

**BROOKINGS COUNTY/CITY OF BROOKINGS
JOINT “JURISDICTION” BOARD OF ADJUSTMENT
MINUTES OF SEPTEMBER 5, 2023 REGULAR MEETING**

The Joint Board of Adjustment met on Tuesday, September 5, 2023. Joint Board members present were Brookings County Planning & Zoning Commission representatives: Kyle Vanderwal, County Commissioner Mike Bartley, and Brookings County alternate board member Spencar Diedrich, City Council representative Wayne Avery, City Planning Commission representative Tanner Aiken. Absent were Brookings County Planning & Zoning Commission representative Chad Ford, City Council alternate Deputy Mayor Nick Wendell and City Planning Commission alternate Jacob Mills. Also present were County Development Director Robert W. Hill, County Development Deputy Director Richard Haugen, City Planner Ryan Miller, Community Development Director Mike Struck, and via phone from First District Association of Local Governments Senior Planner Luke Muller.

CALL TO ORDER

Vice Chair Avery called the meeting to order at 8:00 PM.

APPROVAL OF MINUTES

(Diedrich/Aiken) Motion to approve the August 1, 2023, 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 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.

DISCLOSURE OF CONFLICTES OF INTEREST

None.

APPROVAL OF AGENDA

(Vanderwal/Bartley) Motion to approve the agenda for the September 5, 2023 Meeting. All present voted aye. **MOTION CARRIED.**

CONVENE AS JOINT BOARD OF ADJUSTMENT

2023JJC004

Application by Cody Clifford for a conditional use permit. Joint Zoning Ordinance for Brookings County and the City of Brookings: Article III District Regulations, Chapter 3.06 Aquifer Protection, Section 3.06.04. Zone A – Aquifer Critical Impact Zone, Section 3.06.04.02. Conditional Uses in Zone A #4: Accessory structures greater than 120 square feet in area. The property is described as: “Wastell’s Addition in the NW1/4 of

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Section 22, T110N, R49W (Aurora Township)" ~ located at 1202 58th Ave, Brookings, SD 57006.

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

STAFF REPORT: The applicant is requesting a Brookings County/Brookings City Joint Jurisdiction Ordinance: Article III District Regulations, Chapter 3.06 Aquifer Protection, Section 3.06.04. Zone A – Aquifer Critical Impact Zone, Section 3.06.04.02. Conditional Uses in Zone A # 4: Accessory structures greater than 120 square feet in area. The report noted: 1) Proposed building measuring 66' wide x 96' long with a bathroom, cement floor, drain traps, and a sealed holding tank, it would be used for personal storage. The drain traps and sealed holding tank meet the "Performance Standards in Zone "A" in Section 3.06.04.04 on page 47 and Performance Standards of the Zone "B" Aquifer Secondary Impact Zone in Section 3.06.05.04 on page 48 of the Brookings County/Brookings City Joint Jurisdiction Ordinance. 2) Property was an existing farmstead and is zoned "Agricultural" and is in the northeastern edge of the Zone "A" of Aquifer Critical Impact Zone; Zone "B" Aquifer Secondary Impact Zone and the northern portion of the property is in the floodplain. 3) House and existing shed are built on a knoll that is 14 feet higher than the rear of the property that is in the floodplain, the purposed shed would be built on the knoll. 4) Property is located ½ mile north on 58th Avenue off US Hwy 14. Letter were sent to the adjoining landowners, Aurora Township Chairman and Clerk, and Brookings Municipal Utilities. A report was also provided to the Brookings Community Development Office and Brookings Municipal Utilities. Public notices were published in the Brookings Register on August 22 & 29, 2023. Haugen noted that a letter had been received after the Friday noon deadline from Brookings Municipal Utilities (BMU) and had been presented to board members at the start of the meeting.

PUBLIC HEARING: Applicant Cody Clifford informed those present the shed would be used for personal use and he didn't know there would be an issue as he didn't know of the ordinance changes that recently took place. He noted: 1) It would have a concrete floor that was required, and a sealed holding tank as the septic system for the bathroom and floor drain(s) and possible sink. 2) the building would not be used as a business; he would keep his tow truck inside it versus outside in the winter.

Proponents: None.

Opponents: Eric Witt, Water and Wastewater Manager from BMU stated, "letter of opposition was submitted for this project". He noted opposition wasn't due to the nature of the building itself but because of the location within Zone A – the critical aquifer recharge area for the primary water source for Brookings and Aurora. Noting: 1) The two sources are needed as viable water sources in South Dakota are limited. 2) Understood location of application submitted was towards the northern end but concern is not for how long it would take for contaminants to get there it's could contaminants get there and end up in the well. 3) Understood building is personal use – concerned with size of structure, location in Zone A and potential for storage of fuel, vehicle(s), and paint solvents in the future. He noted drinking water standards have become more stringent

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with EPA standards requiring certain contaminants testing down to be parts per trillion range.

DISCUSSION: Board member Bartley questioned the need for the size of the structure noting applicant only noted 1 truck being stored in the structure, could the building be smaller. Applicant Cody Clifford noted that with having 5 kids there may be potential for 5 vehicles outside on the gravel versus stored inside on cement and the structure would not be all shop, it would be used as a “man cave” for personal enjoyment area being roughly 20 feet x full length (96 feet). He noted they had a well in the yard that they used for their personal drinking water, and they don’t want to contaminate any water. Chair Avery asked Eric Witt to further describe the susceptibility and shallow nature of the wells. Witt noted the recharge comes through sand and gravel formations, the deposit being shallow (60-65 feet deep) with little overburden in cases. It is very near the surface Aquifer and Aurora is supplied by Brookings due to their (Aurora) wells being contaminated. Witt stated, “No matter where you are in Zone A, it is the critical recharge area.”

Findings of Facts were reviewed and completed by the board and placed on file.

Eric Rasmussen questioned the required vote. He noted it was indicated that the vote was a majority, but he understood it’s a 2/3 majority. He wanted clarification as to why it was a simple majority. Avery noted that with a Conditional Use request it is just a majority of the members present. Muller clarified that according to SD CL 11-2-17.3 Approval of a conditional use request requires the affirmative majority vote of the members of the approving authority who are present and voting. Rasmussen noted that the county ordinance said 2/3. Bartley noted that the ordinance updates had been done 2 years ago and that continued to be an ongoing process.

VOTE: Aiken-nay, Vanderwal-aye, Diedrich-aye, Bartley-aye, Avery-nay. 3-aye, 2-nay.

MOTION CARRIED.

2023JJC005

Application for Triple R Partners, LLC by Jesse Rounds for a conditional use permit. Joint Zoning Ordinance for Brookings County and the City of Brookings: Article III District Regulations, Chapter 3.04 “A” Agricultural Land District; Section 3.04.02 Conditional Use #17: Sand, gravel or quarry operations; mineral exploration and extraction; rock crushers; and concrete and asphalt mixing plants. The property is described as: “Lot 2 CKS Partners Addition in the SW1/4 of Section 20, T110N, R49W (Aurora Township)”.

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

STAFF REPORT: The applicant is requesting a conditional use permit #17. The report noted: 1) The proposed mine site would be a 3-acre mining site on a 52.7 acre parcel they own on the west side of US Hwy 14 Bypass on the northeast side of Brookings. 2) Plans – mine the raw material and use “as is”, it would not be screened or crushed. Proposed mining depth to be 15-20 feet with 4:1 slope, with a timeline of 7-10 years or when the mine material is depleted. An existing driveway on the west side of US Hwy 14

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By-pass will be used for entrance and exit to the property. The hours of operation to be 6:30 AM – 6:30 PM. Weed and dust control will be done on an as needed basis. Berms will be constructed with a 4:1 slope along the road and the mining area. 3) Applicant will need to apply for mining permit from the South Dakota Department of Agriculture and Natural Resources (SD DANR). The reclamation plan will need to meet SDDANR requirements. There will be a 3-acre retention created when the mining is completed. The retention pond design will be consistent with the City of Brookings requirements for storm water retention requirements needed for any future development of the property. 4) The 52.7-acre parcel is in the floodplain and Zone “B” of the Aquifer Materials Map. The proposed mining area is north of the Zone “A” Aquifer Critical Impact Zone, not located in Zone A area. The applicant will need to follow Brookings City-Brookings County Joint Jurisdiction Ordinance Section 3.06.05 Zone B Aquifer Secondary Impact Zone, Section 3.06.05.04 Performance Standards in Zone B. The property is located within the 3-mile joint jurisdiction area and is zoned “Agricultural”. Letters were sent to the adjoining landowners, Aurora Township Chairman and Clerk, the South Dakota Department of Transportation and Brookings Municipal Utilities. A staff report was sent to the Brookings Community Development Office. Public Notices were published in the Brookings Register on August 22 and 29, 2023.

PUBLIC HEARING: Applicant Jesse Rounds informed those present the material excavated from the retention pond classifies as mining material because of the sand and gravel. With potential future development in the area a retention pond would be needed, so to be proactive, they were proposing to create with best management practices a runoff sediment basin. Board member Aiken asked to clarify that this would not function as a mine, but a conditional use permit is sought because of the type of mining material on the site. Rounds noted that as soon as the material leaves the site and is sold, it is classified as a mine because of the type of material, top soil, clay and other materials don’t classify as a mined material, but sand or grave are considered mined material.

Proponents: Eric Witt, Water and Wastewater Manager from BMU noted that they were not opposed to the project as they had worked with the applicant and the location was not in Zone A but was in Zone B of the Aquifer. The scope of the project had been reduced to just what would be required for a storm water retention pond, the footprint of. The applicant agreed to use best management practices as they develop the pond. Noting if they were to annex now or in the future, I believe there could be an interest in that, the retention pond would be a required feature and beneficial feature.

Opponents: None.

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

VOTE: Vanderwal-aye, Diedrich-aye, Bartley-aye, Aiken-aye, Avery-aye. 5-aye, 0-nay.
MOTION CARRIED.

DEPARTMENT REPORTS.

None.

ADJOURN

(Vanderwal/Bartley) Motion to adjourn. Chair Avery adjourned the meeting at 8:54 PM.

Rae Lynn Maher
Brookings County
Development Department