

**BROOKINGS COUNTY PLANNING & ZONING COMMISSION**  
**MINUTES OF MAY 5, 2020    REGULAR PLANNING & ZONING MEETING**

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, May 5, 2020. Modified meeting practices were used due to the global pandemic of COVID-19. Attendance for meetings to be via phone or for those in attendance the CDC recommended guidelines were followed in the Commission Chambers. The following members were present: Mike Bartley, Chad Ford, Darrel Kleinjan, Randy Jensen, Kyle Vanderwal and alternate board members Spencar Diedrich and Roger Erickson. Members that phoned in were: Michael McHugh, Tom Davis, Darrell Nelson and Senior Planner from First District Association of Local Governments Luke Muller. Absent was: Terrell Spence. Others present were: Deputy Director Richard Haugen, County Development Director/Emergency Manager Robert Hill.

**CALL TO ORDER**

Chair Ford called the meeting to order at 8:00 PM

**APPROVAL OF MINUTES**

(Bartley/Diedrich) Motion to approve the April 7, 2020 Meeting Minutes. Roll call vote: Diedrich-aye, Vanderwal-aye, Kleinjan-aye, Jensen-aye, Bartley-aye, Davis-aye, Nelson-aye, McHugh-aye, Ford-aye. **MOTION CARRIED.**

**ITEMS TO BE ADDED TO AGENDA BY COMMISSION MEMBERS OR STAFF.**

None added.

**INVITATION FOR CITIZENS TO SCHEDULE TIME ON AGENDA FOR ITEM NOT LISTED.** *Time limited to 5 minutes per person to address the board.*

No one scheduled time to address the board.

**DISCLOSURE OF CONFLICTS OF INTEREST**

Davis items 2020cu009 & 2020cu010.

**APPROVAL OF AGENDA**

(Vanderwal/Kleinjan) Motion to approve the agenda for the May 5, 2020 Meeting. Roll call vote: Bartley-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Jensen-aye, McHugh-aye, Vanderwal-aye, Diedrich-aye, Ford-aye. **MOTION CARRIED.**

**CONVENE AS BROOKINGS COUNTY PLANNING & ZONING COMMISSION**

**CONSIDERATION OF PLATS**

None.

**CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT**

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**2020VAR002**

Application by Thomas A. Tofte for Tofte Brothers, LLC 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: "S1/2 S1/2 SE1/4 of Section 9, T109N, R51W (Oslo Township)".

(Kleinjan/Vanderwal) Motion to approve the Variance request.

STAFF REPORT: Applicant is requesting a variance to build a 60' x 88' pole shed with 18' sidewalls, 107' from the center of 216<sup>th</sup> St (Brookings County blacktop road), a variance of 43 feet. Buildable area limited due to topography, shape and size of area, waterway, low land and ponds.

PUBLIC HEARING: Thomas Tofte via phone, informed those present that he was in a partnership with his brother Richard. He noted the land had been in the family for a number of years, was the site of a reclaimed gravel pit, and a shelterbelt had been established on the site. The future plans were to have a wholesale tree farm on the site and the building would offer storage for current and future needs and uses. The location of the proposed building would not cause any snow or visual issues.

Proponents: Board members were given a letter the office received via email from adjoining landowners Chad and Rhonda Wosje which was placed on record and filed.

Opponents: None.

DISCUSSION: Bartley noted constraints on the site, the size being 40 acres and the parcel being a buildable residential site. Jensen and Diedrich verified that a right to farm form would need to be filed if a residence was built on the site in the future. Haugen and Bartley noted filing a right to farm would address concerns noted by Wosje's should a residence be built on the site in the future. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Roll call vote: Vanderwal-aye, Kleinjan-aye, Jensen-aye, Diedrich-aye, McHugh-aye, Bartley-aye, Davis-aye, Nelson-nay, Ford-aye. **MOTION CARRIED.**

**2020VAR003**

Application by Mary C. Walkes for a variance. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.03. Density, Area and Yard Regulation (Minimum Lake Front). The property is described as: "Lot 28 and the E 20' of Lot 29 in Marvin Wade's Subdivision of Govt Lots 1, 2 and 3 in the NE1/4 of Section 6, T112N, R52W (Laketon Township)" ~~ located at 228 S Lake Dr, Arlington, SD 57212.

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

STAFF REPORT: Applicant is requesting a variance to build a 14' x 28' post frame carport attached to the west side of their lake cabin. The outer most post of the carport would be 25' from the highest know water mark, a variance of 50 feet. The property is

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currently in the floodplain but the carport is considered a non-substantial improvement and can be built in the floodplain. Consideration of hardships were shape and size of the lot, area was platted in May 24, 1949 prior to current zoning regulations. No objections or concerns were received by the zoning office.

PUBLIC HEARING: Applicant Mary Walkes via phone, informed those present she had nothing to add to Haugen's report.

Proponents: None.

Opponents: None.

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

VOTE: Roll call vote: Kleinjan-aye, Jensen-aye, Bartley-aye, Davis-aye, Nelson-aye, McHugh-aye, Vanderwal-aye, Diedrich-aye, Ford-aye. **MOTION CARRIED.**

### **2020CU011**

Application by Mike Cotton and George Cotton for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 19: Seasonal retail stands, excluding garden produce but including fireworks stands. The property is described as: "W317' of E357' of W800.81' of S332' of SW1/4 SE1/4 Exc H-1 & H-2 and N643' of S975' of E357' of W800.81' & E40' of W800.81' of S332' of SE1/4 all in Section 14, T110N, R51W (Volga Township)" ~ located at 638 E Hwy 14, Volga, SD 57071.

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

STAFF REPORT: Applicant is requesting a conditional use for a seasonal firework stand. Applicant was granted a one year permit last year (2019cu004) and was reapplying to continue their seasonal stand. Site plan and hours of operation on file. No objections to the request from City of Volga or SD Department of Transportation.

PUBLIC HEARING: Applicant Mike Cotton via phone, informed those present he had nothing to add to Haugen's report.

Proponents: None.

Opponents: None.

DISCUSSION: Vanderwal asked the expiration date of the request. Haugen noted the permit could be issued with an expiration date of 1 year, 3 years, 5 years or no end date. Bartley verified that no complaints had been received and asked that the permit be permitted with an expiration date of May 5, 2026. Findings of Facts were reviewed and completed by the board and placed on file.

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VOTE: Roll call vote: Jensen-aye, Bartley-aye, Davis-aye, Nelson-aye, Kleinjan-aye, McHugh-aye, Vanderwal-aye, Diedrich-aye, Ford-aye. **MOTION CARRIED.**

**Davis recused himself Erickson took seat.**

**2020CU009**

Application by Tom Sterzinger 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 13, T111N, R52W and NE1/4 of Section 13, T111N, R52W to Include Cemetery and SW1/4 SE1/4 of Section 12, T111N, R52W and E1/2 SW1/4, NW1/4 SE1/4, SW1/4 NE1/4 of Section 12, T111N, R52W and W1/2 SW1/4, S1/2 NW1/4 of Section 12, T111N, R52W (Winsor Twp)."

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

STAFF REPORT: Applicant is requesting a conditional use for a mining operation. The proposed operation would be made up of 2 sites. Site #1 will be in Section 13 and Site #2 will be in Section 12. The operator's site plan, business plan, hours of operation and reclamation plan are on file. If approved the applicant would apply for a mining permit from the South Dakota Department of Environment and Natural Resources and abide by their standards and requirements.

PUBLIC HEARING: Applicant Tom Sterzinger was on site and informed those present his plans to mine the old mined sites that weren't on state record. He noted Site #1 (Section 13) would be south of cemetery: 1) the pit site would be cleaned before mining would begin and would be excavated for approximately 2-3 years. 2) Mining would keep distance from cemetery and overburden would be put on in-slopes to protect the cemetery. 3) Once south site mining is completed it would be seeded down and operation would move to North site (Section 12) and head north with excavating.

Proponents: None.

Opponents: Haugen noted several correspondence opposing the permit application had been received prior to the meeting and had been given to the board and posted online. Those in attendance that spoke in opposition were: Jeff Jacobson, Jared Thomas, Chad Bjerke, Doug Leighton and Dennis DeBoer. Concerns were: 1) Cemetery representative asked that mining operation not occur during burials, Sundays or Holiday's observed at the cemetery and that proper setbacks and back sloping be studied, monitored and used. 2) Excessive traffic, noise and dust and impact on township roads. 3) Lack of information in the submitted application. 4) Site not suitable for a mining operation – in aquifer area. 5) Asked that weeds be monitored and controlled and consideration to reducing speed limit in the area.

DISCUSSION: Vanderwal and Ford asked who was hauling from the area currently, who was using as a junkyard and plans to clean-up the area prior to mining. Sterzinger noted he was not hauling from the proposed pit site and did not know who was, and would be

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cleaning up the junk before operations would begin. He further noted he would maintain a safe distance from the cemetery, use portable fuel containment and that he was working with SD DENR regarding the existing easement. Diedrich and Bartley discussed if township roads would be used for haul routes and noted road agreements would need to be acquired. Bartley wanted it noted that any fuel containment requirements would be met and followed and the state DENR would restrict and have requirements that Mr. Sterzinger would need to follow. Haugen noted that he had spoken with US Fish & Wildlife (Federal Agency) in regards to mining grassland easement ground, it was allowable and would be monitored by other agencies. Haugen also presented, read and put on file a Memorandum from Brian Gustad, Brookings County Highway Superintendent. Bartley, Vanderwal and Kleinjan further discussed dust control, mining run-off plans (3:1 to 4:1 slope on earthen berm) and safe guards, and limiting permit if approved to be for Site #1 area in NE1/4 Section 13 only and a new application would need to be filed for Site #2 area in Section 12. The board agreed on a 5 year limit with the permit expiring on May 5, 2025. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Roll call vote: Bartley-aye, Diedrich-aye, Vanderwal-aye, Kleinjan-aye, Jensen-aye, Erickson-aye, Nelson-aye, McHugh-aye, Ford-aye. **MOTION CARRIED.**

#### **2020CU010**

Application by Tom Sterzinger 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 13, T111N, R52W and NE1/4 of Section 13, T111N, R52W to Include Cemetery and SW1/4 SE1/4 of Section 12, T111N, R52W and E1/2 SW1/4, NW1/4 SE1/4, SW1/4 NE1/4 of Section 12, T111N, R52W and W1/2 SW1/4, S1/2 NW1/4 of Section 12, T111N, R52W (Winsor Twp)."

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

STAFF REPORT: Applicant is requesting a conditional use for a "rock crusher" to process gravel. The proposed operation would be made up of 2 sites located off Brookings County blacktop highway #6. Site #1 will be in Section 13 and Site #2 will be in Section 12. The operator's site plan, business plan, hours of operation and reclamation plan are on file.

PUBLIC HEARING: Applicant Tom Sterzinger informed those present he did not have any additional comments.

Proponents: None.

Opponents: Chad Bjerke expressed concern with noise and asked the board to consider applying an operating time frame limit for rock crushing. Dennis DeBoer asked how many board members had viewed the site. Bartley noted he had drove by the site but it was gated and locked so unable to walk on to review.

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DISCUSSION: Kleinjan asked that the permit be limited to be the NE1/4 Section 13, T111, R50W. Ford asked Sterzinger to explain if limiting the time of operation to 8 AM-5 PM would be a constraint. Sterzinger noted that generally the crew is on site at 6 AM and in operation by 7 AM and shutdown operations around 6-6:30 PM. Shortening the hours would affect pay to the crew. He noted the noise would be minimal ¼ mile away. Kleinjan noted a pay loader's noise would be similar to the crusher and noted the crusher would only be in operation a short time. Sterzinger noted the crusher would only be operating about 3 weeks. Vanderwal asked the time of the year in operation. Sterzinger noted it would likely be in operation summer to fall seasons. Diedrich asked that it be noted in the Findings of Facts that operations stop for funerals. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Roll call vote: Diedrich-aye, Vanderwal-aye, Kleinjan-aye, Jensen-aye, Erickson-aye, Bartley-aye, Nelson-aye, McHugh-aye, Ford-aye. **MOTION CARRIED.**

### **DEPARTMENT REPORTS**

Hill announced the County Commission discussed opening the building up and were tentatively looking at May 18, 2020. He asked that all farmers be safe as the world returns to the new normal, to be aware of the return or increase in traffic. Also, to expect the CDC guidelines: 6 foot distancing and no shaking of hands to be in place for an extended period of time. He noted that once a vaccine was available, Brookings County would set up for inoculations and he would keep everyone informed of the plans. He also thanked the IT department for the assistance with the phone system during the meeting. Haugen told the board he would keep the board informed of when the joint work session meetings with the city would resume. He noted work continued on the subdivision ordinance and possible bylaw updates.

### **ADJOURN**

(Vanderwal/Bartley) Motion to adjourn. VOTE: Roll call vote: Bartley-aye, Erickson-aye, Nelson-aye, Kleinjan-aye, Jensen-aye, McHugh-aye, Vanderwal-aye, Diedrich-aye, Ford-aye. **MOTION CARRIED.** Chair Ford adjourned the meeting at 10:36 PM.

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Rae Lynn Maher  
Brookings County  
Development Department