City & County Joint Planning Commission
Brookings, South Dakota
February 4, 2020

OFFICIAL MINUTES

City Chairperson Tanner Aiken called the meeting of the City & County Planning Commission to order on Tuesday, February 4, 2020, at 6:30 PM in the Chambers Room #310 on the third floor of the City & County Government Center. City members present were Ashley Biggar, Gregg Jorgenson, Jacob Mills, Lee Ann Pierce, Eric Rasmussen, and Aiken. James Drew, Greg Fargen, and Jason Meusburger were absent. County members present were Chairperson Kimberly Elenkiwich, alternate Angela Boersma, Tom Davis, alternate Spencar Diedrich, Darrell Nelson, Darrel Kleinjan, Chad Ford, Terrell Spence and Roger Erickson. Absent were Mike Bartley and Michael McHugh. Also present were City Planner Staci Bungard, Community Development Director Mike Struck, County Development Deputy Director Richard Haugen, Luke Muller and Payton Schafers from First District, and others.

Item #1 – Roll Call

Item #2 – (Jorgenson/Rasmussen) Motion by the City Planning Commission to approve the agenda. All present voted aye. **MOTION CARRIED**

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

Item #3 – (Rasmussen/Biggar) Motion by the City Planning Commission to approve the January 7, 2020 Joint Jurisdiction meeting minutes with a change to state "County Chairperson Kimberly Elenkiwich calling the meeting to order." All present voted aye.

(Ford/Boersma) Motion by the County Planning Commission to approve the January 7, 2020 Joint Jurisdiction meeting minutes. All present voted aye.

Item #4a – Discussion and review on updating the Joint Jurisdiction Zoning ordinance

The meeting was adjourned at 7:28 p.m.

Staci Bungard
City Planner

Tanner Aiken, Chairperson

City and County Joint Planning Commission
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OFFICIAL SUMMARY

City Chairperson Tanner Aiken called the meeting of the City & County Planning Commission to order on Tuesday, February 4, 2020, at 6:30 PM in the Chambers Room #310 on the third floor of the City & County Government Center. City members present were Ashley Biggar, Gregg Jorgenson, Jacob Mills, Lee Ann Pierce, Eric Rasmussen, and Aiken. James Drew, Greg Fargen, and Jason Meusburger were absent. County members present were Chairperson Kimberly Elenkiwich, alternate Angela Boersma, Tom Davis, alternate Spencar Diedrich, Darrell Nelson, Darrel Kleinjan, Chad Ford, Terrell Spence and Roger Erickson. Absent were Mike Bartley and Michael McHugh. Also present were City Planner Staci Bungard, Community Development Director Mike Struck, County Development Deputy Director Richard Haugen, Luke Muller and Payton Schafers from First District, and others.

Item #4a – Muller explained that the Aquifer Protection District (APD) includes two zones, the shallow aquifer area (Zone B – Aquifer Secondary Impact Zone) and the well head protection area (Zone A – Aquifer Critical Zone). For Brookings, Zone A is the immediate source of water. There is a section on the southern edge that will be removed because that well is no longer used. Zone A-Aquifer Critical is the area that will be more heavily regulated because this provides drinking water.

Rasmussen is concerned about the "Purpose, paragraph 1", he would like the two different zones to be pointed out to make it clear. And then add a paragraph 5 that indicates that if there is any action that requires notice in Zone A, additionally noticed would be the City of Brookings and the City of Aurora. This would involve rezones, conditional uses, variances or anything requiring notices be sent to adjoin landowners. Pierce suggests that the County also be included in these notices and this should be added to the requirements in the paragraph 5.

The APD will be treated like all the other zoning districts. If the use isn't listed, then it isn't allowed. Pierce asked Muller to explain an overlay district. This is a district that you put on top of another district. It may add more regulations or have less regulations depending upon what is agreed upon with the boards.

Muller detailed items in Zone A, he provided a handout explaining the Existing County Wellhead Protection uses allowed (Permitted and Conditional Uses), the Existing Joint Jurisdiction Ordinance (JJO) Wellhead Protection Uses Allowed (Permitted Uses and Conditional Uses) and the Proposed JJO Wellhead Protection uses allowed (Permitted and Conditional Use). What was originally proposed was to allow for NO structures, signs or pump houses. Structure is going to include anything that would require a building permit. There would be NO permitted uses allowed in the Proposed JJO other than Agricultural activities. Conditional Uses in the JJO would include public utility and public service, orchards and tree farms and reconstruction of structures due to a catastrophe as long as there is no risk of contamination. Elenkiwich is concerned because according to the new JJO, there wouldn't be any new structures allowed. This would mean no deck additions, house additions, grain bins and what if I am not able to rebuild a structure or house within 1 year. Rasmussen asked Muller how many structures are we talking about since Zone A is a very small area. Muller stated that there are 35 structures and approximately 28 houses and 7 other structures. Davis wondered if these could be grandfathered in? Muller explained that they would need to apply for a Conditional Use permit, within 1 year of the structure coming down or they could apply ahead of taking the structure down. Ford asked if the verbiage on the Conditional Use permit could state something about "an act of God"? Muller stated that you could move "replacement of an existing structure" into a Permitted Use. Struck

explained that the Non-conforming section of this ordinance does reference "an act of God" and this should be looked at. Additionally, in the City Ordinance if it is a non-conforming use the City allows for a certain percentage for an expansion. Typically 25% of the existing floor area. Muller explained that the non-conforming uses and structures verbiage is not in the section, but maybe it should be added. Davis wondered if the JJO should have verbiage regarding a limit of one septic system? Muller hadn't thought about this, but he feels there could be verbiage added to prevent additional septic systems. Muller will look into this suggestion. Rasmussen also feels that an additional requirement should be added to the Section 3.06.06.1 "No new septic systems should be allowed."

Elinkwich feels that following the City with the 25% expansion would be a good idea. And Struck stated that if they are going to look at adding this, it should be to a residential structure, not a shed. Davis stated that this should state 25% more than the size of the original structure.

Pierce feels that 1 year isn't long enough to build a house if it is demolished and the Conditional Use should be within 2 years. Rasmussen clarified that it says "Application" should be completed within 1 year, not the start or completion of construction. Elenkwich feels that "replacement" needs to be defined. Davis wondered what will happen if the owners walk away and decide not to clean up or replace the structure. Muller stated this would be handled in the Property Maintenance Code not Zoning rules. Muller asked if everyone was comfortable with leaving the "Reconstruction of a structure" under Conditional Use? Muller wondered what type of request would be told "no" to. What type of requests are the Commissions concerned about. Pierce explained that in the building permit request, the square footage and the possible 25% extra would be handled in the request. Ford asked if the request for a new structure isn't allowed, then who is going to buy the property? The City? The County? Elenkiwich is concerned about a house not being able to be reconstructed. If the land isn't good for anything, who would want to buy it?

Muller wants to know if the 25% expansion should be a Permitted Use or Conditional Use. Aiken would like to see the reconstruction of a structure be a "Conditional Use." This would be because of the extra enforcement that the City and County would have. Rasmussen prefers it be a Conditional Use. Pierce feels that this should be a Permitted Use because it would guarantee someone being able to rebuild their house. Mills agrees with Rasmussen because this could be a time to correct and improve a collective resource, but also agrees with Pierce because this does create a situation where a board doesn't have the means to make a request whole for a land owner.

Struck would like each board member to put some thought into this and get their thoughts to their Chairperson. This will provide for a continued discussion at the next meeting and a decision may be able to be made.

The meeting was adjourned at 7:28 p.m.

Staci Bungard
City Planner

Tanner Aiken, Chairperson