

# LAWRENCE COUNTY PLANNING & ZONING BOARD

MINUTES OF APRIL 5, 2018

REGULAR MEETING

The regular meeting of the Lawrence County Planning & Zoning Board was called to order by Chairman, Rick Tysdal on Thursday, April 5, 2018, at 1:30 p.m. in the County Commission Meeting Room, 90 Sherman Street, Deadwood, SD.

Present: Kelly Fuller, Rick Tysdal, Daryl Johnson, Julie Stone and Travis Schenk.

Absent: Tom Brady and Scott Gullickson

All motions passed by unanimous vote of all members present unless otherwise noted.

Moved-Seconded (Schenk-Stone) to approve minutes of the March 1, 2018, meeting. Motion Carried.

Moved-Seconded (Schenk-Stone) to approve the Agenda with the removal of Item E and Item H is in Maitland area, not Galena. Motion Carried.

Declaration of Conflicts of Interest: Fuller - Items R, S, & T and Stone-Item O.

## **FINAL PLAT for Northern Hills Industrial Park**

Lot 3 of Northern Hills Industrial Park in Section 16, T6N, R4E. Located off of Hwy 34 near Whitewood. Creates a new lot in an existing subdivision. Property is .914 acres and zoned C/LI- Commercial Light Industrial. Industrial Drive is the access to the property. The water system and well are in and in operation. This development does have some fire hydrants. Each lot will have an individual septic system. A fire plan was approved per the regulations at the time.

Moved-Seconded (Stone-Johnson) motion to approve Final Plat. Motion Carried.

## **FINAL PLAT for Frawley Ranch East**

Lot 72 of Frawley Ranch East located in Section 18, T6N, R4E. Located off of Hwy 34 on Acorn Ridge Rd. Creates a new lot in an existing subdivision. The lot will be 2.077 acres and zoned A-1- General Agriculture.

Moved-Seconded (Stone-Schenk) motion to approve Final Plat. Motion Carried.

## **FINAL PLAT for T Plot's Retreat LLC**

Lot 68R, Blk 2 of Tract C of Lost Camp Valley Acreage, Section 2, T4N, R2E. Located near Terry Peak. Replat of Lots 68 & 69 into 1 lot known as 68R. Lot is 1.318 acres and zoned SRD-Suburban Residential and will decrease density. This subdivision was created in the 60's as a very small lot. All existing lots are grandfathered with the small lot sizes as long as we have an engineered design for septic an individual septic system. The water system is in the Terry Trojan Water District. A fire plan was not required at the time this subdivision was created. Roads are a part of the Terry Peak Road District.

Moved-Seconded (Stone-Schenk) motion to exempt Final Plat. Motion Carried.

Moved-Seconded (Stone-Schenk) motion to approve Final Plat. Motion Carried.

## **FINAL PLAT for Jeffrey Hohle & Johanna Meinhardt-Hohle**

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Hohle Tract located in Section 13, T5N, R2E. Located off of Maitland/Ida Grey Road. Combining mineral survey lodes into 1 lot. Acreage is 15.078 ac. And zoned as PF- Park Forest. Jeff Hohle would like to combine the 2 mineral survey lodes into 1 lot. This will decrease density. The access to the property is through the Ida Grey Road District. This Tract would use an individual septic system and a private well. There are no structures on the lot and no preliminary plat is needed.

Moved-Seconded (Stone-Schenk) motion to exempt Final Plat. Motion Carried.

Moved-Seconded (Stone-Schenk) motion to approve Final Plat. Motion Carried.

## **PRELIMINARY & FINAL PLAT for Terry Nelson**

This property has access from Hwy 385 a SD State Highway as well as Brownsville Road and County Primary Road. Acreage is 16.416 acres and zoning is PF- Park Forest. and HSC - Highway Service Commercial. The property does have an existing septic system and well already on the property with 2 pole buildings. It has a lot of floodplain therefore will need special permitting for floodplain regulations.

Moved-Seconded (Stone-Schenk) motion to exempt Preliminary Plat. Motion Carried.

Moved-Seconded (Stone- Schenk) motion to approve Preliminary Plat. Motion Carried.

Moved-Seconded (Fuller-Stone) motion to approve Final Plat. Motion Carried.

## **PRELIMINARY & FINAL PLAT for Wortman/Glader**

Lots W1, W2 and W3, Blk D in Section 18, T5N, R3E. Located off of Maitland Rd. Combing old town lots into W3 and subdividing the original Lot 1 into W1 & W2. Acreage for lots are W1 (.254 acres); W2 (.213 acres) and W3 (.0572 acres). It is zoned PF-Park Forest District. They have individual septic tanks plus a shared well. Access to the lots from is from Carbonate Lane. A fire plan is coming from Rob Mattox.

Moved-Seconded (Fuller-Stone) motion to approve Preliminary Plat. Motion Carried.

Moved-Seconded (Stone-Schenk) motion to approve Final Plat. Motion Carried.

## **PRELIMINARY & FINAL PLAT for Jason & Mandi Scott/Thomas & Bobbie Schneller**

Preliminary & Final for Lots 13A and 26A of Spruce Mountain Estates No. 1 Sub. in Section 13 & 14, T6N, R4E. Located off of Whitewood Valley Road. They are creating a Lot line revision. Lot acreages are; Lot 26A (5.119 acres) and Lot 13A (8.989 acres). Zoning is PF-Park Forest District. Property is in Spruce Mtn Estates which is located off of a county road. Each lot has individual wells and individual septic systems. A Fire plan was not required in this subdivision. There is a section line through these lots, but it was vacated per doc # 2004-8217.

Moved-Seconded (Stone-Schenk) motion to exempt Preliminary Plat. Motion Carried.

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Moved-Seconded (Schenk-Stone) motion to approve Preliminary Plat. Motion Carried.

Moved-Seconded (Stone-Schenk) motion to approve Final Plat. Motion Carried.

## **FINAL PLAT for Matt Kirk**

Lot 11A and Lot 12A, Blk 9 of Tract A of Lost Camp Valley in Section 2 & 11, T4N, R2E. Located at Terry Peak. A Lot line revision between 2 lots. Acreages are: 11A (.530 acres) and 12A (0.528 acres). Zoning is SRD- Suburban Residential District. This subdivision was created in the 60's. All existing lots are grandfathered with the small lot sizes as long as we have an engineered design for septic on an individual septic system. It does have a public water system the Terry Trojan Water District. A fire plan was not required at the time this subdivision was created. Not all roads have been completed due to the terrain, which is why Mr. Kirk is requesting the lot line change to have them run the opposite direction as the lots would have access to a completed road.

Moved-Seconded (Stone-Schenk) motion to exempt Final Plat. Motion Carried.

Moved-Seconded (Stone-Schenk) motion to approve Final Plat. Motion Carried.

## **FINAL PLAT for David Anderson**

Lot 13A part of Smokey Mt Ranch Sub in Section 28 & 33, T6N, R4E. Located off of Crook City Road. Combining Lot 13 & 14 into one lot. Acreage is 4.110 acres. Zoning is SRD-Suburban Residential District This subdivision was created in 2006 with a public road system; individual wells and septic systems. They have a fire plan as provided in the covenants recorded. This plat does not have any of the 100 PPM arsenic levels from the Whitewood Superfund Site.

Moved-Seconded (Schenk-Stone) motion to approve Final Plat. Motion Carried.

## **FINAL PLAT for Two Bit LLC**

Lot 20 of Golden Hills and dedicated public ROW all located in Sections 25 & 36, T5N, R3E and Sections 30 & 31, T5N, R4E (legal shortened). Located off of Two Bit Road. Creating a new lot in an already approved subdivision. Acreage of lot is 9.063 acres. It is zoned PF-Park Forest District. The preliminary plat was approved in 2005 with road profiles by Brad Ellis. This lot sits on Calendar Court and the current road needs to be cleaned up and re-graveled. Allan Bonnema, Lawrence County Highway Superintendent visited the site and he has stated in an email to planning and zoning that the cul-de-sac needs improvements. The owner plans to do this as soon as the weather allows. Schenk does not feel the plat should be approved until the road meets specs.

Moved-Seconded (Fuller-Schenk) motion to Deny Final Plat until roads and cul de sac is updated. Motion Carried.

## **FINAL PLAT for BH Development & BH Properties**

Lots 4, 5, 6, and 11, Blk 1 of Ridgewood Addition of Powder House Pass in Sections 7 & 8, T4N, R3E. (legal shortened). Located off Hwy 85 in Powder House Pass. Creating new lots in

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an approved subdivision. Acreages are Lot 4 (.869 acres); Lot 5 (.886 acres); Lot 6 (1.350 acres)' Lot 11 (.765 acres) and Dedicated Public ROW (1.397 acres). Lots are zoned PUD- Planned Unit Development And PF- Park Forest District. This subdivision was created in 2011 under a PUD zoning. It has an overall Master Plan which included public roads; a public water system and a public sewer system. We have an existing bond in place to finish of the sewer system and there will be a new bond coming up in April in front of the County Commissioners to include the 2 areas needing completion of roads; sewer; water; infrastructure on the last 2 preliminary plats submitted last month. The lot layout matches the approved preliminary plat as submitted in 2018.

Moved-Seconded (Stone-Schenk) motion to approve Final Plat with condition that bonding takes place at the County Commission meeting April 10, 2018. Motion Carried.

## **PRELIMINARY & FINAL PLAT for Ronald & Kathleen Doerr**

Preliminary & Final plat for Lot 26A, Blk 7 of Lost Camp Valley Acreage Sections 2 & 11, T4N, R2E. (legal shortened). Located off Buffalo Trail in Terry Peak Sub. Combining lots 26 & 27.

Moved-Seconded (Stone-Schenk) motion to approve Preliminary Plat. Motion Carried.

Moved-Seconded (Stone-Schenk) motion to approve Final Plat. Motion Carried.

**RECESS**-Chairman Tysdal called a 10-minute recess from 2:00 pm to 2:10 pm

## **PUBLIC HEARING-CUP # 444 for Kenny Gardner**

Request to apply for a Storage Units Conditional Use Permit on property described as Lot D of Sawpit Tract, being a portion of the Bingham Lode MS 1379 et al all located in Section 29, T5N, R3E. Located off of Hwy 85 on Cutting Mine Road. Amber Vogt, Lawrence County Planning and Zoning Director, informed the Board that Barrick Gold-Homestake Mining Co. sent an email to her in regard to the easement that the Gardners share with them. It stated that the easement will be updated once the foundations are in place.

Proponents: Kenny Gardner shared that he plans to have about 10 - storage units.

Opponents: None

Proponents: None

Opponents: None

Moved-Seconded (Schenk-Fuller) motion to approve CUP #444 with attached conditions. Motion Carried.

**Public Hearing Set with County Commission: April 24, 2018, 9:00 AM.**

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## **PUBLIC HEARING-COZ #321 for Bruce Keller & Traci Rambo**

Request to apply for a change of zoning from SRD-Suburban Residential to RC- Recreation Commercial to place a small campground/resort development on property described as Tract 5 & 6B of M.S. 1368 all located in Section 27, T3N, R5E. Located off of Hwy Nemo Road. Vogt gave an overview of the request and told the Board of the letters that have been received concerning COZ #321. The property has one access of 20' and another of 40'.

**Proponents:** None.

**Opponents:** **Margie Ford, 12716 Nemo Rd.** explained that when she sold the property to Bruce Keller it was intended for residential use and she has a 20" easement with the applicants that is private and not for commercial access. The easement runs through her yard where she has children and animals playing. She also has concerns about the capacity of the septic that the applicants intend to install. **Nathan Chicoine of Gunderson, Palmer, Nelson & Ashmore, LLP, Representative for Dan Martin, 12751 Martin Rd, Nemo,** referenced the County Comprehensive Plan and stated that the Recreational Commercial Zoning is not compatible with the Plan because it is not keeping the area rural and sparse with large residential lots. He also went over the Zoning Ordinance for Recreation Commercial and pointed out how the intended plan that the applicant has does not fit the Nemo Area as his client sees. Chicoine said that Dan Martin did not intend this property to be used as a commercial area. The other properties in the area have Highway Service Commercial Zoning and the access is not sufficient for commercial use. **Trevor Ford 12720 Nemo Rd.,** also has an issue with the easement that also runs through his yard. He is concerned about liability in the easement and how the plan would decrease land values. **Susan O'Dea 12732 Troxel St, Nemo,** informed the Board about traffic in the area now and her worries about an increase and sewage problems that may arise. She said there are children that play on the side road and she is worried for their safety. She would like to see Nemo have more traffic control before more businesses are opened. **Terry Schank, 12712 Nemo Rd.** Also mentioned the problem with the access to the property. **Joan Rech, 12758 Nemo Rd.,** has concerns with aesthetics and decrease of property values.

**Proponents:** **Patsy Hood, 12742 Nemo Rd.,** said that Nemo is a Recreational area now and that she supports the local businesses. She does not feel that the increase in visitors will be more disruptive than what is at present. Applicant **Traci Rambo, 12734 Nemo Rd,** stated that Nemo is indeed a recreational area. She addressed the issues raised by the opponents such as noise, easements and high traffic. She approached specific matters of contention that go on in Nemo at present, such as trash burning and motorcycle rally camping. She explained the access easement with Margie Ford has no restrictions according to judicial review. Applicant Bruce Keller stated that the septic system will be engineered to the proper specification needed for the plans they have for the property.

**Opponents:** **Cameron Zopp, 12686 Box Elder Forks Rd, Nemo** shared his concern about the access that is less than 40'. **Dominic Wolf, 22139 Cumnock Ln. Nemo,** has a concern about

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residents not following the procedure for development of Nemo. He also reminded the Board of its obligation to follow the Comprehensive Plan, stating that if this goes through and the right attorney gets ahold of it there will be litigation. If that happens he feels that the taxpayers will have to pay for litigation. Mr. Wolf will not be a happy camper and suspects that there will be new Board members and new employees at the County because they are obligated to follow the Comprehensive Plan. **Margie Ford** clarified the use of her property during the summer and the business use of the garage that Trevor Ford owns. She stated that she sold the land for horse pasture and has a document with 60 signatures opposing this COZ. **Rodney Brakken, 12633 Caroline Pl. Nemo**, felt that the septic system engineering should be looked at by the Board before a decision is made. **Bonnie Atkinson 12708 Troxel St. Nemo**, has concerns about increased traffic on the main roads in Nemo. **Rick Krahn, 12643 Caroline Place, Nemo**, Stated that the zoning laws are in place to protect the people. He expressed his regard for the landowners that have retired there and put improvements on their property and should not have to deal with the changes that are taking place such as commercial zoning in Nemo.

**Proponents:** **Traci Rambo** requested to be given the chance to do something good for Nemo that is done within the correct procedures. **Bruce Keller** stated that the 40' access is sufficient for the traffic that they would have. It is now being used for Life Flight and Fire Emergency access. He shared that this access is used by the Mercantile currently and that he would be making any guests to his property will have to sign an agreement to control noise.

**Discussion:** The Board discussed the property access. Vogt explained that there is no definition of commercial vs. private easements. Johnson stated that the 40' easement used for the Mercantile can be used for this plan. Outka mentioned that access from the main road may require turning lanes and updates to support this and that a COZ does not override an easement. The option for a CUP for this property was discussed. Johnson reminded the Board and the Public that a CUP can be pulled due to something that an applicant or a guest on the property does improper to the conditions of the CUP. There was an acknowledgment from the Board that ATV's have been a problem in Nemo. Vogt clarified that they are vehicles licensed for public roads. Johnson addressed the idea of having more law enforcement in Nemo for traffic and reminded that there is a monetary cost for more services ie. taxes. He also remarked that some of the landowners of properties and businesses in the room contribute to the traffic problems that upset their neighbors. He also informed the room that the Commission is looking at funds to update the LC Comprehensive Plan in 2019. Vogt read the the current list of uses for the Nemo Area and considerations for COZ 's from Zoning Ordinance Chapter 17. Fuller noted that public input was not listed as a consideration. Outka clarified that the Board and the Commission does look at the overwhelming opposition to an application. Tysdal called up the fact that access easements are not a public issue but that a CUP might be a better option for the Kellers. Stone expressed her concern about the current access is not appropriate for RC zoning. Schenk explained how CUP's can be taken away through a complaint process and that some properties in Nemo have Grandfathered uses. He feels that the Nemo area is good for the RC zoning but the access to this particular property is a problem. Stone discussed how other

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campgrounds in the County have access of various sizes. The Board talked more about access Schenk said that he would like a way to control which access is used for the applicant plans.

Moved-Seconded (Schenk-Johnson) motion to approve COZ # 321 based on conditions, with reservations about access used.

Discussion on the motion: Johnson said that the Kellers plan looks like a good plan for the property and the area yet even if COZ is granted the Kellers may not complete their plans for intended use. Schenk added that a CUP may be a better option for their intended use. Fuller suggested looking at the whole Nemo area and the resident's input in regard to plans for the area. Roll Call Vote: Nay: 5- Fuller, Tysdal, Johnson, Stone and Schenk. Motion Denied.

Moved-Seconded (Stone-Fuller) motion to Deny recommendation of COZ # 321 due to the intensity of use allowed in the RC District is greater than access can handle and it would add to already chaotic traffic conditions. Motion Carried.

**Public Hearing Set with County Commission: April 24, 2018, 9:15 AM.**

## **INFORMATIONAL MEETING-COZ #322 for Terry & Linda Nelson**

Request to apply for a change of zoning from PF-Park Forest to HSC-Highway Service Commercial. The property has access from two main highways and an easement next to the Brownsville Fire Department. There is a large area of floodplain on the property. The applicant does not have any commercial plans at this time but has made many improvements since the property was purchased.

**Public Hearing Set with Planning and Zoning Board: May 3, 2018, 1:30 PM.**

## **INTERPRETATION-David Wilson-Canyon Cab Co**

Request to allow a Taxi Cab Co with approx. 10 vehicles to be considered a Home Occupation on property located at 135 W. Hwy 14 in Spearfish along Old Hwy 14. Vogt briefed the Board that the Lot is in the process of a subdivision with The City of Spearfish. It is zoned SRD. Dave Wilson has an established cab company based out of Spearfish. It operates 24/7 and has 10-12 employees. He plans to park the Taxi Cabs behind the garage on the property. The Planning and Zoning Board agreed that this did not qualify as a Home Occupation per Ordinance Chapter 10 Article 3 due to having more employees than allowable. They recommend the applicant use the CUP process for his business.

## **INFORMATIONAL MEETING-ORD 18-02 for David Wilson/Canyon Cab Co**

Request to apply for a text amendment to the SRD zoning district to allow a Taxi Cab Co as a Conditional Use Permit as well as defining this term.

**Public Hearing Set with Planning and Zoning Board: May 3, 2018, 1:30 PM.**

## **INFORMATIONAL MEETING-CUP # 445 for David Wilson/Canyon Cab Co**

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Request to apply for a Taxi Cab Co CUP at 135 W Hwy 14 in Spearfish off of Old Hwy 14. The property is two acres and is zoned Suburban Residential District. Mr. Wilson Dave Wilson has an established cab company based out of Spearfish. It operates 24/7 and has 10-12 employees. Employees come to the site to pick up cabs and leave most of the day. There would be no customers coming to the property. He does not plan on signage. The existing residence would be used as a home and business office.

**Public Hearing Set with Planning and Zoning Board: May 3, 2018, 1:30 PM, pending Recording of the new plat with the City of Spearfish.**

**DISCUSSION ITEM**-Review of setbacks to foundations

The County Commission requested that the Planning and Zoning Office do research and give input on how counties and cities in the state measure from structures to setback lines for policy recommendation. Vogt told the Board here has been contractor confusion. She reported that most counties in the State measure setbacks from the outermost projection and cities measure from the foundation of the building. The Board discussed carports and enclosed building projections such as decks and bay windows.

Motion-Second (Fuller-Schenk) motion to recommend to measure to the foundation, covered porches do not count in that unless it becomes an enclosed porch. Motion Carried.

**Items from Planning & Zoning Board Members**

None.

**Opportunity for Public Comment**

None.

The meeting adjourned at 4:58 PM.

APPROVED: \_\_\_\_\_ Date: \_\_\_\_\_

Rick Tysdal, CHAIR

ATTEST: \_\_\_\_\_ Date: \_\_\_\_\_

Kelly Fuller, SECRETARY