Brookings County Board of Adjustment 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: “NE1/4 Exc 30 Acre Tract & Easements & Exc KJJQ Tower Addition in Section 16, T109N, R51W (Oslo Township).”** Tom Davis moved to approve the variance request. Chad Ford second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Chad Wosje has applied for a variance to build a 67 feet x 204 feet hoop barn 60 feet from the center of 463rd Ave, a variance of 73 feet.” He noted: 1) the road was an Oslo Township gravel road. 2) The distance from the right of way and east side of the proposed building was 27 feet. 3) Hardships: lay of the land – as you go northwest the land slopes down the farther you go west. 4) Public Notices were published in Brookings Register (August 20 & 27, 2019) and in the Volga Tribune (August 22 & 29, 2019) 5) Letters were sent to adjoining landowner’s, Sherman Township Chairman and Clerk. Mr. Haugen then presented a visual presentation of the site. Chair Elenkiwich asked the applicant to come forward and address the board. The applicant identified himself as Chad Wosje and stated, “When we originally started looking at doing this project we didn’t think the setback would be a big problem, until this spring. The water was way higher than it’s ever been. If we build the shed to where the original setback is the corner of the shed would be in where the water was at its highest point this spring.” He noted it became a concern as the area (NW corner of the property) was where he needed to enter crop ground with machinery and move cattle in between pastures which had become a lake due to the high water. Chair Elenkiwich opened up for questions from the board. Board member Davis asked that the location be clarified as being located on 463rd Avenue. Mr. Wosje noted it was on 463rd and that he currently stored hay in the area, it wasn’t near an intersection, no views were blocked. Chair Elenkiwich then opened up the public hearing portion asking for questions or comments from the audience opponents

September 3, 2019

Meeting Minutes APPROVED

Page 3 of 8

and proponents, hearing none she closed the public hearing. Chair Elenkiwich asked for additional comments from the board, hearing none she asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Elenkiwich called for a roll-call vote: Davis-aye, Nelson-aye, Erickson-aye, Ford-aye, Spence-aye, Jensen-aye, McHugh-aye, Bartley-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Roger Erickson stepped down and Darrel Kleinjan resumed his seat.

Chair Elenkiwich read **agenda item # 10: 2019var008: Howell Farms, Inc/Howell Livestock, Inc by Dan Howell has made an application 2019var008 to the Brookings County Board of Adjustment for a variance. Article 22: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setback and Separation Distance. Chapter 4.06. Aquifer Protection. Aquifer Protection Overlay District. Section 4.06.05.03. The property is described as: “NW1/4 Exc Lot 1 Olson’s Addition in Section 35, T110N, R51W (Volga Township)”**. Chad Ford moved to approve the variance request. Michael McHugh second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Dan Howell for Howell Farms Inc. /Howell Livestock Inc. has applied for a variance to relocate his existing class “C” Confined Animal Feeding Operation for finishing swine. They have been finishing swine at the two locations on their farm since the 1980’s and have 1,900 head of swine at the present time.” He noted: 1) farm was located in Zone “B” of the “First Occurrence of Aquifer Materials Map” which was done in 2004 to be used as a guide of soil profile. 2) The applicant had soil borings completed (by Lacey Well Drilling, Inc) at the proposed site and across the road to show the soil profile of the area. 3) The soil borings show profile of 1-2 feet topsoil, 2-22 feet of muddy-tight and yellow clay, 17-34 feet of sand and gravel. A USGS test boring in the area of the proposed site shows a similar soil profile. Proposed new building was also 1,500 feet away from an area where the soil profile changes to the next level of “Aquifer Materials”. 4) East Dakota Water Development District had reviewed the soil boring profiles and supported the variance request, as the soil boring shows a 15-22 feet clay barrier directly below and extending beyond the proposed site. 5) Manure storage containment of the proposed building will be excavated 4 feet into the ground, made of cement and sealed. 6) Aquifer Protection ordinance allows existing farmers/producers in Zone “B” to continue their operation at current level and expand up to 250 animal units up to a Class “C” level. 7) Applicant was also applying for a conditional use (2019cu009) Class “C” CAFO. 8) Letters were sent to adjoining landowners, Volga Township Chairman and Clerk, Brookings County Highway Department and Kingbrook Rural Water. 9) Public Notices were published in Brookings Register (August 20 & 27, 2019) and in the Volga Tribune (August 22 & 29, 2019). Mr. Haugen then presented a visual presentation of the site. Chair Elenkiwich asked the applicant to come forward and address the board. The applicant identified himself as Dan Howell and stated, “My dad and uncle (Kent & Craig) have had hogs since the late 70’s, early 80’s. I moved back to the farm in 2012 and in January 2014 I started custom

September 3, 2019

Meeting Minutes APPROVED

Page 4 of 8

feeding hogs.” He noted: 1) current operation consisted of 3 hog barns containing a total of 1900 head feeder to finish pigs (about 5,500 head per year). 2) Barns are 30+ years old and plans to retire barns and transition into a new 2400 head barn - 101 x 193 standard double wide, 2 room barn. 3) New proposed operation: Isowean to finish (4800 head per year). 4) Soil boring of 7 location by Lacey Well Drilling, Inc. – samples found 22 feet top soil and tight clay. 5) Barn will only be walk out type barn 4-5 feet into the ground with traditional 9 feet deep pit that will only be 4-5 feet in the ground. Chair Elenkiwich opened up for questions from the board, hearing none. She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents. Chair Elenkiwich asked Jay Gilbertson from East Dakota Water Development District to come forward and discuss findings with the board. Mr. Gilbertson discussed the aquifer materials map, findings of soil borings and his review. He summarized and stated “I would endorse the staff recommendation which is to allow, grant a variance in this case. There is additional information that suggests that the concerns at this location are unnecessary.” Luke Muller from First District Association of Local Governments reiterated the purpose of the variance was for separation distance not laterally but up and down of the aquifer, the aquifer material map was reviewed with the current soil borings for the specific site and no issue found. Mr. Haugen then read a statement received by phone from Paul Moriarty a proponent. Mr. Moriarty had no objections to the variance or conditional use request. Chair Elenkiwich hearing no additional opponents or proponents closed the public hearing. Chair Elenkiwich asked for additional comments from the board. Board members Bartley and Davis congratulated and applauded Mr. Howell for retiring barns and replacing with new and continuing a family tradition as well as going above and beyond and doing extra soil profiles. Chair Elenkiwich then asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Elenkiwich called for a roll-call vote: Kleinjan-aye, Ford-aye, Spence-aye, Jensen-aye, Bartley-aye, McHugh-aye, Davis-aye, Nelson-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 11: 2019cu009: Howell Farms, Inc/Howell Livestock, Inc by Dan Howell has made an application, 2019cu009, to the Brookings County Board of Adjustment 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: “NW1/4 Exc Lot 1 Olson’s Addition in Section 35, T110N, R51W (Volga Township)”**. Chad Ford moved to approve the conditional use request. Darrel Kleinjan second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Dan Howell for Howell Farms, Inc/Howell Livestock Inc. has applied for a Class “C” Confined Animal Feeding Operation (CAFO) for a swine finishing operation consisting of 2,400 head (960 animal units). The applicant has finished swine on their farm since the 1980’s in several barns on two separate locations, one being 1,500 feet to the south and the other one being three quarters of a mile north of the proposed location, they currently have 1,900 head of finishing swine.” He noted: 1) current barns have been in service for 30+ years and are in need of

September 3, 2019

Meeting Minutes APPROVED

Page 5 of 8

updating, If approved the current barns would be removed and all the swine would be in the new updated facility. 2) Proposed site would feature one (1) – 102 feet x 193 feet finishing barn with and 8 feet deep pit (for manure storage) of which only 4 feet will be excavated in the ground, loading area/office and feed bins. 3) Set back requirements of 200 feet from county road right-of-way; 200 feet from adjoining property lines; 1,320 feet from existing residence and 1,320 feet from a private well other than the operators will be met. 4) Main access will be off 464th Ave (Brookings County blacktip road #5) and applicant has visited with Volga Township concerning a road agreement. 5) Manure pit storage is sufficient for 365 days of storage capacity. Manure to be pumped on an annual basis and applied by direct injection. Plans shows 958 acres available for manure application and minimum acreage requirement is 200 acres. 6) Proposed building not located in Zone “A” (Wellhead Protection Areas) and is not in the flood plain. 7) All required information was included in the application and Zoning Office had reviewed information and made a site visit. 8) Public Notices were published in Brookings Register (August 20 & 27, 2019) and in the Volga Tribune (August 22 & 29, 2019). 9) Letters were sent to adjoining landowners, Volga Township Chairman and Clerk, Brookings County Highway Department and Kingbrook Rural Water. Mr. Haugen then presented a visual presentation of the site. Chair Elenkiwich asked Mr. Howell to come forward and address the board. The applicant identified himself as Dan Howell and stated, “Like I mentioned before, right now we have 3 hogs barns with a total of 1,900 head with about 5,700 hogs going out per year. With hogs going to market 3 times during the year. With the proposed change I would have more AU (Animal Units) but less hogs per year (2 terms per year, about 4,600 hogs per year). We have an existing rendering truck location that is shared 50/50 with Nelson Farms. I went to everyone within 1.5 mile radius and discussed my plans and had them review and sign a document if they approved. All 10 neighbors and adjoining landowners signed that they approve.” Chair Elenkiwich opened up for questions from the board, hearing none. She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents. Mr. Haugen read a statement received by phone from Paul Moriarty stating that he had no objections to the conditional use request. Chair Elenkiwich asked for additional comments from the audience, hearing none she closed the public hearing. Chair Elenkiwich then asked the board for any additional questions or comments. Board member Ford asked a question regarding animal rendering site and if a site barrier was in place. Mr. Howell noted a shelterbelt generally screened view of deceased animals and the site had been used for over 10 years. Hearing no further comments Chair Elenkiwich asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Elenkiwich called for a roll-call vote: Ford-aye, Spence-aye, Jensen-aye, Bartley-aye, McHugh-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Mike Bartley recused himself and alternate board member Roger Erickson took the seat.

Chair Elenkiwich read **agenda item # 12: 2019cu010: Kimberly St. John has made an application, 2019cu010, to the Brookings County Board of Adjustment for a conditional use. Brookings Joint Jurisdiction Area: Article**

September 3, 2019

Meeting Minutes APPROVED

Page 6 of 8

IV: Agricultural, Residential and Floodplain and Aquifer Districts. Section 405. Agricultural District "A". Section 408: Special Exception # 10: Stables: and Brookings County Zoning Ordinance: Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 12: Stables. The property is described as: "Lot M-2 of Warrior Commercial Park Addition & Lot M-2 in Warrior Commercial Park 2nd Addition incl vacated portion of Street in SW1/4 of Section 18, T110N, R49W. (Aurora Township)"~~ located at 1900 25th Ave, Brookings, SD 57006. Darrell Nelson moved to approve the conditional use request. Darrel Kleinjan second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Kimberly St. John has applied for a conditional use/special exception for a horse stable in the Brookings County/City Joint Jurisdictional area." He noted: 1) Property was located 1/8 mile west of the I-29 Exit on Highway 14 By-Pass then 1/8 mile north on 25th Avenue. 2) Board a maximum of 30 horses, put on horse clinics, camps and events. 3) Business plan was filed and described: facility to be gated/locked, maintenance/ground plan, manure plan, emergency plan, points of contacts and alternate locations for horses in case of an emergency. 4) History of site being an approved horse stable dating back to 1997. 5) City of Brookings Community Development Department had reviewed and had no objections. 6) Public notices were published in the Brookings Register on August 20 and 27, 2019. 7) Letters were sent to adjoining landowners, Aurora Township Chairman and Clerk, City of Brookings Community Development and Brookings County Highway Department. Mr. Haugen then presented a visual presentation of the site.

Chair Elenkiwich asked the applicant to come forward and address the board. The applicant identified himself as David St. John and stated, "My wife and I are doing this. We boarded our horse there when it was JC Twisted. When they decide to no longer have the place, we needed a place for our horse so decided to take it on." He noted: 1) they had been in contact with the owner to continue operation of facility as a stable. 2) Fly and pest plan in place with scheduled maintenance. 3) USDA approved chemicals to be used in each stall. 4) Manure is managed. 5) Employees hired to manage the barn. Chair Elenkiwich opened up for questions from the board, hearing none. She opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, hearing none she closed the public hearing. Chair Elenkiwich asked for additional comments from the board, hearing none she asked Mr. Haugen to go over the findings of facts, with any additions, which are on file. Chair Elenkiwich called for a roll-call vote: Spence-aye, Jensen-aye, Erickson-aye, McHugh-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 13: Department Reports.** Chair Elenkiwich asked Mr. Hill for his Directors report. Mr. Hill thanked States Attorney Dan Nelson for attending the meeting. He announced: 1) Alternate Tom Davis would fill deceased board member Robert Rochel's term on the board that would end the end of December 2019. 2) Alternate positions on the board would both be advertised (3 year terms). 3) Planners Conference would be in Brookings on October 16 & 17, 2019, any interested board members were to contact the office.

September 3, 2019

Meeting Minutes APPROVED

Page 7 of 8

4) FEMA was in the county and contacting the townships that had received damage from snow and flooding events. 5) Haugen and Hill would attend SD Emergency Managers Conference in Pierre, September 9-12, 2019. 6) September 16-17, 2019 Mr. Hill would attend the SD Association of County Commissioners Conference in Pierre, SD. Luke Muller noted that Tuesday, September 17, 2019 he would be giving a presentation at the Conference in Pierre that board members could also attend if they were not able to attend the Conference in Brookings on October 16 & 17, 2019. Mr. Haugen had nothing to add.

Chair Elenkiwich read **agenda item # 14: Executive Session, if Necessary**. Chair Elenkiwich noted no need for executive session.

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

Chair Elenkiwich adjourned the meeting at 9:43 PM.

Rae Lynn Maher
Brookings County
Development Department.