

# MINUTES

## REGULAR SCHEDULED MEETING BROWN COUNTY PLANNING/ZONING COMMISSION

TUESDAY SEPTEMBER 17, 2024 - 7:00 P.M.

BROWN COUNTY COURTHOUSE ANNEX in the BASEMENT COMMUNITY ROOM

- I. **Call to Order:** *Brown County Planning/Zoning Commission* meeting was called to order by Stan Beckler Chairman.
- II. **Roll Call:** Members of the Brown County Planning/Zoning Commission present for roll call were Stan Beckler Chairman, David North Vice-Chairman, Dale Kurth, James Meyers, Carrie Weisenburger, County Commissioner Michael Gage (*who serves on this Board per SDCL 11-2-2*) and Pat Keatts. Paul Johnson (*Alternate P&Z Commissioner*) was also in attendance in audience.
- III. **Agenda:** After discussion, Kurth moved and North seconded to approve this September 17, 2024, Planning/Zoning Commission Agenda as presented. All members voted aye; motion carried.
- IV. **Minutes:** After discussion, Meyers moved and Weisenburger seconded to approve August 20, 2024, Planning/Zoning Commission Minutes as written, all members voted aye; motion carried.
- V. **Old Business:**
  - 1) **Sign-up Sheet:** at door entrance on the table for anyone to speak on an Agenda Item.
  - 2) **Permits:** Anyone present that has submitted Zoning Board of Adjustment (BOA) Agenda items such as a Variance Petition (VP) or Conditional Use Petition (CUP) that get approved, are still required to follow up with their PERMITS from the Zoning Office before starting their project.
- VI. **New Business:** *Planning/Zoning Commission as Zoning Board of Adjustment (BOA)*
  - 1) **Conditional Use Petition** in a Heavy Industrial District (H-I) described as The NW1/4 of Section 23-T123N-R61W, Except Railroad R.O.W. and Except Highway R.O.W., of the 5<sup>th</sup> P.M., Brown County, South Dakota (40425 133<sup>rd</sup> Street; Groton Twp.). Submitted by POET Biorefining – Groton, LLC. Mike Carpenter was in attendance for this item. Following discussion on Findings of Facts (FoF), Keatts moved, and Kurth seconded to **approve the Finding of Facts (FoF) as presented**. Also following discussion, Keatts moved, and Kurth seconded to **approve a Conditional Use Petition (CUP)** for a new 30' x 80' addition to boiler building in a Heavy Industrial District (H-I). All members voting aye, motion carried.
  - 2) **Conditional Use Petition** in a Lake Front Residential District (R-3) described as Lot 22-23, "Dewald & Hoffman's Second Richmond Lake Subdivision" in the E1/2 of Section 14-T124N-R65W of the 5<sup>th</sup> P.M., Brown County, South Dakota (126716 W Shore Drive; Ravinia Twp.). Submitted by Nick Burns for owner Arthur Zoellner. Nick Burns was in attendance for this item. Following discussion on Findings of Facts (FoF), North moved, and Keatts seconded to **approve the Finding of Facts (FoF) as presented**. Also following discussion, North moved, and Keatts seconded to **approve a Conditional Use Petition (CUP)** to operate a Bed & Breakfast home business in a Lake Front

Residential District (R-3) **with a stipulation** that the 2 lots be platted into 1 lot. All members voting aye, motion carried.

- 3) **Variance for Lot Size** in an Agriculture Preservation District (AG-P) described as Proposed Lot 2A, “Sombke Second Subdivision” in the S1/2 of Section 8-T121N-R60W of the 5<sup>th</sup> P.M., Brown County, South Dakota (40752 144<sup>th</sup> Street; Bates Twp.). Submitted by Bryce Sombke & Bryan Sombke. There wasn’t anyone in attendance for this item. Following discussion on Findings of Facts (FoF), Gage moved, and Kurth seconded to ***approve the Finding of Facts (FoF) as presented.*** Also following discussion, Gage moved, and Kurth seconded to **approve a Variance for Lot Size** to allow proposed Lot 2A (1.48 acres) to be smaller than 40.0 acres and stay zoned as Agriculture Preservation District (AG-P) per Chapter 4.0605 of Brown County Zoning Ordinances, all members voting aye, motion carried.
- 4) **Variance to Building Setbacks** in a Mini-Agriculture District (M-AG) described as Lot 1, “First Subdivision of Bieber’s Outlot 1” in the N1/2 of Section 21-T126N-R64W of the 5<sup>th</sup> P.M., Brown County, South Dakota (38455 115<sup>th</sup> Street; Oneota Twp.). Landon & Shanley Wolf were in attendance for this item. Following discussion on Findings of Facts (FoF), Meyers moved, and Weisenburger seconded to ***approve the Finding of Facts (FoF) as presented.*** Also following discussion, Meyers moved, and Weisenburger seconded to **approve a Variance to Building Setbacks** to have a 70’-0” North Front Yard Setback rather than the 100’-0” required by Brown County Ordinance for the existing house, a 12’ x 20’ addition and a 28’ x 38’ attached garage, all members voting aye, motion carried.
- 5) **Variance for Lot Size** in an Agriculture Preservation District (AG-P) described as Proposed Lots 1 & 2, “Dixon Third Addition” in the NW1/4 of Section 15-T122N-R63W of the 5<sup>th</sup> P.M., Brown County, South Dakota (13810 391<sup>st</sup> Avenue & 39115 138<sup>th</sup> Street; Gem Twp.). Submitted by Alan & Janet Dixon. Alan & Nathan Dixon were in attendance for this item. Following discussion on Findings of Facts (FoF), Weisenburger moved, and Kurth seconded to ***approve the Finding of Facts (FoF) as presented.*** Also following discussion, Weisenburger moved, and Kurth seconded to **approve a Variance for Lot Size** to allow proposed Lot 1 (10.14 acres) and Lot 2 (2.00 acres) to be smaller than 40.0 acres and stay zoned as Agriculture Preservation District (AG-P) per Chapter 4.0605 of Brown County Zoning Ordinances, all members voting aye, motion carried.
- 6) **Variance for Shelterbelt Setbacks** in a Mini-Agriculture District (M-AG) described as Lot 1, “Bendewald Farm Subdivision” in the SE1/4 of Section 12-T122N-R65W of the 5<sup>th</sup> P.M., Brown County, South Dakota (13761 382<sup>nd</sup> Avenue; Highland Twp.). There wasn’t anyone in attendance for this item. Following discussion on Findings of Facts (FoF), Meyers moved, and Keatts seconded to ***approve the Finding of Facts (FoF) as presented.*** Also following discussion, Meyers moved, and Keatts seconded to **approve a Variance for Shelterbelt Setbacks** to be 100’-0” from the section line rather than the 150’-0” required by Brown County Ordinance for 5 rows of trees, all members voting aye, motion carried.

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### BROWN COUNTY PLANNING/ZONING COMMISSION

TUESDAY, SEPTEMBER 17, 2024 - 7:00 P.M.

BROWN COUNTY COURTHOUSE ANNEX in the BASEMENT COMMUNITY ROOM

I. **Old Business:** Discussion on Amendments to Brown County Ordinance Title 4 for Chapters 4.22 through Chapter 4.29 on Administrative Rules and Enforcement are still postponed until further notice, by Ross Aldentaler, Deputy States Attorney.

II. **New Business:** *Brown County Planning/Zoning Commission as [Planning Commission](#)*

**10) Rezone Petition** for a property described as Lots 1 & 2 in the NE1/4 of Section 15-T123N-R64W, Except Highway R.O.W., of the 5<sup>th</sup> P.M., Brown County, South Dakota (2035 8<sup>th</sup> Avenue NW; Aberdeen Twp.) to be rezoned from Mini-Agriculture District (M-AG) to Highway Commercial District (HC). Submitted by West Lake LLC. Rod Tobin (West Lake LLC), Sam Schaunaman (Aberdeen Township), Angela Huffman (Neighbor) and Kim Fischer (Neighbor) were in attendance for this item. Angela Huffman spoke in opposition of the rezone request citing concerns of a possible casino and liquor store being developed on the property. Sam Schaunaman shared concerns from Aberdeen Township about increased traffic on the township road. Kim Fischer wasn't fond of the possibility of another casino being developed but generally was in favor of development in the area. Following discussion, North moved, Meyers seconded to **recommend approval of the Rezone Petition** to the Board of Brown County Commissioners with a stipulation that the 2 lots be platted into 1 lot, all members voting aye, motion carried.

**11) Rezone Petition** for a property described as Lot 1 & Lot 2, "Wollman Subdivision" in the SW1/4 of Section 29-T124N-R62W of the 5<sup>th</sup> P.M., Brown County, South Dakota (39504 129<sup>th</sup> Street & 12892 395<sup>th</sup> Avenue; Cambria Twp.) to be rezoned from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG). Submitted by Tony Wollman. There wasn't anyone in attendance for this item. Following discussion, Keatts moved, Kurth seconded to **recommend approval of the Rezone Petition** to the Board of Brown County Commissioners, all members voting aye, motion carried.

**12) Rezone Petition** for a property described as proposed Lot 4, "Dixon Third Addition" in the NW1/4 of Section 15-T122N-R63W of the 5<sup>th</sup> P.M., Brown County, South Dakota (39135 138<sup>th</sup> Street; Gem Twp.) to be rezoned from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG). Submitted by Alan & Janet Dixon. Alan & Nathan Dixon were in attendance for this item. Following discussion, Gage moved, Weisenburger seconded to **recommend approval of the Rezone Petition** to the Board of Brown County Commissioners, all members voting aye, motion carried.

**13) Rezone Petition** for a property described as proposed Lot 2, "New Angus Second Subdivision" in the N1/2 of Section 36-T123N-R64W of the 5<sup>th</sup> P.M., Brown County, South Dakota (approx. 498 135<sup>th</sup> Street SE; Aberdeen Twp.) to be rezoned from Heavy Industrial District (H-I) to Municipal, County and State District (M). Submitted by City of Aberdeen. Ken Hubbard (City Planning), Ron Wager (City Attorney), Stu Nelson (City Engineer) and Vicki Wilson (Neighbor) were in attendance for this

item. A discussion took place with the Planning Commission, Wager, and Hubbard stating that the Brown County Planning/Zoning Office recommended that the city should do a long-term lease agreement with New Angus LLC for three (3) years on property boundaries using a metes and bounds description just for a short-term lease agreement until the current TIF District is paid off in 2027. At that time, a plat would be submitted and approved for a new legal description that would be filed for exchange of ownership. The city could then rezone and annex their parcel at the same time. This would meet county ordinances, state statutes, and would not be jumping through “hoops”. However, the city was not interested in doing this. Further discussion was: **1)** this parcel’s legal description is not technically a legal description until second half taxes for 2023 payable in 2024 are paid (\$478,390.71); **2)** the proposed plat is approved; **3)** the proposed plat is filed in the Register of Deeds Office; **4)** also noting, a Rezone takes about 10 weeks of process to change zoning districts; **5)** this proposed parcel needs to be treated as Heavy Industrial District (H-I) until completion of rezone; **6)** all of the floodway mitigation requirements on this property must be completed by an engineering firm before construction of new improvements to wastewater facility; **7)** the design of the wastewater plant expansion was done and stamped on May 2021 on the design plans submitted; **8)** We are here September 17, 2024 needing immediate approvals to meet a tight deadline(?); with all of the above discussion, Weisenburger moved, North seconded to go into executive session to discuss legal issues with Ross Aldentaler (Deputy States’ Attorney). Weisenburger moved, Keatts seconded to adjourn executive session. Following discussion, Gage moved, Weisenburger seconded to **recommend approval of the Rezone Petition** to the Board of Brown County Commissioners, a roll call vote was taken individually with Weisenburger-aye, Kurth-aye, Keatts-aye, North-nay, Meyers-nay, Gage-aye, motion carried by the affirmative votes (4-2) of not less than a majority of all the members of the board (*SDCL 11-2-20*) with a stipulation that Lot 2 be annexed into city limits by 01/01/2028.

- 14) Preliminary & Final Plat** for financial and conveyance purposes on a property described as “Dixon Third Addition” in the NW1/4 of Section 15-T122N-R63W of the 5<sup>th</sup> P.M., Brown County, South Dakota (13810 & 13848 391<sup>st</sup> Avenue; 39115 & 39135 138<sup>th</sup> Street; Gem Twp.). Submitted by Alan & Janet Dixon. Alan & Nathan Dixon were in attendance for this item. Following discussion, Weisenburger moved, Keatts seconded to **recommend approval of the Preliminary & Final Plat** to the Board of Brown County Commissioners, all members voting aye, motion carried.
- 15) Preliminary & Final Plat** for conveyance purposes on a property described as “Donald Raba and WW Rentals First Addition to the City of Columbia” in the SW1/4 of Section 28-T125N-R62W of the 5<sup>th</sup> P.M., Brown County, South Dakota (18 S Broadway Street & 2 Lavin Avenue SE; Columbia City). Submitted by Donald Raba. There wasn’t anyone in attendance for this item. Following discussion, North moved, Weisenburger seconded to **recommend approval of the Preliminary & Final Plat** to the Board of Brown County Commissioners, all members voting aye, motion carried.
- 16) Preliminary & Final Plat** for financial purposes on a property described as “Sombke Second Subdivision” in the S1/2 of Section 8-T121N-R60W of the 5<sup>th</sup> P.M., Brown County, South Dakota (40752 144<sup>th</sup> Street; Bates Twp). Submitted by Bryce Sombke & Bryan Sombke. There wasn’t anyone in attendance for this item. Following discussion, Kurth moved, Gage seconded to **recommend approval of the Preliminary & Final Plat** to the Board of Brown County Commissioners, all members voting aye, motion carried.
- 17) Preliminary & Final Plat** for conveyance purposes on a property described as “OALC Second Subdivision” in the SE1/4 of Section 34-T124N-R64W of the 5<sup>th</sup> P.M., Brown County, South Dakota (2040 & 2050 130<sup>th</sup> Street NW; Lincoln Twp). Submitted by B & B Real Estate LLC - Neil Bellikka. There wasn’t anyone in attendance for this item. Following discussion, North moved, Keatts

seconded to **recommend approval of the Preliminary & Final Plat** to the Board of Brown County Commissioners, all members voting aye, motion carried.

**18) Preliminary & Final Plat** for conveyance purposes on a property described as “New Angus Second Subdivision” in the N1/2 of Section 36-T123N-R64W of the 5<sup>th</sup> P.M., Brown County, South Dakota (13 135<sup>th</sup> Street SW; Aberdeen Twp). Submitted by City of Aberdeen. Ken Hubbard (City Planning), Ron Wager (City Attorney), Stu Nelson (City Engineer) and Vicki Wilson (Neighbor) were in attendance for this item. Following discussion with similar items as item #10 - the proposed rezone above, North moved, Meyers seconded to **postpone** this plat to the October 15, 2024 meeting so that **1)** taxes can be paid first as we have done for 15 years or better; **2)** since there is not any access approach directly to this parcel from a public right-of-way as ordinance requires, a stipulation that an access easement to Lot 2 be shown on the plat (this would be for the city to go through the beef plant for an easement to get to their parcel if needed and for the beef plant to go through the wastewater plant to get to their manholes on Lot 2 for maintenance or service; **3)** noting that all of the floodway mitigation documentation requirements on this property must be completed by an engineering firm before construction of new improvements to wastewater facility start; **4)** a Flood Plain Development Permit (FPDP) must be issued by Brown County Floodplain Administrator before work begins since this parcel is currently in the county jurisdiction; a roll call vote was taken individually with Weisenburger-aye, Kurth-aye, Keatts-aye, North- aye, Meyers-aye, Gage-aye, motion carried by the affirmative votes (6-0) of not less than a majority of all the members of the board (*SDCL 11-2-20*), motion carried.

**III. Other Business:** None

**IV. Adjourn:** There being no further business before the Planning/Zoning Commission, Keatts moved and Kurth seconded to adjourn the meeting, all members voting aye, motion carried.

Submitted by: Planning/Zoning Director Scott Bader.