

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF JUNE 13, 2022 JT CITY & COUNTY PLANNING MEETING

The Brookings City Planning Commission and the Brookings County Planning & Zoning Commission met in a Joint Session on Tuesday, June 13, 2022. Brookings City Planning Commission members present were Acting Chairperson Jacob Mills, Roger Solum, Lee Ann Pierce, and Nick Schmeichel. Tanner Aiken phoned in. Absent City members were City Chairperson Greg Fargen, James Drew, Justin Borns, and Gregg Jorgenson. Brookings County Planning Commission members present were Chair Chad Ford, County Commissioner Mike Bartley, Brian Gatzke, Darrel Kleinjan, Spencar Diedrich, Kyle Vanderwal, Neal Trooien, Randy Jensen, and alternate board members Roger Erickson and Dale Storhaug. Absent County member Vacant District 3 seat. Also present were City Planner Ryan Miller, 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 Senior Planner Luke Muller.

CALL TO ORDER

Chair Ford called the meeting to order at 6:01 PM.

APPROVAL OF AGENDA

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

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

APPROVAL OF MINUTES FROM JUNE 7, 2022 BROOKINGS CITY PLANNING COMMISSION AND BROOKINGS COUNTY PLANNING & ZONING COMMISSION JOINT MEETING.

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

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

CONVENE AS BROOKINGS COUNTY PLANNING & ZONING COMMISSION

(Bartley/Jensen) Motion by the County to approve the draft Joint Jurisdiction Zoning Ordinance as presented.

(Schmeichel/Solum) Motion by the City to approve the draft Joint Jurisdiction Zoning Ordinance as presented.

Public Hearing and Action on Joint Jurisdiction Zoning Ordinance.

The Brookings County Planning Commission and the Brookings City Planning Commission will hold a public hearing on proposed changes in the Joint Zoning Ordinance for Brookings County and the City of Brookings. Pursuant to SDCL Chapters

June 13, 2022

Meeting Minutes APPROVED

11-2, 11-4 and 11-6 and all acts amendatory thereto, the provisions of this ordinance shall apply within the unincorporated areas of Brookings County, South Dakota, as established on the map entitled "The Official Joint Jurisdictional Zoning Map of Brookings County and the City of Brookings, South Dakota."

STAFF REPORT: A PowerPoint presentation was presented by Luke Muller, Senior Planner from First District Association of Local Governments. He referenced the Codified Laws of the legislation process the County and City follow under SDCL 11-2, SDCL 11-4 & SDCL 11-6. Muller then summarized the process the boards went through beginning in 2017 - subcommittees met 24 times from November 20, 2017 – September 19, 2019. He then described processes used and a summary of Joint Changes: 1) first noting the area by displaying the Proposed Joint Area maps that showed a change in the boundaries of the Joint area (green proposed boundary line vs yellow current boundaries), and the location of the Ag Zone (gray), City Zoning (various colored areas) and the Wellheads (light pink with red border). 2) Administrative process was reviewed 3) Survey of Land Use. 4) End result was subcommittee's submitted draft. Joint Planning Commission Meetings were held using the subcommittee's submitted draft from December 2, 2019 - February 4, 2020, then 5 times from September 6, 2021 – March 3, 2022. At the meetings (work sessions) discussions took place amongst the Boards and were open for public attendance and viewing. Muller summarized what the document contained: Preamble, Article I – General Provisions, Article II – Definitions, Article III – District Regulations, Article IV – Administration, Article V – Supplemental Requirements for Agricultural District. Summary of Changes – **Administrative:** Change would be any property zoned "Ag" would be heard by a newly created "Joint Jurisdiction Board of Adjustment" for conditional uses and variances. Any property with another primary use district would get conditional uses and variances through the City. Newly created Board of Adjustment for Joint Area Ag District would consist of: (1) County Commissioner (2) County Planning Commission Members (1) City Planning Commission Member (1) City Council Member, Alternates: City appoints alternates for their 2 members, County appoints alternates for their 3 members. **District Regulations:** Non-Ag under City Ordinance and city permitting process, Floodplain & Pipeline under county regulations for these districts, Ag District incompatible uses (not typically occurring) were removed, regulate uses which might need different standards in the Joint Area: *CAFO's* – Conditional Use required above 500 animal units or over shallow aquifer and above 10 animal units (no present operations in the area exceed 500 animal units). *Gravel Pits* – require additional information on haul roads, noise, visual consideration, hydrology, dewatering & drainage, description of environmental impact, and Reclamation information. *Farmsteads/Established Building Sites. Aquifer Protection* – Regulate "Zone B" like rest of the county, portion of "Zone A" Aquifer District immediately east of Brookings was removed, "Zone A" Allowance of permitted uses: Crop farming and pasture, signs, accessory structures less than 120 square feet (building permits are not required for structures 120 sq. ft or less). Allowance of Conditional Uses: Public utilities, orchards & tree farms, reconstruction of or additions to existing structures, accessory structures greater than 120 square feet, Grain Bins. Any use not listed is prohibited. Muller ended his presentation by going over the Approval Process, noting as follows: **Meeting #1** Joint Meeting (County & City Planning Commissions) – public hearing before the County & City Planning Commissions, Recommendation of approval by County & City Planning Commissions. **Meeting #2a & #2b** County Commission & City Council meet separately to hold first readings. **Meeting #3** Joint Meeting #2 County Commission & City Council with Second Reading of Ordinance, Joint Public Hearing, and Approval. **Following Adoption** – Publish Notice of Adoption (Week 1). **One (1)**

June 13, 2022

Meeting Minutes APPROVED

week following first notice – Publish Notice of Adoption (Week 2). **20 Days After Publication** – Effective Date of Ordinance.

Planning & Zoning Commission Chairperson Ford opened the public hearing.

PUBLIC HEARING:

Proponents: None.

Opponents: Those that spoke in opposition and their issues with are as follows:

- 1) Mark Jorenby – (Aurora Twp) Noted he was against the changes, wanted things left to be decided by county commission and township levels.
- 2) Lowell Slyter – (Aurora Twp) Remarked he saw no reason for expanding the joint jurisdictional area and felt more regulation were being put on people out in the country area, no need for more restrictions.
- 3) Joel Foster – (Aurora Twp) Voiced concern that the public wasn't aware or informed of what the boards were deciding on. He noted he would like to see a draft that showed what was being changed or added clearly without having to compare two documents that were not formatted the same. He also was concerned with the proposed low number of Animal Units being allowed on 5 acres.
- 4) Andy Dupraz – (Aurora Twp) Agreed with Joel Foster that they hadn't been properly informed and was against proposed changes.

Planning & Zoning Commission Chairperson Ford closed the public hearing.

DISCUSSION: Bartley noted the copies referenced were clean copies as what the ordinance said, there had been draft ordinances that did have yellow and lined out portions that the board reviewed during their review process. Muller further explained the subcommittee determined old draft needed to be completely updated. The strike and underline that the board worked from with the planning commission was with reference to the subcommittee recommendation. The subcommittee level had more discussion on what was being taken out and what was being added in. Bartley added the format change was due to the document had to be redone, there was definitions, things in there that didn't match anymore so a clean document was created. Bartley noted the boards would like to hear what specific areas in the new document the public had questions on or disagreed with. He also noted the reason for the Joint Jurisdictional District being somewhat expanded (to north and other areas) was to prevent some things from happening in those areas that would not be beneficial to the expansion of the city limits as growth would occur. He further noted the board had tried to be conscientious of the fact that as that happens, rights of the people out in the county would need to be protected in particular the ag districts. He noted all the changed in the boundaries of the map were in the Ag District as far as the boundaries were concerned. Bartley asked the public to ask the board specific questions that they had.

Questions and comments by the public and board comments:

June 13, 2022

Meeting Minutes APPROVED

3

- 1) Mark Jorenby – what does the city see gaining from this? Pierce and Muller noted the change would be in the size of the group that met to hear requests, a new ordinance wouldn't be adopted it would be replacing existing. Those in the green area referenced in the map outside of the yellow (current area) would be subject to the joint jurisdictional rules that weren't before. Goal is to be as similar in those areas as possible to the Ag District with a few exceptions - feedlots, gravel pits and a few others. Rezoning in the area can't change as it is set up by statute. The part where the city may be a part that they weren't before is in that a couple members sitting on the new board would be from the city.
- 2) Lowell Slyter – 1.) Do we have a joint zoning around Aurora, White and Volga? Muller noted that Aurora and Volga did not have a joint jurisdiction zoning ordinance. He added Volga had approached the county about it but had not initiated the process yet. 2.) You want to enlarge north and east; you are telling me that you might have residential areas out there closer to the dump? Struck noted the city spent about a year working through the comprehensive plan with a consultant and public input, looked at growth areas and identified a 20-year growth plan and an extended area further out that is held in reserve as the community grows and as services become available that it would eventually evolve to urban development. With joint jurisdiction zoning it comes back to protecting the city's urban growth areas as well as the current residents in these rural areas. He noted challenges with some areas that were developed prior to some of the joint jurisdiction zoning ordinances such as not having dedicated ROW's. The 42-year-old ordinance hadn't kept up with current trends and needed to be updated to. Rezoning would still go through the same joint boards process, conditional use and variance requests would be heard by the separate board. Noting that it was important that the city be involved with decisions in rural zoned areas in the joint jurisdiction, areas over the aquifer to try to protect the drinking water sources. 3.) The 35-acre rule is over regulation in rural areas as there are already enough regulations to protect the urban area.
- 3) Andy Dupraz – What is the reasoning for not allowing a Grain Bin to be rebuilt in Zone A or B when you have a dry product. Haugen noted it was for over Zone A and was to protect in the event of a leak of farm equipment while loading or unloading, to protect the Zone A aquifer. Muller explained that current grain bins could still be used, the new requirement of a conditional use permit is if a grain bin is replaced or new one is built. Bartley noted that requests in the Zone A would be handled on a case-by-case basis to protect the area.
- 4) Joel Foster – Didn't object to what was planned for things over Zone A or B but issue with lack of being informed of the whole process that has been going on since 2017 and wanted it left as is. Pierce noted that subcommittee notices and agendas were published, and public had been at 24 meetings. Bartley noted that there had been a lot of public input during the subcommittee meetings. He further noted proposed boundaries were shortened up Volga to Brookings due to wetlands and not able to develop in those areas, growth to the south and north had to do with the city's comprehensive plan and future city development, the areas now would continue to be subject to Ag rules unless a rezoning request was made and approved. Struck noted the area to the north and south looked larger but until infrastructure was available to the areas, unlikely to see any

June 13, 2022

Meeting Minutes APPROVED

development in the areas. He noted area to the north had a large land holder (University - SDSU) and would have to go around to develop unless the university would decide to change research areas and allow for development. Areas to South, will have challenging area to develop due to environmental constraints, need to have coordinated growth – city will need to figure out how to work through and around (currently 3 developments in the south). Joint jurisdiction zoning with the county is to allow for areas that are planned for growth so that when the city reaches the areas they can get through, around, etc. to develop them.

- 5) Jason Oines – Commented, if the 3–5-acre development allowed growth to the north will go faster. The 35-acre rule is unaffordable and 3-5 acres more affordable and would go faster. I agree growth and change are needed and will happen. People in the new potential area should have been informed, letters sent and know what is changing. Pierce asked that Haugen address the 35-acre rule not being changed in the joint jurisdiction area and explain when someone may have a lot that is smaller. Haugen noted the only time a lot would be under 35 acres is when a lot would have been platted or a smaller lot that was deeded off prior to the zoning ordinance in 1975 and applies to both the joint area and outside in the county. Noting, right now, planned development districts are not allowed in the county for any multiple housing units or anything less than 35 acres. Nothing would be changing with this rule. Muller noted that both the city and county land use plan at this time agreed with keeping the 35-acre rule in place at this time.

Board further discussed: Gatzke asked: 1) if growth plans for items such as utilities, and services were planned, 2) what would be the benefit to be in the joint jurisdiction area? 3) does land have to be contiguous for annexation to be allowed? 4) why is the proposed boundary larger to the north than the south?

Struck noted municipal services generally not available with exception of areas where landowner had gone through annexation and requested connection to utilities. Utility plans had been looked at with the primary one being sanitary sewer, water and electricity are easier to get to areas. He stated, “Some of it is left up to the landowners or potential developers if they want to seek a particular area and invest in that infrastructure to serve that area, that is their decision to make. Generally, land had to be contiguous but there were a few exceptions that state law allowed, areas such as airports, railroads, interstates and public university, state owned land.” He noted utilities don’t have to be provided and there are areas currently in the existing city limits that aren’t served by some of the municipal utilities. Struck further noted that the larger proposed extension of the northern boundary was due to a significant amount of land being controlled by the university. The university intentions being not to sell it off for development but to protect their research interests. To get around the university area it is almost 2 miles before you can get to an area that would be eligible for development if the university isn’t willing to sell off. Areas to the south have areas to develop but there are also environmental concerns, the city comprehensive plan also identifies the southern area as a low residential development area, and we want to be careful of how many units we allow on a per acres basis.

June 13, 2022

Meeting Minutes APPROVED

(Gatzke/Vanderwal) Motion to amend the proposed map that the northern boundary of the Joint Jurisdictional area be brought back to original border as noted in yellow highlight on presented map.

DISCUSSION by County: Muller noted that both boards would have to pass the amendment to the proposed map. If city planning disagrees, then the county board would need to decide if it wanted to remove the amendment presented or proceed. Bartley spoke against the amendment noting he wasn't concerned with utilities. He further explained why the subcommittee had decided on the presented map. Noting why the green boundary line wasn't on 207th or 208th street - It was put in the middle of the sections where there wasn't a road, because you don't want the joint jurisdiction to have differences one side of the road vs. the other but rather divide in the middle of a section line. Pierce was also against the amendment noting the city of Brookings was like an island and develop was needed to be allowed and the best areas because of water would be to go to the north or south. Struck further explained the layout of Brookings and the floodplain, noting the need for boundary to be enlarged north is due to the large amount of land that the university owns, the land north of the university land would be considered contiguous and could be annexed. He identified issues, such as failing systems in rural subdivisions to the south that were not planned and existed before prior to the adoption of the 1980 joint jurisdiction zoning ordinance. He stated, "that's what we're trying to prevent from occurring in the future." Gatzke requested the floodplain map be presented and noted his opposition stating, "if you expand the joint jurisdiction area, I don't want it to hurt the agriculture people that it's designed to protect that's all." Muller identified the floodplain and aquifer zones. Vanderwal voiced he supported the amendment to support the landowners and farmers that showed up saying they didn't want to be a part of this. Hearing no further discussion Ford called for a vote.

County roll call vote: Bartley-nay, Gatzke-aye, Diedrich-nay, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Storhaug-aye, Ford-aye. 7-aye, 2-nay. **MOTION CARRIED.**

(Schmeichel/Solum) Motion to amend as proposed by the county (the proposed map that the northern boundary of the Joint Jurisdictional area be brought back to original border as noted in yellow highlight on presented map).

DISCUSSION by City: Pierce asked how the votes work if they are combined or if each separate. Muller noted the votes are separate. If city votes against, documents wouldn't match, both entities must propose the same document for approval. If they are different, then there is not a legal document that could be used for a joint jurisdiction ordinance. Mills asked Muller to explain the process that would be needed if the city passed a similar amendment so that maps and ordinance match and down the road the city would want to add area into the joint jurisdiction zone. Muller noted it would be same process that is currently underway (public notice, public hearing), it would be an amendment to

June 13, 2022

Meeting Minutes APPROVED

the joint jurisdictional ordinance. Bartley noted if it is brought up in the future (change in boundaries) the entire ordinance is open for review not just a single item. It could be an amendment to the ordinance at a later date as we are going to amend the ordinance for housing possibly at a later date, it reopens your ordinance again. Schmeichel asked Struck for further explanation of extension to the south, especially the very bottom southeast corner of the map. Struck noted discussion was primarily around the interchange, potential of commercial development and a buffer area. He also noted other potential development areas in the southern area of the map, developmental reuse of mining areas possibly being an area for urban development. Muller said in theory two separate recommendations could be forwarded on, it would be leaving it up to the council and commission to decide. They then sit together, hear the same comments and then they vote on which one they would have, ultimately, we would have two ordinances. Solum asked how much of the area north of the highway bypass was owned by the university. A beacon map was presented and reviewed. Muller noted that areas could be annexed in without being part of a joint jurisdiction area and that the area size the boards were considering to the north was only about three (3) quarters in size.

City roll call vote: Schmeichel-nay, Pierce-nay, Solem-nay, Aiken-nay, Mills-aye. 1-aye, 4-nay. **MOTION FAILED.**

Muller was asked to explain options available. Muller noted, statutory requirement of having a joint public hearing have been met, next step is to recommend approval of a joint jurisdiction ordinance or ordinance amendment to repeal and replace with difference in map document that county wants northern area left at current yellow highlighted location and city wants map that reflect extended northern area in green highlight. No vote had been taken; county has option to have a motion to reconsider the amendment. The motion would need to be made by someone who voted yes. Then a vote to reconsider then a revote on the amendment. Ford asked for a motion to reconsider, hearing none.

(Pierce/Mills) Motion to amend chart on page 76 for horses to be one (1) animal unit (AU) instead of two (2) animal units.

DISCUSSION: Muller noted that the document/chart was based off science out of the South Dakota Department of Agriculture and Natural Resources. Cody Moret came forward and explained that the referenced chart when looking at a horse would allow for 10 animal units for 5 acres not 2 animal units for 5 acres. He referenced the chart noting following it would protect the area. Pierce asked Joel Foster to come forward for his input. Mr. Foster noted he had misinterpreted the chart initially and that 5 horses for a 5-acre building site would be acceptable.

Pierce withdrew her motion to change the animal units for horses.

Muller described procedural process regarding amendments being different for the city and the county elected body. At the city level the elected body could propose an amendment, at the county side if the county commissioners propose an amendment to the draft that is proposed by the planning commission, the county commission must hold

June 13, 2022

Meeting Minutes APPROVED

a public hearing on that specific amendment that they propose. If the county recommends approval of a document that does not match the city's the city council at their meeting amend their draft decrease the area at that meeting. If county commission were going to amend the map and add area back to the green highlighted area, would have to propose the amendment and then hold a separate public hearing which would require additional notice according to their ordinance 14 days and then have a public hearing on that small portion that it amends.

City Chair Mills asked for a motion to amend map recommendation. Schmeichel noted that he would prefer the city council make any changes. Pierce noted that she had no issue with having another public hearing. Chair Ford recognized and allowed Jason Oines to speak. Mr. Oines wanted the board to be aware that the university had recently required more land (in the last 6 months) to the north.

Roll call vote:

City – Recommend as written. Pierce-aye, Solum-aye, Aiken-aye, Schmeichel-aye, Mills-aye. 5-aye, 0-nay. **MOTION CARRIED.**

County – Recommend with amendment. Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Storhaug-aye, Bartley-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

Muller pointed out that a schedule of the first and second readings wasn't known at this time. Stuck also noted to allow time as it would have to go to through the State Attorney and City Attorney review process then it will move to the City Council and County Commission.

ADJOURN

(Diedrich/Jensen) County Motion to adjourn. All members voted "aye". Motion carried.
(Schmeichel/Solem) City Motion to adjourn. All members voted "aye". Motion carried.
City Chairperson Mills and County Chairperson Ford adjourned the meeting at 8:13 PM.

Rae Lynn Maher
Brookings County
Development Department