

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF JULY 6, 2021 REGULAR PLANNING & ZONING MEETING

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, July 6, 2021. Those in attendance were in person or via phone. The following members were present: Chad Ford, Mike Bartley, Brian Gatzke, Spencar Diedrich, Darrel Kleinjan, Kyle Vanderwal, Randy Jensen, and alternate and Dale Storhaug. Phoned in: Michael McHugh. Absent were: Neil Trooien and alternate Roger Erickson. Also present were: Deputy Director Richard Haugen and County Development Director/Emergency Manager Robert Hill.

CALL TO ORDER

Chair Ford called the meeting to order at 8:02 PM

APPROVAL OF MINUTES

(Vanderwal/Diedrich) Motion to approve the June 1, 2021 Meeting Minutes. Roll call vote: Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Jensen-aye, Storhaug-aye, Ford-aye. 9-aye, 0-nay. **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

None.

APPROVAL OF AGENDA

(Vanderwal/Kleinjan) Motion to approve the agenda for the July 6, 2021 Meeting. Roll call vote: McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Jensen-aye, Storhaug-aye, Ford-aye, Bartley-aye. 9-aye, 0-nay. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY PLANNING & ZONING COMMISSION

CONSIDERATION OF PLATS

2021PLAT008

For property described as "Plat of Block 1 of Seppanen Addition located in the S1/2 of the NW1/4 and N1/2 of the SW1/4 of Section 10, T112N, R50W of the 5 P.M., Brookings County, South Dakota." Submitted by David Seppanen to combine two parcels of land they own. They are combining "Lot 1, Tekrony Addition, located in the South 1/2 of the Northwest 1/4, Section 10, T112N, R50W of the 5th P.M., Brookings County, South Dakota" which is the building site that was platted on September 14, 2014; with the balance of the farmland, so the acreage and farmland are all in one parcel.

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(Diedrich/Gatzke) Motion to approve the plat. Roll call vote: Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Storhaug-aye, Jensen-aye, Bartley-aye, McHugh-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2021PLAT009

For property described as “Plat Kirby Pioneer Cemetery Addition being located in the Southeast 1 acre of the Southeast 1/4 of Section 24, T110N, R51W, of the 5th P.M., Brookings County, South Dakota.” Submitted by Alice Intermill to plat a historical cemetery located southeast of Volga. The cemetery was researched by a service group and records in the Register of Deeds Office. The research was reviewed by the State’s Attorney’s Office, it was determined the cemetery was returned to the original parcel of land it was located in. The land owner is now platting off the cemetery.

(Vanderwal/Bartley) Motion to approve the plat. Roll call vote: Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Storhaug-aye, Jensen-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

BILL ROSS ADDRESSES BOARD.

Bill Ross asked that the board to consider thinking long term in relation to land and to the current 35 acre rule, and consider other options. One option being adding the agrihood concept for community developments like those that are growing in use across the United States. One of the basic concept being, community housing development built around an organic farm instead a golf course or country club. He described options in setups of developments from rural type to high end. He asked the board to consider the concept when planning the zoning in the Joint Jurisdiction in the years ahead.

CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT

2020VAR014

Application for a variance by Todd Stone on property owned by Richard O Sagness. Article IV District Requirements: Chapter 4.03 “LP” Lake-Park District: Section 4.03.03. Density, Area and Yard Regulation (Minimum Lake Front and Minimum Front Yard). The property is described as: “Lots 1 & 2 of Wacek Beach located in Government Lot 4, Section 3, T112N, R52W (Laketon Township)” ~~~ located at 312 SE Lake Dr, Estelline, SD 57234.

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

STAFF REPORT:

Todd Stone has a purchase agreement, pending approval of the variance request, with Richard Sagness, the owner of the property. Mr. Stone would like to build a residence closer to the lake side. The roof support post for a covered concrete patio will be 27 feet, 9 ½ inches away from the highest known water mark. A variance of 47’ 2 ½ inches. The covered patio is 14 feet wide. The foundation of the house will be 61 feet from the highest known water mark. The proposed residence will meet the 25 feet road side and 8 feet side yard setbacks. Report noted: 1) if he was to build to the 75 feet setback requirement, he would have buildable space of 16 feet wide. 2) North portion of the parcel is located in the flood plain. A Flood Plain Development Permit will be required

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and adding fill as needed, to meet the Federal Emergency Management Agency (FEMA) Floodplain standards for building in the floodplain. 3) Consideration or hardship: shape and size of the lot. Wacek Beach Subdivision was platted on December 6, 1967, prior to current zoning ordinance requirements. Letters were sent to adjoining landowners and the Laketon Township Chairman and Clerk. Public notices were published in the Brookings Register on June 22 and 29, 2021 and the Volga Tribune on June 24 and July 1, 2021.

PUBLIC HEARING: Applicant Todd Stone informed those present they would go with the second plan of the plans shown in Haugen's report, where the garage would be farther away from the lake.

Proponents: None.

Opponents: None.

DISCUSSION: Board member Diedrich, Bartley and Gatzke asked, 1) how far the structure would be from the right side (east) property line? 2) If the shed currently on the site would remain. 3) If the retaining wall would be rebuilt. Stone noted requirement was 8 feet and they would be 15 feet away, the shed would remain at the current location and the first thing he was going to do was replace the retaining wall. He noted he was working with the SDGF&P and the wall would be higher. Findings of Facts were reviewed, completed by the board, concurred with by Bartley and placed on file.

VOTE: Kleinjan-aye, Vanderwal-aye, Storhaug-aye, Jensen-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2021VAR015

Application by Jan Sanderson for a variance. Article 11.00: Section 11.01 "A" Agricultural District: Area Regulation # 7a: Where a second single family home is requested on an established farmstead, so long as it is immediately connected to the existing farming operation. The property is described as: "W1/2 W1/2 NE1/4 Exc. W 163' of E 365' of N 378' & Exc. Hwy in Section 26, T110N, R49W (Aurora Township)" ~~ located at 47657 US Hwy 14, Aurora, SD 57002.

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

STAFF REPORT: The applicant is requesting a variance for a second single family residence stick built home on an existing homestead. The property is located on US Highway 14, one-half mile east of the Aurora Corner (476th Ave). A 1908 plat map of NE1/4 of Section 26 in Aurora Township, shows 2 building sites or residences on the property. The property has been subdivided over the years from 160 acres to today's area of 37.8 acres. The 1.1 acre parcel with a house on it, was deeded off on February 21, 1980 with its own legal description. The 1.1 acre split in 1980 was a legal subdividing of property and Zoning Ordinance at the time and is still allowed in the current Zoning Ordinance today. The balance of 37.86 acres has one residence built in 1971 with several accessory building used for his pick your own fruit, vegetable farm and

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Christmas tree farm. The 37.8 acre parcel is where Mr. Sanderson would like to move in a used second stick built home for his daughter to live in. She helps with the farm in summertime and also has other off farm employment as a substitute teacher. The report also noted the board would have to consider: *“Brookings County Zoning Ordinance” ARTICLE 11.00 AGRICULTURAL DISTRICTS - Section 11.01. “A” Agricultural District - Area Regulations* and *“The Comprehensive Land Use Plan for Brookings County” sections page 49: Rural Development Areas: Agricultural Preservation Policies: page 50 - Maintain a residential density of not more than one building site per 35 acres. On page 69 - APPENDIX B - LAND USE LOCATION AND DESIGN CRITERIA BY SPECIFIC LAND USE IN THE RURAL DEVELOPMENT AREAS, page 70 - Accessory agricultural housing - Brookings County recognizes the need for relatives of farm operators and employees to live on the farm site. In order to allow for residents, deriving their primary source of income from a farm, to live where they work, more than one residence/dwelling unit may be allowed on a minimum 35 acre parcel in two instances: 1) A manufactured home to be used as an additional dwelling for an employee or relative of the farm operator. 2) An additional single family structure or a multiple family structure is proposed to house employees and/or relatives of the farm operator at the site of a Concentrated Animal Feeding Operation, which has received a conditional use permit by Brookings County. Other option, “Brookings County Zoning Ordinance” ARTICLE 11.00 AGRICULTURAL DISTRICTS - Section 11.01. “A” Agricultural District - Conditional Use # 16: One manufactured or mobile home as a secondary residence, on an established farmstead to be used for the occupancy of a farm employee, or by parents, grandparents, children or brothers and sisters of the occupant of the land, provided that said home is removed within ninety (90) days of the vacation there from by the qualified occupant or occupants, (Ord. 2006-02, 3-28-2006).* Public notices were published in the Brookings Register on June 22 and 29, 2021. Letters were sent to the adjoining landowners, Aurora Township Chairman and Clerk and the South Dakota Department of Transportation.

PUBLIC HEARING: Applicant Jan Sanderson informed those present he had nothing to add.

Proponents: Haugen noted a comment had been received by the SD Crop Improvement Association and they had no objections to the request.

Opponents: None.

DISCUSSION: Board members Diedrich, Ford, Gatzke discussed income requirements, house style, location options and other prior similar applications and outcomes. After discussion the applicant Jan Sanderson decided to turn in a note to the board withdrawing his application which was placed on file.

2021VAR013

Application by Howell Farms, Inc/Howell Livestock, Inc by Dan Howell for a variance.
Article 22: Section 22.01: Concentrated Animal Feeding Operation
Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6)
Required Setback and Separation Distance. Chapter 4.06. Aquifer Protection. Aquifer

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Protection Overlay District. Section 4.06.05.03. Prohibited Use in Zone B. The property is described as: "SE1/4 in Section 34, T110N, R51W (Volga Township)".

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

STAFF REPORT: The applicant is requesting a variance to relocate his existing class "C" Confined Animal Feeding Operation for finishing swine. They have been finishing swine at the two locations on their farm since the 1980's and have 1,900 head of swine at the present time. The report noted: 1) the farm is located in Zone "B" of the "First Occurrence of Aquifer Materials Map". The "Yellow/Orange" shaded area on the Map shows a depth of 0-50 feet shows presence of Aquifer Materials. (The "First Occurrence of Aquifer Materials Map" was done by the South Dakota Department Environment and Natural Resources Division of Financial and Technical Assistance Geographic Survey Aquifer Materials Map 19, by Layne Schultz in 2004 to be used as a guide of the soil profile.) 2) The applicant had soil borings completed by Lacey Well Drilling Inc. at the proposed site and across the road to show the soil profile of the area. The soil borings show the soil profile consisting of: 1-3 feet of topsoil, 2-18 feet of muddy-tight and yellow clay; greater than 18 feet shows sand and gravel. 3) There is a USGS test boring within the vicinity of the proposed site and shows a similar soil profile. 4) East Dakota Water Development District reviewed the soil boring profiles provided by the applicant and support the variance request, as the soil boring shows a 16 feet clay barrier directly below and extending beyond the proposed site. 5) The manure storage containment for the barn will be excavated 4 feet into the ground, made of cement and sealed. The area will be protected with the depth of the clay barrier. 6) The Aquifer Protection ordinance allows existing farmers/producers in Zone B to continue their operation at their current level and expand up to 250 animal units up to a Class C level. 7) The applicant was approved for variance 2019var008 and conditional use 2019cu009 on September 3, 2019 for a Class "C" finishing swine CAFO to relocate the existing the operation across the road in the NW1/4 of section 35. He will not be pursuing that location, as land elevation is not adequate at that site. Letters were sent to the adjoining landowners, Volga Township Chairman and Clerk, Brookings County Highway Department and Kingbrook Rural Water. Public notices were published in the Brookings Register on June 22 and 29, 2021 and in the Volga Tribune on June 24 and July 1, 2021.

PUBLIC HEARING: Applicant Dan Howell informed those present he had nothing to add.

Proponents: None.

Opponents: None.

DISCUSSION: Board member Ford asked the applicant if the application was basically the same as his prior approved application (2019var008/2021cu009). Howell noted this application site would better meet setbacks, elevations, be farther off the road and on the main farm. Findings of Facts were reviewed, completed by the board, concurred with by Diedrich and placed on file.

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VOTE: Vanderwal-aye, Storhaug-aye, Jensen-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2021CU010

Application by Howell Farms, Inc/Howell Livestock, Inc by Dan Howell for a conditional use. Article 22: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setback and Separation Distance. Chapter 4.06. Aquifer Protection. Aquifer Protection Overlay District. Section 4.06.05.03. Prohibited Use in Zone B. The property is described as: "SE1/4 in Section 34, T110N, R51W (Volga Township)".

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

STAFF REPORT: The applicant is requesting a conditional use for a Class "C" Swine Finishing CAFO (2,400 head – 960 animal units). The applicant has finished swine on their farm since the 1980's in several barns on two separate locations. They currently have 1,900 head of finishing swine. The current barns have been in service for 30+ years and are in need of updating. The report noted: 1) plan was for removal of current barns and putting all the swine in the new proposed facility. 2) Site plan consists of 1 – 81 feet x 249 feet cross ventilated finishing barn with 8 foot deep pit for manure storage, 4 feet of which would be excavated into the ground, a loading area/office and feed bins. 3) The structure will meet the setback requirements of 200 feet from county road (Brookings County black top road # 5 (464th Ave) right-of-way; 200 feet from adjoining property lines, 1,320 feet from an existing residence; 1,320 feet from a private well other than the operator. 4) Main access will continue to be existing driveway off of Brookings County blacktop road #5 (464th Ave). And applicant has visited with the Volga Township concerning a road agreement. 5) Manure and pit – 900,000 gallons of storage (sufficient for 365 days of storage capacity), manure will be annually pumped out and applied by direct injection. 958 acres available for manure application with the minimum acres needed being 200 acres. 6) Location of proposed building – not over Zone "A" but site in Zone "B" – variance applied for. 7) Application information for Class C and D CAFO Permit submitted. 8) Applicant will no longer pursue using approved application 2019cu009 & 2019var008 for a site in NW1/4 of Section 35. Public notices were published in the Brookings Register on June 22 and 29, 2021 and the Volga Tribune on June 24 and July 1, 2021. Letters were sent to adjoining landowners, Volga Township Chairman and Clerk, Brookings County Highway Department and Kingbrook Rural Water.

PUBLIC HEARING: Applicant Dan Howell informed those present he had nothing to add.

Proponents: None.

Opponents: None.

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

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VOTE: Storhaug-aye, Jensen-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Vanderwal-aye, Kleinjan-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2021CU011

Application by Kent Miller for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 20: Home Extended Business". The property is described as: "N290' of E750' Exc N200' of W215' of NE1/4 Section 18, T110N, R50W (Brookings Township) and the N200' of W215' of E750' of NE1/4 Section 18, T110N, R50W (Brookings Township)"~~ located at 46681 210th St, Brookings, SD 57006.

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

STAFF REPORT: The applicant is requesting a conditional use for an extended home business for the manufacturing/sales and service of off road vehicles, off road vehicle accessories and other vehicle accessories. The report noted: 1) roads near the location were township gravel roads and 210th Street was also currently used by the heavy truck traffic from GCC Dakotah (cement plant). 2) Applicant would manufacture off road tracked Ultimate Outdoor Vehicle (UOV) capable of driving on land/snow or in water. 3) Business plan filed with application noted use of current buildings on site, hours of operation, and sales and production related information. 3) Obtaining the conditional use permit would also allow them to apply for a "Dealer's license" from the South Dakota Department of Revenue for "Off road vehicles and boats". Public notices were published in the Brookings Register on June 22 and 29, 2021 and the Volga Tribune on June 24, 2021 and July 1, 2021. Letters were sent to the adjoining landowner's, Brookings Township Chairman and Clerk.

PUBLIC HEARING: Applicant Kent Miller informed those present he had nothing to add.

Proponents: None.

Opponents: None.

DISCUSSION: Board member Bartley noted to add that the building would be reviewed by the Fire Department. Findings of Facts were reviewed, completed by the board, concurred with by Diedrich and placed on file.

VOTE: Jensen-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Storhaug-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

DEPARTMENT REPORTS

Hill noted with hot and dry weather conditions to use caution with outdoor activities, and to also take breaks and drink plenty of water.

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Haugen reported the County Weed Department had inspected the area Gravel Pits. He also noted possible return to Joint meetings with the City in September to continue work on the Zoning Ordinance review and updating.

ADJOURN

(Vanderwal/ Diedrich) Motion to adjourn.

Chair Ford adjourned the meeting at 9:53 PM.

Rae Lynn Maher
Brookings County
Development Department