BROOKINGS COUNTY PLANNING & ZONING COMMISSION

BROOKINGS CITY & COUNTY GOVERNMENT CENTER
520 3rd St, 310 Chambers, Brookings, SD 57006

AGENDA

1. **6:30 PM: Call to Order Brookings County P&Z and Brookings City Planning Commission Joint Work Session on Feb. 4, 2020**

2. **Approval of Minutes from January 7, 2020 Brookings City Planning Commission and Brookings County Planning & Zoning Commission Joint Meeting**

   Documents:

   Jan 7, 2020 Jt Juris Draft Joint Work Session Minutes_1-21-2020.pdf

3. **Approval of Agenda**

4. **Discussion and review on updating Joint Jurisdiction Zoning Ordinance DRAFT - with First District.**

   Documents:

   BrookingsCountyCityJJO TOC 120219.pdf
   JointJurisdictionAreaSubcommitteeRec091919_MAP.pdf
   DRAFT Jt Juris Ord_11-12-2019.pdf

5. **Adjourn**

6. **BROOKINGS COUNTY PLANNING & ZONING COMMISSION MEETING**

7. **Call to Order - 7:30 PM Immediately following Joint Work Session on February 4, 2020**

8. **Approval of Minutes from January 7, 2020 Meeting Brookings County Planning & Zoning Commission Regular Meeting.**

   Documents:

   Jan 7, 2020 PZ Draft Minutes_1-23-2020.pdf

9. **Items to be Added to Agenda by Commission Members or Staff**

10. **Invitation for Citizens to Schedule Time on the Commission Agenda for an Item Not Listed**
    Anyone wanting to speak during this agenda item much sign in prior to the start of the meeting. Any requested action items much be scheduled for a future meeting date.
    (Time limited to 5-minutes per person to address the commission.)

11. **Disclosure of Conflicts of Interest: Relationship(s) to Applicant; or Ex Parte Communication**

12. **Approval of Agenda**

13. **Convene as Brookings County Planning and Zoning Commission**

14. **Consideration of Plats**

    A. **2020plat002**

    "Plat of Lot 10 in Block 1 in Paradise Point Addition in Govt. Lot 2, Section 22, T112N, R47W of the 5th P.M., Brookings County, South Dakota."

    Documents:

    2020plat002 Staff Report.pdf

    B. **2020plat003**

    "Plat of Lots 1A & 2A of Goodfellow Addition in the N1/2 of the NE1/4 of Section 18, T111N, R51W of the 5th P.M., Brookings County, South Dakota."

    Documents:

    2020plat003 Staff Report.pdf

    C. **2020plat004**

    "Plat of Lots 1 and 2 of Converse Addition in the SE1/4 of Section 6, T111N, R52W of the 5th P.M., Brookings County, South Dakota."

    Documents:

    2020plat004 Staff Report.pdf

15. **Convene as Brookings County Board of Adjustment**

    (The Board of Adjustment needs 2/3 approval of the full board to approve any agenda item.)

16. **Postponed from Jan. 7, 2020 Meeting - 2020cu001:**

    Thomas A Davis has made an application, 2020cu001, to the Brookings County Board of Adjustment for a conditional use. 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: "E1/2 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4 of Section 4, T110N, R48W (Alton Township)".

    A. **Comments received for postponed 2020cu001**

    Documents:

    LWipf_phone-1-23-2020_for 2020cu001-002 Feb Mtg.pdf

17. **Postponed from Jan. 7, 2020 Meeting - 2020cu002:**

    Thomas A Davis has made an application, 2020cu002, to the Brookings County Board of Adjustment for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 5A: Rock Crushers. The property

is described as: "E1/2 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4 of Section 4, T110N, R48W (Alton Township)".

A. **Comments received for postponed 2020cu002**

Documents:

LWipf_phone-1-23-2020_for 2020cu001-002 Feb Mtg.pdf

18. **2020var001**

VanderWal Farms, Inc by Scott VanderWal has made an application, 2020var001, 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: "E 586' of the N 1056' of the NE1/4 SE1/4; Exc N 1 Rod, the E 285' of the N 270', and Outlot 1; but to include S 121.2' of N 1177.2' of E 300' of NE1/4 SE1/4 Exc S 61' of the N 1177.2' of the W 68' of the E 300', thereof, all in Section 15, T110N, R51W (Volga Township)" ~~ located at 619 N. Samara Ave., Volga, SD 57071.

Documents:

2020var001 Staff Report.pdf

19. **2020cu006**

Lawrence Rogge has made an application, 2020cu006, to the Brookings County Board of Adjustment for a conditional use. 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 8, T111N, R47W (Lake Hendricks Township)".

Documents:

2020cu006 - Staff Report.pdf

A. **Comments received - 2020cu006**

Documents:

VClayton_phone 1-21-2020_for2020cu006-2020cu007.pdf

20. **2020cu007**

Lawrence Rogge has made an application, 2020cu007, to the Brookings County Board of Adjustment for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 5A: Rock Crushers. The property is described as: "NW1/4 of Section 8, T111N, R47W (Lake Hendricks Township)".

Documents:

2020cu007 - Staff Report.pdf

A. **Comments received - 2020cu007**

Documents:

VClayton_phone 1-21-2020_for2020cu006-2020cu007.pdf

21. **2020cu008**

    Jesse and David W. King have made an application, 2020cu008, to the Brookings County Board of Adjustment for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 20: Home Extended Business". The property is described as: "S 734' of E 753' Except the S 225' of W 359' of E 753' in the SW1/4 of Section 3, T112N, R49W (Argo Township) and the S 225' of W 359' of E 753' in the SW1/4 of Section 3, T112N, R49W (Argo Township)" ~~ located at 47542 197th St, Toronto, SD 57268.

    Documents:

    2020cu008 Staff Report.pdf

22. **Department Reports**

23. **Executive Session, if Necessary.**

24. **Adjourn**

25. **Public Notices**

BROOKINGS COUNTY DEVELOPMENT DIRECTOR
BROOKINGS CITY & COUNTY GOVERNMENT CENTER
520 3rd Street, Suite 200
BROOKINGS, SOUTH DAKOTA 57006
(605)-696-8350
ROBERT W. HILL
TELEPHONE (605) 696-8350
FAX (605) 696-8355
E-MAIL: zoning@brookingscountysd.gov

January 7, 2020 Work Session Minutes
Joint Brookings City and Brookings County Planning Commission

Brookings County Planning & Zoning Commission Chair Elenkiwich called the meeting to order at 6:30 PM. Brookings City Planning Commission members present were: Ashley Biggar, Gregg Jorgenson, Jason Meusburger, Jacob Mills, Lee Ann Pierce, Greg Fargen, Eric Rasmussen, and City Chairperson Tanner Aiken. Absent City member was James Drew. Brookings County Planning Commission members present were: Chair Kimberly Elenkiwich, Mike Bartley, Michael McHugh, Tom Davis, Darrell Nelson, Darrel Kleinjan, Randy Jensen, Chad Ford, and alternate board member Roger Erickson. Absent County members were Terrell Spence and alternate Spencar Diedrich. Also present were City Planner Staci Bungard, 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 Payton Schafers and Senior Planner Luke Muller.

Chair Elenkiwich read **agenda item # 2: Approval of Agenda.** Motion to approve was made by County Planning & Zoning Commission member Bartley and Ford second. City Chair Aiken asked for a motion by City Planning Commission. Motion by Rasmussen, second by Jorgenson to approve agenda. Voice vote, all present voted aye. Motion carried.

Chair Aiken read **agenda item # 3: Approval of December 2, 2019 Joint Jurisdiction Minutes.** Motion by Pierce, second by Meusburger from the City Planning Commission. Chair Elenkiwich asked for a motion to approve from the County Planning & Zoning Commission. Motion to approve by Bartley, second by Ford. Voice vote, all present voted aye. Motion carried.

Chair Elenkiwich read **agenda item # 4: Discussion and review on updating Draft Joint Jurisdiction Zoning Ordinance.** Chair Elenkiwich turned the meeting over to Luke Muller. Luke Muller introduced himself as Senior Planner from First District Association of Local Governments and introduced new office employee Payton Schafers. He then went over topics of the Joint Jurisdiction Zoning Ordinance: 1) Joint Jurisdiction Area Map. 2) Administration – noting a new Joint Board or Adjustment for Ag District only 3) Ag District. Next meeting to be February 4, 2020 at 6:30 PM with review and discussion of: Aquifer Protection District and possibly Existing Farmsteads.

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Chair Elenkiwich asked for a motion to adjourn. Motion by Davis, second by Ford. Chair Elenkiwich and Chair Aiken adjourned the meeting at 7:14 PM.

Rae Lynn Maher
Brookings County
Development Department

DRAFT 1-21-2020

CITY OF BROOKINGS/BROOKINGS COUNTY
JOINT JURISDICTION ZONING ORDINANCE
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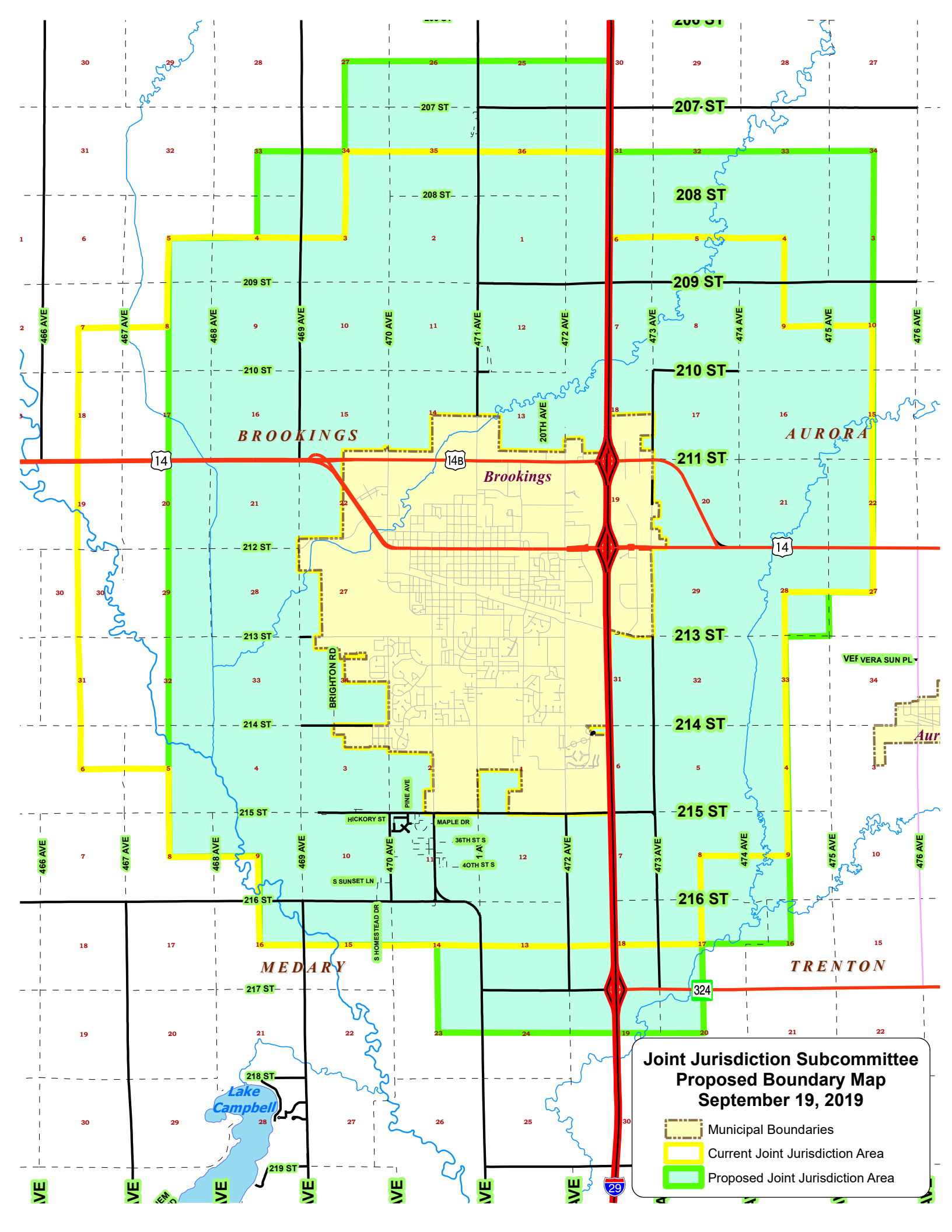

Joint Jurisdiction Subcommittee
Proposed Boundary Map
September 19, 2019
Municipal Boundaries
Current Joint Jurisdiction Area
Proposed Joint Jurisdiction Area
BROOKINGS
AURORA
MEDARY
TRENTON
Brookings
Lake Campbell
207 ST
208 ST
209 ST
210 ST
211 ST
212 ST
213 ST
214 ST
215 ST
216 ST
217 ST
218 ST
219 ST
466 AVE
467 AVE
468 AVE
469 AVE
470 AVE
471 AVE
472 AVE
473 AVE
474 AVE
475 AVE
476 AVE
20TH AVE
BRIGHTON RD
PINE AVE
HICKORY ST
MAPLE DR
36TH ST S
40TH ST S
S SUNSET LN
S HOMESTEAD DR
VERA SUN PL
14
14B
324
29

DRAFT

NOV 1 2 2019

BROOKINGS
COUNTY DEVELOPMENT

ORDINANCE NO. XX

AN ORDINANCE ESTABLISHING ZONING REGULATONS AND A ZONING MAP FOR THE CITY OF BROOKINGS AND BROOKINGS COUNTY AREA OF JOINT ZONING AUTHORITY AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF SDCL CHAPTERS 11-2, 11-4 AND 11-6, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, SDCL Chapters 11-2, 11-4 and 11-6 empower Brookings County, hereinafter referred to as the County, to enact a zoning ordinance to share zoning authority with the City of Brookings for all land within an "Area of Joint Zoning Authority" and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Brookings County Board of Commissioners, hereinafter referred to as the Board, deems it necessary for the purpose of promoting the health, safety, morals, and general welfare of the County to enact such an ordinance, and

WHEREAS, the Board has appointed a Planning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the "Area of Joint Zoning Authority" into districts and has prepared regulations pertaining to such districts in accordance with the City of Brookings and Brookings County Comprehensive Land Use Plans, and amendments thereto, and in such a manner as to lessen congestion in the streets, to secure safety from fire, panic, and other dangers; to promote the health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings, and encouraging the most appropriate uses of land throughout the "Area of Joint Zoning Authority", and

WHEREAS, the Planning Commission has held a public hearing thereon, and submitted its recommendation to the Board, and

WHEREAS, the Board has given due public notice of hearings relating to zoning districts, regulations, and restrictions; and has held such public hearing, and

WHEREAS, all requirements of SDCL Chapters 11-2, 11-4, and 11-6, with regard to the recommendation of the Planning Commission and subsequent action of the Board have been met;

NOW, THEREFORE, BE IT ORDAINED BY BROOKINGS COUNTY:

CHAIRMAN DATE	ATTEST DATE COUNTY FINANCE OFFICER

DRAFT

ARTICLE I
GENERAL PROVISIONS

CHAPTER 1.01. TITLE AND APPLICATION.

Section 1.01.01. Title.

This ordinance shall be known, cited and referred to as the "Joint Zoning Ordinance for Brookings County and the City of Brookings" to the same effect as if the full title were stated.

Section 1.01.02. Jurisdiction.

Pursuant to SDCL Chapters 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."

Section 1.01.03. Purpose.

The zoning regulations and zoning districts herein have been based upon the following adopted comprehensive land use plans, hereafter referred to as "Plans". The 2016 Brookings County Comprehensive Land Use Plan was adopted on February 9, 2016 by the Board of Brookings County Commissioners and the 2040 City of Brookings Comprehensive Land Use Plan, adopted by the Brookings City Council on April 24, 2018 and Amendments thereto. These Plans are in conformance with SDCL Chapters 11-2, 11-4 and 11-6. These regulations shall establish a common working relationship between the City of Brookings and Brookings County to carry out the goals and objectives of the Plans as adopted by the City and County. The Joint Zoning Ordinance is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the Joint Zoning Ordinance is adopted in order to achieve the following objectives:

1. To assist in the implementation of the (Plans) which in their entirety represents the foundation upon which this ordinance is based.

2. To prevent excessive population densities and overcrowding of the land with structures

3. To encourage a distribution of population or mode of land utilization that will facilitate the economical and adequate provisions of transportation networks, water supply, storm water drainage, sanitary sewer, education, recreation, or other public improvement requirements

4. To allow uses of land compatible with features of the natural environment in a manner and location which will not directly harm the water source for the City of Brookings.

5. To foster a harmonious, convenient, workable relationship among land uses.

6. To promote the stability of existing land uses that conform with the (Plans) and to protect them from inharmonious influences and harmful intrusions.

7. To preserve and protect existing property uses and values against adverse or unharmonious adjacent land uses.

8. To regulate and restrict the height, number of stories, and bulk of building and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; and the location and use of other purposes;

9. To regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of building, structures, and land.

10. To allow for the orderly and economic extension of urban services by limiting development density until property may be annexed into the City of Brookings.

CHAPTER 1.02. ORDINANCE PROVISIONS.

Section 1.02.01. Provisions of Ordinance Declared to be Minimum Requirements.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rule, ordinance, or Board of Adjustment decision, the most restrictive or that imposing the higher standards, shall govern.

Section 1.02.02. Purpose of Section Titles.

The titles appearing in connection with the sections of these regulations are inserted simply for convenience to serve the purpose of an index. The introductory statements found at the beginning of each article are to serve as general references only. The section titles, introductory statements, and illustrative examples of zoning terms shall be wholly disregarded by any person, office, court, or other tribunal in construing the terms and provisions of these regulations.

Section 1.02.03. Violation and Penalty.

1. Violations of this ordinance shall be treated in the manner specified below.

    a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All fees assessed there under shall be rounded to the nearest whole dollar.

        i. Upon finding such violation, the Zoning Officer shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the normal fee for the associated building permit, variance, conditional use, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars ($5.00), including the postage costs.

        ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the

normal fee for the associated building permit, variance, conditional use, and/or rezoning building permit fee plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.

iii. Any administrative fee or penalty imposed under the provisions of the Joint Zoning Ordinance shall be in addition to any other fees or charges required under this ordinance.

b. It is declared unlawful for any person to violate any of the terms and provisions of these regulations. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this ordinance may be subject to a civil or criminal penalty. The penalty for violation of this ordinance shall be five hundred dollars ($500.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the County Finance Officer and shall be credited to the General Fund of the County.

c. In the event, any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Brookings County and/or the City of Brookings in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation

d. Any taxpayer of the County may judicial proceedings in a court of competent jurisdiction to compel performance by the proper official or officials of any duty required by these regulations.

Section 1.02.04. Separability Clause.

Should any article, chapter, section, or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

Section 1.02.05. Repeal of Conflicting Ordinances.

The Brookings Joint Jurisdiction Ordinance, 1980 is hereby repealed in its entirety. All other ordinances or resolutions or part of ordinances or resolutions in conflict with this ordinance or inconsistent with the provisions of this ordinance are repealed to the extent of this inconsistency only.

Section 1.02.06. Effective Date.

This ordinance shall take effect and be in force from and after its passage and publication according to law.

1.02.07. Saving Clause.

These regulations shall in no manner affect pending actions either civil or criminal, founded on or growing out of any regulations hereby repealed. These regulations shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulations repealed.

CHAPTER 1.03. OFFICIAL JOINT JURISDICTIONAL ZONING MAP.

Section 1.03.01. Official Joint Jurisdictional Zoning Map.

1. The unincorporated portions of the Area of Joint Zoning Authority is hereby divided into zones, or districts, as shown on the Official Joint Jurisdictional Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. The Official Joint Jurisdictional Zoning Map shall be identified by the following words: "This is to certify that this is the Official Joint Jurisdictional Zoning Map referred to in Chapter 1.03 of Ordinance Number XX of Brookings County, State of South Dakota, as amended." and Ordinance XX of the City of Brookings together with the date of the adoption of these Ordinances and subsequent amendments. The Official Joint Jurisdictional Zoning Map shall be on file at the office of the County Development Office and the office of the Community Development Department.

2. Regardless of the existence of purported copies of the Official Joint Jurisdictional Zoning Map which may from time to time be made or published, the Official Joint Jurisdictional Zoning Map, located in the office of the County Development Office, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Area of Joint Zoning Authority.

Section 1.03.02. Amendment of the Official Joint Jurisdictional Zoning Map.

1. If, in accordance with the provisions of this ordinance changes are made in district boundaries or other matter portrayed on the Official Joint Jurisdictional Zoning Map, such changes shall be entered on the Official Joint Jurisdictional Zoning Map promptly after the amendment has been approved by the Board of Brookings County Commissioners and the Brookings City Council.

2. No changes of any nature shall be made on the Official Joint Jurisdictional Zoning Map or matter shown thereon except with conformity with the procedure set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance.

Section 1.03.03. Interpretation of District Boundaries.

1. Where uncertainty exists as to the boundaries of districts as shown on the Official Joint Jurisdictional Zoning Map, the following rules shall apply:

    a. A district name or letter symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or symbol extend throughout the whole area in the unincorporated portions of the County bounded by the district boundary lines.

b. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines;

c. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

d. Boundaries indicated as approximately following city limits shall be construed as following such city limits;

e. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

f. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

g. Boundaries indicated as parallel to or extensions of features indicated in subsections 1.a. through1.f. above shall be so construed. Distances not specifically indicated on the Official Joint Jurisdictional Zoning Map shall be determined by the scale of the map; and

h. Where physical or cultural features existing on the ground are at variance with those shown on the Official Joint Jurisdictional Zoning Map, or in other circumstances not covered by subsections 1.a. through 1.f. above, the Board of Adjustment shall interpret the district boundaries.

Section 1.03.04. Changes and/or Replacement of Official Joint Jurisdictional Zoning Map.

1. In the event that the Official Joint Jurisdictional Zoning Map becomes damaged, destroyed, or lost, the Board of County Commissioners and the Brookings City Council may by ordinance adopt a new Official Joint Jurisdictional Zoning Map, which shall supersede the prior Official Joint Jurisdictional Zoning Map.

2. Unless the prior Official Joint Jurisdictional Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

3. Amendments to the Official Joint Jurisdictional Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.04, Section 3.04.03 of these regulations

Section 1.03.05. Classification of Land Coming Within the Area of Joint Zoning Authority.

In all territories which may hereafter come within the Area of Joint Zoning Authority, the zoning districts, as they exist in the Zoning Ordinance for Brookings County shall be continued unless otherwise changed by ordinance.

Section 1.04. Dissolution of 2019 Joint Zoning Ordinance for Brookings County and the City of Brookings.

1. The regulations contained herein establishing concurrent jurisdiction shall be in effect unless either the City of Brookings or Brookings County adopts an ordinance dissolving said concurrent jurisdiction and regulations. In order to dissolve the concurrent jurisdiction and these regulations, the county and city planning commissions shall meet jointly and hold at least one (1) public hearing on the proposed dissolution. Notice of the time and place of the hearing shall be given once by the party proposing the dissolution at least fourteen (14) days in advance by publication in the legal newspaper of the City of Brookings. Following the public hearing, each planning commission shall submit a recommendation to each respective governing body. If it is the intent of a respective governing body to proceed with the dissolution of the concurrent jurisdiction and these regulations, said governing body shall hold two (2) readings of the ordinance, with at least one (1) public hearing prior to adoption of said ordinance. Notice of the time and place of the hearing shall be given once by either the city or county at least fourteen (14) days in advance by publication in a legal newspaper.

ARTICLE II
DEFINITIONS

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure", the word "shall" is mandatory and not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied. Any word not herein defined shall be as defined in any recognized Standard English dictionary.

Abandoned Well. A non-water producing well which still acts as a direct conduit for surface contaminants to enter the aquifer/ground water source but is in either such a state disrepair that groundwater can no longer be obtained from it or has not been used for water production in the past two (2) years.

Accessory Building And Uses. A subordinate building or portion of the principal building, the use of which is incidental to and customary in connection with the principal building or the main use of the premises and which is located on the same lot with such principal building or use. An accessory use is one which is incidental to the main use of the premises.

Accessory Building, Attached. A building subordinate to a principal use which is physically connected to the principal use.

Accessory Building, Detached. A building subordinate to a principal use which stands apart or is separate from the principal use.

Agriculture. The use of land for agricultural purposes including farming, dairying, raising, breeding, or management of livestock, poultry, or honey bees, truck gardening, forestry, horticulture, floriculture, viticulture, and the necessary accessory uses for packaging, treating or storing the produce providing that the operation of any such accessory use shall be secondary to the normal agricultural activities. This definition includes intensive agricultural activities such as concentrated animal feeding operations but not commercially based agribusiness activities

Agribusiness Activities. A generic term that refers to the various businesses involved in food production, including agrichemicals, farm machinery, wholesale and distribution, processing, marketing, and retail sales.

Airport. A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

Alter or Alteration. Any change, addition or modification in construction.

Animal Feeding Operation Structure. An anaerobic lagoon, formed manure storage structure, egg wash water storage structure, earthen manure storage basin or confinement building.

Animal Husbandry. The dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business for gainful occupation.

Animal Manure. Poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding, or other materials.

Animal Manure Management Facilities. Any structure or facility utilized for the storage of manure associated with a concentrated animal feeding operation.

Animal Unit. (See Article V, Section 5.12).

Animal Manure, Incorporated. Animal manure applied to the land surface and mechanically mixed into the soil within twenty-four (24) hours.

Animal Manure, Injected. Animal manure injected or tilled into the soil at the time of application.

Animal Manure, Surface Applied. Animal manure applied to the land surface without benefit of incorporation or injection. This shall not include the use of animal manure in irrigation waters.

Antenna Support Structure. Means any building or structure other than a tower which can be used for location of Telecommunications Facilities.

Antique Car. An antique car is a car that is twenty-five (25) years old or older.

Applicant. An individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity who requests or seeks application approval under the terms of this ordinance. An applicant who has received approval under the terms of this ordinance may also be considered a "permittee"

Application. The process by which the applicant submits a request to use, develop, construct, build, modify upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to Brookings County concerning such a request.

Aquifer. A geologic formation, group of formations or part of a formation capable of storing and yielding groundwater to wells or springs.

Area of Special Flood Hazard. Means the land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. The area of a special flood hazard refers top the area subject to inundation during the base 100-year flood.

Area of Joint Zoning Authority. The area beyond the Brookings corporate limits where the County Commission and City Council jointly exercise the zoning powers granted by SDCL 11-2, 11-4 and 11-6.

Asphalt Mix or Batch Plant. A plant used for the manufacture of asphalt.

Base Flood. Base Flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement. A basement has more than one-half (½) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes.

Bed and Breakfast (B & B's). A private single-family residence, which is used to provide, limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding properties. Bed and Breakfast (B & B's).

Best Management Practices. Measures contained in Soil Conservation Service South Dakota Technical Guide, either managerial or structural, that are determined to be the most effective, practical means of preventing or reducing pollution inputs from non-point sources to water bodies.

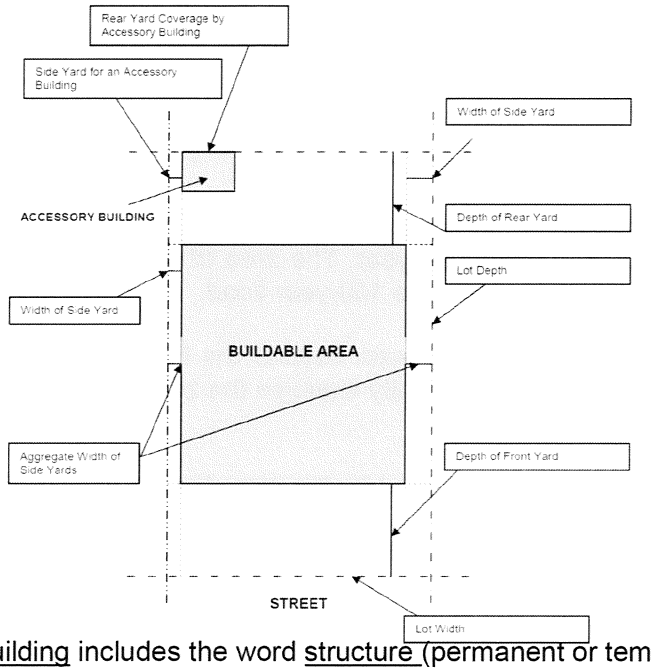
Board of Adjustment. Unless otherwise specified, when referenced within this document "Board of Adjustment" refers to the City of Brookings/Brookings County Joint Board of Adjustment established in Chapter 4.03. References to: Joint Board and Joint Board of Adjustment refer to the same Board unless otherwise noted.

Board Of County Commissioners. The governing body of Brookings County.

Buffer Zone. An area outside and adjacent to Zone A Aquifer Protection District that has been delineated to account for possible changes in the boundaries of Zone A Aquifer Protection District due to effects of irrigation pumping.

Buildable Area. The buildable area of a lot is the space remaining after the minimum setback requirements of this Ordinance have been complied with. The diagram below illustrates the buildable area of a hypothetical lot. This diagram is for reference only. Setbacks and other requirements vary from district to district. (See illustration below).

Buildable Area Illustration



Building. The word building includes the word structure (permanent or temporary) and is a structure which is entirely separated from any other structure by space or by walls in which

there are no communicating doors or windows or similar openings and is designed for the support, shelter and protection of persons, animals, or property.

Building Height . The vertical distance from the finished grade at the building line to the highest point of the building.

Building Line. Is a line on the lot running parallel to the required horizontal distance from the nearest property line.

Building, Principal. A non-accessory building in which is conducted the principal use of the lot on which it is located.

Campground. A commercial recreation facility open to the public, for a fee, upon which two (2) or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters.

Central Sewer(Age) System. Pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment disposal, not to include sanitary septic tank and drainfield disposal systems.

Change in Operation. Refers to any Concentrated Animal Feeding Operation for which an increase has led to a change in size classification (Class E increases to Class C, B, or A; Class C increases to Class B or A; Class B increases to Class A), or a significant change in animal species.

Chemigation. The process of applying agricultural chemicals (fertilizer or pesticides) through an irrigation system by injecting the chemicals into the water.

Church. A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities

City Council. The governing body of the City of Brookings.

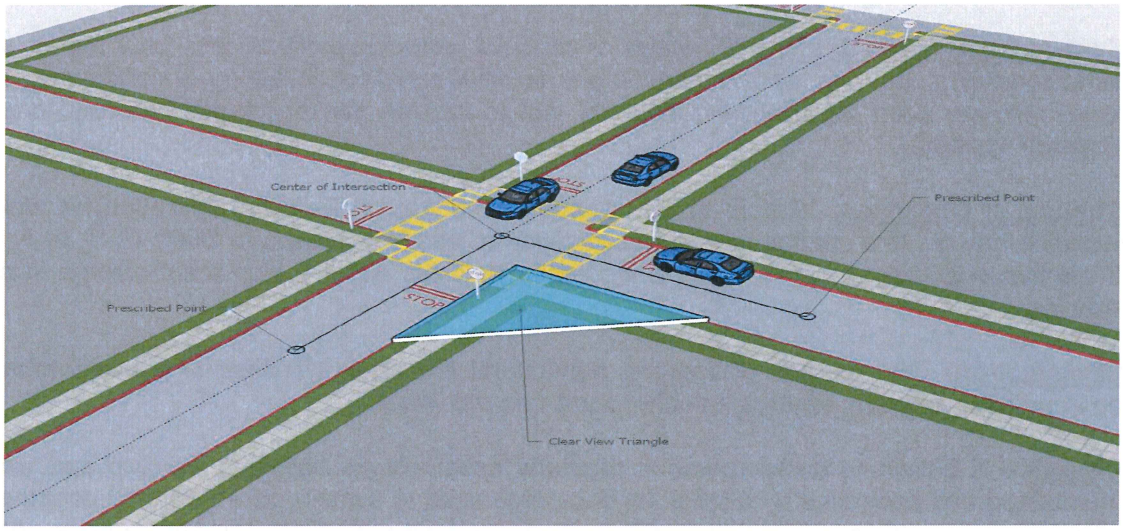
City Planning And Zoning Official. The individual(s) designated by the City Manager to administer the City of Brookings's Zoning and Subdivision Ordinances.

City Planning Commission. The members appointed by the City to serve in an advisory capacity on planning and zoning matters.

Class V Injection Well. A conduit through which potentially contaminated but generally non-hazardous fluids can move below land surface into or above an aquifer. The types of primary concern are (1) commercial/industrial facility septic tanks when they are usedto dispose of more than domestic wastewater and (2) dry wells for repair/service bay drains at facilities servicing motorized vehicles/equipment.

Clear View Triangle. A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection. The clear view triangle is the triangular area created by connecting the center point of an intersection with two points that are located along the center line of a respective street at a prescribed distance from the center point. See Clear View Triangle Illustration.

Clear View Triangle Illustration



Commercial Vehicles. Any motor vehicle licensed by the state as a commercial vehicle.

Comprehensive Plan. The adopted long-range plan(s) intended to guide the growth and development of the Area of Joint Zoning Authority.

Concentrated Animal Feeding Operation. A Concentrated Animal Feeding Operation is defined as a lot, yard, corral, building or other area where ten (10) or more animals have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (12)-month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility. Two (2) or more animal feeding operations under common ownership are single animal operation if they adjoin each other, or if they use a common area, or if they use a common area or system for disposal of manure.

Conditional Use. A conditional use is any use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district. Conditional uses are subject to the evaluation and approval by the Board of Adjustment and are administrative in nature

Containment Facility.

1. Primary - The tank, pit, container, pipe, enclosure, or vessel of first containment of a regulated substance.

2. Secondary - A second level of containment outside the primary containment facility designed to prevent a regulated substance from reaching land or waters outside the containment area.

Contamination. The process of making impure, unclean, inferior or unfit for use by introduction of undesirable elements.

Contamination, Air. A concentration of any radioactive or toxic material which is a product, by-product, or otherwise associated with any exploration, mining or milling operation that increases ambient air radiation levels by 50 mrems from the background levels at the perimeter of the mining and milling site or at the top of an exploration hole.

Contamination, Water. A concentration of any radioactive or toxic material which is a product, by-product, or otherwise associated with any exploration levels established by the Federal Safe Drinking Water Act and regulations promulgated thereunder.

Contingency Plans. Detailed plans for control, containment, recovery and clean-up of hazardous materials released during floods, fires, equipment failures, leaks and spills.

County Planning Commission. The members appointed by the Board of County Commissioners to serve in an advisory capacity on planning and zoning matters.

County Development Officer. The individual appointed by the Board of County Commissioners and designated to administer and enforce the County's zoning and subdivision ordinance and this Joint Jurisdiction Zoning Ordinance.

Density. The number of families, individuals, dwelling units, or housing structures per unit of land.

Development. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use. **Exception** in reference to Chapter 3.06 the term shall also include any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

Distillation. A process used to separate the substances composing a mixture. It involves a change of state, as of liquid to gas, and subsequent condensation.

District, Zoning. A section or sections of the Area of Joint Zoning Authority for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Domestic Sanitary Sewage Treatment Facility. Shall mean the structures equipment and processes required to collect, carry away, treat and dispose of wastewater, industrial wastes, or sludge.

Dwelling. Any building, including seasonal housing structures, or a portion thereof, which contains one (1) or more rooms, with sleeping quarters and is further designed and used exclusively for residential purposes, but not including hotels motels or lodging houses. This definition does not include a mobile home or manufactured home.

Dwelling, Farm. Any dwelling owned or occupied by the farm owners, operators, tenants, or seasonal or year-around hired workers.

Dwelling, Multiple-Family. A residential building designed for or occupied by two (2) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Non-Farm. Any occupied dwelling which is not a farm dwelling.

Dwelling, Single-Family. A building occupied exclusively by one (1) family.

Dwelling Unit. One room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, containing independent cooking and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure,

Electrical Substation. A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

Eligible Building Site (Building Eligibility). A site which fulfills the requirements for the construction or placement of a building.

Engineer. Means any engineer licensed by the State of South Dakota.

Erosion. The process of the gradual wearing away of land masses.

Essential Public Services. Overhead or underground electrical, gas, petroleum products (i.e. gas, natural gas, oil) steam or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures used by public for protection of the public health, safety or general welfare, including towers, poles, wires, mains drains, sewers, pipes, conduits, cables satellite dishes, and accessories in connection therewith.

Established Private Shallow Wells. A private well which is established and presently in use prior to the siting of a new concentrated animal feeding operation or the expansion of an existing animal feeding operation of which requires a conditional use permit.

Established Residence. A non-seasonal dwelling established before the siting of a new use which requires a specific setback or separation distance from an established residence.

Existing Farmstead. Existing Farmsteads shall include:

1. A dwelling still in use or having been used in the past as a base for normal farming operations which has been occupied by the owner or tenant within the last three (3) years and shall have existed on the site for at least ten (10) years; or

2. Sites meeting the following criterion:

   A. Evidence that the proposed site was once used for human habitation within the last fifty (50) years. This may be determined by existence of buildings/foundations, tax records, or sworn affidavit.

   B. Evidence that the proposed site was used as a farmstead supporting normal farming operations prior to May 14, 1976.

Exploration. The act of searching for or investigating a mineral deposit. It includes, but is not limited to, sinking shafts, tunneling, drilling core and bore holes and digging pits or cuts and other works for the purpose of extracting samples prior to commencement of development of extraction operations, and the building of roads, access ways, and other facilities related to such work. The term does not include those activities which cause no or very little surface disturbance, such as airborne surveys and photographs, use of instruments or devices which are hand-carried or otherwise transported over the surface or make magnetic, radioactive, or other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not involved in exploration.

Extended Home Occupation. An extended home occupation or home extended business is a home occupation conducted outside of the residence in an accessory building.

Facility. Something built, installed or established for a particular purpose.

Family. One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law. This definition shall not include foster families as regulated by the State of South Dakota.

Farm. An area with or without a dwelling which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain, and their storage on the area, as well as for the raising, feeding, or breeding thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine all of the foregoing farm products and animals are raised for income. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities.

Feedlot: Feedlot means pens or similar areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Feedlot is synonymous with other industry terms such as open lot pasture lot, dirt lot, or dry lot.

Fence. A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar materials and is used as a barrier of some sort.

Firearm. Means a gun that discharges shot, bullet or other projectile by means of an explosive, gas, compressed air, or other propellant.

Farm Building. A building on a farm for storing grain or equipment and for the housing of livestock.

Filling. Filling in low-lying ground with soil.

Five-Year Time of Travel Distance. The distance that ground water will travel in five years. This distance is a function of aquifer permeability and water table slope.

Fishery, Public. A place where fish are reared primarily for the purpose of transplanting to another fishery.

Flood or Flooding. Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters and/or

2. The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (F.I.R.M.). The official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. (Ord 2008-07, 6-24-2008)

Flood Insurance Study (FIS). A book that contains information regarding flooding in a community and is developed in conjunction with the Flood Insurance Rate Map (FIRM).

Floodway. The channel and the adjacent areas that must be reserved in order to meet the minimum requirement of the National Flood Insurance Program of providing for the discharge of the base flood without cumulatively increasing the water surface elevation more than one (1) foot. However if there are identifiable flood impacts either upstream or downstream, based upon a scientific engineering study, a more stringent definition of floodway may be justified. That definition would include the channel and the adjacent areas that must be reserved in order to provide for the discharge of the base flood without cumulatively increasing the water surface elevation to a point which may result in additional damages to upstream/downstream properties.

Floor Area. The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses.

Frontage. All the property on one (1) side of a street or road.

Game Lodge. A building or group of two (2) or more detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged with or without meals, and in which there are sleeping quarters.

Garage, Private. An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, trailers, and boats.

General Compatibility with Adjacent Properties. All uses listed as permitted or as conditional uses are generally compatible with other property in a specified zoning district. If such uses are not generally compatible, they should be prohibited within the specified district. Conditional uses may only be denied in accordance with definable criteria in order that an applicant may know under which circumstances a permit may be granted in this location. In Brookings County, general compatibility refers to the manner of operation of a use. The Board of Adjustment may consider compatibility when prescribing conditions for approval of a permit, but those conditions should be uniformly required of similar uses under similar circumstances throughout the county.

Garage, Storage. Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

Grade. The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

Grading. The act or method of moving soil to reshape the surface of land or a road to a desired level or grade.

Grandfather"ed" Clause. A clause in a law that allows for the continuation of an activity that was legal prior to passage of the law but would otherwise be illegal under the new law.

Greenhouse. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Grey Water. All domestic wastewater except toilet discharge water.

Ground Water. Subsurface water that fills available openings in rock or soil materials such that it may be considered water saturated.

Group Home. A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

High Water Mark. The elevation established by the South Dakota Water Management Board pursuant to SDCL 43-17. In those instances where the South Dakota Water Management Board has not established a high water mark the Board of Adjustment may consider the elevation line of permanent terrestrial vegetation to be used as the estimated high water mark (elevation) solely for the purpose of the administration of this ordinance. When fill is required to meet this elevation, the fill shall be required to stabilize before construction is begun.

Hazardous Materials. A material which is defined in one or more of the following categories:

1. Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.

2. Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: PCBs in some waste oils.

3. Explosive: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.

4. Highly Toxic: A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.

5. Moderately Toxic: A gas, liquid or solid which through repeated exposure or in a single large does can be hazardous to man. Example: Atrazine.

6. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

Home Extended Business. See "Extended Home Occupation."

Home Occupation. A business, profession, occupation, or trade conducted for profit and located entirely within a dwelling, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the essential residential character or appearance of such dwelling. Said occupation is engaged in by the occupants of a dwelling.

Horticultural Services. Commercial services which are oriented to support the science or practical application of the cultivation of fruits, vegetables, flowers, and plants.

Incorporation. A soil tillage operation following the surface application of manure which mixes the manure into the upper four inches or more of the soil.

Injection. The application of manure into the soil surface using equipment that discharges it beneath the surface.

Institutional Farm. A farm owned and operated by a county, municipal, State or Federal governmental entity and used to grow an agricultural commodity.

Kennel. Any premise or portion thereon where more than five (5) dogs, cats, or other household pets are bred, raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Lagooning. The process of creating a shallow body of water, separated from a larger body of water.

Leaks and Spills. Any unplanned or improper discharge of a potential containment including any discharge of a hazardous material.

Levee. A man-made structure usually an earthen embankment designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Loading Space. A space within the principal building or on the same lot for the standing, loading, or unloading of trucks, having a minimum area of 540 square feet, a minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 14.5 feet.

Lot. A lot is any lot, plot, or parcel of land under one ownership, occupied or intended for occupancy by a use permitted in this Ordinance including one (1) principal building together with its accessory buildings, open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

Lot Area. The lot area is the area of a horizontal plane in square feet or acres within the lot line.

Lot, Corner. A corner lot will have two front yards. In the case of a lot abutting more than one street, the owner may choose any street lot line as the front lot line with consent of the Zoning Official, based on the effects of such choice on development of the lot itself or on adjacent properties. The rear lot line is opposite and most distant the front lot line.th two front yards.

Lot, Depth. The average mean horizontal distance between the front and rear lot lines.

Lot, Double Frontage. A lot having a frontage of two (2) streets as distinguished from a corner lot.

Lot, Interior. A lot other than a corner lot.

Lot Line. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

Lot Line, Front. The lot line separating a lot from a street right-of-way.

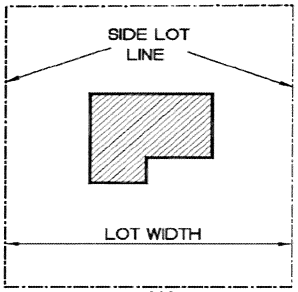
Lot Line, Rear. The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. In no case, shall any structure be closer than three feet to any lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot Of Record. A subdivision, the plat of which has been recorded in the office of the Register of Deeds, or a parcel of land the deed or agreement to convey to which was recorded in the office of the Register of Deeds prior to May 14, 1976.

Lot Width. The width of a lot is the mean distance between straight side lot lines measured at a point fifty (50) feet back from the front line thereof. (see below).

Lot Width Illustration



Manufactured Home. A building, used exclusively for human habitation, which is constructed in compliance with the National Manufactured Home Construction and Safety Standards Act in a manufacturing facility after June 15, 1976, and is transportable in one or more sections to a building site.

Manufactured Home Park. Any manufactured home court, camp, park, site, lot, parcel or tract of land intended for the purpose of supplying a location, or accommodations, for manufactured homes and upon which manufactured homes are parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the manufactured home park and its facilities or not. "Manufactured Home Park" shall not include automobile or manufactured home sales lots on which unoccupied manufactured homes are parked for the purposes of inspection and sale.

Manure. Poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding or other materials.

Manure, Liquid. A suspension of livestock manure in water in which the concentration of manure solids is low enough to maintain a free flowing fluid. Liquid manure also includes slurry which is a mixture of livestock manure, bedding and waste feed in water. Liquid manure and slurry is typically applied to fields by pumping through irrigation equipment or by hauling and spreading with a tank wagon. The solids content of liquid manure or slurry is less than ten (10) percent. A practical definition of liquid manure includes any livestock manure mixture that can be pumped through conventional liquid manure handling equipment.

Manure Management Facilities. Any structure or facility utilized for the storage of animal manure.

Manure Storage Area. An area for the containment of animal manure. Said area is separate from pens or buildings where animal manure is stored for more than one year.

Manure, Surface Applied. Animal manure applied to the land surface without benefit of incorporation or injection. This shall not include the use of animal manure in irrigation waters.

Milling. The processing or enhancing of a mineral.

Mineral. An inanimate constituent of the earth in a solid, liquid or gaseous state which, when extracted from the earth, is useable in its natural form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For the purpose of these regulations, this definition does not include surface or subsurface water, geothermal resources, or sand, gravel and quarry rock.

Mineral Extraction. The removal of a mineral from its natural occurrence on affected land. The term includes, but is not limited to, underground and surface mining.

Mobile Home. A building, used exclusively for human habitation, constructed in a manufacturing facility prior to June 15, 1976, the effective date of the National Manufactured Home Construction and Safety Standards Act, which is transported on a permanent chassis to a building site. A mobile home shall be construed to remain a mobile home subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A travel trailer or other form of recreational vehicle shall not be construed to be a mobile home.

Modular Home. A building, used exclusively for human habitation, constructed off site and in compliance with the applicable local or State building code and which is transported on a temporary chassis to a permanent building site.

Nonconforming Building or Structure or Use. Any building or use of land, lawfully occupied by a use at the time of passage of this regulation or amendment thereto, which does not conform after the passage of this regulation or amendment.

Nonstandard Use. The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

Nursery. A place where trees, shrubs, vines and/or flower and vegetable plants are grown and/or are offered for sale, to be transplanted onto the lands of the purchaser by the purchaser or by the nursery establishment itself.

Object. Anything constructed, erected, or placed, the use of which does not require permanent location on the ground or attached to something having a permanent location on the ground.

Official Joint Jurisdiction Zoning Map(s). The map or maps, which are legally adopted as a part of the zoning regulations that delineate the Area of Joint Zoning Authority and the boundaries of the zoning districts.

Open Lot. Pens or similar confinement areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Synonymous with pasture lot, dirt lot, dry lot.

Orchard. An orchard is an intentional planting of trees or shrubs maintained for food production.

Outdoor Storage. The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Owner. Means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the County.

Parking Space. An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley.

Parks and Recreation Areas. Public, non-commercial recreation facilities open to the general public an requiring minimal structural development, including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, public campgrounds swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including private, commercial campgrounds, commercial recreation and/or amusement centers.

Pasture. A field providing continuous forage to animals and where the concentration of animals is such that a vegetative cover is maintained during the growing season.

Permit. A permit required by these regulations unless stated otherwise.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Plat. The maps, drawing, or chart on which a subdivider's plan of subdivision is legally recorded.

Potential Pollution Hazard. A concentrated animal feeding operation of ten (10) to three hundred (300) animal units may be classified as a Class 4 Operation by the County Zoning Officer when a potential pollution hazard exists. Factors to be considered by the Zoning Officer in determining a potential pollution hazard include the following:

1. The concentrated animal feeding operation does not meet the minimum setback and separation distances of these regulations.

2. A potential water pollution hazard exists due to siting over a shallow aquifer or drainage which contributes to the waters of the State.

Primary Containment Facility. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

Principal Building. The structure in which the principal use of the lot is conducted. For example; a dwelling on a residential lot.

Principal Use. The primary use to which the premises are devoted.

Private Shooting Preserves. An acreage of at least one hundred and sixty (160) acres and not exceeding one thousand two hundred and eighty (1,280) acres either privately owned or leased on which hatchery raised game is released for the purpose of hunting, for a fee, over an extended season.

Private Wind Energy Conversion System (PWECS). Any mechanism or device, not owned by a public or private utility company, designed for the purpose of converting wind energy into electrical or mechanical power to be used on the site where said power is generated.

Process Generated Wastewater. Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.

Process Wastewater. "Process wastewater" means any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, feed, or other portions of the animal feeding operation. The term includes runoff from an open lot.

Prohibited Use. A use which is not allowed in a specific zoning district. The Joint Board of Adjustment is not authorized by variance nor administrative appeal to allow any use prohibited by this ordinance in a specified district. Any use not listed as a "Permitted Use," "Accessory Use," "Permitted Special Use," or "Conditional Use" in a particular zoning district is a "Prohibited Use." Overlay districts may specifically prohibit certain uses by listing those which would otherwise be allowed in the underlying district as "Prohibited Uses."

Public Building. Any structure that is owned by a public agency, not to include utility facilities, used for public business, meetings or other group gatherings.

Quarter-Quarter Section. The Northeast, Northwest, Southwest, or Southeast quarter (1/4) of a quarter section delineated by the United States Public Land Survey or a government lot per such survey.

Range (Target/Shooting). Shall be defined as an area for the discharge of weapons for sport under controlled conditions where the object of the shooting is an inanimate object such as, but not limited to, paper, metal or wooden targets. A Range Officer shall be present on site at any Range when the range is in use. The term range includes archery ranges.

Range Officer. Means the person designated to be responsible at a Range at any given time during any activity.

Recreational Vehicle. A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include boats, ice shacks or manufactured homes.

Religious Farming Community. A corporation formed primarily for religious purposes whose principle income is derived from agriculture and/or a farm which may or may not be held in collective ownership, in which multiple families reside on-site and use or conduct activities upon the property which are participated in, shared, or used in common by the members of the group residing thereon.

Repair. Reconstruction or renewal of any part of an existing building for the purpose of maintenance. The word "repair" or "repairs" shall not apply to any change of construction.

Rubble Site. A site for the disposition of refuse as defined by the South Dakota Department of Environment and Natural Resources.

Runoff Control Basin. A structure which collects and stores only precipitation-induced runoff from an animal feeding operation in which animals are confined to area which are unroofed or partial roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation.

Sale or Auction Yard or Barn. A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or barn for one (1) day during sale or auction.

Sanitary Landfill. A government-owned site for the disposal of garbage and other refuse material.

Sealed Holding Tank. A septic tank that holds household waste and wastewater until a septic pumping company can pump the tank out. Construction of sealed holding tanks requirements shall meet the same requirements as a septic tank except that the holding tank shall not have an outlet.

Secondary Containment Facility. A second tank, catchment pit, pipe or vessel that limits and contains a liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery systems are required.

Section Line. A dividing line between two (2) sections of land as identified delineated by the United States Public Land Survey or a government lot per such survey.

Septic Tank. A tank (usually concrete) on a property into which raw sewage is discharged. The sewage stays in the septic tank long enough for all solids to decay and liquid is drained off to an attached leach bed (drainfield) for the purpose of purifying the liquid

Service. A service is the non-material equivalent of a good. The provision of a service is the economic activity that creates benefits by facilitating either a change in a customer, or in a change in the customer's physical possessions, or a change in the customer's intangible assets.

Setback. The setback of a building is the minimum horizontal distance between the street or property line and the front line of the building or any projection thereof, except cornices, unenclosed porches, and entrance vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and having no more than fifty (50) square feet area and not extending above the first story of the building.

Setback Between Uses. Unless specifically mentioned within this ordinance, the setback or separation distance between uses is the minimum horizontal distance measured from the wall line of a neighboring principal building to the wall line of the proposed building/structure/use.

Shall means that the condition is an enforceable requirement of this regulation.

Shallow Aquifer. An aquifer zero (0) to fifty (50) feet in depth in which the permeable media (sand and gravel) starts near the land surface, immediately below the soil profile. A shallow aquifer is vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.

Shallow Well. A well which is located in a shallow aquifer.

Shelterbelt. For the purposes of this ordinance a shelterbelt shall include ten (10) or more trees planted in a line, with each trees separated by a distance of forty (40) feet or less. Ornamental and/or shade trees, generally used in front yards and spaced further than thirteen (13) feet apart and further do extend lineally for a distance of over one hundred fifty (150) feet, are not considered shelterbelts.

Shorelands. All land within one thousand (1,000) feet of a lake or pond and lands within three hundred (300) feet of a river or stream or to the landward side of the flood plain, whichever distance is greater.

Shooting Range. (See Range (Target/Shooting)).

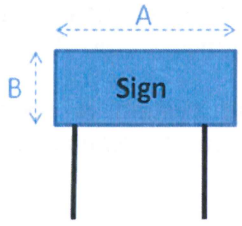
Should. Means that the condition is a recommendation. If violations of this regulation occur, the County will evaluate whether the party implemented the recommendations contained in this regulation that may have helped the party to avoid the violation.

Sign. Any device or structure, permanent or temporary, which directs attention to business, commodity, service or entertainment but excluding any flag, badge or insignia of any government agency, or any civic, charitable, religious, patriotic or similar organizations.

Sign, Abandoned. A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of three (3) months shall be considered an abandoned sign.

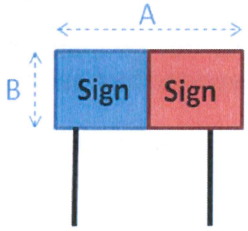
Sign Area: The total area or areas of all signs within the outer edges of the sign or advertising message. Sign area may be calculated in the following manners:

A. A single message on a single sign face.



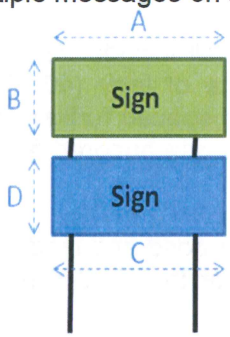
Area = A x B

B. Multiple messages on a single sign face:



Area = A x B

C. Multiple messages on stacked signs:



Area = (A x B) + (C x D)

Signs, Stacked: Two or more signs stacked vertically on a single sign structure

Sign Structure. Any structure which supports, has supported, or is capable of supporting a sign, including decorative cover.

Significant Contributor of Pollution. To determine if a concentrated animal feeding operation meets this definition, the one or more of the following factors are considered and/or may be prescribed as conditions of granting a permit:

1. Whether the site has or will obtain a General Water Pollution Control Permit for Concentrated Animal Feeding Operations from the South Dakota Department of Environment and Natural Resources; or
2. Whether the site will obtain a Certificate of Compliance from the South Dakota Department of Environment and Natural Resources; or
3. Whether engineered plans have been prepared/reviewed by an engineer licensed in the State of South Dakota to determine runoff and infiltration of solid waste will not exceed volumes allowed by the State of South Dakota Department of Environment and Natural Resources if a General Water Pollution Control Permit for Concentrated Animal Feeding Operations was applicable; or
4. Whether the changes to the existing manure management system is considered an improvement from existing practices at a site with no substantiated complaints prior to an application being made.

Solid Waste. Solid waste includes garbage, construction debris, commercial refuse, sludge from water supply or waste treatment plants, or air pollution control facilities, and other discarded materials; not to include hazardous materials or animal waste used as fertilizer.

Solid Waste Receiving Station. A facility where garbage and other refuse material is brought to the site and deposited in a container, then compressed and transported to a sanitary landfill.

Solution mining. The mining of an ore body with circulation of chemicals through injection and recovery wells. Solution Mining for minerals is prohibited.

Stable. A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stable, Commercial. A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Stealth. Means any Tower or Telecommunications Facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and Towers designed to look other than like a Tower such as light poles, power poles, and trees. The term Stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole Tower designs.

Story. That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Street, Highway or Road. All property acquired or dedicated to the public and accepted by the appropriate governmental agency for street, highway or road purposes.

Street, Arterial. A street designated as such on the Major Street Plan of the Comprehensive Plans of Brookings County and the City of Brookings.

Street, Collector. A street designated as such upon the Major Street Plans of Brookings County and the City of Brookings.

Street, Local. Any street which is not an arterial street or collector street.

Street, Highway or Road Right-of-Way (ROW) Line. A dividing line between a lot or parcel of land and a contiguous street, highway or road.

Structurally Altered. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of a roof or the exterior walls.

Structure. Anything constructed or erected, the use of which requires a temporary or permanent location on the ground or attached to something having a permanent location on or below the ground. For the purpose of these regulations, retaining walls, concrete slabs and utility poles, are not considered structures. Vehicles, trailers, rail cars, storage units shall be considered "structures" if unlicensed, used for storage or screening, and are not classified as "junk" by this or other ordinances of the City of Brookings or Brookings County. For the purposes of Chapter 3.06 a structure includes any walled and roofed building or manufactured home that is principally above ground.

Structure, Temporary. Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on or below the ground.

Subdivision. The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

Substantial improvement. Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started, or

2. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this designation, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

   The term does not, however, include either:

   a. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

   b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Telecommunications Facilities. Means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, Telecommunications Facilities shall not include:

1. Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or

2. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

Temporary Fireworks Sales Stand. A structure utilized for the licensed resale of fireworks during the time period allowed by South Dakota State Law.

Ten Year Time of Travel Distance. The distance that ground water will travel in ten years. This distance is a function of aquifer permeability and water table slope.

Tower. Means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports Telecommunications Facilities. The term Tower shall not include amateur radio operators' equipment, as licensed by the FCC.

Tree Farm. A privately owned forest or stand of trees in which timber crop production is a major management goal.

Tree, Ornamental. A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of about twenty-five (25) feet or less.

Tree, Shade. For the purposes of this Ordinance, a shade tree is a deciduous tree which is has a mature crown spread of fifteen (15) feet or greater, and having a trunk with at least five (5) feet of clear stem at maturity.

Truck Garden. A farm where vegetables are grown for market.

Truck Stop. Any building, premises, or land in which or upon which a business, service or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities.

Turbine. The parts of the Wind Energy System including the blades, generator, and tail.

Twin Homes. A two-family dwelling which has a common wall and is platted into two (2) separate lots.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming in the zoning district or uses in an adjoining zoning district.

Violation. The failure of a structure/use or other development to be fully compliant with this ordinance.

Waters of the State. Means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Wetlands. Any area where ground water is at or near the surface a substantial part of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases and the surrounding upland vegetation begins.

Wind Energy System (WES). A commonly owned and/or managed integrated system that converts wind movement into electricity. All of the following are encompassed in this definition of system:

1. Tower or multiple towers,
2. Generator(s),
3. Blades,
4. Power collection systems, and
5. Electric interconnection systems.

Windward Row. Of or on the side exposed to prevailing winds. Regarding shelterbelts, on the north and west side of a public right-of-way, the windward row of the shelterbelt is northernmost or westernmost row of trees. On the south and west side of a public right-of-way, the windward row of the shelterbelt is southernmost and easternmost row of trees.

Wireless Telecommunication Facilities. Any cables, wires, lines, wave guides, antennae, antenna arrays, and any other equipment associated with the transmission or reception of telecommunications signals which a person seeks to locate or have installed upon or near a telecommunications tower or antenna support structure.

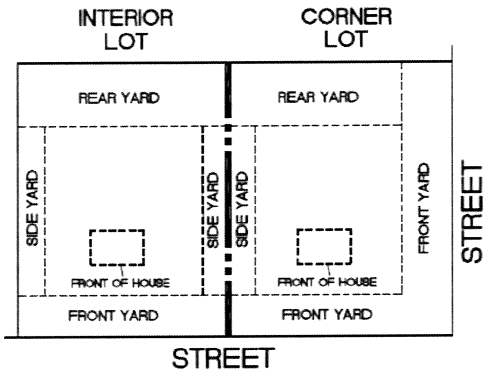
Yard. An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and bearing wall of the main building shall be used. (See Front, Side, and Rear Yard Illustration Below)

Yard, Front. A yard extending across the front of a lot between the sideyard lines, and being the minimum horizontal distance between the road right-of-way line and the main bearing wall of the main building or any projections thereof other than the projections of the usual steps, unenclosed balconies or open porch. (See Front, Side, and Rear Yard Illustration Below)

Yard, Rear. A yard across the whole width of a lot, extending from the rear line of the building to the rear line of the lot. (See Front, Side, and Rear Yard Illustration Below)

Yard, Side. A yard between the building and the adjacent side line of the lot which separates it from another lot, extending from the front lot line to the rear yard. (See Front, Side, and Rear Yard Illustration Below)

Front, Rear and Side Yard Illustration



Zoning Complaints. All zoning complaints must be in writing and signed

Zone of Contribution. The entire area around a well or well field that contributes water to the well or wellfield.

Zoning Officer. The individual(s) appointed by the Board of County Commissioners and designated to administer and enforce the zoning ordinance. This term may include: "County Development Officer," "Zoning Official," and "Administrative Official."

ARTICLE III
DISTRICT REGULATIONS

CHAPTER 3.01. APPLICATION OF DISTRICT REGULATIONS.

Section 3.01.01. Application of District Regulations.

The regulations set by this Ordinance within each District shall be minimum regulations and shall apply uniformly to each class or kind of structure of land, and particularly, except as hereinafter provided:

1. No structure, permanent or temporary, or any part thereof shall be erected, converted, enlarged, reconstructed or structurally altered nor shall any building or use of land be used, except for a purpose listed as a permitted use or conditional use in the district in which the building or land is located.

2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit established for the district in which the building is located.

3. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area and parking regulations of the district in which the building is located.

4. The minimum yards and other open spaces, including lot area, required by this Ordinance for each and every building at the time of passage of this Ordinance or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this Ordinance.

5. All sign sizes, lighting, and locations shall, at a minimum, meet all State and Federal laws and regulations.

CHAPTER 3.02. NONCONFORMING USES.

Section 3.02.01. Purpose and Intent. The purpose of this article is to provide for the regulation of nonconforming uses, buildings, and structures, and to specify those circumstances under which they shall be permitted to continue. Further, it is intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

Section 3.02.02. Continuation of Nonconforming Uses. Subject to the provisions of this article, the lawful use of a premise existing immediately prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof.

Section 3.02.03. Use Becoming Nonconforming by Change in Law or Boundaries. Whenever the use of a premises becomes a nonconforming use through a change in zoning ordinance or district boundaries, such use may be continued, although the use does not conform to the provisions thereof.

Section 3.02.04. Extension or Enlargement. A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located.

Section 3.02.05. Restoration After Damage. When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty (60) percent of its assessed value, it shall not be restored except in conformity with the provisions of the district in which the building is located.

Section 3.02.06. Repairs and Maintenance. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the nonconformity of the structure shall not be increased.

Section 3.02.07. Unsafe Nonconforming Use. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 3.02.08. Discontinuance of Nonconforming Use. No nonconforming use, building, structure or premises, if once changed to conform to the requirements of this ordinance for the district in which it is located, shall ever be changed back so as to be nonconforming. In the event that a nonconforming use is discontinued for more than one (1) year, any subsequent use shall thereafter be in conformity with the regulations of the district in which it is located.

Section 3.02.09. Effect on Use Which is Illegal Under Prior Law. Nothing in this ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a premises in violation of zoning regulations in effect immediately prior to the effective date of this ordinance.

Section 3.02.10. Powers of the Planning Commission/Board of Adjustment. Nothing contained in this Section shall be so construed as to abridge or curtail the powers of the Planning Commission(s), Board of Adjustment, City Council or Board of County Commissioners as set forth elsewhere in this Ordinance.

Section 3.02.11. Continuation of Nonstandard Uses. Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

1. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.

2. Structural alteration of buildings or structures may otherwise be made if such changes do not further encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located provided that said additions will be erected no closer to the lot line than the existing building and the addition shall further conform to all ordinance requirements.

3. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.

Section 3.02.12. Nonconforming Lots of Record.

1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

2. If two (2) or more lots of record or combinations of lots of record and portions of lots of record with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots of record do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Ordinance.

3. Any area proposed or being developed for residential use in the "A" Agricultural Land District must provide for a minimum of thirty-five (35) acres per lot, unless platted prior to May 14, 1976 or obtaining a conditional use permit in accordance with Section 3.04.02.28 and Chapter 5.21. Exception to the lot size may be made according to Section 3.04.01 and Chapter 5.15.

CHAPTER 3.03. ZONING DISTRICTS.

Section 3.03.01. Districts.

1. For the purpose of this Ordinance, the unincorporated areas of the City of Brookings/Brookings County Joint Jurisdiction Area may be divided into any zoning district identified in the City of Brookings Zoning Ordinance, as amended; and/or any zoning district listed within this Ordinance. The regulation, enforcement, and administration of property assigned any zoning designation except A-Agricultural shall be in accordance with the City of Brookings Zoning Ordinance as amended. In addition to zoning districts, the FP-Flood Protection, TP-Transmission Pipeline, and AP-Aquifer Protection zoning overlay districts impose special regulations on the property that may fall within these districts without abrogating the requirements imposed by the underlying land use district regulations.

2. The requirements as set forth below for each of the use districts listed as part of this Ordinance shall govern the development within the said districts as outlined on the map entitled "Official Joint Jurisdictional Zoning Map, Brookings County and City of Brookings, South Dakota.

3. "A" AGRICULTURAL LAND DISTRICT - This district is established to preserve open space and maintain and promote farming and related activities within an environment which is generally free of other land use activities. Residential development will be discouraged to minimize conflicts with farming activities and reduce the demand for expanded public services and facilities.

4. "AP" AQUIFER PROTECTION OVERLAY DISTRICT - The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow aquifers of Brookings County.

5. "FP" FLOOD PROTECTION OVERLAY DISTRICT - The Flood Protection Overlay District is established to protect the natural environment and resources from destructive land uses and to protect lives and property along and adjacent to streams and rivers.

6. "PRR" TRANSMISSION PIPELINE OVERLAY DISTRICT – The Transmission Pipeline Overlay District is established to protect public health and safety by reducing the likelihood of pipeline damage and reducing the adverse impact of pipeline failures through risk-based land management decisions though public education, consultation, and public cooperation.

Section 3.03.02. Prohibited Uses. All uses and structures not specifically listed as a permitted use or as a conditional use in a particular zoning district or overlay district shall be prohibited in said district.

CHAPTER 3.04. "A" AGRICULTURAL LAND DISTRICT.

Section 3.04.01. Permitted Uses.

1. Agricultural activities and farm related buildings, including Class E but excluding Classes A, B, C, and D Concentrated Animal Feeding Operations;

2. Single family residences including manufactured, mobile and modular homes;

3. Public fisheries and game propagation areas;

4. Orchards, tree farms, truck gardening, nurseries and greenhouses;

5. Public parks and recreation areas;

6. Institution farms;

7. Agricultural research facility;

8. Signs;

9. Accessory uses, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

10. Exception to shelterbelt setbacks. See Section 5.14.5;

11. Existing farmstead exemption A. See Section 5.15.02;

12. Existing farmstead exemption B. See Section 5.15.03;

13. Existing farmstead exemption C. See Section 5.15.04;

14. Produce stand for the direct marketing of farm products, 100% of which are grown by the operator and at least 25% of which shall be grown on site. See Section 5.19.03.1;

15. Seasonal U-pick fruits and vegetables operations, orchards. See Section 5.19.03.2;

16. Seasonal outdoor mazes of agricultural origin such as straw bales or corn. See Section 5.19.03.3;

17. Home occupation, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance.

Section 3.04.02. Conditional Uses.

1. Aviation facilities, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

2. Breweries and distilleries. See Section 5.19.03.7;

3. Campground, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

4. Church or cemetery, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

5. Class C and D concentrated animal feeding operations. See Chapter 5.22;

6. Commercial public entertainment enterprises not normally accommodated in commercial areas, including but not limited to, the following: music concerts, rodeos, tractor pulls, and animal and vehicle races, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

7. Extended home occupation, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

8. Farm experiences. See Section 5.19.03.6;

9. Fur farms, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

10. Game lodge, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

11. Golf course and/or golf driving range, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

12. Group home, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

13. Holiday tree farms. See Section 5.19.03.5;

14. Meteorological towers, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

15. Private Wind Energy Conversion System (PWECS), in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

16. Public utility and public service structure including, substations, gas regulator stations, community equipment buildings, pumping stations, and reservoirs;

17. Sand, gravel or quarry operation; mineral exploration and extraction; rock crushers; and concrete and asphalt mixing plants. See Chapter 5.31;

18. Sanitary landfills, rubble sites, composting sites, waste tire sites, and restricted use sites, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

19. Seasonal retail stands, excluding garden produce but including fireworks stands, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

20. Sewage (domestic) treatment plants, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

21. Commercial Shooting ranges, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

22. Solar energy conversion systems (SECS), in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

23. Spreading of manure with irrigation system;

24. Stables, dog/cat kennels;

25. Veterinary clinics;

26. Wineries. See Section 5.19.03.4;

27. Wireless telecommunication towers, in accordance with specific requirements for this use in the Brookings County Zoning Ordinance;

28. Residence on small acreages (See Chapter 5.21)

Section 3.04.03. Area Regulations/Easements

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

Table 3.04.03.1

	Minimum Lot Area	Maximum Lot Coverage*	Maximum Height (A)
Single Family Residences	35 Acres	25%	35' (A)
Other Permitted Uses	1 Acre	25%	35' (A)
Existing Farmstead Exemption A	35 Acres (B)	25%	35'
Existing Farmstead Exemptions B and C	5 Acres (B)	25%	35'
Other Conditional Uses	As determined by the Board of Adjustment		

a. *[Exception to maximum height]* The administrative official may allow heights to exceed thirty-five (35) feet for the following:

i. Agricultural buildings.
ii. Chimneys, smokestacks, cooling towers.
iii. Radio and TV towers.
iv. Water tanks.
v. Elevators
vi. Wind Energy Systems (WES).
vii. Wireless Telecommunications Towers and Facilities.
viii. Meteorological towers

b. *[Existing Farmstead Exemptions A, B, or C]*

Minimum lot area applies to properties granted existing farmstead exemptions in accordance with Chapter 5.15.

Table 3.04.03.2

		Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard
Single Family Residences (B)		100'	25'	25'
Agricultural Structures		50'	25'	25'
Agricultural Research Facility		100'	50'	100'
Other Permitted Uses (B) (C)		100'	25'	25'
Nonconforming Lots of Record		50'	50'	8'
Signs		1'	25'	25'
Shelterbelts (A)	Parallel to ROW	100'	100'	100'
	Perpendicular to ROW	50'		
Conditional Uses		To be determined by the Board of Adjustment		

a. *[Exception to Shelterbelt Setbacks]*

Shelterbelts may be planted within required setbacks if done in accordance with Section 5.14.5.

b. *[Exception to Setbacks for Nonconforming Structures]*

Existing nonconforming residential structures, constructed prior to ADOPTION OF ZONING ORDINANCE, on a lot of record or on a lot containing at least thirty-five (35) acres although considered nonconforming, are eligible to be expanded or added onto, without Board of Adjustment Approval, as long as the existing front, side or rear yard setback(s) is not further encroached upon.

2. Right to Farm Covenant

   All new residential development (farm and non-farm) shall be required to file an "Right to Farm Covenant" with the Register of Deeds before the issuance of a building permit. (See Chapter 5.39). Exception: This requirement does not apply to lots of record with existing residential development that are destroyed by an act of God (wind, fire, flood) and subsequently are rebuilt.

3. Access

   A. The location of driveways accessing individual parcels shall be separated from adjacent driveways on the same side of the road by the following separation distances:

      i. Roads identified on the Major Street plan as:

         a. Local road: 100 foot separation distance

         b. Collector road: 300 foot separation distance

         c. Arterial road: 500 foot separation distance

   B. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit

CHAPTER 3.05 - FLOOD DAMAGE PREVENTION OVERLAY DISTRICT.

Section 3.05.01. - Statutory Authorization, Findings of Fact, Purpose and Objectives.

1. Statutory Authorization

   The Legislature of the State of South Dakota has in SDCL Chapter 11-2 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Commissioners of Brookings County, South Dakota, ordain as follows:

2. Findings of Fact

   a. The flood hazard areas of Brookings County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare

   b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

3. Statement of Purpose

   It is the purpose of these regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

   a. To protect human life and health;

   b. To minimize expenditure of public money for costly flood control projects;

   c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

   d. To minimize prolonged business interruptions;

   e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

   f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

   g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,

h. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

Section 3.05.02. - Methods of Reducing Flood Losses

In order to accomplish its purposes, these regulations include methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage; and,

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 3.05.03 - Reserved

Section 3.05.04. General Provisions

1. Lands to Which This Ordinance Applies.

   This ordinance shall apply to all areas of special flood hazards within the Area of Joint Zoning Authority.

2. Basis for Establishing the Areas of Special Flood Hazard.

   The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), dated July 16, 2008, and amendments thereto, is adopted by reference and declared to be part of these regulations. The FIRM is on file at the County Zoning Office, Brookings, SD. (Ord. 2008-07, 6-24-2008)

3. Compliance

   No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of these regulations and other applicable regulations.

4. Abrogation and Greater Restrictions

   These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance,

easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation.

   In the interpretation of these regulations, all provisions shall be:

   a. Considered as minimum requirements;

   b. Liberally construed in favor of the governing body; and

   c. Deemed neither to limit nor repeal any other powers granted under State statutes.

6. Warning and Disclaimer of Liability

   The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Brookings County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

7. Severability

   If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

Section 3.05.05. Administration

1. Establishment of Development Permit

   A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.05.04.2 Application for a development permit shall be made on forms furnished by the Zoning officer and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the forgoing. Specifically, the following information is required:

   a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

   b. Elevation in relation to mean sea level to which any structure has been flood proofed;

   c. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 3.06.06.2.b; and

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of the Zoning Officer

The Zoning officer is hereby appointed to administer and implement these regulations by granting or denying development permit applications in accordance with their provisions.

3. Duties and Responsibilities of the Zoning Officer

Duties of the Zoning Officer shall include but not be limited to:

a. Permit Review

i. Review of all development permits to determine that the permit requirements of these regulations have been satisfied.

ii. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of these regulations, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

1. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

2. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.

3. If the proposed development is a building, then the provisions of these regulations shall apply.

b. Uses of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.06.04.2, Basis for Establishing the Areas of Special Flood Hazard, the Zoning officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 3.06.06.2, Specific Standards.

c. Information to be Obtained and Maintained.

i. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

ii. For all new or substantially improved flood proofed structures:

1. Verify and record the Actual elevation (in relation to mean sea level) to which the structure has been flood proofed.

2. Maintain the flood proofing certification required in Section 3.06.05.1.c.

iii. Maintain for public inspection all records pertaining to the provisions of these regulations.

d. Alteration of Watercourses

i. Notify adjacent communities and Emergency and Disaster Services, Pierre, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

ii. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, there appears to be a conflict between a mapped boundary and actual field conditions).

Section 3.05.06. Provisions for Flood Hazard Reduction

1. General Standards

In all areas of special flood hazards, the following standards are required:

a. Anchoring

i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.

ii. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:

1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.

2. Frame ties must be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

4. Any additions to the manufactured home must be similarly anchored.

b. Construction Materials and Methods

i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

ii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

iii. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c. Utilities

i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals

i. All subdivision proposals shall be consistent with the need to minimize flood damage;

ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

e. Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.06.05.3.b, Use of Other Base Flood Data, the following standards are require.

a. Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one (1) foot above the base flood elevation.

i. Below-Grade Residential Crawlspace Construction

New construction and substantial improvement of any below-grade crawlspace shall:

1. Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;

2. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;

3. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;

4. Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;

5. Be constructed with materials and utility equipment resistant to flood damage;

6. Be constructed using methods and practices that minimize flood damage;

7. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

8. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

    a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

    b. The bottom of all openings shall be no higher than one foot above grade;

    c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 2004-01, 9-28-2004).

b. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

i. Must be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 3.06.05.3.c.ii.

Section 3.05.07. Penalties for Noncompliance

1. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Board of County Commissioners pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Zoning Ordinance may be subject to a civil or criminal penalty. The maximum penalty for violation of this Zoning Ordinance shall be five hundred dollars ($500.00) or thirty (30) days in the County Jail or both. In addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification shall constitute a separate offense. All fines for violation shall be paid to the Finance Office and shall be credited to the General Fund of the County.

The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or

maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

2. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Brookings County in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation of these regulations, and it is the duty of the State's Attorney to institute such action.

CHAPTER 3.06. AQUIFER PROTECTION.

Aquifer Protection Overlay District.

Section 3.06.01. Purpose:

1. The purpose of this ordinance is to preserve the water quality of the Big Sioux Aquifer within the Joint Jurisdictional Area, protecting the development and use of land in a manner that will positively affect the quality of water within the areas designated Aquifer Secondary Impact Areas, and preventing any use that would affect the water quality within the Aquifer Critical Impact Areas associated with the public wells that supply the City of Brookings.

2. The City of Brookings and Brookings County Planning Commissions, Brookings City Council, and Brookings Board of County Commissioners recognize (1) that residents of Brookings County rely exclusively on ground water for a safe drinking water supply and (2) that certain land uses in Brookings County can contaminate ground water particularly in shallow/surficial aquifers.

3. The purpose of the Aquifer Protection Overlay District is to protect public water supply, health and safety by minimizing contamination of the shallow/surficial aquifers of Brookings County. It is the intent to accomplish this, as much as possible, by public education and securing public cooperation.

4. Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations. It is not the intent to grandfather in existing land uses which pose a serious threat to public health through potential contamination of public water supply well head areas.

Section 3.06.02. Reserved.

Section 3.06.03. Establishment and Delineation of Aquifer Protection Overlay Zones.

1. Boundaries for the aquifer protection zones for the Aquifer Protection Overlay District are shown on published maps entitled "Well head Protection Area Maps, Brookings County Shallow Aquifer Map" dated May, 1988, with pages 5 and 9 amended in January of 1999, as drawn by Banner Associates. Said maps are hereby adopted by reference as part of this ordinance as if the maps were fully described herein. In addition to the before mentioned maps the South Dakota Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Geological Survey Aquifer Materials Map 19 dated 2004, for areas designated 0-50 feet on map, will be used to further identify aquifer boundaries. In the event of a conflict between such maps as to the area covered by the aquifer at a given location, then the map showing the larger aquifer area shall be followed. (Ord. 2006-02, 3-28-2006).

2. The shallow/surficial aquifer boundary was mapped using data from the South Dakota Geological Survey and United States Geological Survey. This map only serves as a general guide to the location of these aquifers. County studies and other information shall be used, where available, to better determine more precise aquifer locations. Aquifer boundaries are drawn at the discretion of geologists and hydrologists based on best available information. Therefore, actual site specific aquifer boundaries may differ from the attached map and

other information. Hydrogeologic information is necessary to verify the location of a concentrated animal feeding operation in relation to an underlying shallow aquifer.

Section 3.06.04. Zone A - Aquifer Critical Impact Zone.

Zone A, the well head protection area, is the zone of contribution mapped around all public water supply wells or well fields and includes land upgradient to the ten year time of travel boundary plus contributing drainage areas, as delineated on the official copy of published maps representing sloping, adjacent lands not underlain by the aquifer from which surface water can flow directly onto Zone A.

Section 3.06.04.01. Permitted Uses in Zone A:

The following uses are permitted provided they meet appropriate performance standards outlined for aquifer protection overlay zones:

1. Agricultural activities, excluding structures and Concentrated Animal Feeding Operations;

2. Signs;

3. Pumphouses less than sixteen (16) square feet in area

Section 3.07.06.02. Conditional Uses in Zone A:

The following uses are permitted only under the terms of a Conditional Use and must conform to provisions of the underlying zoning district and meet the Performance Standards outlined for the Aquifer Protection Overlay Zones.

1. Public utility and public service structures and pumping stations;

2. Orchards and tree farms;

3. Reconstruction of structures in existence on [DATE OF ADOPTION], provided application is made within one year of removal or destruction of the structure.

Section 3.07.06.03. Prohibited Uses in Zone A:

The following uses are expressly prohibited in Zone A:

1. Any use not listed as a "Permitted Use" or "Conditional Use" in the underlying district;

2. Any use not listed as not listed as a "Permitted" or "Conditional Use" in Zone A

3. Existing farmstead exemptions

Section 3.06.05. Zone B - Aquifer Secondary Impact Zones.

Zone B is established as the remainder of the mapped shallow/ surficial aquifer not included in Zone A.

This portion of the aquifer is being protected because (1) it is a valuable natural resource for future development, (2) it provides drinking water supply for individual households, (3) contamination is not justified, even though this area is not a public water supply wellhead and (4) contaminants could eventually reach Zone A.

Section 3.06.05.01. Permitted Uses in Zone B:

1. All uses listed as Permitted Uses in the underlying zoning districts provided that they can meet the Performance standards as outlined for the Aquifer Protection Overlay Zones unless listed as a Conditional Use or Prohibited Use in Sections 3.07.05.02 or 3.07.05.03.

Section 3.06.05.02. Conditional Uses in Zone B:

1. A cumulative expansion of 250 animal units of existing Class D CAFO's in continuous operation since the adoption of Brookings County Zoning Ordinance on May 1976 not to exceed five hundred (500) total animal units. (Class C).

2. Sediment storage basin meeting Natural Resource Conservation Service (NRCS) standards. See Section 3.07.06.3.

3. All Conditional Uses allowed in underlying districts may be approved by the County Zoning Commission provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Section 3.06.05.03. Prohibited Use in Zone B:

The following use is expressly prohibited in Zone B:

1. New Concentrated Animal Feeding Operations of any size.

2. Any use not listed as a "Permitted Use" or "Conditional Use" in the underlying zoning district.

Section 3.06.06. Performance Standards:

The following standards shall apply to land uses in Zones A and B of the Aquifer Protection Overlay Districts:

1. New or replacement septic tanks and associated drain fields for containment of human or animal wastes must conform with regulations established by the State Department of Environment and Natural Resources.

2. Any facility involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes, except for spreading of manure, in excess of 1000 pounds and/or 100 gallons which has the potential to contaminate ground water must have a secondary containment system which are easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspectable sumps. Pipes installed to carry diluted chemicals for chemigation are exempted and storage of liquid fertilizer for chemigation is allowed as long as a secondary containment

system is used. Secondary containment for tanks used for chemigation must be in place by April 1, 1991.

3. Open liquid waste ponds containing materials referred to in (2) above will not be permitted without a secondary containment system except for community wastewater lagoons. Agricultural waste storage ponds are permitted but must be constructed in conformance with Natural Resource Conservation Service South Dakota Engineering Standard, Waste Storage Ponds 425.

4. Storage of petroleum products in quantities exceeding fifty-five (55) gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks must have a secondary containment system noted in (2) above where it is deemed necessary by the County Zoning office.

5. Discharge of industrial process water on site is prohibited without County Zoning office approval. County approval contingent on state permit from South Dakota Department Environment and Natural Resources.

6. Auto service, repair or painting facilities and junk or salvage yards in Zone B shall meet all State and Federal standards for storage, handling and disposal of petroleum products and shall properly dispose of all other potentially hazardous waste materials.

7. An acceptable contingency plan for all permitted facilities must be prepared and on file in the County Zoning Office for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire and other natural catastrophes or equipment failure occur:

   a. For flood control, all underground facilities shall include but not be limited to a monitoring system and secondary standpipe above the 100-year flood control level, for monitoring and recovery. For above ground facilities, an impervious dike, above the l00 year flood level and capable of containing l00 percent of the largest volume of storage, will be provided with an overflow recovery catchments area (sump).

   b. For fire control, plans shall include but not be limited to a safe firefighting procedure, a fire retardant system and provide for dealing safely with both health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are overhead and buried electrical lines, pipes, other buried objects and other hazardous liquids, chemicals or open flames in the immediate vicinity.

   c. For equipment failures, plans shall include but not be limited to:

      Below ground level, removal and replacement of leaking parts, a leak detection system with monitoring and an overfill protection system. Above ground level, liquid and leaching monitoring of primary containment systems, their replacement or repair and cleanup and/or repair of the impervious surface.

   d. For any other natural or man-caused disasters occurring, the owner and/or operator shall report all incidents involving liquid or chemical material in an endangerment of the health and /or safety of either disaster personnel and/or the public in general.

Agricultural operations are exempted from this section unless they store chemicals that are on the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) extremely hazardous substance list over the threshold planning quantity at any one time. (See Appendix 3)

The County Zoning Office, DENR and public water supply officials shall be informed within 24 hours of all leaks and spills of materials that might potentially contaminate ground water.

8. Since it is known that improperly abandoned wells can become a direct conduit for contamination of ground water by surface water, all abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:04:67-70.
9. No structures may be constructed in Zone A unless specifically allowed by Permitted or Conditional Use.

Section 3.06.07. Prohibited Accessory Uses:

The following uses may be considered accessory to certain "Permitted" and "Conditional" Uses but do may not require permits in the underlying zoning districts, but are hereby prohibited in the Aquifer Protection District(s). The use is prohibited in the Aquifer Protection District ("Zone A" or "Zone B") referenced after the use. If no district is referenced after the use, the use is prohibited in both districts.

1. Earthen storage basins and lagoons.
2. Post-harvest application of nitrogen fertilizer after October 15th (both Zone A and Zone B) except for the spreading of manure (allowed only in Zone B).
3. Land spreading or dumping of petroleum-contaminated soil, waste oil or industrial wastes.
4. Class V injection wells.
5. Transmission facilities designated to transport liquid hydrocarbons or liquid hydrocarbon products.
6. Disposal of or stockpiling of solid waste.
7. Storage of road salt or disposal of snow containing deicing chemicals.
8. Open burning and detonation sites;

Section 3.06.08. Grant of Permit, Alteration of Use.

Any use or structure upon property in any Aquifer Protection District for which a permit is required will be issued by the County Zoning officer after examination of the application and determination that the proposed use, activity or development meets the performance standards of this chapter.

In securing a use permit, the owner/developer must make future improvements which may become necessary to prevent contamination of shallow/surficial aquifers and the

owner/developer must allow County personnel to inspect any improvements to verify they meet the performance standards.

Whenever any person has obtained a permit and thereafter desires alteration of the authorized use, such persons shall apply for a new permit. The owner may appeal a County Zoning officer's decision to modify or deny a requested permit to the Joint City/County Board of Adjustment.

Section 3.07.09. Exceptions.

1. Any lawful use in existence on the effective date of this ordinance shall be permitted to continue provided it can be shown such use does not threaten public health and safety by potential contamination of water in the shallow/surficial aquifers. Any proposed additions, changes or improvements will require a permit.

2. Storage of liquids and chemicals used in agricultural operations during spring/fall planting and crop cultivation are exempt from the requirements of this ordinance April 1 to October 1. Tanks used for chemigation are not exempt. Best Management Practices are encouraged, particularly in Zone A.

3. Storage of liquid or dry fertilizer in amounts equal to or less than 1,000 pounds or 100 gallons, stored indoors by each farm operator is exempt from the requirements of this ordinance.

Section 3.07.10. Limitation of County Liability.

Nothing in this ordinance shall be construed to imply that Brookings County or the City of Brookings, by issuing a permit, has accepted any of an owner/developer's liability if a permitted development contaminates water in shallow/surficial aquifers.

Section 3.07.11. Underlying Zones.

Underlying zoning restrictions apply along with restrictions set forth in the Aquifer Protection Overlay District.

CHAPTER 3.07. "TR" TRANSMISSION PIPELINE (RISK REDUCTION) OVERLAY DISTRICT.

Regulations in the "TR" Transmission Pipeline (risk reduction) Overlay District shall be administered in accordance with the Transmission Pipeline Risk Reduction Overlay District (Adopted by Brookings County on November 17, 2009) of the Brookings County Zoning Ordinance (as amended).

ARTICLE IV
ADMINISTRATION

CHAPTER 4.01. APPLICABILITY.

1. This Article applies to property with a zoning designation of Agricultural. The Agricultural District of the City of Brookings/Brookings County Joint Jurisdiction Area shall be administered in accordance with the regulations for Administration in Article VI of the Brookings County Zoning Ordinance (as amended) unless such section is in direct conflict with this Article. If the Joint Jurisdiction Zoning Ordinance conflicts with Article VI of the Brookings County Zoning Ordinance (as amended) the provisions of this ordinance shall govern unless otherwise stated.

2. Except Chapter 4.04 (Zoning Amendments), any property with a zoning designation other than Agricultural shall be administered in accordance with the Administrative provisions of the Official Zoning Ordinance of the City of Brookings, as amended. Building permits and any questions regarding land use regulation on property with a zoning designation other than Agricultural shall be directed to the City of Brookings Community Development Department.

CHAPTER 4.02. PLANNING COMMISSION.

Section 4.02.01. Establishment.

For the purpose of this ordinance, the Planning Commission(s) shall consist of the Brookings County Planning Commission and City of Brookings Planning Commission.

Section 4.02.02. Meetings of the Planning Commission

The Planning Commission(s) shall meet jointly at such times as may be necessary to accomplish the purposes of their duties.

CHAPTER 4.03. BOARD OF ADJUSTMENT.

Section 4.03.01 Establishment

There shall be established a joint Board of Adjustment. The membership of the Joint Board of Adjustment (Joint Board/Board of Adjustment) shall consist of one (1) County Commissioner, two (2) members of the Brookings County Planning Commission, one (1) member of the City of Brookings Planning Commission, and one (1) member of the Brookings City Council. The Board of Brookings County Commissioners and the Brookings City Council may further appoint alternates to the Joint Board in the event a Joint Board member is unable to participate in a meeting. Alternates to the Joint Board shall be appointed by the Brookings County Commissioners to participate in place of any County appointee, and alternates shall be appointed by the Brookings City Council to participate in place of any City appointee.

Section 4.03.02. Procedures for Meetings.

1. The Board shall meet at the regularly scheduled meetings of the County Planning Commission. Special meetings may be held at the call of the Chairperson. All meetings of the Board shall be open to the public and all business coming before the Board shall be transacted at such meetings. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses
2. The Board shall adopt rules and keep minutes of its proceedings, records of examinations and other official actions, all of which shall be filed in the office of the County Zoning Officer and shall be a public record. The Board of Adjustment shall keep record in the minutes showing the vote of each member upon each question or if absent or failing to vote, indicating that fact.

Section 4.03.03. Powers and Duties of the Board.

1. The Board of Adjustment shall have the following powers and duties:

    a. Administrative Review. To hear and decide where it is alleged by the appellant that there is error in any order, requirement, decision or determination made by the County Zoning Officer or other administrative officers in the enforcement of any provision of this Ordinance, and for interpretation of the Official Joint Jurisdiction Zoning Map.

    b. Issuance of Conditional Use Permits. To hear and decide applications for conditional uses that are specified in this Ordinance and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.

    c. Granting of Variances. To hear and decide upon appeal in specific cases such variance from terms of the ordinance as will not be contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance is observed and substantial justice done

2. The Board of Adjustment shall operate in accordance with the powers, duties, and procedures in Article VI (as amended) of the Brookings County Zoning Ordinance.

Section 4.03.04. Reapplication.

No application requesting an administrative appeal, variance, or conditional use on any property whose application includes any such property either entirely or substantially the same as that which ahs been denied by the Board of Adjustment shall again be considered by the Board of Adjustment before the expiration of six (6) months from the date of the final action of the Board of Adjustment

CHAPTER 4.04. ZONING AMENDMENTS.

Section 4.04.01. Procedures for Zoning Amendments.

1. Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the Planning Commission, as provided herein, the Board of County Commissioners and Brookings City Council may change zoning district boundaries, use groups, or the regulations established by this ordinance. A proposed change of zoning district boundaries or regulations may be initiated in the following manners:

    a. The Board of County Commissioners or the City Council of the City of Brookings may direct the Planning Commissions of each respective entity to consider a change of zoning district boundaries or regulations; or

    b. The City or County Planning Commissions may initiate a change of zoning district boundaries or regulations; or

    c. One (1) or more of the owners of property within the area proposed to be rezoned may present a request to change the zoning district boundaries; or

    d. In accordance with SDCL 11-2-28, initiated petitions specifying and requesting amendments to the regulations of this ordinance containing signatures of twenty (20) percent of the landowners in the zoning district or districts may be presented to the Zoning Official.

2. Unless otherwise provided for in these regulations, any change in these regulations, shall require Board of County Commissioner and Brookings City Council approval of an ordinance describing said changes. The Board of County Commissioners and Brookings City Council may not consider said ordinance until the Planning Commission(s) have delivered a recommendation to either approve or not approve said ordinance amendment.

3. The following procedure for requesting a Zoning Amendment or Zoning District Boundary Change shall be followed:

    a. The landowner or other person(s) requesting the Amendment/Boundary change shall complete an application, available from the Zoning Officer. Completed applications shall be returned to the Zoning Officer for review. To be considered by the Planning Commission(s) and Board of County Commissioners and Brookings City Council, the application form shall be completed and shall be accompanied by the following items:

        i. Any required attachments and fees, including Registered or Certified Mail.

        ii. Any additional information, as requested by the Zoning Officer, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.

    b. The Zoning Officer shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission(s) for their review.

c. The Board of County Commissioners and the City Council shall conduct public hearings to act on all applications which have been processed and forwarded to them for public hearing as provided in these regulations. The County Zoning Officer shall cause to be published a notice in the legal newspaper of the City of Brookings, fourteen (14) days prior to each respective public hearing, of the time and place when and where all persons interested shall be given a full, fair and complete hearing. If the proposed amendment will change the boundaries of a zoning district, the Zoning Officer shall notify all owners of property within two hundred fifty (250) feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least fourteen (14) days before the public hearing of the Planning Commissions.

d. Upon the day of such public hearing(s), any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission(s). At a joint meeting the Planning Commissions shall either recommend approval or denial of the proposed amendments to their respective governing bodies.

e. The Board of County Commissioners and the City Council shall review the decisions and recommendations of their respective Planning Commissions on all applications coming before them as provided in these regulations. At a joint meeting, the Board of County Commissioners and the City Council must each vote in favor of the proposed action before any changes or modifications are made in the regulations, restrictions, or Official Joint Jurisdiction Zoning Map.

f. Twenty (20) days after publication of the Board of County Commissioners' and the City Council's approval, the zoning ordinance amendment or zoning district boundary change or classification change shall take effect unless the referendum be invoked, or unless a written protest is filed with the County Finance Officer, signed by at least forty (40) percent of the owners of equity in the lots or parcels located within two hundred fifty (250) feet from any part of such proposed district. A corporation shall be construed to be a sole owner; and when parcels of land are in the name of more than one person, ownership representation shall be in proportion to the number of signers who join in the petition in relation to the number of owners. If a protest is filed, the ordinance shall not become effective unless the ordinance is approved by a vote of two-thirds (2/3) of the Board of County Commissioners and two-thirds (2/3) of the City Council.

Section 4.04.02. Reapplication.

No application requesting a zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the or Board of County Commissioners/City Council (Zoning Amendments, Zoning District Boundary Changes), shall again be considered by the Planning Commission or Board of County Commissioners/City Council before the expiration of six (6) months from the date of the final action of the Planning Commission, or Board of County Commissioners/City of Brookings.

ARTICLE V
SUPPLEMENTAL REQUIREMENTS FOR AGRICULTURAL DISTRICT

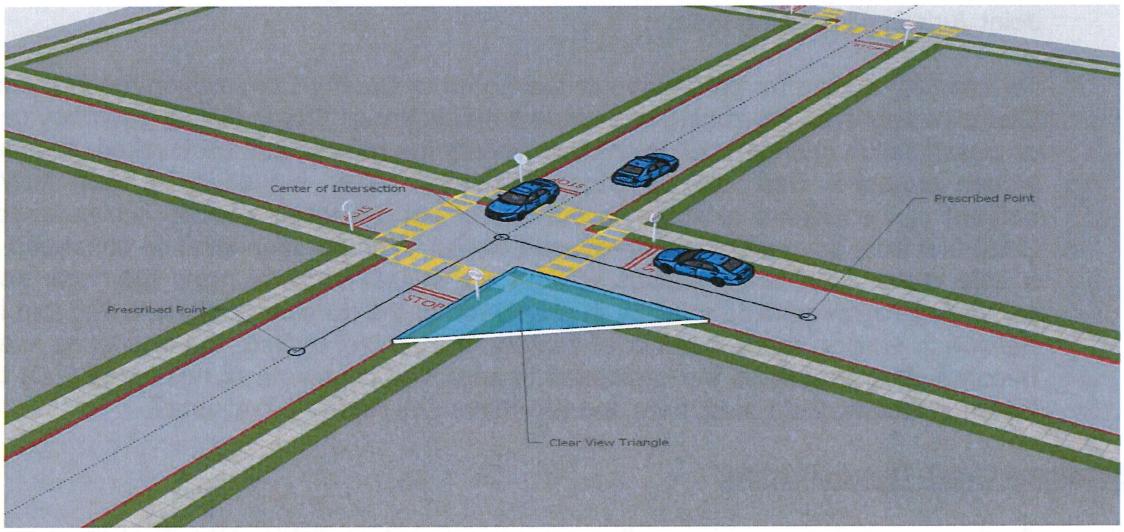
CHAPTER 5.01. APPLICABLILITY.

Pursuant to the purpose of this Regulation are certain general requirements that apply to property in the Agricultural but are not provided for under Article III District Regulations. These requirements are set forth under this Article. General requirements for property with any other residential, commercial, or industrial zoning designation shall be regulated solely by the Official Zoning Ordinance of the City of Brookings, as amended, and such regulations shall supersede any conflicting regulations except for upon property with an Agricultural zoning designation.

CHAPTER 5.02. VISION CLEARANCE ON CORNER LOTS.

On any corner lot in any zoning district, no planting, structure or obstruction to vision shall be placed or maintained within the triangular area formed by the intersection of the streets and a straight line connecting points on said road right-of-way line each of which is one hundred (100) feet from the point of intersection (Clear View Triangle).

Clear View Triangle Illustration



CHAPTER 5.03. PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS.

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes as defined herein.

CHAPTER 5.04. UTILITY EASEMENTS.

No building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

CHAPTER 5.05. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

Only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met.

CHAPTER 5.06. STRUCTURES TO HAVE ACCESS.

Every building hereafter erected or moved shall be on a lot with access to a public street or with access to private streets approved by the Board of Adjustment and all structures shall be so located on lots as to provide safe and convenient access for services, fire protection and required off-street parking.

CHAPTER 5.07. MINIMUM WATER AND SEWER REQUIREMENTS.

A water and sewer system cannot be approved until it meets the following standards:

1. All public utilities and facilities shall be located, elevated and constructed to minimize or eliminate flood damage; and
2. All residential and commercial uses requiring sanitary sewer/septic services shall be connected to a wastewater treatment system in accordance with the following:
    a. Residential and commercial uses on lots containing less than twenty thousand (20,000) square feet shall be connected to a sealed holding tank or an approved sanitary sewer district. Existing septic tanks and drain fields as of (date of the ordinance) on lots with an area of less than twenty thousand (20,000) square feet are considered nonconforming uses and may only be replaced by connection to an approved sanitary sewer district or a sealed holding tank.

    b. Septic systems are required to be installed for homes on all lots containing twenty thousand (20,000) square feet or more, unless the property is connected to an approved sanitary sewer district.

    c. All septic systems are required to be installed by a South Dakota Department of Environment and Natural Resources (SD DENR) certified installer following South Dakota Administrative Rules Chapter 74:53.

CHAPTER 5.08. REFUSE.

Refuse (rubbish, garbage, trash, wastes, or debris) shall be kept within a complete enclosed building or specially designed closed container made for such purpose. Owners of vacant lot shall be responsible for keeping their property free of trash.

CHAPTER 5.09. MANUFACTURED HOME REGULATIONS.

Section 5.09.01 – Manufactured/Mobile Homes

1. A manufactured home is an industrialized building unit constructed on a chassis for towing to the point of use and designed to be used for continuous year-round occupancy as a single dwelling. Excludes motorhomes, campers or other camping units. Any manufactured, mobile or modular home must secure a building permit from the County Zoning Official.

2. Residences:

    a. A new residence to be used for a first occupancy, constructed off the property and moved to the location shall not require adjoining landowner's approval for the issuance of a building permit.
    b. The County Zoning Officer may issue a building permit for a previously occupied residence to be moved into an appropriate district when the application is accompanied by the written consent of one hundred percent (100%) of the adjoining landowners and one hundred (100%) of the landowners within two hundred (200) feet.
    c. In the absence of the consent of all neighbors above provided, the Joint Board of Adjustment, by a 2/3 majority, may authorize the issuance of a building permit for the moving in of a previously occupied residence after a public hearing. Notice of the hearing shall be provided in writing at least fourteen (14) days prior to the hearing to all adjoining landowners and all landowners within two hundred (200) feet of the property. In determining whether or not to authorize the permit, the Board shall consider: Whether or not the proposed residence is consistent in character with the other residences in the area.

3. All manufactured/mobile homes, regardless of location, shall be tied down as prescribed by the Protecting Manufactured homes from High Winds, TR75, issued July 1986, by the Federal Emergency Management Agency.

4. All manufactured/mobile homes shall have skirting around the perimeter of the home.

5. All manufactured/mobile homes, must have been constructed after June 15, 1976

6. Replacement of Nonconforming Homes.

    Thereafter, upon application to the Zoning Official and subsequent approval thereof, a manufactured/mobile home, located upon any lot or lots of record at the time of the adoption of this ordinance, deemed a legal nonconforming use, may be replaced with a manufactured/mobile home, meeting the constructed date requirement in Section 5.09.01.5

7. Variance from Maximum Age Requirement

   Manufactured/mobile homes may receive a variance from the maximum age requirement. The Board of Adjustment may grant a variance if the manufactured home meets the following requirements:

   A. The applicant shall provide a photograph of the manufactured/mobile home's exterior and interior.

   B. That it shall have been shown to the satisfaction of the Zoning Official that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of Brookings County.

CHAPTER 5.10. YARDS.

Section 5.10.01. Yards, Reduction in Size

No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

Section 5.10.02. Additional Yard Requirements

In the case of a lot abutting more than one street, each yard abutting each street shall be considered a front yard.

Section 5.10.03. Exceptions to Yard Requirements

The following exceptions may be made to the yard requirements in all Districts:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.

CHAPTER 5.11. ACCESSORY BUILDINGS.

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.

2. No accessory use shall be permitted in any district unless such principal use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.

3. No accessory building shall be erected in any setback yard and no separate accessory building shall be erected within ten (10) feet of any other building.

CHAPTER 5.12 SIGNS.

Section 5.12.01 Prohibited Signs

1. No sign shall be erected or maintained which creates a hazard due to collapse, fire, collision, decay, or abandonment; or creates traffic hazards, by either:

    a. Confusing or distracting motorists; or

    b. Impairing the driver's ability to see pedestrians, obstacles or other vehicles; or

    c. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or

    d. Creates a nuisance to persons using a public right-of-way; or

    e. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.

Section 5.12.02 Permitted Signs

1. Signs shall be permitted in zoning districts subject to the following provisions:

    a. Wall signs may be located anywhere on the wall of a building.

    b. Signs shall not project over public property.

    c. Signs shall not be erected adjacent to a corner of two (2) intersecting streets, unless such signs are constructed to not obstruct the view of said intersection. See Chapter 5.01.

    d. Each sign – size, lighting, and location - in the County shall at least meet the standards established by the South Dakota Department of Transportation.

    e. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Zoning official and the said Official grants a permit therefore.

    f. The Zoning official shall take into consideration factors that would make the proposed sign likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such sign complies with codes relating to outdoor advertising.

    g. All signs are considered structures and require a building permit.

2. Signs in the Agricultural Zoning District: Freestanding and wall signs erected in the Agricultural Zoning District shall be constructed in accordance with the building permit issued for the sign and, unless specified elsewhere in this ordinance, conform to Table 5.12.02.2

a. The sign structure or sign shall have a maximum height of thirty (30) feet. Height of sign is the vertical distance from the top of the sign or sign structure, whichever is greater, to the ground in a straight line directly below, measured from a point equidistant from the sides or edges of the sign.

b. Each sign shall be constructed in accordance with minimum setback requirements of the applicable district except that a sign may be constructed in any location in the front yard provided it shall not be closer than ten (10) feet from any street right-of-way and shall comply with all other requirements of this Chapter.

Table 5.12.02.2

	Area			Number of signs allowed per lot.		
Sign Type	Adjacent to Township Right-of-way	Adjacent to County Right-of-Way	Adjacent to State or Federal Right-of-Way	Adjacent to Township Right-of-way	Adjacent to County Right-of-Way	Adjacent to State or Federal Right-of-Way
Freestanding	32 Square Feet			1		
Wall						
Temporary	32 Square Feet			N/A		

3. Temporary Signs: Any sign placed on a lot for less than one hundred eighty (180) days shall be considered a temporary sign. Temporary signs may be placed without obtaining a building permit and shall be regulated as follows:

   a. Temporary signs may not be placed in any right-of-way

   b. Temporary signs shall not be erected adjacent to a corner of two (2) intersecting streets, unless such signs are constructed to not obstruct the view of said intersection. See Chapter 5.01.

   c. Temporary signs in the Agricultural District shall not exceed thirty-two (32) square feet of sign area.

4. Electronic Message Centers (EMC): Electronic message centers shall be subject to all applicable restrictions within this chapter, including, but not limited to, area, height and placement, as well as the following conditions:

   a. Electronic message center (EMC) displays shall be limited to displays, which have gradual movements, including, but not limited to, dissolving, fading, scrolling, or traveling. However, sudden movement is prohibited, including, but not limited to, blinking and flashing.

   b. Any permitted signs may be or may include as an individual component of the total sign area, electronic message signs.

CHAPTER 5.13. MOVED IN BUILDINGS.

1. Any building to be moved requires a building permit. The Zoning official may attach conditions to the issuance of the moved in building permit. No permit shall be issued until the following requirements are met.

   a. The applicable fee for a building permit shall have been paid.

   b. That the work is to be completed within eighteen (18) months after the permit has been issued by the Zoning official.

   c. The County Zoning Officer may issue a building permit for a previously occupied residence to be moved into an appropriate district when the application is accompanied by the written consent of one hundred percent (100%) of the landowners within two hundred (200) feet.

   d. The applicant will indemnify the County and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the county, the Zoning official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

CHAPTER 5.14. SHELTERBELT SETBACK REQUIREMENTS.

1. Trees used for landscaping the area immediately adjacent to farmsteads and residences are exempt from the following regulations.

2. Unless otherwise permitted in accordance with the requirements of Chapter 5.08.05, shelterbelts, consisting of one (1) or more rows shall be placed as follows:

   a. When planted parallel to a right-of-way or property line, shelterbelts shall be placed not less than one hundred (100) feet from the respective road right-of-way or property line.

   b. When planted at right angles to right-of-way or property line, shelterbelts shall be placed not less than fifty (50) feet from the respective road right-of-way or property line.

   c. Vision clearance on corner lots. On any corner lot in any zoning district, no planting, structure or obstruction to vision shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is one hundred (100) feet distance from the point of intersection (Clear View Triangle).

3. The shelterbelts setback requirements (paragraph 2) also apply to volunteer trees that the landowner allows to grow.

4. A recommendation from the applicable road authority is required prior to the issuance of any variance of the shelterbelt setback from any respective County, Township or State/Federal public right-of-way.

5. Exception to Shelterbelt Setbacks as permitted in the Agricultural District in accordance with Section 3.04.01.10.

    a. When planted parallel to an adjoining property line, shelterbelts may be planted less than one hundred (100') feet of adjacent property of adjoining property lines (side and rear yards) with written permission from one hundred percent (100%) of the affected adjacent property owner(s).

    b. When planted at a right angle to an adjoining property line, shelterbelts may be planted less than fifty (50') feet of adjacent property of adjoining property lines (side and rear yards) with written permission from one hundred percent (100%) of the affected adjacent property owner(s).

    c. Shelterbelts may be planted not less than fifty (50) feet from the affected right-of-way provided written consent of the applicable road authority specifying the location, type, spacing, and number of trees authorized. This requirement does not restrict the applicable road authority from requiring supplemental agreements for maintenance of the affected right-of-way or proposed trees.

CHAPTER 5.15. EXISTING FARMSTEAD EXEMPTIONS

Section 5.15.01 Existing Farmsteads.

1. Existing Farmsteads shall include a dwelling still in use or having been used in the past as a base for normal farming operations which has been occupied by the owner or tenant within the last three (3) years and shall have existed on the site for at least ten (10) years.

2. Existing Farmsteads shall include sites meeting the following criterion:

    A. Evidence that the proposed site was once used for human habitation within the last fifty (50) years. This may be determined by existence of buildings/foundations, tax records, or sworn affidavit.

    B. Evidence that the proposed site was used as a farmstead supporting normal farming operations prior to May 14, 1976.

Section 5.15.02 Existing Farmstead Exemption "A" as a Permitted Use.

The Zoning official may, in accordance with Section 3.04.01.11, issue permitted use authorizing two single family dwellings on a single lot in the "A" Agricultural District under the following conditions:

1. Where a permit for an additional single-family farm dwelling is requested on an existing farmstead as defined herein, provided:

    a. The lot is not in Zone A of the Aquifer Protection District

b. The dwelling is located on the same legal description as the existing farmstead consisting of at least thirty-five (35) acres.

c. The maximum number of dwelling units within the existing farmstead will not exceed two (2).

d. The additional single family residence shall consist of a manufactured home.

e. The dwelling is occupied by employees or relatives of the farm owner.

f. The applicant agrees the additional single-family farm dwelling shall be removed within ninety (90) days in the event the structure is no longer occupied by qualified occupants.

Section 5.15.03 Existing Farmstead Exemption "B" as a Permitted Use.

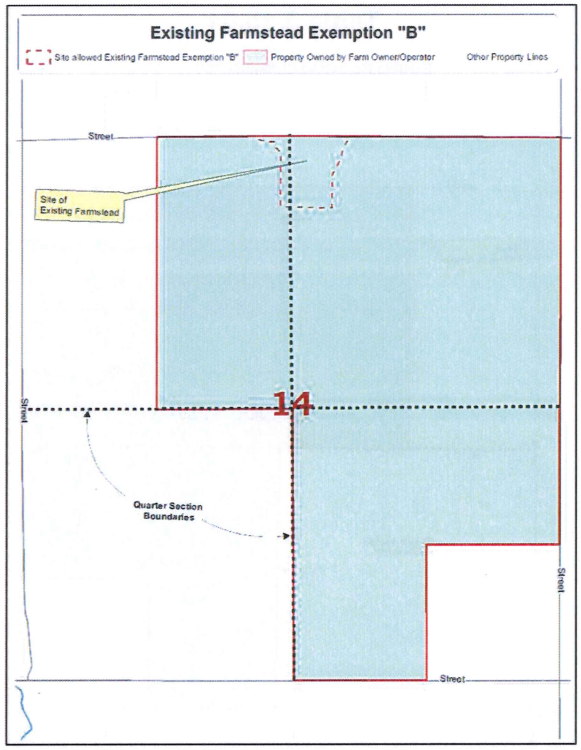
The Zoning official may in accordance with Section 3.04.01.12 issue permitted use authorizing the construction of one (1) single family residence on a lot containing less than thirty-five (35) acres in the "A" Agricultural District under the following conditions:

1. An existing farmstead, as defined herein, is to be divided from adjacent farmland into a single separate parcel. See Figure 5.15.03.

2. The lot is not in Zone A of the Aquifer Protection District

3. The proposed parcel shall consist of a lot of record, or a lot as defined herein containing five (5) acres or more.

Figure 5.15.03



Section 5.15.04 Existing Farmstead Exemption "C" as a Permitted Use.

The Zoning official may in accordance with Section 3.04.01.13, issue permitted use authorizing the const
ruction of one (1) single family residence on a lot containing less than thirty-five (35) acres in the "A" Agricultural District under the following conditions:

1. The lot, as defined herein, contains five (5) acres or more

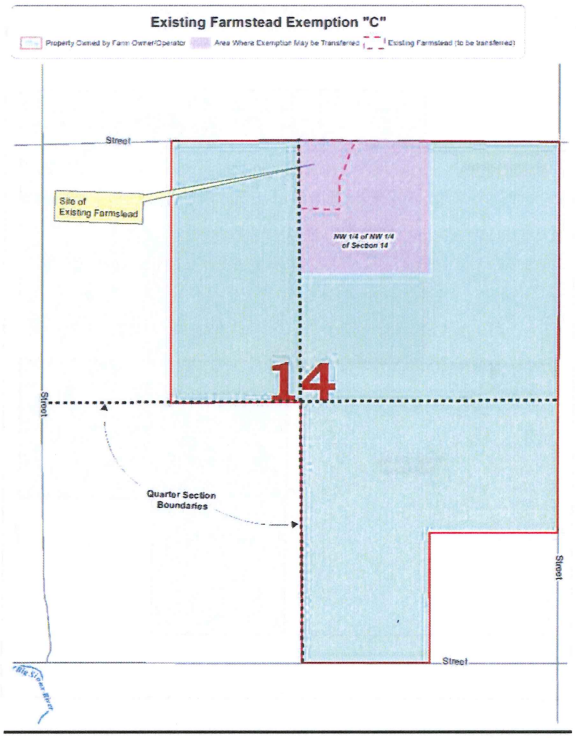
2. The lot is located in the same quarter-quarter section as an existing farmstead

3. The lot is under contiguous ownership with the existing farmstead located in the same quarter-quarter section at the time of creation.

4. The proposed new lot is not in Zone A of the Aquifer Protection District

5. The applicant agrees to transfer the "Existing Farmstead Exemption" authorizing a minimum five (5) acre lot from the location of the existing farmstead to the newly created lot.

Table 5.15.04



CHAPTER 5.17. FENCES.

Section 5.17.01. Permit required.

With the exception of the location of customary farm and animal fencing which is exempt from the permitting requirements of this Section, all fences and walls shall require a building permit.

Section 5.17.02. Location/Construction Requirements.

1. Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard. Except fences, walls, and hedges which are more than thirty (30) percent solid shall not be located within fifty (50) feet of an intersection, measuring along the property lines and connecting these two points by a straight line. Further, the fence, wall, or hedge shall not be constructed within twenty-five (25) feet of a public right-of-way or private road.

2. Fences, with a maximum height of not more than eighty inches (80) inches, may be erected on any part of a lot other than in the required front yard which shall be limited to a height of forty-eight (48) inches.

3. Brookings County does not provide surveying services. The property owner is responsible for locating property lines.

4. Fences may be built no closer than one (1) foot up to the property line, not to include the public right-of-way. Exception: Fences may be built on the property line when the adjoining

property owners both sign the application and submit an agreement regarding the location and future maintenance of the fence.

5. Fences constructed within an identified easement face the potential of removal in the event of necessary work to be conducted within the easement. Replacement of the removed fence is the responsibility of the owner of said fence.

6. The "finished side" of the fence shall face neighboring properties or the road.

7. Approved fencing materials include stone, brick, wood, vinyl, and chain link. No barbed wire fences, with the exception of fences for the purposes of customary farm and animal fencing or security fences approved by the Board of Adjustment as a conditional use, shall be allowed.

8. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.

CHAPTER 5.19 AGRICULTURAL TOURISM.

Section 5.19.01 Intent.

The purpose of this Chapter is to provide for uses which help to promote and maintain local farming operations, are complimentary to agriculture, which help maintain an agricultural heritage and rural character, and help to sustain the local farming community.

Section 5.19.02 Application Requirements

An application, if required, for an agricultural tourism use shall be filed with the zoning official. The application shall contain the following:

1. Name and address of the applicant.
2. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application.
3. Site Plan.

   A plot and development plan drawn in sufficient detail to clearly describe the following:

   A. Physical dimensions and locations of the property, existing structures, proposed structures

   B. A detailed description of what activities will occur on the entire property.

   C. Any other information required to determine compliance with this section.

   D. Any event not described in the original application shall require a separate permit.

Section 5.19.03 Agricultural Tourism Uses.

Agricultural tourism uses include the following and shall be regulated in accordance with this Chapter:

1. Produce stand for the direct marketing of farm products.

   A. Description.

      Produce stand no greater than 400 square feet in building area.

   B. Retail.

      The retail area may sell in-season fruits and vegetables grown on the farm or from local growers.

   C. No food concessions, special events or private events are allowed in conjunction with produce stands.

2. Seasonal U-pick fruits and vegetables operations; holiday tree farms; and seasonal outdoor mazes.

   A. Retail.

      The retail area may sell in-season products processed and created from plants or animals grown on the farm or from local growers.

   B. Food Concessions.

      Limited service for such items such as water, pop, coffee, snacks or baked goods.

3. Wineries.

   A. Description.

      The retail and manufacturing premises of a winemaker operating pursuant to SDCL 35-12.

   B. Retail.

      Tasting room for sampling of wine and other beverages made by the winery. Bottles of wine, wine related items such as glasses, corkscrews, and coolers. Business related items such as t-shirts, bags, caps, wine books and non-prepared foods.

   C. Food Concessions.

      Wineries will be allowed limited food services on-site.

   D. In the Agricultural District, a minimum of one (1) planted acre of crop or fruit used for the processing, preparation, and/or manufacturing of wine shall be derived from the agricultural use. The winery shall remain secondary to the principal use of the property as a site for agricultural production. If the agricultural production on the site ceases, the winery operation shall cease.

4. Breweries and Distilleries.

   A. Description.

      The retail and manufacturing premises of a brewery or distillery pursuant to Chapter 35 of South Dakota Codified Laws.

   B. Retail.

      Tasting room for sampling of beer or liquor, and other beverages made by the brewery or distillery. Bottles of beer or liquor, beer or liquor related items such as t-shirts, bags, caps, brew books, and non-prepared food.

   C. Food Concessions.

      Breweries and Distilleries will be allowed limited food services on-site.

   D. The brewery or distillery shall remain secondary to the principal use of the property as a site for agricultural production. If the agricultural production on the site ceases, the brewery or distillery shall cease operation.

Section 5.19.04. Parking.

1. Parking facilities may be located on a grass or gravel area for seasonal uses such as produce stands, u-pick operations and agricultural mazes. All parking area shall be defined by either gravel, cut lawn, sand, or other visible markings.

2. All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.

Section 5.19.05. Signs

1. Only one sign shall be allowed.

2. The sign shall not exceed 32 square feet in area.

CHAPTER 5.20. ANIMAL UNITS ON SMALL ACREAGES.

On parcels of land of five (5) acres or less, a maximum of two (2) animal units per acre will be allowed. Designated concentrated animal feeding operations excluded.

CHAPTER 5.21 RESIDENCE ON SMALL ACREAGES.

A single family residence may be permitted on a lot created after the adoption of this ordinance by conditional use provided the following requirements are met:

1. The residence will be located on property in the following Sections:

   - 9-T109N-R50W
   - 10-T109N-R50W
   - 11-T109N-R50W
   - 12-T109N-R50W
   - 13-T109N-R50W
   - 14-T109N-R50W
   - 15-T109N-R50W
   - 16-T109N-R50W
   - 23-T109N-R50W
   - 24-T109N-R50W

2. The number of residences per quarter-quarter section, minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following table:

Table 5.21.2

	Minimum Lot Area	Maximum Density	Lot Width	Maximum Lot Coverage	Maximum Height (A)
Single Family Residences	3 Acres	1 per Quarter-Quarter Section	330'	25%	35' (A)

   A. *[Exception to maximum height]* The administrative official may allow heights to exceed thirty-five (35) feet for the following:

      i. Agricultural buildings;
      ii. Chimneys, smokestacks, cooling towers;
      iii. Water tanks;
      iv. Wireless Telecommunications Towers and Facilities.

3. The minimum front, rear, and side yard requirements shall comply with the requirements of Table 3.04.03.8.2.

4. Right to Farm Covenant

   All new residential development (farm and non-farm) shall be required to file an "Right to Farm Covenant" with the Register of Deeds before the issuance of a building permit. (See Chapter 5.39). Exception: This requirement does not apply to lots of record with existing residential development that are destroyed by an act of God (wind, fire, flood) and subsequently are rebuilt.

5. Access

   a. Unless further restricted in accordance with this ordinance, the location of driveways accessing individual parcels shall be separated from adjacent driveways on the same side of the road by the following separation distances:

      i. Roads identified on the Major Street plan as:

a. Local road: 100 foot separation distance
b. Collector road: 300 foot separation distance
c. Arterial road: 500 foot separation distance

ii. Unless as a primary access to an agricultural use, not more than one driveway to any road shall be allowed in the same quarter-quarter section:

b. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit

CHAPTER 5.22. CONCENTRATED ANIMAL FEEDING OPERATIONS

Section 5.22.01. Animal Units Equivalent to Animal Species.

Brookings County uses an animal unit equivalency ratio to determine the head count of a specific animal species for the purpose of defining the specific class of a CAFO by animal unit. The animal species equivalents are based upon a species' manure production. The standards for determining an animal unit to animal head count equivalency are derived from the Environmental Protection Agency and the State of South Dakota General Permit. Table 5.22.01 details the classes of Concentrated Animal Feeding Operations and the specific animal unit equivalency ratio. Note that the figures in Table 5.22.01 relate to inventory rather than annual production.

Table 5.22.1

Number of Animals to Define Classes of Concentrated Animal Feeding Operations

Animal Species			Class C CAFO (500 to 999 Units)	Class D CAFO (10 to 499 Units – Water Pollution Hazard)	Class E CAFO (10 to 499 Units – No Water Pollution Hazard)	Animal Unit Equivalency Ratio
			Animal numbers equal to:	Animal numbers equal to:	Animal numbers equal to:	
Cattle other than mature dairy cows or veal calves [1]			500 to 999	10 to 499	10 to 499	1.0
Mature Dairy Cattle (milked or dry)			350 to 699	7 to 349	7 to 349	1.43
Swine (weighing over 55 lbs)			1,250 to 2,499	25 to 1,249	25 to 1,249	0.4
Swine (weighing less than 55 lbs)			5,000 to 9,999	100 to 4,999	100 to 4,999	0.1
Horses			250 to 499	10 to 249	10 to 249	2.0
Sheep or lambs			5,000 to 9,999	100 to 4,999	100 to 4,999	0.1
Turkeys			27,778 to 54,999	555 to 27,777	555 to 27,777	0.018
Chickens, other than laying hens using other than liquid manure handling system			62,500 to 124,999	1,250 to 62,499	1,250 to 62,499	.008
Laying hens using other than liquid manure handling system			41,166 to 81,999	833 to 41,165	833 to 41,165	.0122
Laying Hens & Broilers using liquid manure handling system			15,000 to 29,999	300 to 14,999	300 to 14,999	.0333
Ducks Using liquid manure Handling system			2,500 to 4,999	50 to 2,499	50 to 2,499	0.2
Ducks using other than liquid manure handling system)			15,151 to 29,999	303 to 15,150	303 to 15,150	.033
Geese			15,151 to 29,999	303 to 15,150	303 to 15,150	.033

1. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.

Section 5.22.02. Classes of Concentrated Animal Feeding Operations.

For the purpose of these regulations, Concentrated Animal Feeding Operations are divided into the following classes:

	ANIMAL UNITS	
Class A	2,000 or more	(Prohibited)
Class B	1,000 to 1,999	(Prohibited)
Class C	500 to 999	
Class D	10 to 499	(Zone B Shallow Aquifer)
Class E	10 to 499	(No pollution hazard)

Section 5.22.03. Concentrated Animal Feeding Operation Permit Requirements

Owners of Class C, and Class D Concentrated Animal Feeding Operations are required to complete, where applicable, a building permit, and/or conditional use permit application as follows:

1. A new Concentrated Animal Feeding Operation is proposed where one does not exist.

2. An expansion is proposed that exceeds the number of animal units allowed by an existing county-issued permit.

3. An expansion in the number of animal units of a Concentrated Animal Feeding Operation, without a county-issued permit that existed prior to May 13, 1997, would result in the creation of a Class C Concentrated Animal Feeding Operation.

4. In the event there is a change in ownership of a Class C or D Concentrated Animal Feeding Operation, which has a previously issued county permit, the new owner(s) has sixty (60) days from the date of legal conveyance of ownership in which to apply for a transfer of a previously issued county CAFO permit in order to keep said current permit valid. The new owner will be required to abide by the permit requirements, findings of facts and any letter of assurances that were issued under the previously approved permit application(s). If no transfer is completed within sixty (60) days, the new owner will be required to submit a new application for approval.

5. An existing Concentrated Animal Feeding Operation is to be restocked after being idle for five (5) years.

6. An unpermitted Concentrated Animal Feeding Operation is in violation of either County or State regulations and does not correct the violation as required by the applicable authority. Violations of State regulations shall be inspected by State officials.

Section 5.22.04. Concentrated Animal Feeding Operation Control Requirements

1. **Compliance with South Dakota Department of Environment and Natural Resources.**

   a. All Concentrated Animal Feeding Operations shall be constructed, located, or operated in compliance with the rules and regulations of South Dakota Department of Environment and Natural Resources.

2. **State General Permit.**

   b. It shall be at the discretion of the Zoning Officer and/or the Board of Adjustment to require an applicant to submit plans for a Class C, D, or E Concentrated Animal Feeding Operation to be reviewed to determine general compliance with standards adopted for a State General Permit.

3. **Nutrient Management Plan.**

   The applicant shall develop, maintain, and follow a nutrient management plan, per the requirements below, to ensure safe disposal of manure and process wastewater and protection of surface and ground water.

   a. New Class C Concentrated Animal Feeding Operations are required to have a nutrient management plan.

   b. The nutrient management plan(s) for Class C Concentrated Animal Feeding Operations nutrient management plans shall be developed by a Certified Crop Advisor and meet the current Natural Resources Conservation Service (NRCS) South Dakota Technical Nutrient Management Standards and all other applicable South Dakota Department of Environment & Natural Resources and Brookings County regulations.

   c. The applicant must maintain records to show compliance with the approved nutrient management plan.

   d. Documentation of land spreading agreements shall be available upon request by the County.

4. **Manure Management and Operation Plan**

   a. New Class C Concentrated Animal Feeding Operations are required to have a Manure Management and Operation Plan.

   b. The nutrient management plan(s) for Class C Concentrated Animal Feeding Operations nutrient management plans shall be developed by a Certified Crop Advisor and meet the current Natural Resources Conservation Service (NRCS) South Dakota Technical Nutrient Management Standards and all other applicable South Dakota Department of Environment & Natural Resources and Brookings County regulations.

   c. Manure Management and Operation Plan must include:

      i. The location and specifics of proposed manure management facilities.

ii. The operation procedures and maintenance of manure management facilities.

iii. Plans and specifications must be prepared or approved by a registered professional engineer, or a Natural Resource Conservation Service (NRCS) engineer. Manure management treatment facilities will require inspection by an engineer.

iv. Manure shall not be stored longer than two (2) years.

v. Manure management containment structures shall provide for a minimum design volume of three hundred sixty five (365) days of storage. In addition, open outdoor storage shall include minimum storage for direct precipitation and/or runoff from a 25-year, 24 hour storm.

vi. Manure management facilities utilizing methane digesters may receive on and off-site generated manure and/or organic wastes.

vii. The applicant will provide information regarding how manure from the CAFO site will be transported to fields identified in the nutrient management plan. This may require the need for a haul road agreement and/or the applicable agreement for pipes to cross the right-of-way or private property. Unless otherwise agreed to between the Road Authority and the applicant, at Brookings County requires, at a minimum, the applicant to abide by minimum requirements of the adopted findings of facts for the applicable size of operation.

e. The applicant is responsible for the misapplication of the manure whether applied on the applicants own land or on land where there is a land spreading agreement or in transport. The complaint procedure will be the same as for any other zoning complaint.

f. As a condition of the permit, the Zoning Officer and/or the Board of Adjustment may require the applicant to participate in environmental training programs.

5. Management Plan for Fly and Odor Control

a. Concentrated Animal Feeding Operations shall dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. A management plan is required for submission of a permit for a Class C Concentrated Animal Feeding Operation. The Zoning Officer and/or Board of Adjustment will review the need for control measures on a site specific basis. The following procedures to control flies and odors shall be considered in a management control plan:

i. Operational plans for manure collection, storage treatment and how said plans will be updated and implemented.

ii. Methods to be utilized to dispose of dead animals shall be included.

iii. Location of existing and proposed tree/shrub plantings.

b. The County recommends the following Best Management Practices in the development of a fly and odor management plan:

i. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.

ii. Store solid manure in containment areas having good drainage to minimize odor production.

iii. Remove manure from open pens as frequently as possible to minimize odor.

iv. Avoid spreading manure on weekends, holidays and evenings during warm season when neighbors may be involved in outdoor recreation activities.

v. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.

6. Required Minimum Setbacks and Separation Distance for Class C, D, and E Concentrated Animal Feeding Operations

Setbacks for new Concentrated Animal Feeding Operations and those Existing, Non-permitted Concentrated Animal Feeding operations expanding into a Class A, B, C, or D Concentrated Animal Feeding Operations after May 13, 1997 shall be measured from the nearest point of any manure containment facility, earthen lagoon, confinement structure, or open lot to the nearest point of the primary structure for the use deriving the benefit from the structure if applicable. See Table 5.22.05.6.

Table 5.22.05.6

	MINIMUM SETBACKS[1,4]		
	NEW CLASS C	NEW CLASS D & E	EXISTING CLASS C, D & E
Established Residences, Churches, and Commercial or Industrial zoned property[2,3]	One-half mile (2,640 feet) or as prescribed in 5.22.05.7	One-quarter (1,320 feet) or as prescribed in 5.22.05.7	One-quarter mile (1,320 feet) or as prescribed in 5.22.05.7
Corporate Boundary of the City of Brookings [3]	Three miles (15,840 feet) or as prescribed in 5.22.05.7	One mile (5,280 feet) or as prescribed in 5.22.05.7	One-half mile (2,640 feet) or as prescribed in 5.22.05.7
Aquifer Protection			
Zone A	Prohibited	Prohibited	Prohibited
Zone B	Prohibited	Conditional Use Permit	Conditional Use Permit
Established Private Water Wells[5]	250 feet	200 feet	200 feet
Lakes, Rivers and Streams Classified as Fisheries	150 feet	150 feet	150 feet
Federal, State & County Road ROW - Confinement	300 feet	200 feet	200 feet
Federal, State, County & Township Road ROW – Open Lot	50 feet	50 feet	50 feet
Township Road ROW - Confinement	150 feet	150 feet	150 feet
Township Road ROW – Open Lot	50 feet	50 feet	50 feet
Designated 100 Year Floodplain	Prohibited	Prohibited	Prohibited

[1] Two (2) or more CAFOs under common ownership are a single concentrated animal feeding operation if they adjoin each other (within one mile) or if they use a common area or system for disposal of manure. Required setbacks for the two (2) or more CAFOs treated as a single operation shall not be less than the minimum setback required for each operation if said operations were treated as individual operations.

[2] Established residences do not include any residence established after May 13, 1997 less than one-half (1/2) mile from any Concentrated Animal Feeding Operation which was active at the time of the residence's construction.

[3] The Board of Adjustment may allow a setback of less than the minimum required provided a written waiver by the entity deriving the benefit of the setback is filed with the application.

[4] The Board of Adjustment may utilize Section 5.22.05.7 to increase or decrease the required setback.

[5] Any well in use in the year (365 days) prior to application for concentrated animal feeding operation permit.

7. Exceptions/Exemptions to Separation and/or Setback Distance Requirements, Variance Still Required

a. Except as identified in Section 5.22.05.7(e) below, All Concentrated Animal Feeding Operations in operation prior to May 13, 1997, which do not comply with the minimum setback requirements, but continue to operate, and are not expanded in a manner which will result in the one of the following examples are exempt from setback/separation distance requirements:

i. Example 1: A Class E CAFO expands to a Class C CAFO.

b. A Concentrated Animal Feeding Operation which is expanded or constructed, if the title holder of the land or well benefitting from the distance separation requirement executes a written waiver with the title holder of the land where the Concentrated Animal Feeding Operation is located, under such terms and conditions which the parties may negotiate.

c. A Concentrated Animal Feeding Operation which is constructed or expanded closer than the required setback/separation distance from the corporate limits of a city that does not have an established Joint City/County Jurisdiction Zoning Ordinance, if the incorporated community approves a written waiver.

d. A Concentrated Animal Feeding Operation which existed prior to the creation of a residence, educational institution, commercial enterprise, religious institution, incorporated community, if the residence, educational institution, commercial enterprise or religious institution was constructed or expanded or the boundaries of the incorporated community were expanded, after the date that the concentrated animal feeding operation was established. The date that the Concentrated Animal feeding Operation was established is the date on which the Concentrated Animal Feeding Operation commenced operating. A change in ownership or expansion shall not change the date of operation.

8. Manure Application

a. The Board of Adjustment may require manure to be incorporated or injected in order to minimize air and water quality impacts.

b. The application of liquid manure by means of irrigation is discouraged but will be reviewed by the Board of Adjustment on a site-specific basis. Impact on air and water quality will be taken into consideration.

9. Haul Roads

a. Any applicant for a new Class C Concentrated Animal Feeding Operation shall identify the primary routes to be used for transporting feed and animals to the operation and transporting animals or raw products from the operation and the approximate average number of trucks.

b. Applicants for a new Class CConcentrated Animal Feeding Operation may be required to enter into a road agreement for identified haul roads, and such agreement shall be filed with the Zoning Officer.

10. Standards for Conditional Uses

a. The Board of Adjustment may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations.

b. The Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations additional conditions which the Board of Adjustment considers necessary to protect the public health, safety and welfare.

c. Conditional Use Permits for concentrated Animal Feeding Operations shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are being adhered to.

d. Conditional Use Permit applicants must comply with the Findings of Facts as required by the Board of Adjustment. The Findings of Facts will be prepared by the zoning officer and approved by the Board of Adjustment and signed by the Board of Adjustment's designee. The permit for the concentrated animal feeding operation is based upon compliance with the regulations herein, and associated letter of assurances/findings of fact. Any violation of these regulations or non-compliance with the letter of assurances/findings of fact shall be cause for revoking a permit. If a violation of these regulations or non-compliance with the letter of assurance/findings of fact occurs, permit holders will be notified by registered mail and a hearing before the Board of Adjustment will be held concerning status of the permit. The Board of Adjustment shall either revoke the permit or set a time line for compliance. If compliance is not met, the permit shall be revoked and the permit holder ordered to cease operations.

11. Suggested Minimum Application Information.

The following information may be requested and reviewed by the Board of Adjustment/Zoning Officer prior to the issuance or as a condition to the issuance of a conditional use permit for any class of CAFO.

a. Owner(s)/Applicant(s) name address and telephone number.

b. Legal descriptions of site and site plan.

c. Number and type of animals.

d. Preliminary nutrient management plan, if required.

e. Preliminary manure management and operation plan, if required.

f. Preliminary management plan for fly and odor control.

g. Information on ability to meet suggested setbacks and separation distances

h. As a condition of approval of any Concentrated Animal Feeding Operation over 1,000 animal units or as determined by the Board of Adjustment, the documentation of an approved General Permit from the South Dakota Department of Environment & Natural Resources for animal species is required. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan and manure management plan.

i. Documentation of notice to public water supply officials.

j. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.

k. Documentation of notice to whomever maintains the access/haul road(s) (township, county and state).

l. Any other information as contained in the application and requested by the Zoning Officer.

CHAPTER 5.31. SAND, GRAVEL OR QUARRY OPERATION; ROCK CRUSHERS; MINERAL EXPLORATION AND DEVELOPMENT AND CONCRETE AND ASPHALT MIXING PLANTS REQUIREMENTS.

Section 5.31.01 Application

1. In addition to the application and required fee for a Conditional Use Permit, the applicant shall submit a site plan indicating the following information:

   a. A description of the mineral or minerals which are the subject of the mining or milling.

   b. A detailed site Map(s) showing

      i. The general area within which the mining or milling operation will be conducted with areas identified by phase if applicable.

      ii. Present topography, soil types, and depth to groundwater.

      iii. Location of existing water drainage, wetlands, buildings, and shelterbelts.

      iv. Identification of roads leading to the site.

      v. Property boundaries of adjacent landowners within 500 feet.

      vi. Proposed changes at the site such as access drives, shelterbelts, buildings, changes in topography, topsoil storage areas, berms, and fence lines.

      vii. Proposed wetland mitigation areas, if any.

      viii. Location of on-site storage of chemicals and petroleum products including containment plan.

Section 5.31.02 State and Federal Requirements.

1. All applicants for sand, gravel or quarry operations; mineral exploration and extraction operations; rock crushers; and concrete/ asphalt mixing plants shall demonstrate prior to the commencement of operation that the site meets the requirements of the State Department of Environment and Natural Resources.

2. The applicant shall identify specific phases when monitoring and inspection of the mining and milling activities shall be conducted by County, State, or Federal personnel or their representatives to assure compliance with all applicable rules and regulations. If the conditional use permit is granted, the permit shall identify such inspection and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Board of Adjustment.

Section 5.31.03 Setbacks

1. Sand, gravel or quarry operation; Mineral exploration and extraction operations; rock crushers; and concrete/ asphalt mixing plants will not be allowed within two hundred (200) feet of a residence. The setback will be measured from the mineral exploration and extraction operations; rock crushers; and/or concrete and asphalt mixing plant's property line to the nearest residence. Exception: The owner of a residence may waive the setback requirement provided the owner submits a notarized waiver form acceptable to the Zoning Officer.
2. Sand, gravel or quarry operation; Mineral exploration and extraction; rock crushers; and/or concrete and asphalt mixing plants shall be set back at least one hundred (100) feet from any public right-of-way.
3. Sand, gravel or quarry operation; Mineral exploration and extraction; rock crushers; and/or concrete and asphalt mixing plants shall be set back a minimum of fifty (50) feet from all property lines (excluding public right-of-way).

Section 5.31.04 General Provisions:

1. Haul Roads.

   A requirement for receiving a permit for extraction/mining operations shall include a haul-road agreement between the applicant and appropriate road authority (County, Township, or Municipality).

2. Noise Pollution.

   The applicant may be required to provide information regarding how potential noise pollution would be minimized.

3. Visual Considerations.

   a. Earth berms and vegetation should be employed to minimize visual impacts and reduce the effects of noise and dust.

   b. The need for and placement of berms should be determined by the orientation and position of the excavation site with respect to residences and roadways. Berms should be located in a way as to restrict the public's view of the property. Generally, berms should be six feet in height and seeded immediately after construction to avoid soil erosion. Berms should be maintained and kept reasonably free of weeds.

   c. Location of berms and vegetation may not create sight distance obstructions at roadway intersections.

4. Hydrology, dewatering and drainage.

   a. Dewatering of the extraction site should not result in downstream flooding.

b. Berms should not interrupt the natural drainage of the area, unless the diversion is part of an approved drainage control system.

5. The applicant shall further provide:

   a. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed mining or milling.

   b. A description of the proposed plan to address the identified environmental impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the area's ecological balance and any other related hazard to public health and safety.

6. The applicant shall provide for a plan for land reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands.

   a. A reclamation schedule.

   b. Methods of plugging exploration drill holes.

   c. Methods of removing and returning topsoil and subsoil.

   a. Methods of grading, backfilling and contouring of exploration sites, access roads, and mining sites.

   e. Methods of waste management and disposal, including liquid and solid wastes.

   f. Method of revegetation.

7. Utilities/Easements. No exploration or excavation shall occur within recorded easements without the express written consent of the party holding such record of the utility/easement.

8. A conditional use permit shall be issued only after all conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of mining and milling activities.

9. Solution mining, in situ mining of an ore body with circulation of chemicals through injection and recovery wells, for minerals is prohibited.

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CHAPTER 5.39. RIGHT TO FARM NOTICE COVENANT.

The following easement is to be utilized as required for farm and non-farm residential development within the Agricultural District.

Prepared by Brookings County Zoning Office
520 3rd St, Suite200
Brookings, SD 57006

RIGHT TO FARM NOTICE COVENANT

You are hereby notified that the property you are constructing a new residence, stick-built, modular or manufactured, or modifying an existing residence, described in the Legal Description below, that is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during a 24-hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs and successors or assigns.

Legal Description: _____

_____

_____

_____

_____

_____

IN WITNESS WHEREOF, the Grantors have executed this instrument on _____, 20____.

_____ _____
Signature, Grantor Signature, Grantor

_____ _____
Print, Grantor Print Grantor

STATE OF SOUTH DAKOTA
SS:
COUNTY OF BROOKINGS

This instrument was acknowledged before me on _____, 20____ by

_____
(Grantors).

_____Notary Public

My Commission Expires: _____

BROOKINGS COUNTY DEVELOPMENT DIRECTOR
BROOKINGS CITY & COUNTY GOVERNMENT CENTER
520 3rd Street, Suite 200
BROOKINGS, SOUTH DAKOTA 57006
(605)-696-8350
ROBERT W. HILL
TELEPHONE (605) 696-8350
FAX (605) 696-8355
E-MAIL: zoning@brookingscountysd.gov

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Brookings County Planning & Zoning Commission
January 7th, 2020 – 7:30 PM
Brookings City & County Government Center
310 Chambers

Chair Elenkiwich called the meeting to order at 7:28 PM. Commission members present were: Chair Elenkiwich, Mike Bartley, Michael McHugh, Tom Davis, Darrell Nelson, Darrel Kleinjan, Chad Ford, Randy Jensen, and alternate board member Roger Erickson. Absent were: Terrell Spence and alternate board member Spencar Diedrich.

Chair Elenkiwich read **agenda item # 2: Approval of Minutes from December 2, 2019 Brookings City Planning Commission and Brookings County Planning & Zoning Commission Joint Meeting and the December 2, 2019 Brookings County Planning & Zoning Commission Regular Meeting.** Ford moved to approve the Joint City/County Meeting minutes. Davis 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.** None added.

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 Tom Davis noted conflict of interest for 2020cu001 & 2020cu002 and he would be recusing himself. Chair Elenkiwich noted Davis would be recused from agenda items # 9 & 10.

Chair Elenkiwich read **agenda item # 6: Approval of Agenda.** Nelson moved to approve the agenda. McHugh second.

Chair Elenkiwich read **agenda item # 7: Election of Officers for 2020.** Chair Elenkiwich turned the meeting over to Mr. Haugen for the election of chairperson. Mr. Haugen opened up for nominations for chairperson. Davis nominated Kimberly Elenkiwich. Mr. Haugen asked three times if there were any other nominations for chairperson. Kleinjan moved that nominations cease and

case a unanimous ballot for Kimberly Elenkiwich as chairperson for 2020. Bartley second.

Mr. Haugen turned the meeting over to Chair Elenkiwich. Chair Elenkiwich opened up for nominations for vice chairperson. Tom Davis nominated, Michael McHugh for vice chairperson. Chair Elenkiwich asked three times if there were any other nominations for vice chairperson. Bartley moved that nominations cease and to cast a unanimous ballot for Michael McHugh for vice chairperson. Davis second. Chair Elenkiwich called or 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 # 8: Consideration of Plats: a. 2020plat001: "Plat of Lot 11A in Cedar Pointe Addition in Govt. Lot 3 of the NW1/4 of Section 28, T109N, R50W of the 5th P.M., Brookings County, South Dakota."** McHugh moved to approve the plat. Nelson second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Keith Rounds is vacating Lot 11 in Cedar Point Addition and platting off Lot 11A for a property line adjustment." He noted: 1) Lot was located on the northwest side of Lake Campbell and had originally been approved by the board on October 1, 2019. 2) The lot would be reduced from 44,529 square feet to 36,041 square feet. 3) The property line adjustment would give the adjoining un-platted future lot more square feet. 4) Lot 11A exceeded the 20,000 sq. feet requirement of Lake-Park and meets the Brookings County Subdivision Ordinance. 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, hearing none she called for a roll-call vote: Bartley-aye, McHugh-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Erickson-aye, Jensen-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Tom Davis recused himself from the board.

Chair Elenkiwich stated, "We are now acting as the Brookings County Board of Adjustment" read **agenda item # 9: 2020cu001: Thomas A Davis has made an application, 2020cu001, to the Brookings County Board of Adjustment for a conditional use. 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: "E1/2 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4 of Section 4, T110N, R48W (Alton Township)".** Bartley moved to approve the conditional use request. Nelson second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Tom Davis has applied for a conditional use #4 to mine gravel. Tom Sterzinger from Taunton, Minnesota, will be the mining and crushing operator." He noted: 1) the operator's site plan, business plan, hours of operation, and reclamation plan. 2) Road access would be to the west of proposed operation, across pasture land the applicant's family owns (to 480th Ave, Alton Township gravel road). 3) Berm would be constructed along the natural water way to keep the soil and sediment from entering the water way that is located in the very northwest corner of the proposed

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mining area. 4) Gravel layer to be mined is approximately 20 feet in depth and mining will be done above the water table. 5) East Dakota Water Development District had reviewed the application and documents that were provided by the applicant and the mine operator. 6) Applicant also applied for a conditional use 2020cu002 - #5A: Rock Crusher to be heard by board. 7) Public notices were published in the Brookings Register on December 24 and 31, 2019 and in the White Tri-City Star and Elkton Record on December 19, 2019 and January 2, 2020. 8) Letters were sent to the adjoining landowners and the Alton and Sherman Township Chairman and Clerk. Mr. Haugen then presented a visual presentation of the site. Chair Elenkiwich asked Mr. Davis to come forward and address the board. Chair Elenkiwich opened up for questions from the board. McHugh wanted road provisions and dust control to be discussed. Chair Elenkiwich asked for further comments from the board, hearing none. The applicant identified himself as Tom Davis and stated, "The permit would be in 3 names with the deed holders of the land being Thomas A. Davis, Joe and Tina Davis and So Dak Holdings LLC (Philip Davis-brother)." Mr. Davis asked for the site map to be displayed and he identified: area to be mined, noted placement of a new fence (50-100 feet from the creek area), proposed earthen berm location. He further noted: 1) at the west end a fence and road would be built to 480th Avenue on land that was owned by his mother. 2) He was going to negotiate with adjoining property owner Rolland Colony and meet setbacks for road and distance from their fence. 3) 480th Avenue would be used as way out. 4) Agreement with Sherman Township to cut road hill from 7% to a 4% grade. 5) Have 80% of main contractors hauling from pit would have to go north on 480th Avenue to 207th Street (1.5 miles), other 20% would go South on 480th Avenue to 209th Street or another street. 6) Estimated 7,000 trucks – 175 loads going south in a month or 8.5 loads a day. 7) Dust control and speed limit of 35 miles an hour would be posted for all trucks and additional stop signs would be located at intersections for safety. 8) Social media would be used to announce days when haul traffic would be heavier than normal. 9) Possibility of a lighted sign instead of only truck hauling road sign. 10) He would encourage those in area to contact him when events would be in the area so that hauling could be adjusted. Proposed pit's operator Tom Sterzinger identified himself and noted the hauling was probably the main concern and they would be a diligent as possible to keep the road up to shape and if road got to soft they would stop hauling. He added he had talked with Brian from the Highway department and they were excited of another possibility of having a pit in that area. Another pit and gravel source was needed. Chair Elenkiwich opened up the public hearing portion asking for questions or comments from the audience opponents and proponents, asking for proponents first. Seeing no proponents, she asked for opponents to come forward. Opponents to the request were: Mary Bowne, Dale Bowne, Brett Knutson, Paul Johnson, Erik Wise, Dan Luze, Lawrence Wipf, Christina Westley, John Wipf, and Charleen Bowne. Concerns, issues and solutions voiced were: 1) Concern for the structural integrity of the road and possible damage to it due to heavy truck traffic 2) Safety and health concerns for people and animals due to heavy truck traffic, dust, pollutants and noise. 3) Issue of who will police the road usage of 80/20. 4) Possible solution, instead of using 480th, build road on applicants land to the east

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onto blacktop County Road 27 (482nd Ave). 5) Concern for cost to maintain the roads of the proposed haul routes. Hearing no other opponents Chair Elenkiwich closed the public hearing. She identified concerns and questions from the public being: road concerns, what mineral exploration was, contact issue (who to contact), could the applicant build and have his own private road, who would monitor 80/20 usage and speed limit (35 mph). She then asked for additional comments from the board. Board members McHugh and Bartley wanted items discussed or clarified regarding: 1) Establishing a designated route 2) Road agreements 3) extra maintenance due to excess moisture and traffic 4) township maintenance added expense 5) enforcement issues 6) moving entrance to the East and estimate of costs. Mr. Davis addressed items and noted that building a road to the East would be too expensive and gullies to the east would need to be crossed adding to the expense. He stated, "We are going to be giving up a whole year's royalty basically to fix the road going north on 480th Avenue, the hill, and road to the corner (207th St and 480th Av)." Mr. Davis noted he had a verbal agreement with County Highway to use the county roads in either direction. Board member Bartley noted the agreement with the county was hearsay, no documentation was in hand, not in writing and asked Mr. Davis for estimated cost of building a road to the east. Mr. Davis estimated cost to be $250,000 - $350,000. Board member Bartley stated, "I think you are light if you are going to have to put in culverts and bridges or anything like that but even at that expense I don't think that is exorbitant. The townships will have a higher expense over a 30 year period to maintain those roads for that type of traffic. That's the part that concerns me the most is putting a burden on the townships at this particular time it's difficult for me to do that simply because of the soft roads and I don't believe that will go away in the near future." Board member Bartley noted there were many unanswered questions to the hardship, he was concerned as to the cost to townships over 30 years, and saw a need of road haul agreements in place. Chair Elenkiwich stated, "We can table to the next meeting and maybe we do want to see that before we do any type of commitment. Option is for time, maybe conditional for 5 or 10 years or if we want to talk a little bit more on the roads. That might be something that we need to do. It is definitely like it was stated, gravel is needed and the argument not in my backyard is not necessarily valid and so a lot of this dust, and stuff like that is going to happen whether it be where it is or elsewhere, that is not what we are talking about, it is more just making sure that there is not an added expense, that is really where we are going right now to the county and the townships is obviously a big concern of ours." Chair Elenkiwich asked the board if they wanted more research on things and questioned enforcement of 35 mph speed limit. Mr. Haugen noted the township would probably have to set the speed limit and the sheriff's office would have to enforce. Board members Nelson and Kleinjan noted that roads and usage were a concern the board did not take lightly and applicants were encouraged to use county roads and covered roads. Chair Elenkiwich noted the board still had a lot of questions and a condition may be that it be onto a black top road. Mr. Davis stated, "I am willing to have it tabled." Board member Bartley made a motion to table item until the next meeting (February), second by McHugh. Chair Elenkiwich called for a voice vote. 8-ayes and 0-nays, motion carried.

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Chair Elenkiwich read **agenda item # 10: 2020cu002: Thomas A Davis has made an application, 2020cu002, to the Brookings County Board of Adjustment for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 5A: Rock Crushers. The property is described as: "E1/2 NE1/4, SW1/4 NE1/4, SE1/4 NW1/4 of Section 4, T110N, R48W (Alton Township)".** McHugh moved to approve the conditional use request. Kleinjan second. Chair Elenkiwich called for a voice vote. 8-ayes and 0-nays, motion carried. Motion by Bartley, second by Ford to table agenda item #10 to the next (February) meeting. Chair Elenkiwich called for a voice vote. 8-ayes and 0-nays, motion carried.

Tom Davis resumed his seat on the board.

Chair Elenkiwich read **agenda item # 11: 2020cu003: Jesse Bermel for Coyote Ridge Wind, LLC has made an application, 2020cu003, to the Brookings County Board of Adjustment for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 6: Contractors' shops and yards. The property is described as: "NE1/4 of Section 15, T111N, R48W (Sherman Township)".** Nelson moved to approve the conditional use request. Davis second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Coyote Ridge LLC by Jesse Bermel has applied for an agricultural district conditional use # 6: Contractor's shop and yard. The contractor's yard will be temporary with an anticipated ending date of August 31, 2020. He noted: 1) Contractor's yard was currently in place under 2018cu021 that had been approved by the board September 4, 2018 but had ended on November 1, 2019 for the Coyote Ridge Wind project. 2) Due to wet weather project had been delayed and last phase was to be completed and site cleared by August 31, 2020. 3) 10 acres site was located in the northeast corner of the quarter along 482nd Ave (Brookings Co gravel road #27) on the east side and 204th street on the north side. 4) The laydown yard was to be used for construction trailers, wind tower components and supplies used during the construction phase of the Coyote Ridge Wind Towers. 5) Applicant had visited with the township and county highway department regarding a road agreement. 6) Public notices were published in the Brookings Register on December 24 and 31, 2019 and in the White Tri-City Star on December 19, 2019 and January 2, 2020. 7) Letters had been sent to the land owners, adjoining landowner's, Sherman Township Chairman and Clerk and the 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. Kobey Stiles, Project Manager from Wanzek Construction, Inc. came forward and noted he was representing the applicant and stated, "This a request for the extension of an existing permit." He noted that excessive snow, rain, wind events and a thunderstorm that came through on the 22nd of October caused delays and an extension was need to maintain the yard at the location. In the spring work would resume with an expected end date of July or August 2020." Chair Elenkiwich opened up for questions from the board. Board members Davis and Nelson noted no complaints had been received and

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did not see any issue with allowing the permit and project to continue. Chair Elenkiwich asked for further comments 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. Chair Elenkiwich asked for additional comments from the board. Board member Ford brought up the end date and the board decided to put an expiration/end date of Dec. 31, 2020 for the conditional use permit. Hearing no more discussion by the board 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: McHugh-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Ford-aye, Erickson-aye, Jensen-aye, Bartley-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 12: 2020cu004: Wanzek Construction, Inc. by Tanya Lance has made an application, 2020cu004, to the Brookings County Board of Adjustment for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 6: Contractors' shops and yards. The property is described as: "NW1/4 Exc H-1 & Exc S338' of W850'; N486' of S824' of W305'; & N236' of S574' of E74' of W379' Section 14, T111N, R49W (Afton Township)".** Davis moved to approve the conditional use request. Ford second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "2020cu004 is again an extension for and existing laydown yard by Wanzek Construction Inc." He noted: 1) laydown yard would be used for storage of wind tower bases, turbines, blades, components, supplies and equipment storage. 2) The laydown yard would be used for wind turbines being constructed in Deuel County as it is a centrally located area for them and the approach and area are already established. 3) Applying for an extension of their existing permit - The applicant has previously used this site for Conditional Use 2019cu003, approved on March 7, 2019 for a contractor's yard during the construction of Coyote Ridge Wind LLC, wind farm. 4) Laydown yard would be used during the construction phase of the Tatanka Wind Farm in Deuel County with an anticipated ending date of December 31, 2020. 5) Land use agreements have been extended with the landowner, and SDDOT for driveway extensions. 6) The east driveway has been widened to accommodate long loads is used for entering and existing property off SD Hwy 30. 7) Traffic signs are located on-half mile east and west of the driveway to alert the area traffic. 8) Public notices were published in the Brookings Register on December 24 and 31, 2019 and in the White Tri-City Star on December 19, 2019 and January 2, 2020. 9) Letters were sent to the land owner, adjoining landowner's, South Dakota Department of Transportation (SD DOT) and Afton 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. Kobey Stiles, Project Manager from Wanzek Construction, Inc. came forward and noted he was representing the applicant and stated, "We have spent a significant amount of money making improvements to this particular site. We are actually storing some construction components through the winter at this site for Coyote Ridge Project and then we will use it as a staging area for components coming in for the Tatanka Wind Project that is a

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little north and west of Toronto. We are asking that the board continue to let us use this (site) for the next year as it is a good central location, and has good access. We have already proven that we can enter and exit there with no problems." Chair Elenkiwich opened up for questions from the board. Board members Nelson and Kleinjan asked: 1) if they were done hauling blades to/from the site. 2) If a one year usage was enough time. Mr. Stiles noted that more blades would be arriving in June and that an expiration date of December 31, 2020 would be fine. Chair Elenkiwich asked for further comments from the board, hearing none she opened up the public hearing portion asking for questions or comments from the audience opponents and proponents. Hearing no proponents Chair Elenkiwich called for opponents. LaVerne Jerred came forward and noted he lived across from the site and had concerns with the traffic being backed up when they (applicant) pull out from the site, the location of the signs on the road and he wanted to let the board know there were problems. Board member Nelson understood the concern with the hill and view in the area but was unsure of how to improve the situation. Board member Davis mentioned there was organization called South Dakota LTAP which was located at South Dakota State University that may be able to help with the situations Mr. Jerred had issue with. 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-nay, Kleinjan-aye, Ford-aye, Erickson-aye, Jensen-aye, Bartley-aye, McHugh-aye, Elenkiwich-aye. 8-ayes, 1-nay, motion carried.

Chair Elenkiwich read **agenda item # 13: 2020cu005: Daryl & Joan Nelson have made an application, 2020cu005, to the Brookings County Board of Adjustment for a conditional use. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.02 Conditional Uses Permit # 6: Accessory buildings with a side-wall greater than fourteen (14) feet or more than 2,000 square feet and used accessory buildings greater than 120 square feet. The property is described as: "Lot 8 Haffner Knoll Addition in Govt Lot 3 of Section 22, T112N, R47W (Lake Hendricks Township)".** Kleinjan moved to approve the conditional use request. Jensen second. Chair Elenkiwich opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Daryl and Joan Nelson have applied for Lake-Park District conditional use to build an accessory building 40 feet (wide) x 64 feet (long) with up to 14 feet sidewall (2,560 sq. ft.) to be used for storage." He noted: 1) the proposed building would be located on a non-lake front lot and would meet all setback requirements. 2) Lot was located across the road from their lake cabin at 710 S Lake Hendricks Dr. 3) Lot measured 100 feet wide x 242 feet long and the lot was platted in November 1978. 4) Public notices were published in the Brookings Register on December 24 and 31, 2019 and in the Lake Hendricks Pioneer on December 25, 2019 and January 1, 2020. 5) Letters were sent to the adjoining landowners, Lake Hendricks Township Chairman and Clerk and the 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 Daryl

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Nelson and stated, “We bought lake property about six years ago and we want to put up a building now for cold storage for the pontoon and are leaning toward 14 foot sidewalls. We will follow rules that we need to for placement.” Chair Elenkiwich opened up for questions from the board. Board member Davis asked Mr. Haugen what the rules were for setbacks. Mr. Haugen stated, “The side setbacks are 8 feet and the front and rear setbacks we just changed this spring along with the building size and are 25 feet for front and rear. He has more than enough room to meet the setbacks.” Chair Elenkiwich asked if just a pontoon would be stored in the building, if the residence was his full time address, if a water/hydrant would be wanted, and if similar to building sizes in the areas. Mr. Nelson noted that the property would be used for pontoon and other lake toy storage, he would like to have a hydrant on the outside of the building, and the building would be similar in sizes to the other accessory buildings in the area. Chair Elenkiwich asked for further comments 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 portion. She then 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: Nelson-aye, Kleinjan-aye, Ford-aye, Erickson-aye, Jensen-aye, Bartley-aye, McHugh-aye, Davis-aye, Elenkiwich-aye. 9-ayes, 0-nays, motion carried.

Chair Elenkiwich read **agenda item # 14: Department Reports.** Chair Elenkiwich asked Mr. Hill for his Directors report. Mr. Hill announced FEMA had been in the area and 2 declarations (March-April and September events) had been declared and county and public assistance had been offered. Over $400,000 in public assistance through FEMA had been granted. Mr. Haugen told the board work on updating the Ordinance would continue and to be prepared for a busy February meeting. Mr. Hill and the board discussed having written road agreements in place and turned in with the applications in the future, thus preventing any issues if road agreements aren’t granted to the applicant by the road authorities.

Chair Elenkiwich asked for a motion to adjourn. McHugh made a motion to adjourn the meeting, Jensen second. Chair Elenkiwich called for a voice vote. 9-ayes, 0-nays.

Chair Elenkiwich adjourned the meeting at 9:44 PM.

Rae Lynn Maher
Brookings County
Development Department.

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BROOKINGS COUNTY DEVELOPMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
Brookings, SD 57006
(605) 696-8350
E-Mail: zoning@brookingscountysd.gov

Brookings County Planning and Zoning Commission
February 4, 2020 – 7:30 PM meeting

2020plat002 – February 4, 2020

Prepared by Richard Haugen

Applicant/Owner: Lake Dreams LLC, 2809 E 51st St, Sioux Falls, SD 57103

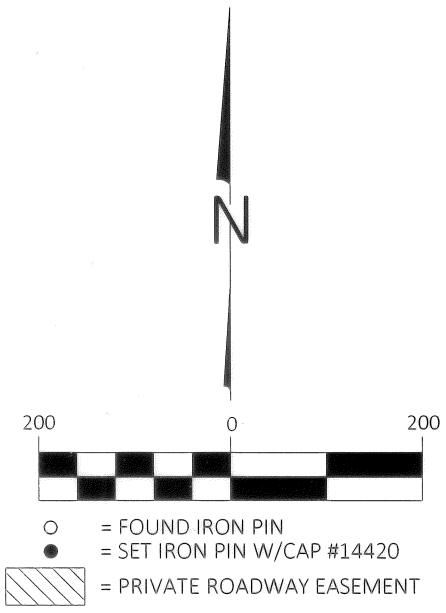
Legal Description: "Plat of Lot 10 in Block 1 in Paradise Point Addition in Government Lot 2, Section 22, Township 112 North, Range 47 West of the 5th Principal Meridian, Brookings County, South Dakota."

2020plat002: Lake Dreams is platting off Lot 10 in Paradise Point, located on the east side of Lake Hendricks, right along the South Dakota/Minnesota state line. The Preliminary Plat for Paradise Point was approved by this board on August 7th, 2007, which I have included with this report. They have been platting lots as they are sold. The lots are lake front lots and Lot 10 contains 40,687 square feet, exceeding our 20,000 sq feet minimum lot size requirement. The plat meets our Brookings County Subdivision Ordinance and Lake Park requirements.

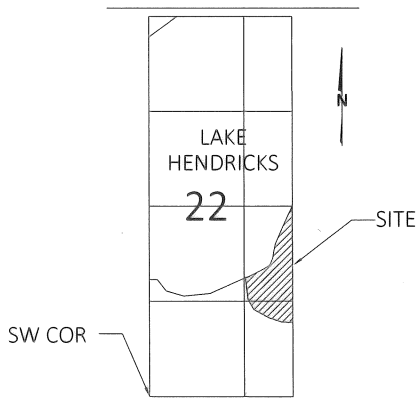
PLAT OF

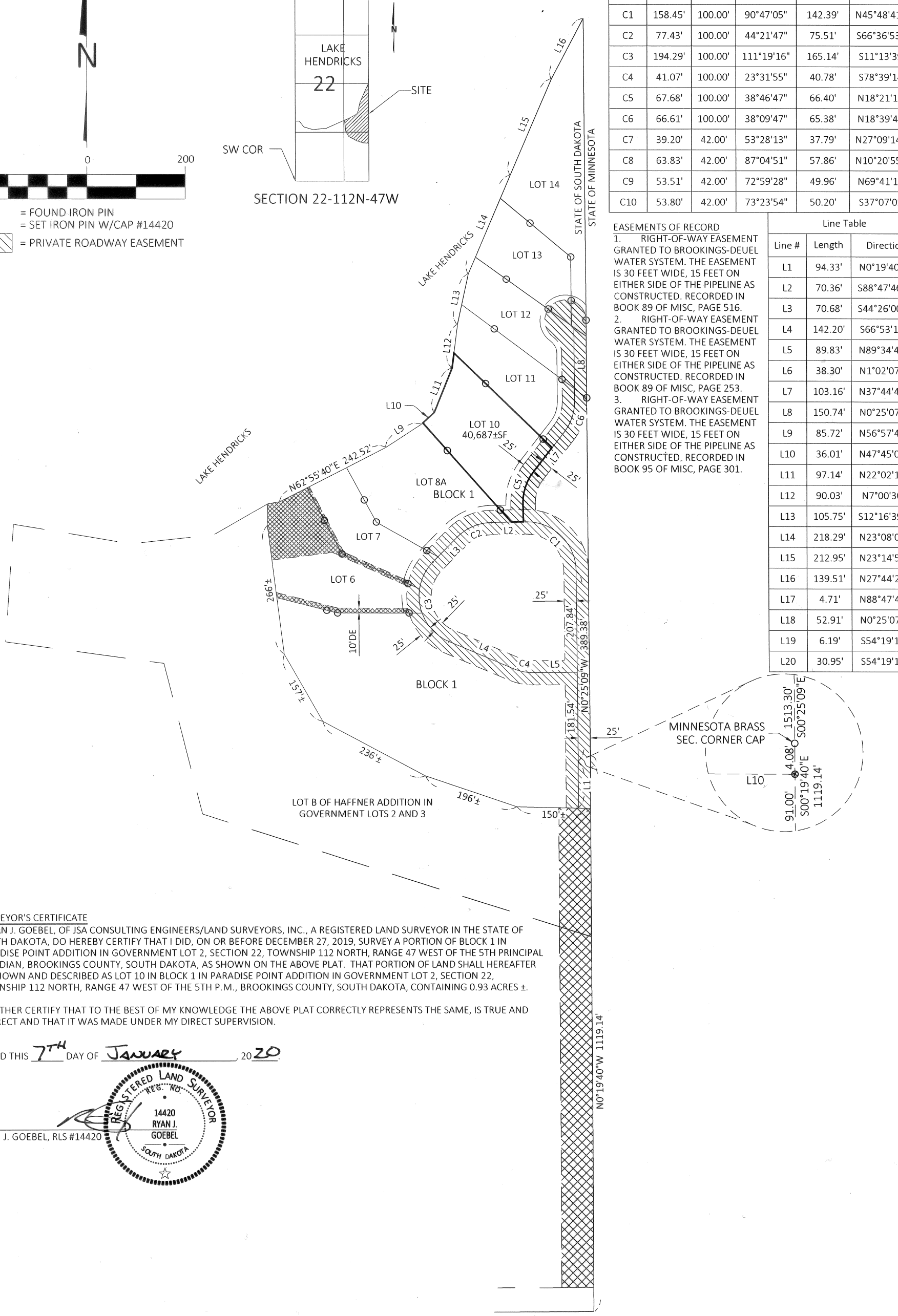
LOT 10 IN BLOCK 1
IN PARADISE POINT ADDITION

IN GOVERNMENT LOT 2, SECTION 22, TOWNSHIP 112 NORTH, RANGE 47 WEST OF THE 5TH PRINCIPAL MERIDIAN, BROOKINGS COUNTY, SOUTH DAKOTA



VICINITY MAP





Curve Table					
Curve	Length	Radius	Delta	Chord Distance	Chord Bearing
C1	158.45'	100.00'	90°47'05"	142.39'	N45°48'41"W
C2	77.43'	100.00'	44°21'47"	75.51'	S66°36'53"W
C3	194.29'	100.00'	111°19'16"	165.14'	S11°13'39"E
C4	41.07'	100.00'	23°31'55"	40.78'	S78°39'14"E
C5	67.68'	100.00'	38°46'47"	66.40'	N18°21'16"E
C6	66.61'	100.00'	38°09'47"	65.38'	N18°39'46"E
C7	39.20'	42.00'	53°28'13"	37.79'	N27°09'14"W
C8	63.83'	42.00'	87°04'51"	57.86'	N10°20'55"W
C9	53.51'	42.00'	72°59'28"	49.96'	N69°41'14"E
C10	53.80'	42.00'	73°23'54"	50.20'	S37°07'05"E

EASEMENTS OF RECORD

1. RIGHT-OF-WAY EASEMENT GRANTED TO BROOKINGS-DEUEL WATER SYSTEM. THE EASEMENT IS 30 FEET WIDE, 15 FEET ON EITHER SIDE OF THE PIPELINE AS CONSTRUCTED. RECORDED IN BOOK 89 OF MISC, PAGE 516.
2. RIGHT-OF-WAY EASEMENT GRANTED TO BROOKINGS-DEUEL WATER SYSTEM. THE EASEMENT IS 30 FEET WIDE, 15 FEET ON EITHER SIDE OF THE PIPELINE AS CONSTRUCTED. RECORDED IN BOOK 89 OF MISC, PAGE 253.
3. RIGHT-OF-WAY EASEMENT GRANTED TO BROOKINGS-DEUEL WATER SYSTEM. THE EASEMENT IS 30 FEET WIDE, 15 FEET ON EITHER SIDE OF THE PIPELINE AS CONSTRUCTED. RECORDED IN BOOK 95 OF MISC, PAGE 301.

Line Table		
Line #	Length	Direction
L1	94.33'	N0°19'40"W
L2	70.36'	S88°47'46"W
L3	70.68'	S44°26'00"W
L4	142.20'	S66°53'17"E
L5	89.83'	N89°34'48"E
L6	38.30'	N1°02'07"W
L7	103.16'	N37°44'40"E
L8	150.74'	N0°25'07"W
L9	85.72'	N56°57'40"E
L10	36.01'	N47°45'07"E
L11	97.14'	N22°02'17"E
L12	90.03'	N7°00'30"E
L13	105.75'	S12°16'39"W
L14	218.29'	N23°08'08"E
L15	212.95'	N23°14'59"E
L16	139.51'	N27°44'25"E
L17	4.71'	N88°47'46"E
L18	52.91'	N0°25'07"W
L19	6.19'	S54°19'18"E
L20	30.95'	S54°19'18"E

SURVEYOR'S CERTIFICATE

I, RYAN J. GOEBEL, OF JSA CONSULTING ENGINEERS/LAND SURVEYORS, INC., A REGISTERED LAND SURVEYOR IN THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT I DID, ON OR BEFORE DECEMBER 27, 2019, SURVEY A PORTION OF BLOCK 1 IN PARADISE POINT ADDITION IN GOVERNMENT LOT 2, SECTION 22, TOWNSHIP 112 NORTH, RANGE 47 WEST OF THE 5TH PRINCIPAL MERIDIAN, BROOKINGS COUNTY, SOUTH DAKOTA, AS SHOWN ON THE ABOVE PLAT. THAT PORTION OF LAND SHALL HEREAFTER BE KNOWN AND DESCRIBED AS LOT 10 IN BLOCK 1 IN PARADISE POINT ADDITION IN GOVERNMENT LOT 2, SECTION 22, TOWNSHIP 112 NORTH, RANGE 47 WEST OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA, CONTAINING 0.93 ACRES ±.

I FURTHER CERTIFY THAT TO THE BEST OF MY KNOWLEDGE THE ABOVE PLAT CORRECTLY REPRESENTS THE SAME, IS TRUE AND CORRECT AND THAT IT WAS MADE UNDER MY DIRECT SUPERVISION.

DATED THIS 7TH DAY OF JANUARY, 2020.

REGISTERED LAND SURVEYOR
REG. NO.
14420
RYAN J.
GOEBEL
SOUTH DAKOTA

RYAN J. GOEBEL, RLS #14420

PREPARED BY: JSA CONSULTING ENGINEERS/LAND SURVEYORS, INC.,
6810 S. LYNCREST AVE SUITE 101, SIOUX FALLS, SOUTH DAKOTA, 57108 605-367-1036

N

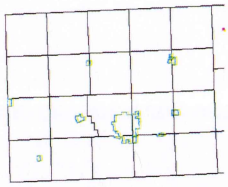
Lot 10, Block 1 - Paradise Point Addition

Brookings County South Dakota

Beacon™ Brookings County, SD

2020 plat 001

Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels
- Roads

Parcel ID	092701124722100	**Alternate ID**	n/a	**Owner Address**	LAKE DREAMS LLC
Sec/Twp/Rng	22-112-47	**Class**	NAC		2809 E 51ST ST
Property Address		**Acreage**	n/a		SIOUX FALLS SD 57103
District	091025				

Brief Tax Description PARADISE POINT ADDN, BLOCK 1 EXC LOTS 6,7,8A & 11,12,13 & 14 IN GOVT LOT 2 SEC 22-1 4.52 ACRES
(Note: Not to be used on legal documents)

Date created: 1/23/2020
Last Data Uploaded: 1/23/2020 8:05:22 AM

Developed by Schneider GEOSPATIAL

BROOKINGS COUNTY DEVELOPMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
Brookings, SD 57006
(605) 696-8350
E-Mail: zoning@brookingscountysd.gov

Brookings County Planning and Zoning Commission
February 4, 2020 – 7:30 PM meeting

2020plat003 – February 4, 2020

Prepared by Richard Haugen

Applicant/Owner: Vance Goodfellow, 46075 204th St, Bruce, SD 57220

Legal Description: "Plat of Lots 1A and 2A of Goodfellow Addition in the N1/2 of the NE1/4 of Section 18, T111N, R21W, of the 5th P.M., Brookings County, South Dakota."

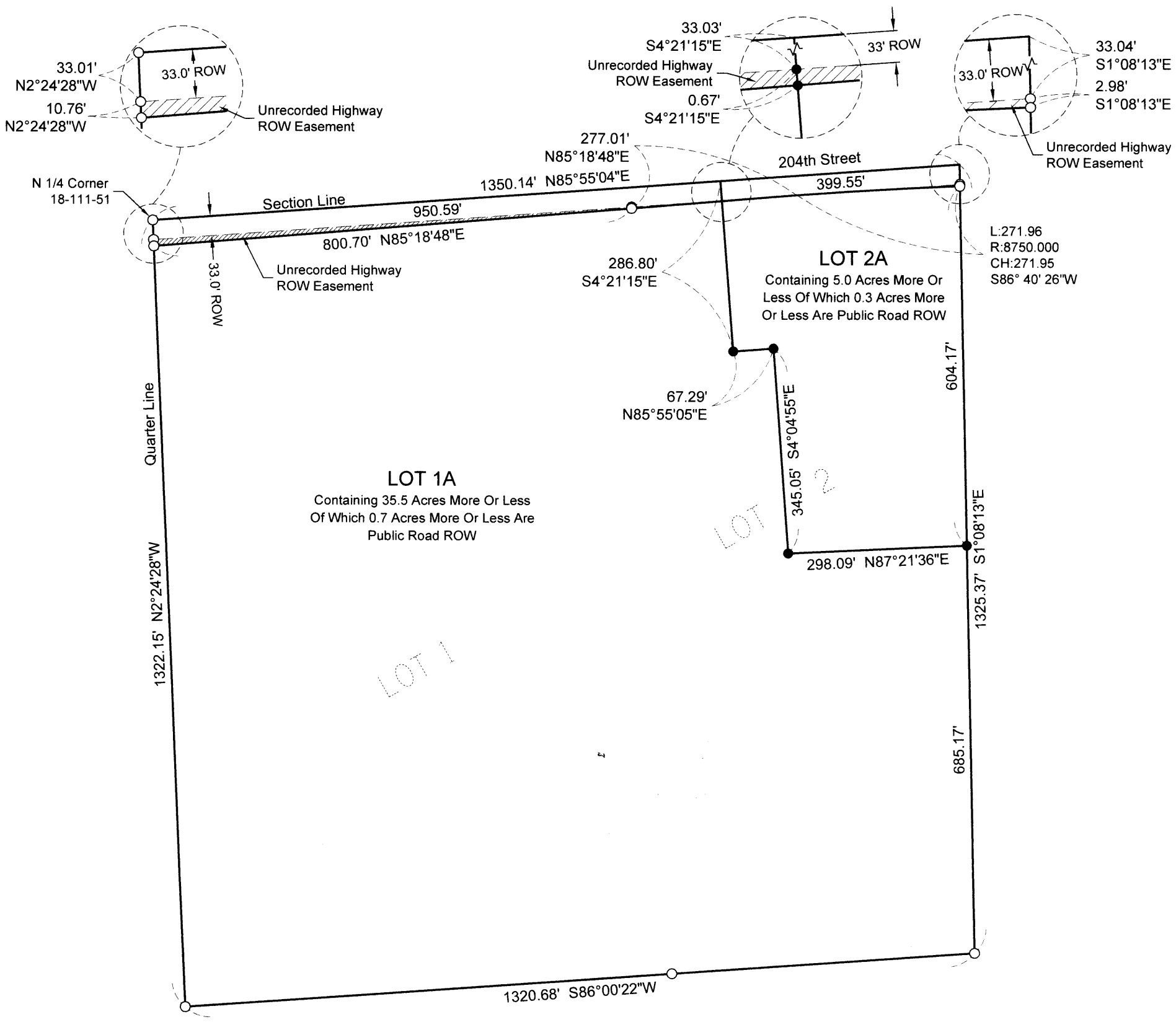
2020plat003: Vance Goodfellow re-platting Lots 1 and Lot 2 of "Plat of Lots 1 and 2 Goodfellow Addition and Lot 1 of Myrth Williamson Trust Addition, all in the N1/2 of the NE1/4 of Section 18, T111N, R51W of the 5th P.M., Brookings County, South Dakota" that was originally platted on December 15, 2015 " to Lots 1A and 2A for a property line adjustment. Lot 1A contains 35.5 acres and Lot 2A contains 5 acres with the existing homestead with a house and outbuildings. Lot 1A is a buildable lot for a residence.

The plat meets the platting requirements for the 2016 Comprehensive Plan-Unincorporated Rural Area Land Use statement on page 24 for Agricultural Land Use.

PLAT OF

LOTS 1A AND 2A OF GOODFELLOW ADDITION IN THE N ½ OF THE NE ¼ OF SECTION 18, T111N, R51W OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA.

THIS PLAT TO VACATE AND REPLAT LOTS 1 AND 2 OF GOODFELLOW ADDITION OF "PLAT OF LOTS 1 AND 2 OF GOODFELLOW ADDITION AND LOT 1 OF MYRTH WILLIAMSON TRUST ADDITION, ALL IN THE N ½ OF THE NE ¼ OF SECTION 18-T111N-R51W OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA", FILED FOR RECORD ON DECEMBER 15TH, 2015 AT 3:00 P.M. IN PLAT BOOK 33, PAGE 68.



January, 2020
Scale: 1" = 200'
○ Monument Recovered
● Monument Set
(⅝" x 18" Capped Rebar RLS 10400)
Bearings are Based on Assumed Datum

SURVEYOR'S CERTIFICATE

I, Andrew E. Kangas, a Registered Land Surveyor of the State of South Dakota, do hereby certify that on or before the 16th day of January, 2020 and at the request of the owner of the real property hereinafter described, surveyed and platted a portion of the N ½ of the NE ¼ of Section 18, Township 111 North, Range 51 West of the 5th P.M. Brookings County, South Dakota, as shown on the plat, and marked upon the ground boundaries thereof in the manner shown on the plat, and that the attached plat is a true and correct representation of said survey and that the parcel of land so platted contains: **"PLAT OF LOTS 1A AND 2A OF GOODFELLOW ADDITION IN THE N ½ OF THE NE ¼ OF SECTION 18, T111N, R51W OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA".**

IN WITNESS WHEREOF, I have executed this Surveyor's Certificate this 16th day of January, 2020.

Prepared By:

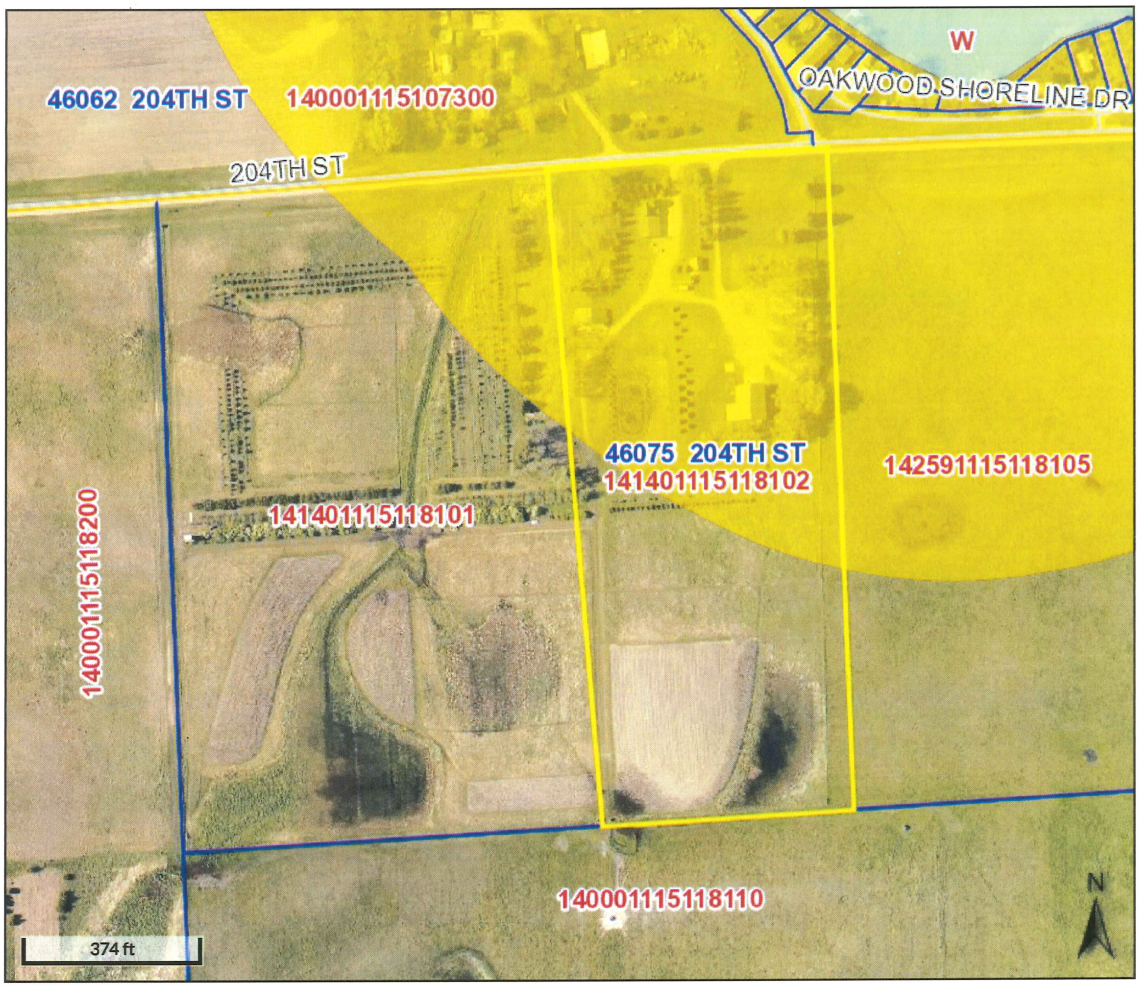
CIVIL DESIGN INC

Civil Engineers & Land Surveyors
Brookings, South Dakota
Ph. 605-696-3200

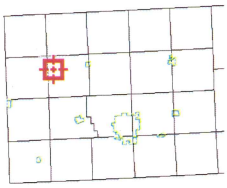
Goodfellow Addition - Lots 1A & 2A

2020 plat003 District Layer Map

Beacon™ Brookings County, SD



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections

Zoning Districts

- Commercial/Indus
- Lake/Park District
- Natural Resource District
- Parcels
- Roads

Parcel ID	141401115118102	**Alternate ID**	n/a	**Owner Address**	GOODFELLOW, VANCE
Sec/Twp/Rng	18-111-51	**Class**	AGC		46075 204TH ST
Property Address	46075 204TH ST BRUCE	**Acreage**	16		BRUCE SD 57220
District	1405				
Brief Tax Description	GOODFELLOW ADDN LOT 2 N 1/2 NE 1/4 SEC 18-111-51 16.0 ACRES (Note: Not to be used on legal documents)				

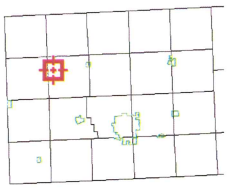
Date created: 1/15/2020
Last Data Uploaded: 1/15/2020 8:05:01 AM

Developed by Schneider GEOSPATIAL

2020 plat 003

Beacon™ Brookings County, SD

Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels
- Roads

Parcel ID	141401115118101	**Alternate ID**	n/a	**Owner Address**	GOODFELLOW, VANCE
Sec/Twp/Rng	18-111-51	**Class**	AGC		46075 204TH ST
Property Address		**Acreage**	24.5		BRUCE SD 57220
District	1405				
Brief Tax Description	GOODFELLOW ADDN LOT 1 N 1/2 NE 1/4 SEC 18-111-51 24.5 ACRES				
	(Note: Not to be used on legal documents)				

Date created: 1/14/2020
Last Data Uploaded: 1/14/2020 8:07:15 AM

Developed by Schneider GEOSPATIAL

BROOKINGS COUNTY DEVELOPMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
Brookings, SD 57006
(605) 696-8350
E-Mail: zoning@brookingscountysd.gov

Brookings County Planning and Zoning Commission
February 4, 2020 – 7:30 PM meeting

2020plat004 – February 4, 2020

Prepared by Richard Haugen

Applicant/Owner: Gordon Converse, 45486 203rd St, Arlington, SD 57212

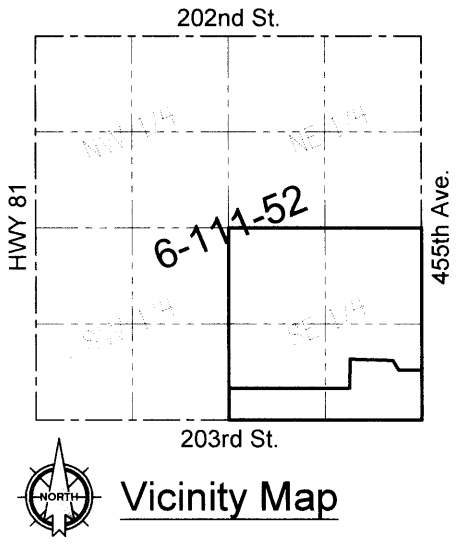
Legal Description: "Plat of Lots 1 and 2 Converse Addition in the SE1/4 of Section 6, T111N, R52W, of the 5th P.M., Brookings County, South Dakota."

2020plat004: Gordon Converse is platting off, Lot 1 an existing building site containing 34 acres and Lot 2 containing the balance of the farmland containing 126 acres that he owns. Lot 1, the existing building site will have access off of 203rd St and Lot 2, the 126 acres farm land will have access off of 455th Ave a Winsor Township road.

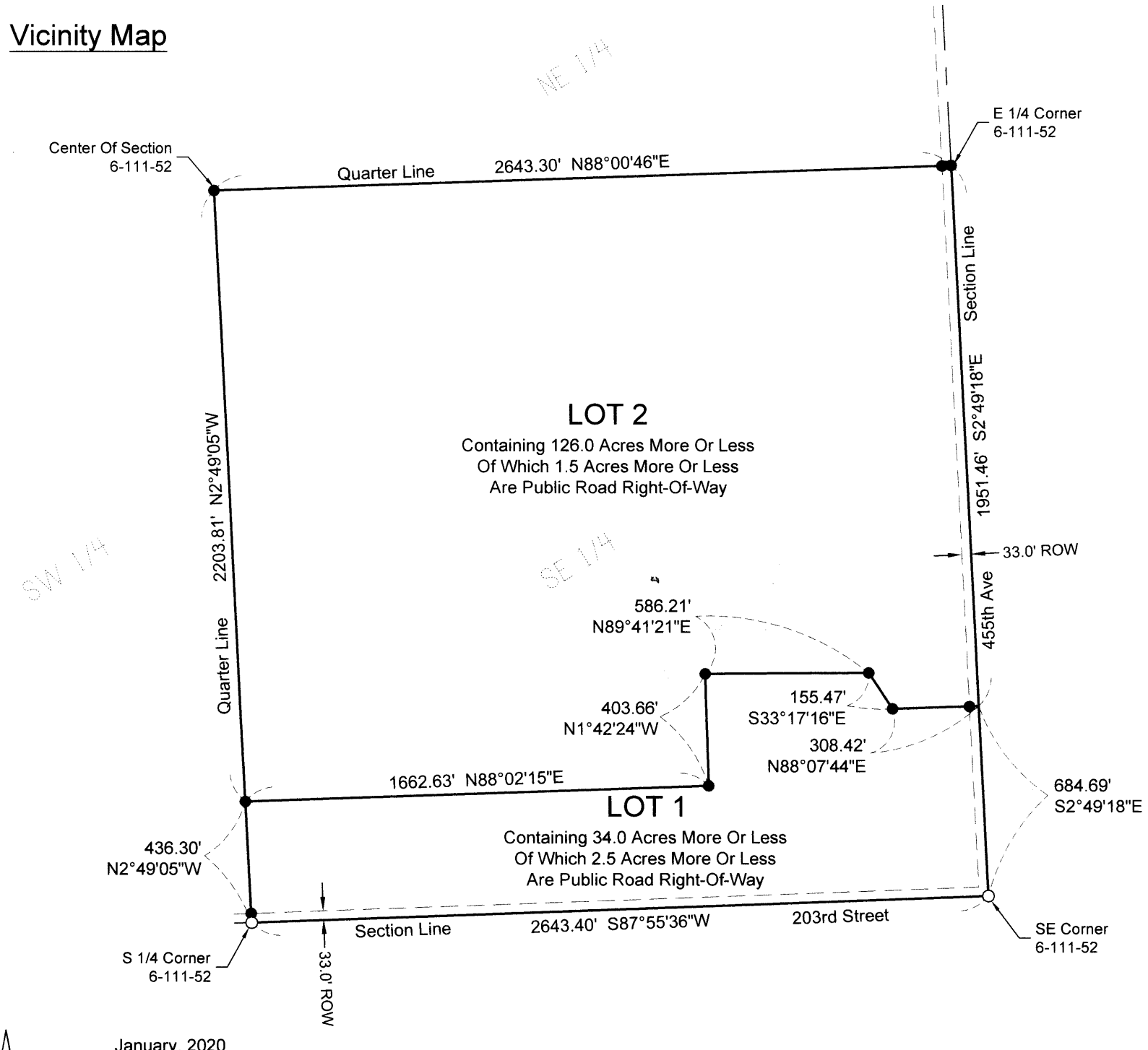
The plat meets the platting requirements for the 2016 Comprehensive Plan-Unincorporated Rural Area Land Use statement on page 24 for Agricultural Land Use.

PLAT OF

LOTS 1 AND 2 OF CONVERSE ADDITION IN THE SE ¼ OF SECTION 6, T111N, R52W OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA.



Vicinity Map



January, 2020
Scale: 1" = 500'
○ Monument Recovered
● Monument Set
(⅝" x 18" Capped Rebar RLS 10400)
Bearings are Based on Assumed Datum

SURVEYOR'S CERTIFICATE

I, Andrew E. Kangas, a Registered Land Surveyor of the State of South Dakota, do hereby certify that on or before the 16th day of January, 2020 and at the request of the owner of the real property hereinafter described, surveyed and platted a portion of the SE ¼ of Section 6, Township 111 North, Range 52 West of the 5th P.M. Brookings County, South Dakota, as shown on the plat, and marked upon the ground boundaries thereof in the manner shown on the plat, and that the attached plat is a true and correct representation of said survey and that the parcel of land so platted contains: **"PLAT OF LOTS 1 AND 2 OF CONVERSE ADDITION IN THE SE ¼ OF SECTION 6, T111N, R52W OF THE 5TH P.M., BROOKINGS COUNTY, SOUTH DAKOTA".**

IN WITNESS WHEREOF, I have executed this Surveyor's Certificate this 16th day of January, 2020.

REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR
REG. NO. 10400
ANDREW E. KANGAS
1-16-2020
SOUTH DAKOTA

Prepared By:

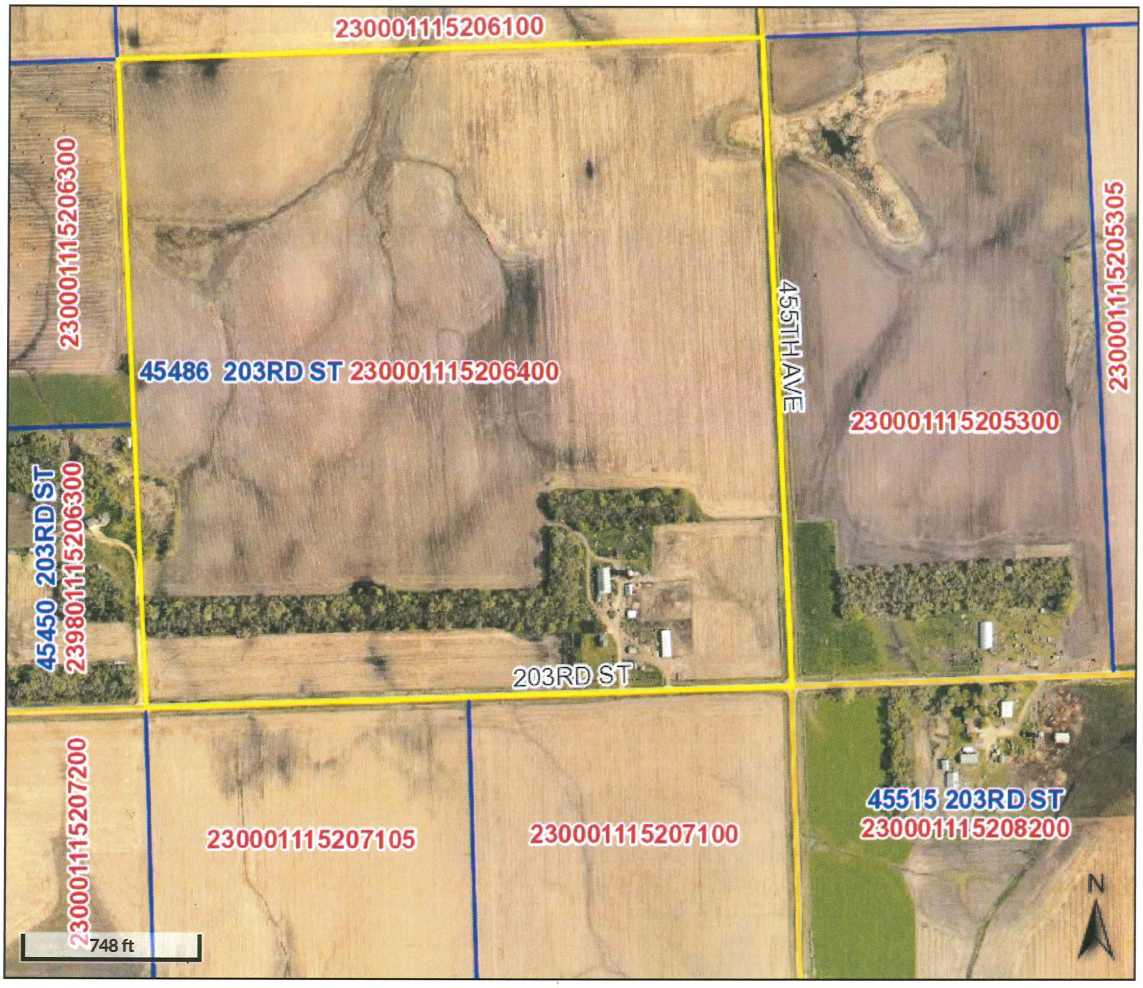
CDI CIVIL DESIGN INC

Civil Engineers & Land Surveyors
Brookings, South Dakota
Ph. 605-696-3200

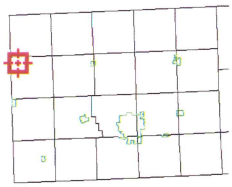
Lots 1 and 2 - Converse Addition

2020plat004

Beacon™ Brookings County, SD



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels
- Roads

Parcel ID	230001115206400	**Alternate ID**	n/a	**Owner Address**	CONVERSE, GORDON ET UX
Sec/Twp/Rng	6-111-52	**Class**	AGA		45486 203RD ST
Property Address	45486 203RD ST ARLINGTON	**Acreage**	160		ARLINGTON SD 57212
District	2309				
Brief Tax Description	SE 1/4 SEC 6-111-52 160.0 AC (Note: Not to be used on legal documents)				

Date created: 1/14/2020
Last Data Uploaded: 1/14/2020 8:07:15 AM

Developed by Schneider GEOSPATIAL

BROOKINGS COUNTY DEVELOPMENT DEPARTMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
Brookings, SD 57006
(605) 696-8350
Email:zoning@brookingscountysd.gov

12:11 PM – January 23, 2020

Lawrence Wipf called the office and noted he was from Rolland Colony and wanted to express concerns regarding requests 2020cu001 & 2020cu002.

He voiced concerns and solution:

1) If 480th Ave was the allowed haul route it would have long term effects on the colony and those living in the area for a very long time.

2) Opposed to the way the applicant wants to distribute the gravel – the route and the 80/20 usage.

3) The usage of the road would be a burden to the township for maintenance.

4) The applicant could build his own private road to the east onto 482nd Avenue to a county road and avoid the safety concerns and hazards to those that live near 480th Avenue and provide a safe route that both loaded and unloaded trucks could use.

He stated, “We are not against the pit, we are against the route that the applicant plans to use.

BROOKINGS COUNTY DEVELOPMENT DEPARTMENT
Planning, Zoning and Drainage / Emergency Management
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BROOKINGS COUNTY DEVELOPMENT
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520 3rd Street, Suite 200
Brookings, SD 57006
(605) 696-8350
E-Mail: zoning@brookingscountysd.gov

Brookings County Board of Adjustment
February 4 – 7:30 PM meeting

2020var001 – February 4, 2020

Prepared by Richard Haugen, Brookings County Development Deputy Director

Applicant: VanderWal Farms Inc. by Scott VanderWal, 408 Jackson Ave, Volga, SD 57071
Site Address: 619 Samara Ave, Volga, SD 57071

Legal Description: "E 586' of the N 1056' of the NE1/4 SE1/4; Exc N 1 Rod, the E 285' of the N 270', and Outlot 1; but to include S 121.2' of N 1177.2' of E 300' of NE1/4 SE1/4 Exc S 61' of the N 1177.2' of the W 68' of the E 300', thereof, all in Section 15, T110N, R51W (Volga Township)" ~~ located at 619 N. Samara Ave., Volga, SD 57071.

Article 11.00: Section 11.01 "A" Agricultural District: Area Regulations # 2: Front Yard: The minimum depth of the front yard shall be one hundred (100) feet. A corner lot will have two front yards."

2020var001: VanderWal Farms Inc. by Scott VanderWal has applied for a variance to build two grain bins with the first bin 55 feet from the center of Samara Ave(Brookings County blacktop road # 5/ 464th Ave), a variance of 95 feet. The required setback is 150 feet from the center of the road. This is an established building site, with limited available space. There is a natural gas pipeline and a sub-station that is located on the property. The applicant will need to contact the gas company of his proposed bin plans and location of the bins.

Public notices were published in the Brookings Register on January 21 and 28, 2020 and the Volga Tribune on January 23 and 30, 2020.

Letters were sent to the adjoining landowner's, Volga Township Chairman and Clerk, Brookings County Highway Department and the City of Volga.

RECEIVED

JAN 2 2020

BROOKINGS
COUNTY DEVELOPMENT

APPLICATION FOR VARIANCE
TO
ZONING REGULATIONS

Date of Application: Jan. 2. 2020 Variance Number: 2020Var-001

To: Brookings County Board of Adjustment
520 3rd St, Suite 200
Brookings, South Dakota 57006

X A.) I/We, the undersigned property owner (s), do hereby petition the Board of Adjustment of Brookings County, South Dakota, to grant a Variance to the Brookings County Zoning Regulations for the purpose of:

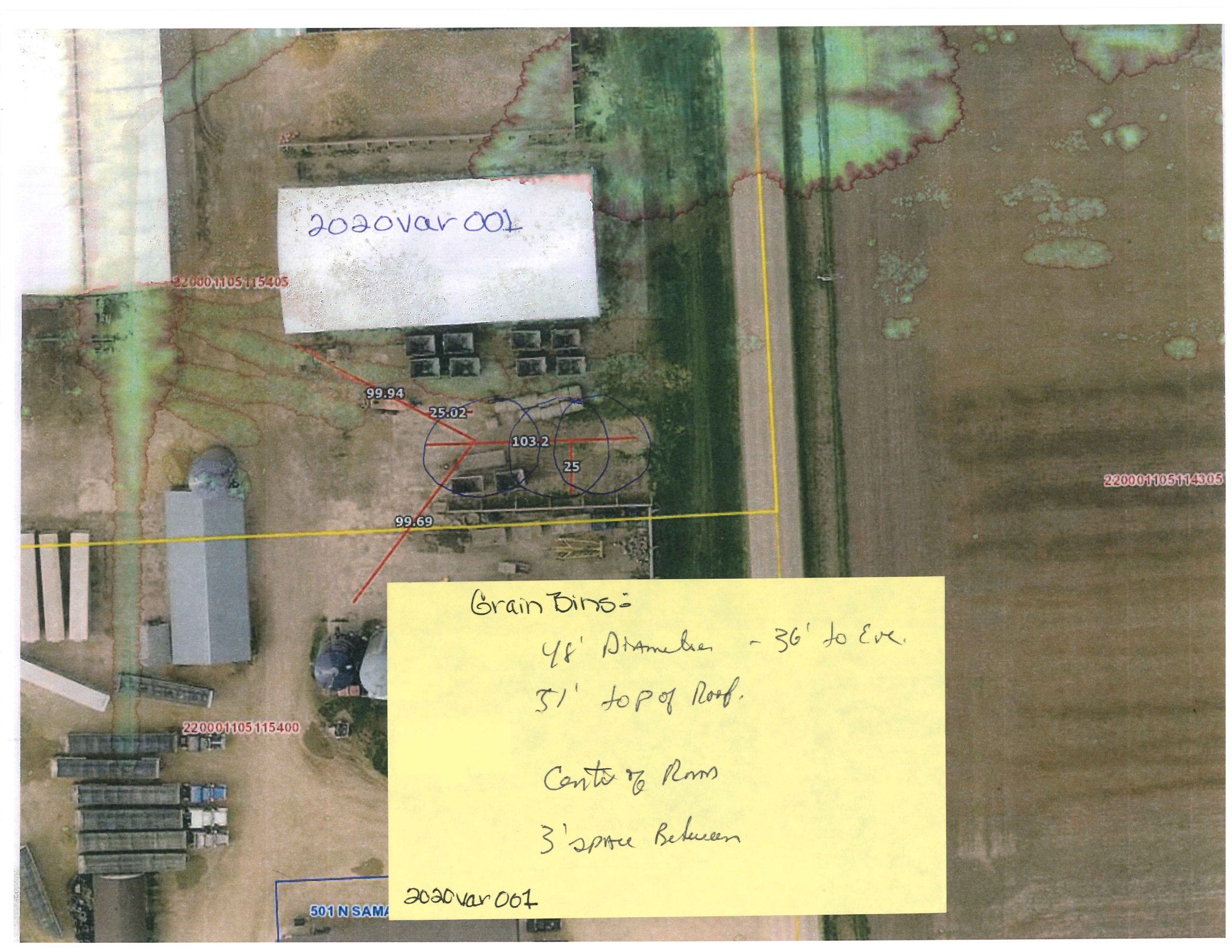
Build 2 grain bins 48' diameter each 60' from the center of County Road (N. Samara Ave) north of Volga.

B.) Section(s) of Zoning Regulations to be exempted:

Art. 11.00: Section 11.01 "A" Ag District: Area Reg #2: Front yard: The minimum depth of front yard shall be one hundred (100) feet. A corner lot will have two front yards.

C.) Special conditions and circumstances that exist which are peculiar to the land, structure, or buildings in the same district: that literal interpretation of the provisions of this regulation would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this regulation: that the special conditions and circumstances do not result from the actions of the applicant, and that granting the variance requested will not confer on the applicant, and privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

Shape and size of the remaining open lot. Space west of proposed site is needed for augers and track movement. There are no other appropriate sites within the farmyard to build the project.



Grain Bins:

48' Diameter - 36' to Eve.

51' top of Roof.

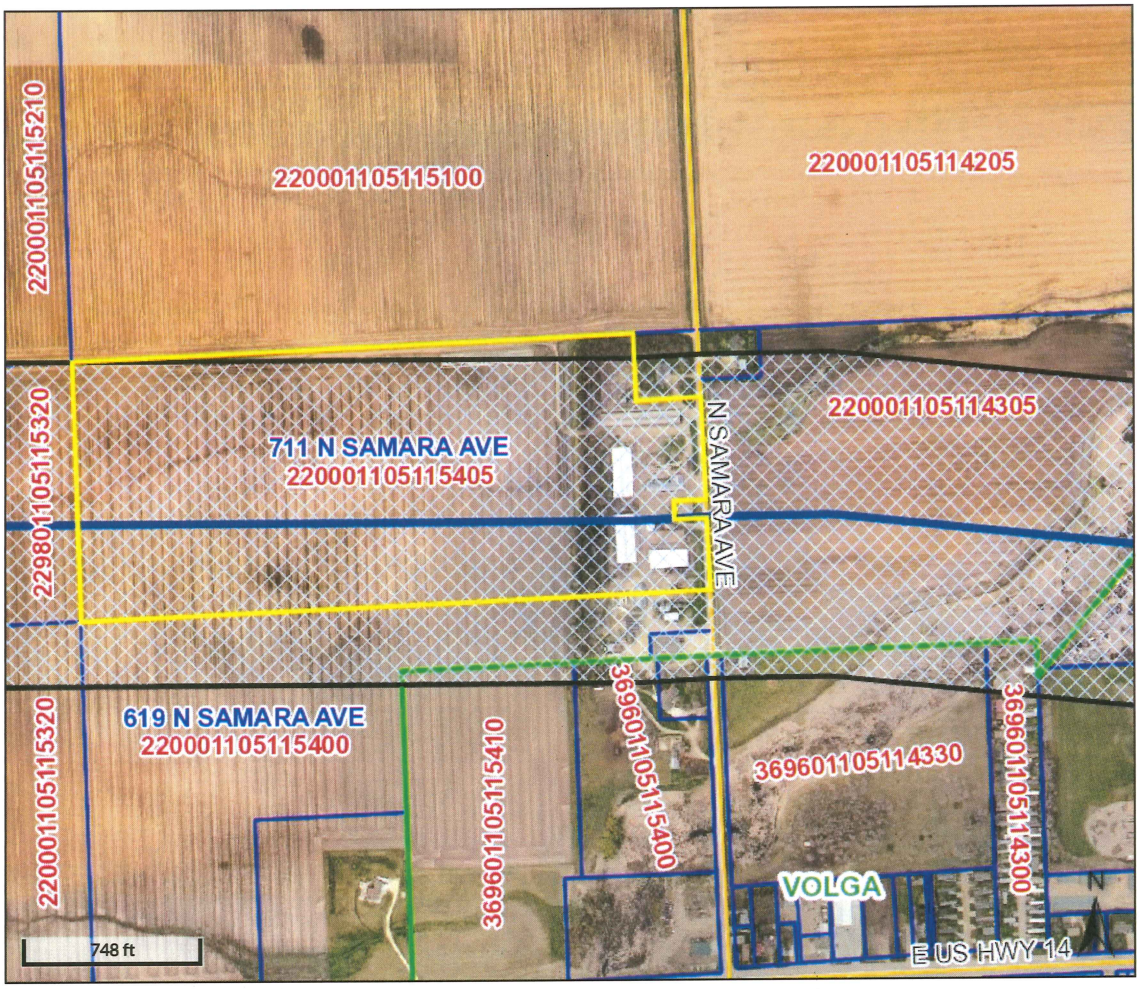
Center of Room

3' space Between

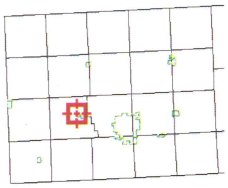
2020var001

2020 var 001 Pipeline & Pipeline Consultation Area 660'

Beacon™ Brookings County, SD



Overview



Legend

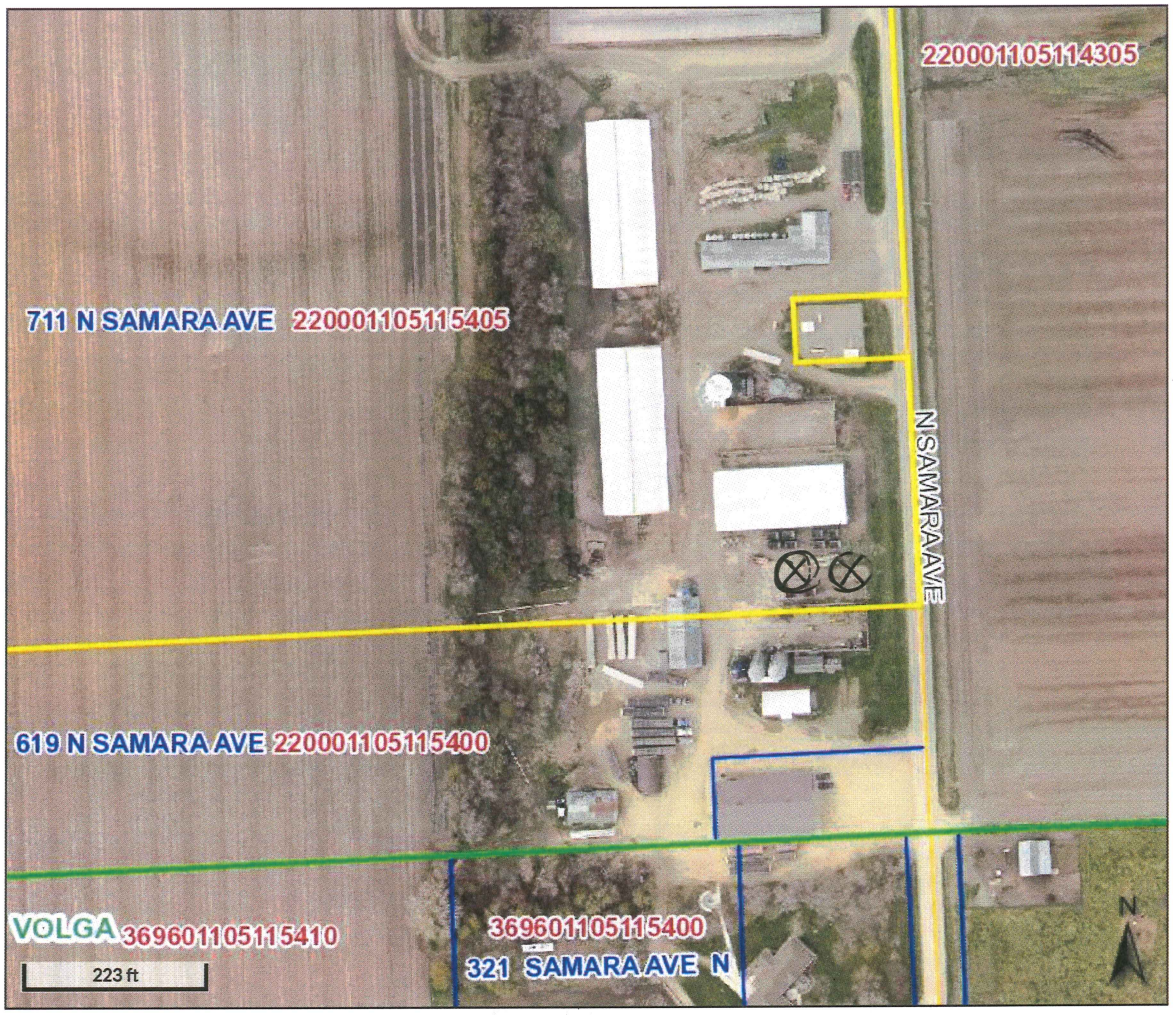
- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Pipeline
- Pipeline Consultation Area 660'
- Parcels
- Roads

Parcel ID	220001105115405	**Alternate ID**	n/a	**Owner Address**	VANDERWAL, RAYMOND G ET UX
Sec/Twp/Rng	15-110-51	**Class**	AGA		401 N SAMARA AVE
Property Address		**Acreage**	50.01		VOLGA SD 57071
District	2205				
Brief Tax Description	N 1056' OF W 1/2 SE 1/4; N 1056' OF NE 1/4 SE 1/4 EXC E 586' SEC 15-110-51 50.01 ACRES				
	(Note: Not to be used on legal documents)				

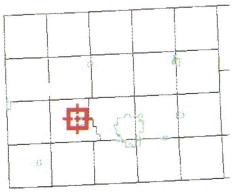
Date created: 1/10/2020
Last Data Uploaded: 1/10/2020 8:04:05 AM

Developed by Schneider GEOSPATIAL

Beacon™ Brookings County, SD



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels
- Roads

Floodplain 2008

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- X

Parcel ID	220001105115405	**Alternate ID**	n/a	**Owner Address**	VANDERWAL, RAYMOND G ET UX
Sec/Twp/Rng	15-110-51	**Class**	AGA		401 N SAMARA AVE
Property Address		**Acreage**	50.01		VOLGA SD 57071
District	2205				

Brief Tax Description N 1056' OF W 1/2 SE 1/4; N 1056' OF NE 1/4 SE 1/4 EXC E 586' SEC 15-110-51 50.01 ACRES
(Note: Not to be used on legal documents)

2020 var 001

Date created: 1/2/2020
Last Data Uploaded: 1/2/2020 8:02:51 AM

Developed by Schneider GEOSPATIAL

Looking north from driveway on Samara Ave(Brkgs Cnty # 5)

Looking northwest on Samara Ave.

2020var001: VanderWal Farms Inc. by Scott VanderWal.

Looking west at proposed bin site.

Looking south, wheel at 55 feet from center of Samara Ave (Brklgs Cnty Rd # 5)

Looking north, wheel at 55 feet from center of Samara Ave (Brkgs Cnty # 5)

Looking northeast at proposed bin site from farm yard.

West end of bin site, looking north, location of loading auger in the farm yard.

WESt end of bin site looking south, location of loading auger in farm yard.

BROOKINGS COUNTY DEVELOPMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
BROOKINGS, SOUTH DAKOTA 57006
(605)-696-8350
E-Mail: zoning@brookingscountysd.gov

Brookings County Board of Adjustment
February 4, 2020 – 7:30 PM meeting.

2020cu006 – February 4, 2020

Prepared by Richard Haugen

Applicant: Lawrence Rogge, 3065 170th Ave, Ghent, MN 56239

Land Owner: Rolland D. Peirce, 502 Viking Dr, Marshall, MN 56258

Legal Description: "NW1/4 of Section 8, T111N, R47W (Lake HendricksTownship)".

Brookings County Zoning Ordinance, Article 11:00 "A" Agricultural District – Conditional Use # 4: "Sand, gravel or quarry operation, mineral exploration and extraction".

2020cu006: Lawrence Rogge, has applied for a conditional use # 4: "Sand, gravel or quarry operation, mineral exploration and extraction" to mine gravel on the above described property. The applicant will be the mining operator, his site plan, hours of operation, dust control and reclamation plan are included in this report. The applicant has a 5 year lease with the landowner for the proposed mining project. The topography of the proposed mining area is grass covered rolling hills and ravines. The proposed mining area is located on the west side of the property running north and south along 485th Ave. South Dakota Highway 30, a state black top road, boarders the north side of the property and 485th Ave, a Lake Hendricks gravel road boarders the west side of the property. An access road will be built across the northern end of the property and loaded trucks will exit the property onto SD Highway 30 using an existing driveway. The driveway is located 1,071 feet to the east of the intersection of 485th Ave and SD Highway 30. Empty trucks will return on 485th Ave and use an existing driveway to enter the property. South Dakota Department of Transportation personnel have reviewed the proposed conditional use application. The applicant will need to apply for a permit from the South Dakota Department of Transportation and or Lake Hendricks Township to modify or change the existing driveways. The applicant has been in contact with Lake Hendricks Township and will have a signed road agreement with them. Hours of operation will be 6:00 AM-8:00 PM Monday-Friday and occasional Saturday hours. Dust will be controlled by watering down the road. The reclamation plan is to stock pile the top soil and once the mining is complete the top soil will be placed back

on top of the ground and seeded back down to grass. The First Occurrence of Aquifer Materials Map shows the proposed mining area to be in “Zone B” with the presence of sand or gravel is generally less than or equal to 50 feet below land surface.

East Dakota Water Development District has reviewed the application and documents provided by the applicant.

The applicant has also applied for a conditional use 2020cu007 for conditional use # 5A: Rock Crusher; to process the mined gravel on site. The board will be hearing this request on the same night.

The Zoning Office has reviewed the above documents and has made a site visit to the proposed location.

Public notices were published in the Brookings Register on January 21 and 28, 2020, White Tri-City Star on January 23 and 30, 2020 and Lake Hendricks Pioneer on January 22 and 29, 2020.

Letters were sent to the land owner, adjoining landowners, Lake Hendricks Township Chairman and Clerk.

mining

APPLICATION FOR CONDITIONAL USE PERMIT

Date of Application: 12-26-19 Permit Number: 2020cu006

To: Brookings County Board of Adjustment
520 3rd St, Suite 200
Brookings, South Dakota 57006

A.) I/We, the undersigned property owner (s), do hereby petition the Board of Adjustment of Brookings County, South Dakota, to grant a Conditional Use to the Brookings County Zoning Regulations for the purpose of:

Mining Gravel / operate

B.) Section(s) of Zoning Regulations authorizing Conditional Use:

Article 11: Section 11.01 "A" Agricultural District, Conditional use #4: "Sand, gravel or quarry operation, mineral exploration and extraction."

C.) Legal Description of Property:

Lake Hendricks Twp
NW 1/4 Sec 8-111-47

Parcel # 09000 1114708200

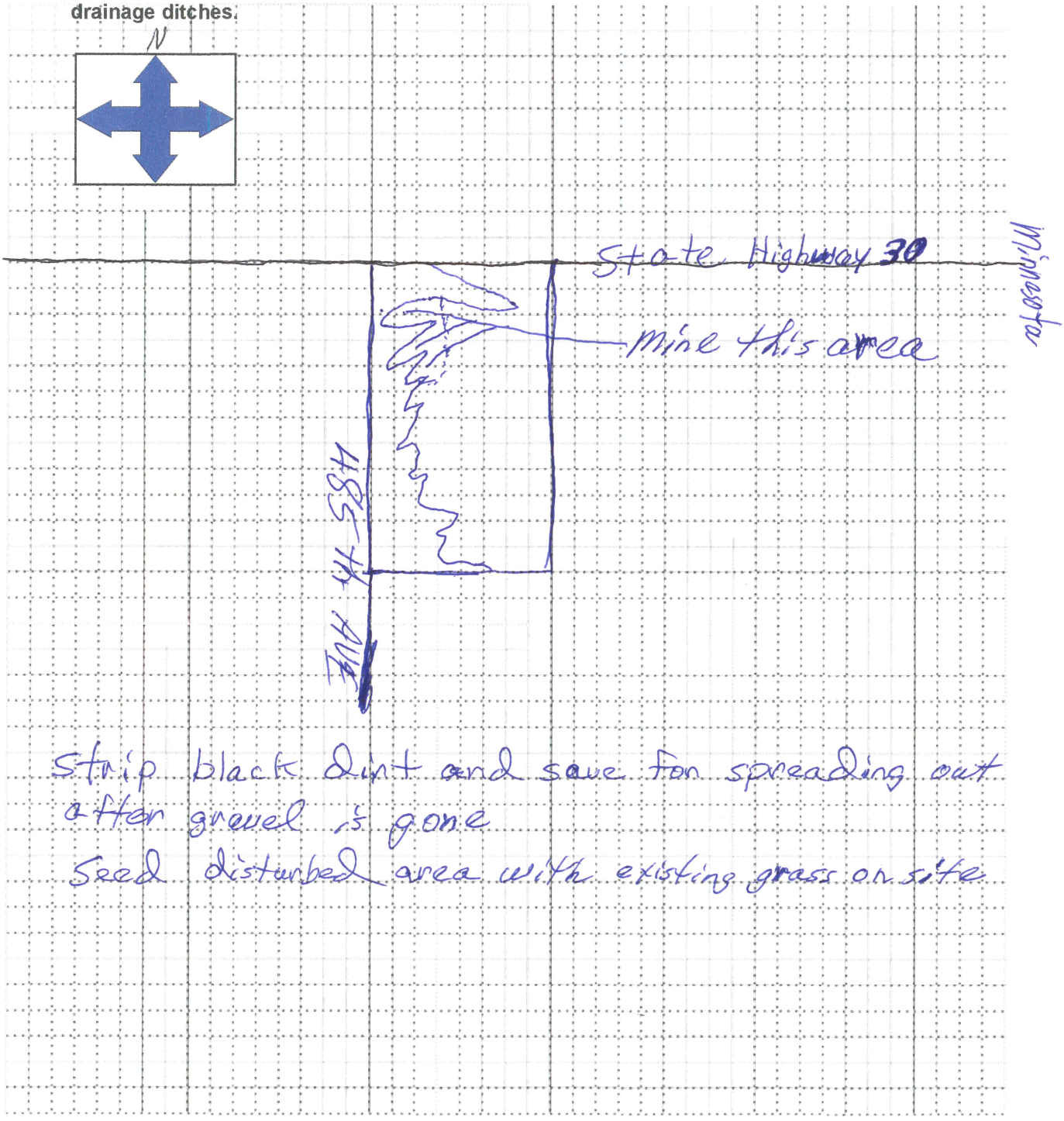
RECEIVED
JAN - 7 2020
BROOKINGS COUNTY DEVELOPMENT

Form continued on page 2

2020cu006 + 2020cu007

SKETCH

Please draw a sketch of the site. Show both the existing and the proposed structures. Include the location of public roads, septic treatment systems, feedlots, streams, lakes and drainage ditches.



2020cu006 + 2020cu007

Strip black dirt for rease after mining is complete

Seed back to originall grass onsite

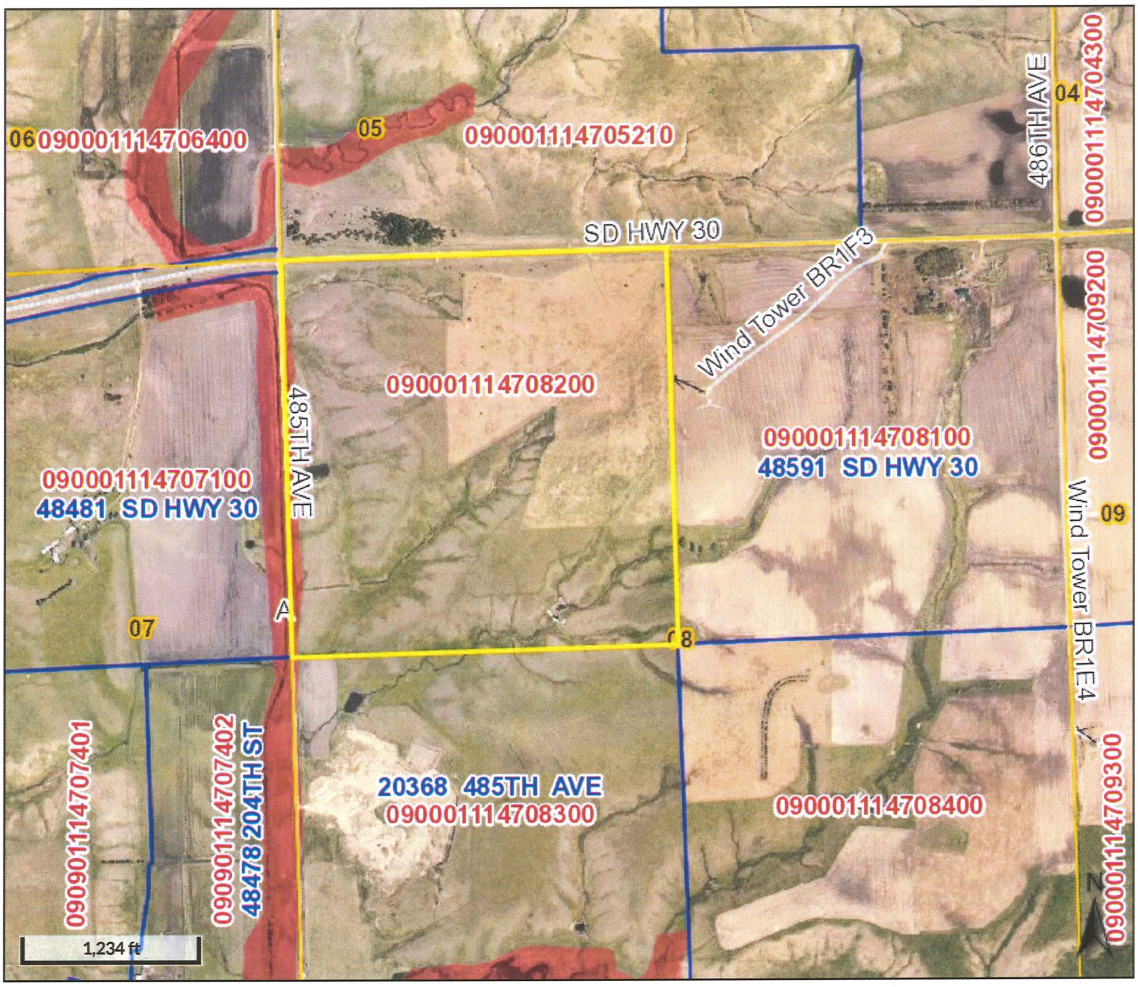
Hours of operation 6:00 Am to 8:00 pm
Monday thru Fri Some Saturdays
Water down road to keep dust down

1-7-20

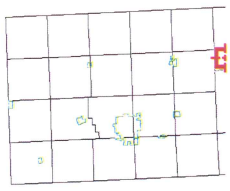
Laurence Rapp

2020cu006 + 2020cu007 Floodplain 2008 Map

Beacon™ Brookings County, SD



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels
- Roads

Floodplain 2008

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- X

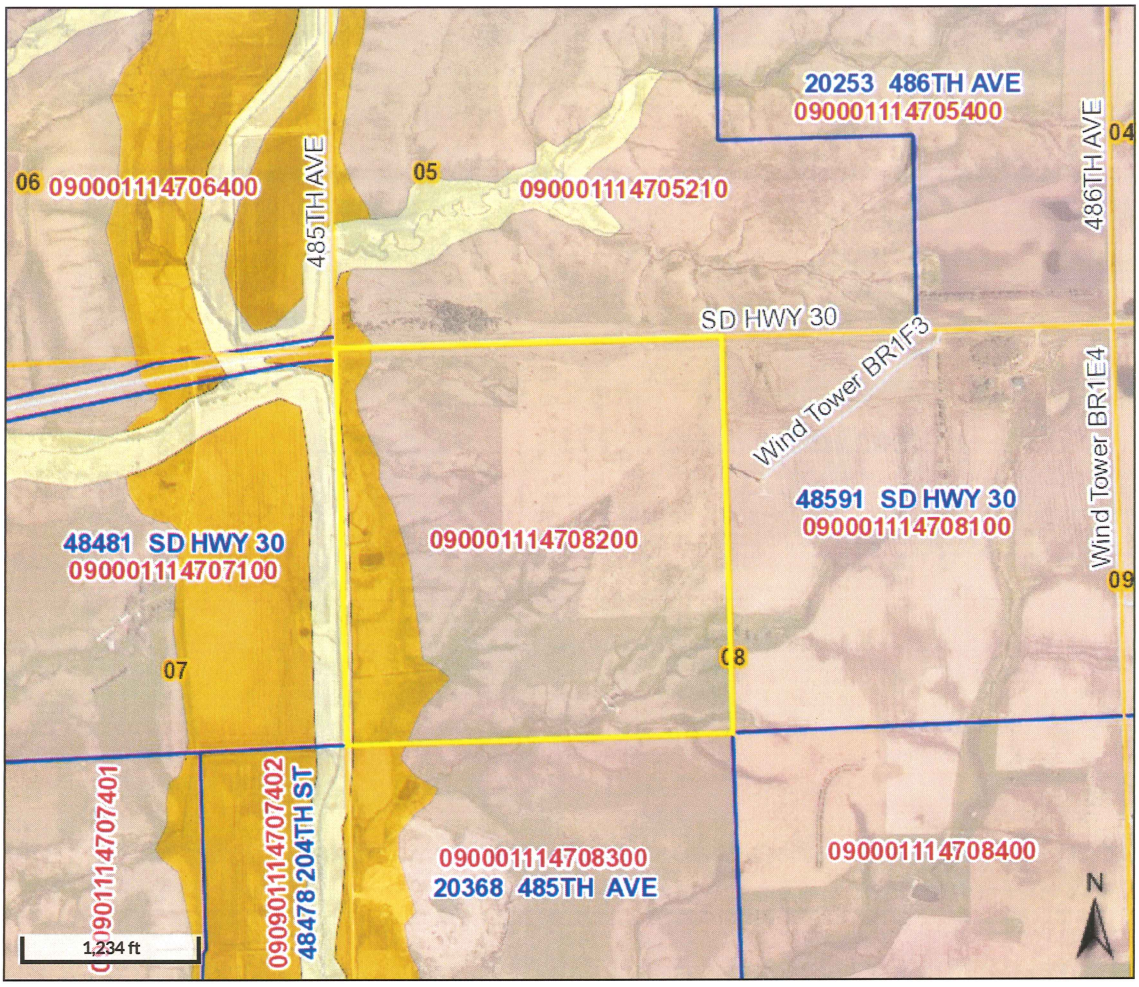
Parcel ID	090001114708200	**Alternate ID**	n/a	**Owner Address**	PEIRCE, ROLLAND D ET AL
Sec/Twp/Rng	8-111-47	**Class**	AGA		502 VIKING DR
Property Address		**Acreage**	158.68		MARSHALL MN 56258
District	09102				
Brief Tax Description	NW 1/4 SEC 8-111-47 158.68 AC				
	(Note: Not to be used on legal documents)				

Date created: 12/18/2019
Last Data Uploaded: 12/18/2019 8:05:08 AM

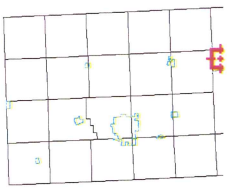
Developed by Schneider GEOSPATIAL

2020cu006 + 2020cu007 Aquifer Map

Beacon™ Brookings County, SD



Overview



Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections

Aquifer Materials

- Alluvium
- Outwash
- Sand and Gravel 0-50
- Sand and Gravel 100+
- Sand and Gravel 5(100
- Parcels
- Roads

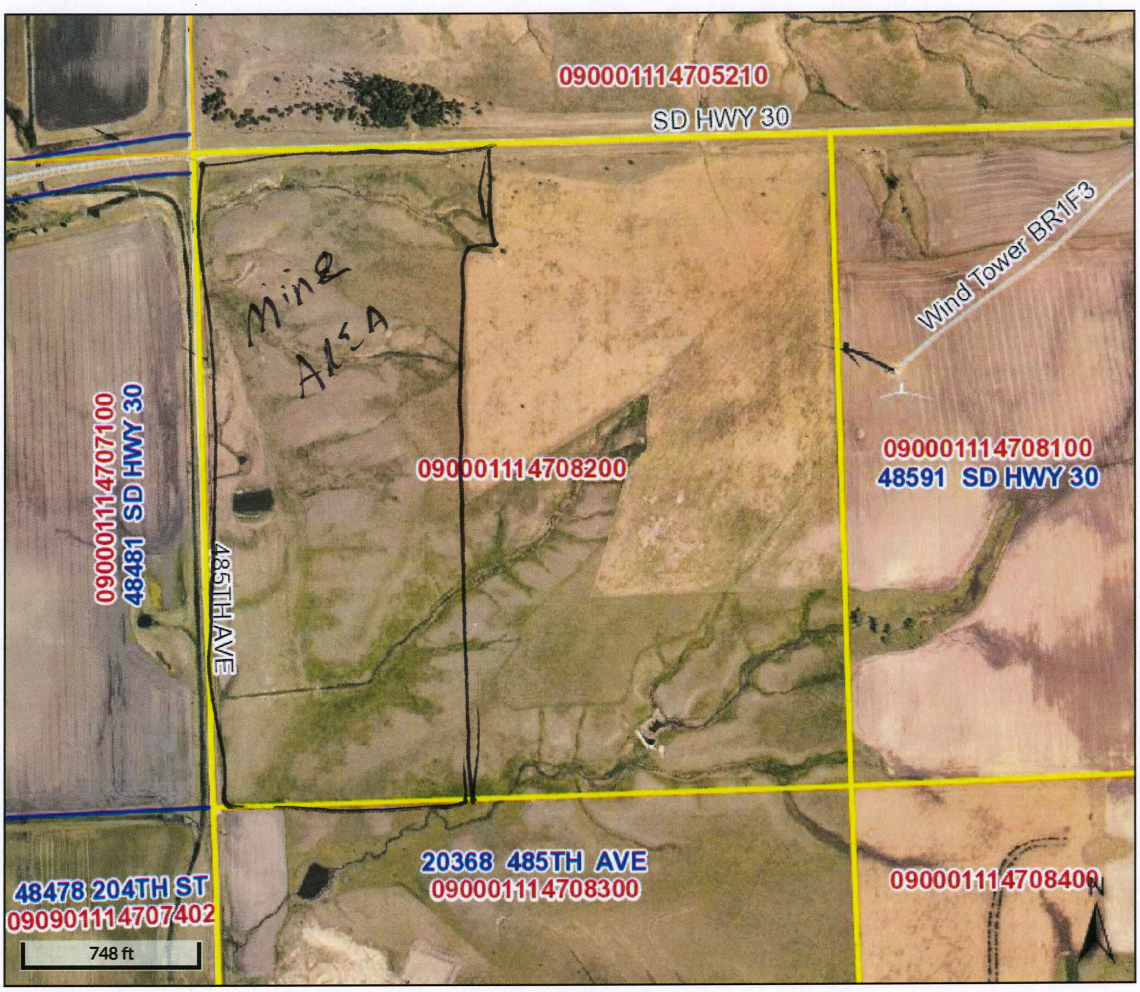
Parcel ID	090001114708200	**Alternate ID**	n/a	**Owner Address**	PEIRCE, ROLLAND D ET AL
Sec/Twp/Rng	8-111-47	**Class**	AGA		502 VIKING DR
Property Address		**Acreage**	158.68		MARSHALL MN 56258
District	09102				
Brief Tax Description	NW 1/4 SEC 8-111-47 158.68 AC				
	(Note: Not to be used on legal documents)				

Date created: 12/18/2019
Last Data Uploaded: 12/18/2019 8:05:08 AM

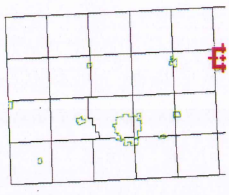
Developed by Schneider GEOSPATIAL

2020 cu 006 + 2020 cu 007

Beacon™ Brookings County, SD



Overview



Legend

- Brookings City Limits
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Parcel ID	090001114708200	**Alternate ID**	n/a	**Owner Address**	PEIRCE, ROLLAND D ET AL
Sec/Twp/Rng	8-111-47	**Class**	AGA		502 VIKING DR
Property Address		**Acreage**	158.68		MARSHALL MN 56258
District	09102				
Brief Tax Description	NW 1/4 SEC 8-111-47 158.68 AC				
	(Note: Not to be used on legal documents)				

Date created: 1/7/2020
Last Data Uploaded: 1/7/2020 8:05:35 AM

Developed by Schneider GEOSPATIAL

Looking west from field entrance on SD Hwy 30.

Looking south at field entrance off SD Hwy 30.

2020cu006(mining) & 2020cu007(crushing): Lawrence Rogge

Looking east on SD Hwy 30 from intersection of 485th Ave & SD Hwy 30.

Looking northeast at intersection of 485th Ave & SD Hwy 30.

Looking south on 485th Ave, a Lake Hendricks Twp road, from intersection of 485th Ave & SD Hwy 30.

Looking north from intersection of 485th Ave & SD Hwy 30.

Looking east form intersection of 485th Ave & SD Hwy 30.

Looking west from intersection of 485th Ave & SD Hwy 30.

Looking north east from field entrance on 485th Ave,

Looking east from field entrance on 485th Ave.

Looking southeast from field entrance on 485th Ave.

Looking northeast from south property line on 485th Ave.

BROOKINGS COUNTY DEVELOPMENT DEPARTMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
Brookings, SD 57006
(605) 696-8350
Email:zoning@brookingscountysd.gov

2:53 PM – January 21, 2020

Vernelle Clayton called in to inquire as to the requests 2020cu006 (Mining) & 2020cu007 (Rock Crusher) made by Lawrence Rogge.

She noted she owned land across the road to the west of the proposed site and was against the proposed applications listing:

1) Concern regarding traffic, dust, noise and night time lights.

2) Concern with the overall appearance of a gravel pit and the view from Hwy 30.

3) She was concerned with the visual impact and the possible decline in the value of her property if the gravel pit was located across the road from her land.

4) She was also concerned with possible environmental impacts that could occur as the site was a former school site and had at one time had a well located in the area. Concern of run-off issues.

BROOKINGS COUNTY DEVELOPMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
BROOKINGS, SOUTH DAKOTA 57006
(605)-696-8350
E-Mail: zoning@brookingscountysd.gov

Brookings County Board of Adjustment
February 4, 2020 – 7:30 PM meeting.

2020cu007 – February 4, 2020

Prepared by Richard Haugen

Applicant: Lawrence Rogge, 3065 170th Ave, Ghent, MN 56239

Land Owner: Rolland D. Peirce, 502 Viking Dr, Marshall, MN 56258

Legal Description: "NW1/4 of Section 8, T111N, R47W (Lake HendricksTownship)".

Brookings County Zoning Ordinance, Article 11:00 "A" Agricultural District – Conditional Use # 5A: "Rock Crushing".

2020cu007: Lawrence Rogge, has applied for a conditional use # 5A: "Rock crushing" to process gravel mined on the above described property. The applicant will be the operator, his site plan, hours of operation, dust control and reclamation plan are included in this report. The applicant has a 5 year lease with the landowner for the proposed rock crushing project. The topography of the proposed area is grass covered rolling hills and ravines. The proposed rock crushing area is located on the west side of the property running north and south along 485th Ave. South Dakota Highway 30, a state black top road, boarders the north side of the property and 485th Ave, a Lake Hendricks gravel road boarders the west side of the property. An access road will be built across the northern end of the property and loaded trucks will exit the property onto SD Highway 30 using an existing driveway. Empty trucks will return on 485th Ave and use an existing driveway to enter the property. The applicant has been in contact with Lake Hendricks Township and will have a signed road agreement with them. Hours of operation will be 6:00 AM- 8:00 PM Monday-Friday and occasional Saturday hours. Dust will be controlled by watering down the road. The reclamation plan is to stock pile the top soil and once the mining is complete the top soil will be placed back on top of the ground and seeded back down to grass. The First Occurrence of Aquifer Materials Map shows the proposed mining area to be in "Zone B" with the presence of sand or gravel is generally less than or equal to 50 feet below land surfaceEast Dakota Water Development District has reviewed the application and documents provided by the applicant.

The applicant has also applied for a conditional use 2020cu006 for conditional use # 4: “Sand, gravel or quarry operation, mineral exploration and extraction” Rock Crusher; to mine gravel on site. The board will be hearing this request on the same night.

The Zoning Office has reviewed the above documents and has made a site visit to the proposed location.

Public notices were published in the Brookings Register on January 21 and 28, 2020, White Tri-City Star on January 23 and 30, 2020 and Lake Hendricks Pioneer on January 22 and 29, 2020.

Letters were sent to the land owner, adjoining landowners, Lake Hendricks Township Chairman and Clerk.

crushing

APPLICATION FOR CONDITIONAL USE PERMIT

Date of Application: 1-7-20 Permit Number: 2020cu007

To: Brookings County Board of Adjustment
520 3rd St, Suite 200
Brookings, South Dakota 57006

A.) I/We, the undersigned property owner (s), do hereby petition the Board of Adjustment of Brookings County, South Dakota, to grant a Conditional Use to the Brookings County Zoning Regulations for the purpose of:

Crushing

B.) Section(s) of Zoning Regulations authorizing Conditional Use:

Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit #5A Rock Crushers.

C.) Legal Description of Property:

Lake Hendricks Twp
SW 1/4 Sec 8-111-47

Parcel # 09000111147c8200

RECEIVED

JAN - 7 2020

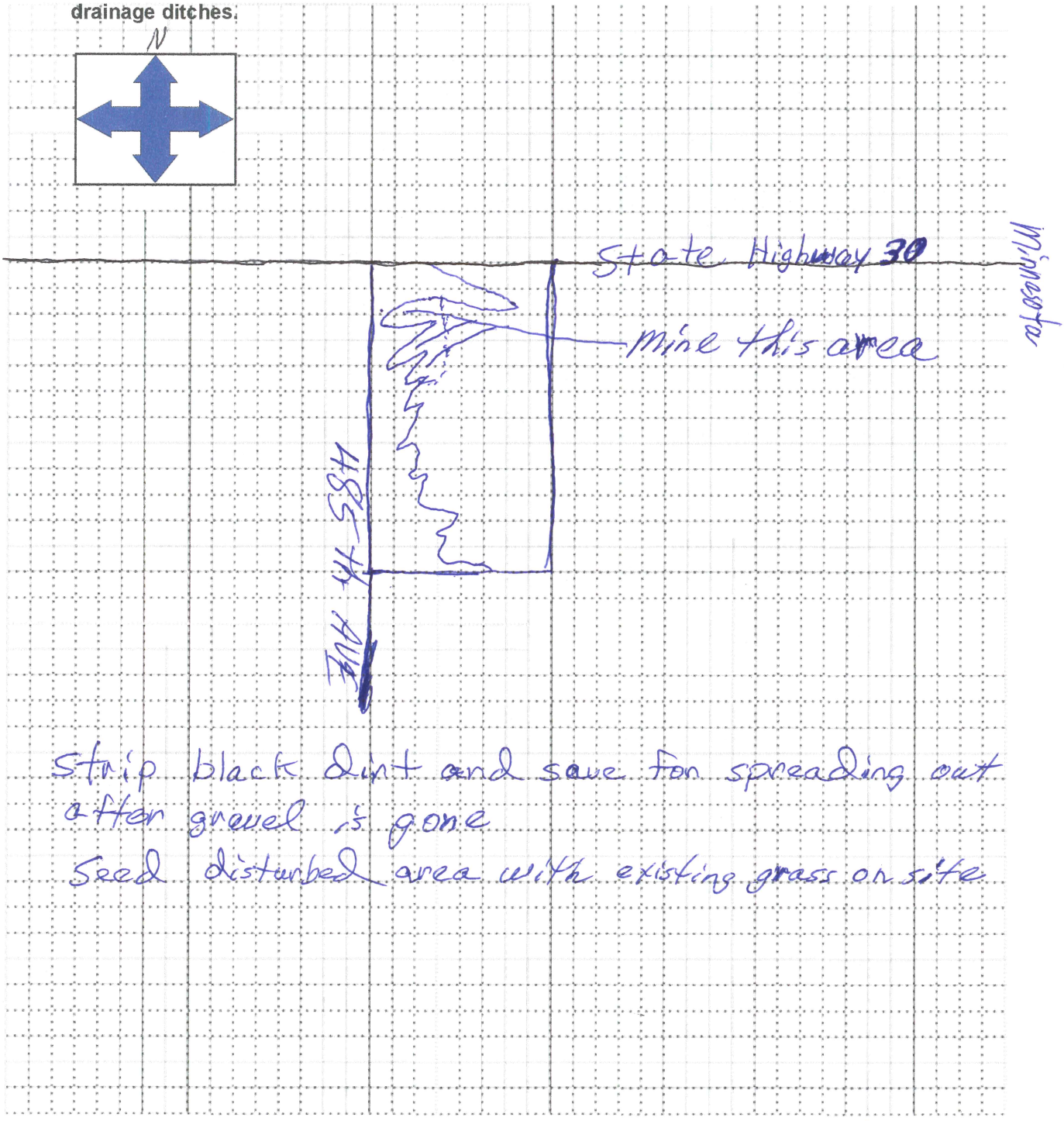
BROOKINGS
COUNTY DEVELOPMENT

Form continued on page 2

2020cu006 + 2020cu007

SKETCH

Please draw a sketch of the site. Show both the existing and the proposed structures. Include the location of public roads, septic treatment systems, feedlots, streams, lakes and drainage ditches.



2020cu006 + 2020cu007

Strip black dirt for rease after mining is complete

Seed back to originall grass onsite

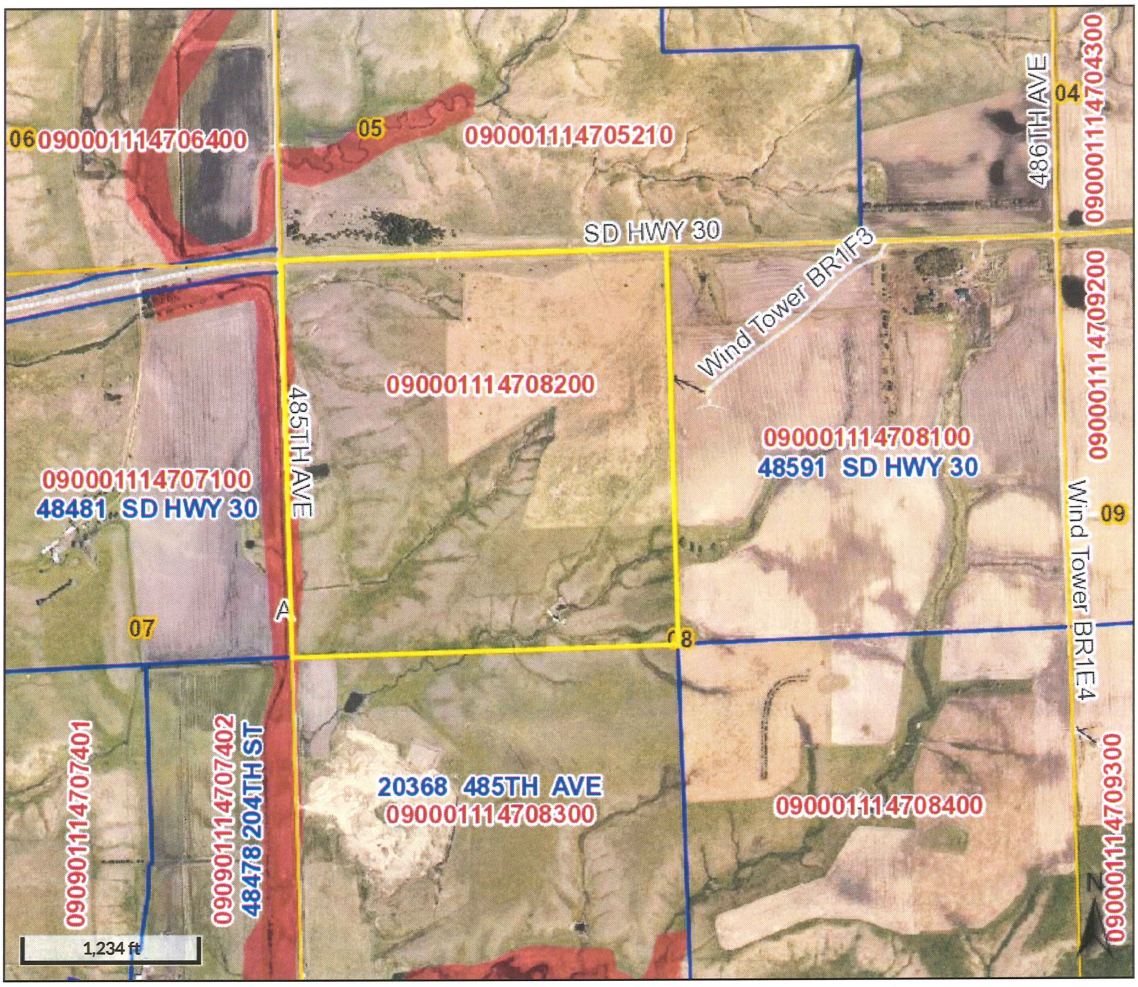
Hours of operation 6:00 Am to 8:00 pm
Monday thru Fri Some Saturdays
Water down road to keep dust down

1-7-20

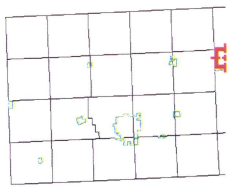
Laurence Rapp

2020cu006 + 2020cu007 Floodplain 2008 Map

Beacon™ Brookings County, SD



Overview



Legend

- Brookings City Limits
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- Roads

Floodplain 2008

- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
- A
- AE
- X

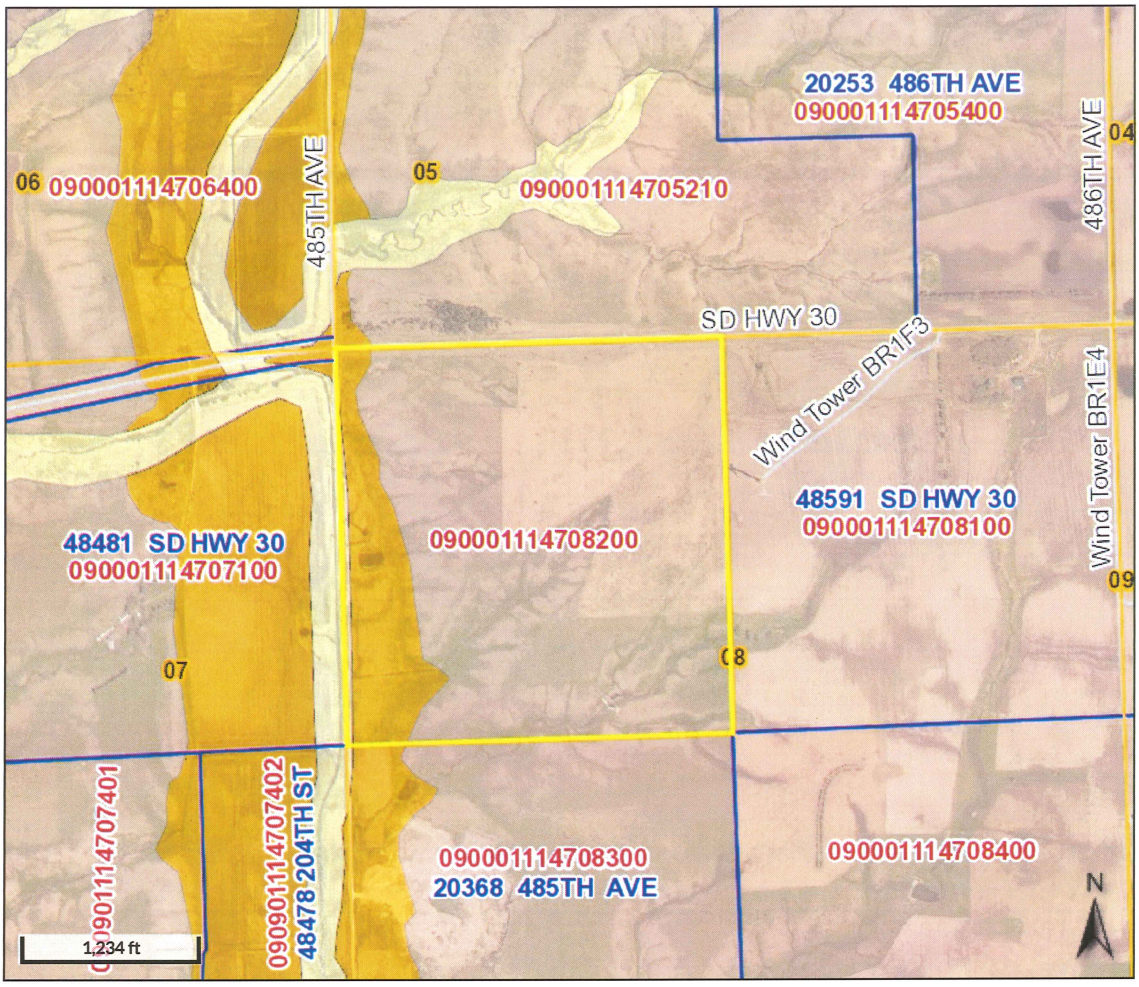
Parcel ID	090001114708200	**Alternate ID**	n/a	**Owner Address**	PEIRCE, ROLLAND D ET AL
Sec/Twp/Rng	8-111-47	**Class**	AGA		502 VIKING DR
Property Address		**Acreage**	158.68		MARSHALL MN 56258
District	09102				
Brief Tax Description	NW 1/4 SEC 8-111-47 158.68 AC				
	(Note: Not to be used on legal documents)				

Date created: 12/18/2019
Last Data Uploaded: 12/18/2019 8:05:08 AM

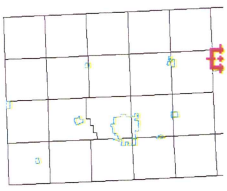
Developed by Schneider GEOSPATIAL

2020cu006 + 2020cu007 Aquifer Map

Beacon™ Brookings County, SD



Overview



Legend

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Aquifer Materials

- Alluvium
- Outwash
- Sand and Gravel 0-50
- Sand and Gravel 100+
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- Roads

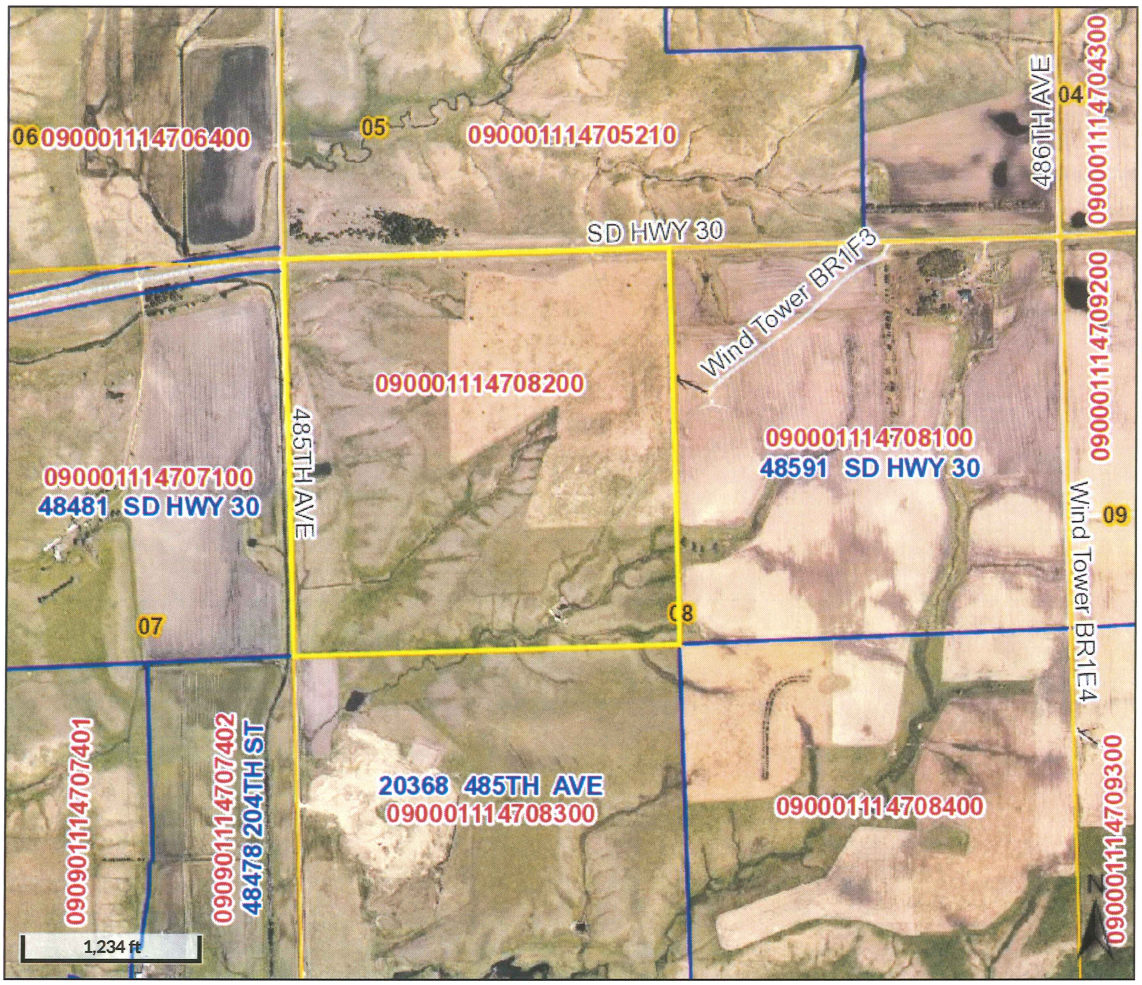
Parcel ID	090001114708200	**Alternate ID**	n/a	**Owner Address**	PEIRCE, ROLLAND D ET AL
Sec/Twp/Rng	8-111-47	**Class**	AGA		502 VIKING DR
Property Address		**Acreage**	158.68		MARSHALL MN 56258
District	09102				
Brief Tax Description	NW 1/4 SEC 8-111-47 158.68 AC				
	(Note: Not to be used on legal documents)				

Date created: 12/18/2019
Last Data Uploaded: 12/18/2019 8:05:08 AM

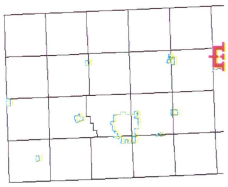
Developed by Schneider GEOSPATIAL

2020cu006 + 2020cu007

Beacon™ Brookings County, SD



Overview



Legend

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Parcel ID	090001114708200	**Alternate ID**	n/a	**Owner Address**	PEIRCE, ROLLAND D ET AL
Sec/Twp/Rng	8-111-47	**Class**	AGA		502 VIKING DR
Property Address		**Acreage**	158.68		MARSHALL MN 56258
District	09102				
Brief Tax Description	NW 1/4 SEC 8-111-47 158.68 AC				
	(Note: Not to be used on legal documents)				

Date created: 12/18/2019
Last Data Uploaded: 12/18/2019 8:05:08 AM

Developed by Schneider GEOSPATIAL

Looking west from field entrance on SD Hwy 30.

Looking south at field entrance off SD Hwy 30.

2020cu006(mining) & 2020cu007(crushing): Lawrence Rogge

Looking east on SD Hwy 30 from intersection of 485th Ave & SD Hwy 30.

Looking northeast at intersection of 485th Ave & SD Hwy 30.

Looking south on 485th Ave, a Lake Hendricks Twp road, from intersection of 485th Ave & SD Hwy 30.

Looking north from intersection of 485th Ave & SD Hwy 30.

Looking east form intersection of 485th Ave & SD Hwy 30.

Looking west from intersection of 485th Ave & SD Hwy 30.

Looking north east from field entrance on 485th Ave,

Looking east from field entrance on 485th Ave.

Looking southeast from field entrance on 485th Ave.

Looking northeast from south property line on 485th Ave.

BROOKINGS COUNTY DEVELOPMENT DEPARTMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
Brookings, SD 57006
(605) 696-8350
Email:zoning@brookingscountysd.gov

2:53 PM – January 21, 2020

Vernelle Clayton called in to inquire as to the requests 2020cu006 (Mining) & 2020cu007 (Rock Crusher) made by Lawrence Rogge.

She noted she owned land across the road to the west of the proposed site and was against the proposed applications listing:

1) Concern regarding traffic, dust, noise and night time lights.

2) Concern with the overall appearance of a gravel pit and the view from Hwy 30.

3) She was concerned with the visual impact and the possible decline in the value of her property if the gravel pit was located across the road from her land.

4) She was also concerned with possible environmental impacts that could occur as the site was a former school site and had at one time had a well located in the area. Concern of run-off issues.

BROOKINGS COUNTY DEVELOPMENT
Planning, Zoning and Drainage / Emergency Management
Brookings City & County Government Center
520 3rd Street, Suite 200
Brookings, SD 57006
(605) 696-8350
E-Mail: zoning@brookingscountysd.gov

Brookings County Board of Adjustment
February 4, 2020 – 7:30 PM meeting

2020cu008 – February 4, 2020

Prepared by Richard Haugen,

Applicant/Owner: Jesse King/David W. King, 47542 197th St, Toronto, SD 57268

Legal Description: "S 734' of E 753' Except the S 225' of W 359' of E 753' in the SW1/4 of Section 3, T112N, R49W (Argo Township) and the S 225' of W 359' of E 753' in the SW1/4 of Section 3, T112N, R49W (Argo Township)" ~~ located at 47542 197th St, Toronto, SD 57268.

Article 11.00: Section 11.01 "A" Agricultural District: Conditional Use #20: "Home Extended Business".

2020cu08: Jesse King has applied for a conditional use for a "Home Extended Business". The applicant has a farming operation and would like to add an extended home business. The home extended business would be providing a drop off point, warehouse, and customer pick up of bulk agricultural input products including but not limited to: crop protection chemical products, adjuvants, surfactants and bio-stimulants. Seed products may be added in the future, but not at this time. The products will be delivered in totes of 275 gallon capacity or less. Product will be delivered in semi-trailers, unloaded and stored in his shed until the customer picks them up. The applicant will store the products in an existing 40 feet x 63 feet pole shed that has a cement floor. The applicant lives on Brookings County gravel road # 40/197th Street and has a horse shoe driveway so, trucks will enter his property in the west driveway, back up to his shed, unload and exit the property in the east driveway. The applicant will need to apply for a Fertilizer and Pesticide license from the South Dakota Department of Agriculture for a warehouse and follow state regulations. The hours of operation will be seasonal and customer pick up by appointment will be required. The Comprehensive Land Use Plan for Brookings County on

page 72 “Brookings County Encourages businesses operated by the owner or tenant of the property” and on page 73 “Brookings County may permit businesses operated by the owner or tenant of a property which may be of a similar character to other uses allowed in the agricultural district including, but not limited to, gravel hauling, asphalt contracting, commercial hauling, general contracting/construction.”

Public notices were published in the Brookings Register on January 21 and 28, 20 and in the White Tri-City Star on January 23 and 30, 2020.

Letters were sent to the adjoining landowner’s, Argo Township Chairman and Clerk and Brookings County Highway Department.

RECEIVED

JAN 14 2020

BROOKINGS COUNTY DEVELOPMENT

APPLICATION FOR CONDITIONAL USE PERMIT

Date of Application: JANUARY 13, 2020 Permit Number: 2020CU008

To: Brookings County Board of Adjustment
520 3rd St, Suite 200
Brookings, South Dakota 57006

A.) I/We, the undersigned property owner (s), do hereby petition the Board of Adjustment of Brookings County, South Dakota, to grant a Conditional Use to the Brookings County Zoning Regulations for the purpose of:

OPERATING A WAREHOUSE IN SUBJECT BUILDING (LETTER J ON THE SKETCH). OPERATOR IS TO PROVIDE STORAGE, DELIVERY SUPPORT, AND WAREHOUSE RELATED SERVICES OF AGRICULTURAL INPUT PRODUCTS. THESE PRODUCTS INCLUDE CROP PROTECTION CHEMICAL PRODUCTS, ADJUVANTS, SURFACTANTS, AND BIOSTIMULANTS. AT THIS TIME, SEED PRODUCTS WILL NOT BE HANDLED AT THE WAREHOUSE BUT COULD BE IN THE FUTURE. (SEE ADDENDUM)

B.) Section(s) of Zoning Regulations authorizing Conditional Use:

Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 20: Home Extended Business.

C.) Legal Description of Property:

PARCEL 1 (DAVID KING): THE SOUTH 734.0 FEET OF THE EAST 753.0 FEET OF THE SW 1/4 EXCEPT THE SOUTH 225.0 FEET OF THE WEST 359.0 FEET OF THE EAST 753.0 FEET THEREOF, ALL IN THE SW 1/4 OF SECTION 3, TOWNSHIP 112 NORTH, RANGE 49 WEST OF THE 5TH PM, BROOKINGS COUNTY, SOUTH DAKOTA, SUBJECT TO PUBLIC ROAD ROW AND EASEMENTS OF RECORD.
Parcel 03980112490 3300

PARCEL 2 (JESSE KING): THE SOUTH 225.0 FEET OF THE WEST 359.0 FEET OF THE EAST 753.0 FEET OF THE SW 1/4 OF SECTION 3, TOWNSHIP 112 NORTH, RANGE 49 WEST OF THE 5TH PM, BROOKINGS COUNTY, SOUTH DAKOTA. SUBJECT TO PUBLIC ROAD ROW AND EASEMENTS OF RECORD. Parcel 03980112490 3310

Form continued on page 2

Located @ 47542 197th St, Toronto, SD 57268.

2020 cu008

ADDENDUM: KING APPLICATION FOR CONDITIONAL USE PERMIT
January 13, 2020

OVERVIEW:

1. Applicant (via LLC) and FBN Inputs, LLC are intending to sign an agreement, whereas applicant would operate a warehouse located at 47542 197th Street, Toronto, SD 57268. Duties would include providing storage, delivery/pick up support, and other warehouse related services. Farmer members of FBN purchase products through the company. The company would then deliver these products to the warehouse. Farmer members would then pick the products up at the warehouse.

2. Products include crop protection chemical products (herbicides, fungicides, insecticides), adjuvants, surfactants, bio-stimulants, and liquid fertilizer. At this time seed products will not be handled at the warehouse, but the agreement does leave this option open for the future.

3. In-Season (March 1 - August 31) hours are Monday-Friday 7:00AM-5:00PM / Saturday 8:00AM-4:00PM / Sunday By Appointment Only. Most of the delivery and pick ups will be by appointment. Pre-Season (September 1 - February 28/29) hours are By Appointment Only.

4. In-Season deliveries are estimated to be 1-2 trucks per week during peak times. A normal delivery is able to bring 16 totes (275 gallons each). It is estimated that 20-30 farmer members will be picking up product from this location.

5. The subject building (letter "J" on the sketch) that will act as the warehouse is a 60x40 metal building. In 2017, a 6" concrete floor was poured and new LED lights were installed. The walk in door is secured by a key code lock/dead bolt. It is planned that the two original sliding doors will be replaced with an overhead door. It is also planned to have security cameras installed. There are already security cameras on the house that captures both driveways.

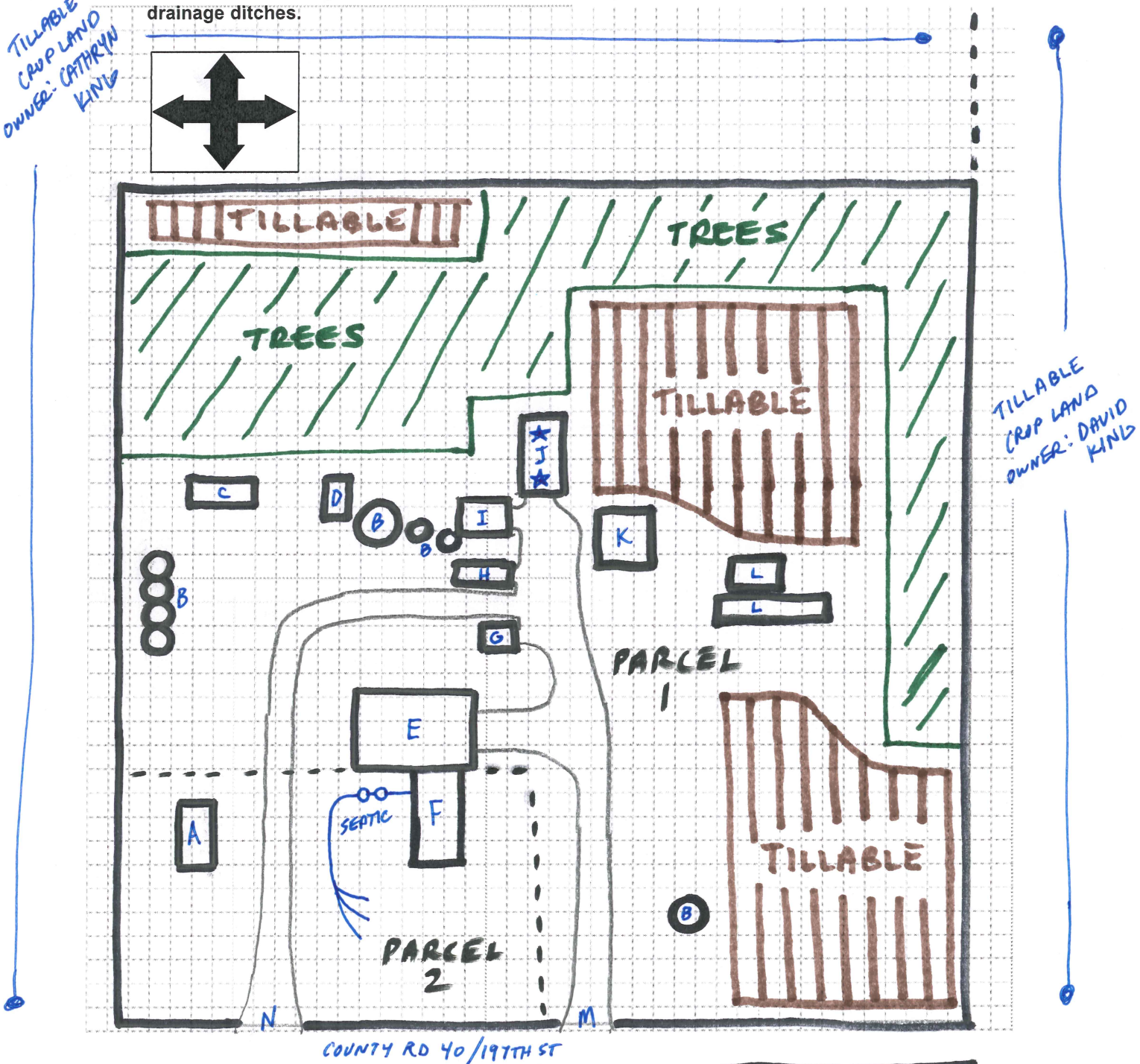
6. Deliveries and pick ups will be able to access either driveway (letters "M" and "N" on the sketch) to help facilitate the unloading and loading of products. FBN has been delivering products that are used in our private farming operation to this location for the past 4 years.

7. Applicant and FBN have been working with the South Dakota Department of Ag (SDSA) to help facilitate this agreement. Since there will be no repackaging and all products will come in totes/packages under 300 gallons, the SDSA stated that their requirements in this case are for the applicant to obtain a Commercial Fertilizer License and Pesticide Dealer License. FBN also requires the Toronto Fire Department to sign off on the plan. A chemical spill kit, fire extinguisher(s), and other recommendations by the fire department will be maintained.

2020Cu008

SKETCH

Please draw a sketch of the site. Show both the existing and the proposed structures. Include the location of public roads, septic treatment systems, feedlots, streams, lakes and drainage ditches.



A = HAYSHED
B = BINS/SILOS
C = EQUIPMENT STORAGE
D = STORAGE
E = 104 x 60 SHED
F = HOUSE
G = GARAGE
H = OLD SHOP (TO BE TORN DOWN)
I = QUONSET
★ J = SUBJECT BUILDING 60x40 SHED ★
K = BARN
L = OLD HOG HOUSE/PLATFORM (TO BE TORN DOWN)
M = EAST DRIVEWAY
N = WEST DRIVEWAY

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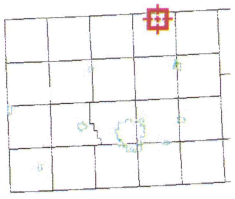

Overview

Legend

- Brookings City Limits
- City Limits
- Township Boundar
- Sections
- Parcels
- Roads

Parcel ID	039801124903300	**Alternate ID**	n/a	**Owner Address**	KING, DAVID W
Sec/Twp/Rng	3-112-49	**Class**	AGC		516 E SHADOW CREEK LN
Property Address	47542 197TH ST TORONTO	**Acreage**	12.69		SIOUX FALLS SD 57108
District	0310				
Brief Tax Description	S 734' OF E 753' EXC S 225' OF W 359' OF E 753' OF SW 1/4 SEC 3-112-49 10.84 AC (Note: Not to be used on legal documents)				

Date created: 1/14/2020
Last Data Uploaded: 1/14/2020 8:07:15 AM

Developed by Schneider GEOSPATIAL

Propose warehouse.

2020cu008: Jesse & David W. King

Looking north at east driveway from Brkgs Cnty gravel road # 40/197th St.

Brookings County gravel road #40/ 197th St.