***MINUTES***

***REGULAR SCHEDULED MEETING***

***BROWN COUNTY PLANNING/ZONING COMMISSION***

 *TUESDAY, April 18, 2023 - 7:00 P.M.*

 *BROWN COUNTY COURTHOUSE ANNEX in the BASEMENT COMMUNITY ROOM*

1. **Call to Order:** ***Brown County Planning/Zoning Commission*** meeting was called to order by Stan Beckler-Chairman.
2. **Roll Call:** Members of the Brown County Planning/Zoning Commission present for roll call were Vice Chair-David North, James Meyers, County Commissioner Michael Gage serves on this Board (*per SDCL 11-2-2)*, Darwin Bettmann, Dale Kurth, Alternate Carrie Weisenburger, Chairman Stan Beckler Deputy States Attorney Ross Aldentaler. Patrick Keatts was absent.
3. **Agenda:** After discussion, Gage moved and Meyers seconded to approve the April 18, 2023, Planning/Zoning Commission Agenda. All members voted aye; motion carried.
4. **Minutes:** After discussion, Meyers moved and Gage seconded to approve the March 28, 2023, Planning/Zoning Commission Minutes, all members voted aye; motion carried.

***BROWN COUNTY ZONING BOARD OF ADJUSTMENT***

1. **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) items such as a Variance Petition (*VP*) or Conditional Use Petition (*CUP*) is still required to get their *PERMITS* from the Zoning Office before starting their project if their request is approved.
2. **New Business:** *Planning/Zoning Commission as* ***Zoning Board of Adjustment (BOA)***
3. **Variance to Lot Size** in an Agriculture Preservation District (AG-P) described as proposed Lot 1, “Jordan Engelhart First Addition” in Government Lot 1 and in the S1/2 of the NE1/4 of Section 6-T126N-R63W of the 5th P.M., Brown County, South Dakota (11225 389th Avenue, Brainard Twp). Submitted by Jordan Engelhart. A representative was not in attendance for this item. Following discussion on FoF, Kurth moved, and North seconded to ***approve the finding of facts*** as presented. Also following discussion Kurth moved, and North seconded to ***approve the variance to lot size*** in an Agriculture Preservation District (AG-P), all members voting aye, motion carried.
4. **Variance to Lot Size** in an Agriculture Preservation District (AG-P) described as Lot 1 & 2, “C. Bonn Addition” in the E1/2 of the E1/2 of the SE1/4 of Section 24-T122N-R61W of the 5th P.M., Brown County, South Dakota (13995 406th Avenue, West Hanson Twp). Submitted by Cody Bonn. A representative was not in attendance for this item. Following discussion on FoF, Gage moved, and Bettmann seconded to ***approve the finding of facts*** as presented. Also following discussion Gage moved, and Bettmann seconded to ***approve the variance to lot size*** in an Agriculture Preservation District (AG-P), all members voting aye, motion carried.

***Completed as Zoning Board of Adjustment (BOA) Agenda & going to Planning Commission Agenda***

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***REGULAR SCHEDULED MEETING***

***BROWN COUNTY PLANNING COMMISSION***

 *TUESDAY, April 18, 2023 - 7:00 P.M.*

 *BROWN COUNTY COURTHOUSE ANNEX in the BASEMENT COMMUNITY ROOM*

1. **Old Business:** Discussion on Amendments to Brown County Ordinance Title 4for Chapters 4.22 through Chapter 4.29 on Administrative Rules and Enforcement are still Tabled until further notice, by Ross Aldentaler, Deputy States Attorney.
2. **New Business: *Planning Commission***
3. **Rezone Petition** from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG) for a property described as the West 520’ of the North 1965’ of the SW1/4 of Section 9-T121N-R63W, of the 5th P.M., Brown County, South Dakota (14380 390th Avenue, West Rondell Twp). Submitted by Levi Jensen. Following discussion, North moved, Kurth seconded to ***recommend approval of the rezone***of this parcel to the Board of County Commissioners, all members voting aye, motion carried.
4. **Preliminary & Final Plat** for a property described as “Jordan Engelhart First Addition” in the Government Lot 1 and in the S1/2 NE1/4 of Section 6-T126N-R63W, of the 5th P.M., Brown County, South Dakota (11225 389th Avenue, Brainard Twp). Submitted by Jordan Engelhart. After discussion, Meyers moved, Weisenburger seconded to ***recommend approval of preliminary & final plat*** to the Board of Brown County Commissioners, all members voting aye, motion carried.
5. **Preliminary & Final Plat** for a property described as “Hendrick Addition” in the SE1/4 of Section 26-T124N-R64W of the 5th P.M., Brown County, South Dakota (Nature Trail & 387th Avenue, Lincoln Twp). Submitted by Andrew & Gina Hendrickson. After discussion that the HOA approved approach access and the County Highway Department approved approach access on BC Hwy #10 straight across from 12890 387th Ave, Kurth moved, North seconded to ***recommend approval of preliminary & final plat*** to the Board of Brown County Commissioners, all members voting aye, motion carried.
6. **Open Discussion on Pipeline Facility Ordinance**.
	1. Jim Seuer, GLE Ethanol Industry - Chair Beckler told Mr. Seuer “*We are not here to discuss the economic impact of ethanol tonight*”.
	2. Brad Fiecktner, property owner - “*The pipeline is only 260’ from kids’ bedroom*”.
	3. Jarod Bosley, 5th Generation farmer - wants to keep the 1500’ setback.
	4. Brent Neiger – “*Pipeline is going to be within 600’ of house. Hunter safety rules say you can’t shoot within 660’ of a building. A 1-mile setback is not unreasonable*”.
	5. Stan Beckler – “*Setbacks for a hog barn start at ½-mile in our ordinance*”.
	6. Ross Aldentaler, Deputy States Attorney - “*Measure from property line to the center of pipeline. We can’t regulate safety due to federal law and pipeline safety act. The county can only regulate setback and location. Setbacks of 1500’ may be reduced by the landowner if in agreement, by signing a waiver and filing this at the register of deeds office on the property of discussion and if approved by the zoning BOA*. *If we were to get sued over this ordinance, we may lose everything and have no regulations”.*
	7. Brandi Naughton, Navigator Pipeline – “*Our pipeline will be buried 5’ deep measured from the top of ground to the center of the pipe. Navigator originally planned to be at least 200’ from residential dwellings. There are many factors that go into consideration of the setback. There is twenty (20) miles between valves for shutdown*. Sequestration is in Illinois”.
	8. Trevor Jones, Summit Carbon Solutions – “*There is no regulatory body for CO2.Carbon Dioxide has been in existence for thirty (30) years. The pipes last up to fifty (50) years. There are 1,232 miles of hazardous pipes in Brown County currently. His proposal is to follow federal regulations of 50’ setback. Trevor said SCS will make changes for landowners as they already have. They avoid placing pipe in wetlands and lay pipe fifteen (15) feet below riverbeds. Trevor also states that no one was killed in the Mississippi breech*”.
	9. Dennis Wells – “*Pipeline is only good for a few, such as pipeline owners and foreign investors. CO2 is not needed like a public utility or commodity*”.
	10. Sid Feickert, McPherson County Commissioner, and landowner – “*Pipelines are suing the counties, having secret meetings. Mr. Feickert recommends 1-mile setback; 1500’ is just not enough. McPherson County does not have a pipeline ordinance yet*”.
	11. Jarod Bosley, landowner – *Wants the Planning Commissioners to know that they have done a good job*. Keep in mind that grain carts can sink more than 4 feet.
	12. Jamie Fisk, Spink County – “*SCS pipeline is over 2100 psi. The county should be concerned about SAFETY and should have kept the six (6) feet depth*”.
	13. Leroy Braun, Spink County – “*There will be 2,000,500 gallons of CO2 between the 20-mile pipeline valves. The CO2 bubble can be up to 4,000’ cloud and can move up to seven (7) miles depending on weather, etc. I want to note that Trevor Jones doesn’t really care. He’s been in the hallway talking on his phone since he was done speaking. I am a previous firefighter and I recommend one (1) mile but would want a minimum of 2,500 feet*”.
	14. Mark Lapka, McPherson County landowner – “*I recommend that the Board require more than 1500’ and maybe look at 2,500 feet. I also recommend a depth of cultivation be put in the ordinance*”.
	15. Ed Fischbach, Spink County landowner – “*My son is a firefighter here in Brown County. The hazard that happened in Mississippi, the pipeline company filed bankruptcy before having to pay for damages. The SCS pipeline around here has said at several meetings that they will get 100% approval and will not use eminent domain to get this pipeline through. I would like your setback increased to 1-mile”.*
	16. Dana Siefkes-Lewis, Summit Carbon Solutions (SCS) – *“I believe there is misinformation out there about the SCS pipeline. I would like people to know that I am available to answer questions. I recommend the minimum of 50’ PHMSA”.*
	17. Craig Schaunaman, landowner – *“PHMSA is currently working on carbon dioxide research for future regulations. Neither pipeline company has offered their recommended setbacks as asked by the County Commission. SCS Pipeline has not offered an updated map as requested either. I recommend putting a level of cultivation in the ordinance for the minimum depth”.*
	18. Nancy Klipfel, landowner – *Talked about some of the pipeline going by the Elm Lake in Palmyra Township. Talked about loss of production on easement areas. Also talked about emergency responders had to use scuba gear for safety in PA.*
	19. Rick Adema, Volunteer Firefighter – *He has gone through an episode with* *CO2 and wants people to know how dangerous it is.*
	20. Janet Hedges, landowner – Talked about property values, the loss of commercial value with this pipeline going across their land, SCS Pipeline has been hard to work with.
	21. Frederick Field concerned citizen in Warner – “I want the people to recognize that Trevor Jones (SCS Pipeline) has been out in the hallway talking on his cell phone this whole meeting. Does that seem like someone that is concerned”.
	22. Travis Swisher, Warner – Wants pipeline stopped. Recommends new leaders to make the tough decisions needed. Listen to the people because they don’t want it. The county just needs to fight in court sometimes to get what they truly want.

Approximately 96 people were in attendance for this item.

Planning Commissioner Weisenburger moved, Gage seconded to close discussion, all members voting aye, motion carried.

1. **Other Business:** None
2. **Adjourn:** There being no further business before the Planning/Zoning Commission, North moved and Gage seconded to adjourn, and all members voting aye, motion carried.

 Submitted by: Planning/Zoning Director Scott Bader.