



GRANT COUNTY SOUTH DAKOTA  
PLANNING AND ZONING OFFICE  
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**Minutes from the meetings of Grant County Board of Adjustments and Planning Commission  
January 16th, 2024**

**Board of Adjustment members present:** Mark Leddy, Nancy Johnson, James Berg, and John Seffrood.

**Alternate(s) present:** Don Weber

**Board of Adjustment members absent:** Mike Mach, Richard Hanson, Tom Pillatzki and Jeff McCulloch

**Others present:** Lenny Stahl (Dakota Storage Buildings), Todd Kays (First District), and Steve Berkner (Grant County Planning Commission officer.)

**Meeting Date:** Tuesday, January 16th, 2024

**Meeting Time: 9:30 P.M.** In-person in the County Commissioners Room in the Courthouse.

1. Leddy calls the Board of Adjustment and special Planning and Zoning Commission meetings to order at 9:30.
2. Leddy asks if any member has anything to add to the agendas with none being offered.
3. Leddy sits alternate Don Weber.
4. Leddy makes an invitation for anyone present wanting to address the meetings with an item not on the agendas with no one responding.
5. Leddy asks for a motion to approve the agendas with Johnson making the first motion and Berg making the second. Motion passes 5-0.
6. Leddy asks for a motion to approve the Board of Adjustment minutes as submitted from the October 14<sup>th</sup>, 2023, Board of Adjustment meeting which was made by Berg with Weber making the second. Motion passes 5-0.
7. Leddy asks if any seated board or commission member if they think they need to recuse themselves from any discussion topics on the agendas, or from voting on an agenda item with no one responding.

8. Leddy calls for a motion to be made to consider two CUP amendment requests by Dakota Storage Buildings to amend their existing Conditional Use Permit, CUP12202001:

1) to allow Light Industrial Manufacturing to be permitted on their commercially zoned lot, and

2) to approve a future office addition site plan's frontage road setbacks.

Motion made by Johnson with a second made by Berg.

During Kays staff report he said that the two requests were follow-ups to previously discussed agenda items that began in October when it was discovered that the current county zoning ordinance, that was updated in 2004, had created conflicts not technically coinciding with the CUP granted to Dakota Storage Buildings in 2001.

Kays explained that once the errors were noticed that granting any new or amended CUP to the activity at that location was open to being challenged and emphasized that correcting the existing ordinance was the proper thing to do to protect the rights of the permittee.

According to Kays the actions needed included a zoning correction for the properties occupied by Dakota Storage Buildings, re-zoning from Ag to Commercial, and also allowing Light Manufacturing to occur on a Commercial lot, according to the original Dakota Buildings CUP. Kays said both of those corrections happened during the November Planning Commission meeting where the current action was the next step in completing that process.

Kays added the second part of the CUP amendment being considered for Dakota Storage Buildings was to grant a setback distance of 55' from the right-of-way to SD Highway 15, instead of the required 100' setback, where the right-of-way had recently been widened by the State of South Dakota during their 2022/2023 road reconstruction project even though the roads surface was not widened.

Kays said that over the years State Highway right-of-ways have been widened from their original widths, some originally as narrow as 66 feet, where now, if possible, they are being widened to 150' or more like happened south of Milbank adjacent to Dakota Storage Buildings

At the conclusion of Kays presentation Stahl was asked to comment where he concurred with Kays statement that the driving surface of Highway 15 was not any wider than before but that the right-of-way was made wider even though his building was originally over 125'

from the highway right-of-way. Stahl also said that if the narrower setback was permitted, he would need some extra time to renegotiate his lease on the land before construction would begin, which could take over a year.

Leddy then opened the public hearing for the proposed CUP amendments asking three separate times if there were any comments or concerns “for” or “against” granting the CUP amendments where nobody responded.

During board discussion two additional amendments to the original motion were discussed:

- 1) to include recently created and adjacent Commercial Lot 5 created out of necessity during the State’s right-of-way expansion, also used by Dakota Storage Buildings for their business operations, for the same Light Manufacturing use and setbacks allowed for Lot 2 and 3 in their original CUP amendment request, and
- 2) that issuing a building permit for an office addition related to the setback request would be valid for the length of the property lease between Dakota Storage Buildings and the landowner.

With no more meaningful discussion Leddy asked for the original motion to be amended to coincide with the two items discussed where both Berg and Johson agreed to amend their original motion.

Leddy called for a rollcall vote which passed 5-0.

9) Leddy calls for a vote to adjourn the Board of Adjustment meeting and reconvene as the Planning Commission for a joint meeting and public hearing with the County Commission to consider a motion to amend the Grant County Zoning Flood Damage Prevention Ordinance, Section 1106, to align with required State and Federal rules and regulations. Motion made by Seffrood and seconded by Weber and passes 5-0.

**The Board of Adjustment meeting ends at 9:59 and reconvenes at 10:00 in the Courthouse Community Room as a Planning Commission with the County Commission already in session where County Commissioner Mach joins the Planning Commission quorum of seven.**

10) Leddy calls for a Planning Commission motion to open a joint public hearing with the County Commission to consider recommending to the County Commission, Ordinance number 2024-01, AN ORDINANCE TO REPEAL AND REPLACE SECTION 1106 FLOOD PLAIN PREVENTION ORDINANCE ADOPTED BY ORDINANCE 2004-01, AS AMENDED, OF THE

ZONING ORDINANCE OF GRANT COUNTY. Motion made by Johnson with a second by Seffrood.

Leddy asks Kays to give a staff report on the proposed zoning amendment changes where Kays said that the 23-page amendment, replacing the existing 7-pages in the current Flood Damage Prevention Ordinance, had been drafted with the help of FEMA's Region 8 District to meet the minimum FEMA zoning requirements as required by State law.

Kays said that a majority of the changes were actually an over explanation of what the county already had in place for a Flood Damage Prevention Ordinance where the biggest changes actually come on March 27<sup>th</sup> when FEMA updates the county floodplain maps replacing the maps last updated by FEMA in 2009.

Kays went on to explain that FEMA had been working with the county for over three years on updating the county's floodplain maps where public input was considered. According to Kays this is the final step in that adoption process.

Kays said that failure to pass an updated flood damage preventative ordinance prior to March 27<sup>th</sup> would put those residents in the county that need flood insurance in peril of either losing that flood insurance opportunity or experience much higher flood insurance premiums. Kays added other risks included the county losing, or having greatly reduced, future FEMA payments related to natural disasters.

Kays went on to say that local governments in South Dakota don't really have any room to lessen the minimum standards required by FEMA for a flood damage prevention ordinance as by State Law local governments have to accept them and amend their existing zoning ordinances accordingly where if the so chose, they can always create stricter ordinances.

At the conclusion of Kays staff report Leddy asked three separate times for any public comment or concerns, both "for" or "against" considering the amendment to the Flood Damage Prevention Ordinance, where no one responded. Leddy closed the public hearing inviting Planning Commission discussion.

With no meaningful discussion or amendments to the original motion Leddy calls for the roll-call vote for the Planning Commission to recommend that the County Commission amend the Flood Damage Prevention Ordinance as presented which passes 6-0.

Leddy calls for a motion to adjourn as a Planning Commission which is made by Johnson and seconded by Seffrood and passes 6-0.

Steve Berkner  
Planning and Zoning Administrator  
Grant County