

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF JANUARY 2, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, January 2, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Kullbom, Derosier, Coburn, Weisenberg

ABSENT: Mickelson and Fuller

MINUTES *Coburn moved to approve the minutes of December 5, 2002.*

APPROVED: *Kullbom second and the motion carried unanimously.*

ELECTION OF OFFICERS: Kullbom moved to delay the election of officers until the February meeting when there is a full board. Coburn second and the motion carried unanimously.

PUBLIC HEARING - REQUEST FOR CONDITIONAL USE PERMIT #285 – Charles C. Snyder – Lot 16A and Lot 16B-1, subdivision of Lot 16 of the subdivision of the W¹/₂ of the SE¹/₄ of Section 4, T6N, R2E, B.H.M. – 398 Hillsvie Drive, Spearfish, SD (Prairie Harvest Building).

Charles Snyder was present at the meeting. Snyder summarized his presentation for the audience. Joe Picasso, a neighbor in the area, was present to listen to the proposal. Picasso explained that he had spoken to Snyder on the telephone and that he did not have a problem with the plan. Picasso questioned whether Snyder would be doing any welding? Snyder answered that he may weld once a year. Picasso stated he was trying to “protect” a corner of his property but that he was told the proposal allowed for space for expansion further west from his property. The Commission explained that annual reviews would handle any complaints that may come up with the business. *Kullbom moved to approve Conditional Use Permit #285. Coburn second and the motion carried unanimously.*

REQUEST FOR CHANGE OF ZONING #227 – Timothy Madsen - Lots 10 and 11, H.E.S. 297, Sec. 19, T4N, R4E, B.H.M. - Approximately 7 miles south of Deadwood off of Highway 385.

Timothy Madsen, property owner, was present at the meeting. Madsen handed out his presentation and summarized the proposal. The property is located 7 miles south of Deadwood and is zoned PF-Park Forest. The property is bordered by forest service lands on the west and to the south and access would be directly off of Highway 385. There are (2) two commercial properties adjacent to this property, Hidden Valley Campground and the Charles Vig property (formerly Melody Lane Campground). Madsen stated that snowmobile Trail #7 is routed through his land and he proposes the rental of (20) twenty snowmobiles and the construction of (2) structures with (2) two units in each to rent as cabins. Madsen has constructed a building to be used as an office and will operate during the winter months from 7:30 until 6:00 p.m., seven days a week. Portable toilets will provide restroom facilities. The proposed cabins will have an engineered septic system, and water will be provided by the well existing on the property. The

cabins will have parking in front of the units, and the cabins will be of rustic design. The cabin dimensions will be 15X15. There will be a bedroom, a kitchen and full bath. Madsen furthered stated that business signs would be shown at the highway access point and on the rental office. There is a yard light on the property and additional lights will be hooded and directed away from other properties and the highway. Madsen continued to explain that there would be a maximum of (3) employees but that number could vary. The time frame for getting the proposal up and running would be to rent snowmobiles beginning in 2003 and the cabins built by 2005. Madsen stated that the ATV rental that was written in the proposal would no longer be considered. ***An onsite inspection was scheduled for January 10, 2003 at 1:00 p.m. The public hearing was scheduled for February 6, 2003.***

REQUEST FOR CHANGE OF ZONING #226 - Joseph W. M. Jansen - Lot 3-B a subdivision of Tract 3 of the Fay No. 3, Albert Steele Fraction, Hazard, Log Cabin and Violet No. 3 Lodes of M.S. 1200, located in Section 19, T4N, R3E, and Section 24, T4N, R2E, B.H.M. - Aztec Hill, 2½ miles southwest of Lead off Hwy. 14A/85 (next to Recreational Springs Resort).

Joseph and Irma Jansen, applicants, were present at the meeting. Joseph Jansen began by indicating the location of the property as being east of Recreational Springs Resort surrounded by Golden Reward and Forest Service property to the west and across the highway is the Deer Mountain subdivision and ski area. The access to the property is off of Highway 14A/85 with access approval by the South Dakota Department of Transportation. The water for the resort will be supplied by connecting to the Homestake water line. The septic system will be engineer designed as per the Lawrence County Zoning Ordinance. Two (2) fire hydrants will also be installed. The roads within the 19-acre parcel will also be an engineer design. Jansen stated that each individual lodging facility would be separated by an open space. Jansen will offer a log style lodge with kitchen for fast food preparation; a 2000 sq. ft. dormitory with one open room and 10 showers, 10 toilets and 8 sinks. The building will also have the housekeeping/laundry room facilities within it. There will be 20 full service cabins, 40 full hookup RV sites along with a shop area for equipment maintenance and horse stables. Jansen further stated partial construction will begin on the resort after approval and that the proposal would take 5 years to complete. The area offers hiking, mountain biking, horseback rides, guided ATV rentals and snowmobile rentals. The snowmobile and ATV guests will be notified that they are not permitted in the Deer Mountain subdivision. The Jansen's hope to attract international tourist travel, and they, also, plan to keep the timbered area the same as it is whenever possible. There will be permanent employees and also seasonal employees. Weisenberg asked if Homestake was in agreement to allow a connection to the water line. Jansen said the property owner was going to handle getting in touch with Homestake and so far the Jansens had not heard of a problem. Coburn asked if there was adequate water from the Homestake line? Erik N. Birk, Lawrence County Planning and Zoning Administrator, stated that the water line supplied water to the Deer Mountain Subdivisions and to Recreational Springs Resort. Coburn was concerned that this additional connection to the water line would "tax" the water system, too. The Commission felt that the water issue was a concern and requested that the Jansens find out as many answers to this question as possible before the public hearing. ***An onsite inspection was scheduled for January 10th at 2:00 p.m. The public hearing was scheduled for February 6, 2003.***

PLAT – FINAL – Kevin McKee – Plat of Lot 1 and Lot 2 of Haven Meadows Subdivision, all located in the NE¼SE¼ of Section 12 lying west of Highway 385, T2N, R4E, B.H.M. (Lot 1 = ±7.28 acres and Lot 2 = ±5.53 acres).

Birk indicated the location of the lots on the preliminary plat. The plats are being brought before the Planning and Zoning Commission for final approval as they are sold. SD DOT approved the access easements off Highway 385 to this subdivision. ***Coburn moved to approve the final plat. Weisenberg second and the motion carried unanimously.***

PLAT - PRELIMINARY AND FINAL – Roderick and Nancy Galland – Plat of Spearfish Canyon Lot C-5A and Lot 77A formerly of Spearfish Canyon Lot C-5 and Lot 77, being portions of the Meadow No. 2 and No. 3, M.S. 1564, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22, T4N, R2E, B.H.M. (Lot C-5A = \pm 2.30 acres and Lot 77A = \pm 1.16 acres).

John Arleth of Arleth and Associates was present at the meeting. The property owner is selling Lot C-5 and retaining Lot 77. The purpose of the plat is to add more of the creek area to Lot 77 for the property owner to keep. ***Weisenberg moved to approve the preliminary plat. Kullbom second and the motion carried unanimously. Kullbom moved to approve the final plat. Weisenberg second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL - Marjorie, Phillip and Tammy Reif – Plat of Tract 1A and Tract 3A formerly Tract 1 and Tract 3, being all of the Standard and Silver Glance Lodes, and a portion of the Mondamin and Ceroite Lodes, M.S. 1932, all located in Sections 1 and 12, T4N, R3E and Section 6, T4N, R4E, B.H.M. (Tract 1A = \pm 26.58 acres and Tract 3A = \pm 4.80 acres).

John Arleth of Arleth and Associates was present at the meeting. The purpose of the plat is so the property owner could sell Tract 1. Tract 3 will be retained by their children and made larger from land transferred by this plat from Tract 1. ***Coburn moved to approve the preliminary plat. Weisenberg second and the motion carried unanimously. Kullbom moved to approve the final plat. Coburn second and the motion carried unanimously.***

PLAT – FINAL – Dwight Ahlers – Plat of Lots 8, 14 and 15 of Spruce Mountain Estates No.1, located in the W $\frac{1}{2}$, NW $\frac{1}{4}$ of Section 13, and the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 14, T6N, R4E, B.H.M. (Lot 8 = \pm 5.51 acres, Lot 14 = \pm 4.75 acres and Lot 15 = \pm 4.90 acres).

Dwight Ahlers, developer of the Spruce Mountain Estates, was present at the meeting. Ahlers indicated the location of the property on the preliminary plat. The access to the lots is off of Jackson Road, which is a county road. Ahlers pointed out the change to Lot 8, which was to move the road in order to avoid a rock pile area. Weisenberg asked if there was a road district in place? Ahlers stated that when a lot is purchased the new property owner pays a \$200.00 up front that is for road maintenance. Birk requested that a new preliminary plat will be brought in that will indicate the changes in the lots that was not approved when the first preliminary was approved. ***Weisenberg moved to approve the final plat. Kullbom second and the motion carried unanimously.***

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF FEBRUARY 6, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, February 6, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Derosier, Coburn, Mickelson, Fuller, Mattson, and Flanagan

ABSENT: Kullbom

MINUTES *Coburn moved to approve the minutes of January 3, 2003.*

APPROVED: *Mickelson second and the motion carried unanimously.*

ELECTION OF OFFICERS: Nominations were heard and Planning and Zoning officers were elected as follows: Chairman – Leo Derosier, Vice – Chairman – Bill Coburn and Secretary – Craig Mickelson.

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #226 - Joseph W. M. Jansen – To allow lodging facilities, cabins, RV sites and related activities - Aztec Hill, 2½ miles southwest of Lead off Hwy. 14A/85 (next to Recreational Springs Resort).

Joseph and Irma Jansen were present at the meeting. Joseph Jansen summarized his proposal by indicating the location of the property. Jansen will offer a log style lodge with kitchen for fast food preparation; the lodge will also have a conference/meeting room, there will be a 2000 sq. ft. dormitory with one open room and 10 showers, 10 toilets and 8 sinks. The building will also have the housekeeping/laundry room facilities within it. There will be 20 full service cabins, 40 full hookup RV sites along with a shop area for equipment maintenance and horse stables. The access to the property is off of Highway 14A/85 with access approval by the South Dakota Department of Transportation. The water for the resort will be supplied by connecting to the Homestake water line. The septic system will be by a state certified professional engineer designed and approved per state regulations. Jansen stated he would offer hiking, mountain biking, horseback rides, guided ATV rentals and snowmobile rentals. Joe Moak, Recreational Springs Resort, which lies adjacent to the property in this proposal, voiced concerns in regard to the water issue, adequate electrical power. Moak stated that there had been several outages and also snowmobile noise issues. Jim Lessard of Golden Reward Mining Company asked the Jansens how they were going to access the Forest Service land from their land through private property and across the Game, Fish and Parks snowmobile trail? Jansen stated that he would obtain the proper permits from the Forest Service and Golden Reward. Mattson asked how many acres were being purchased? Jansen answered that there are 17 acres south of the highway and 2 acres north of the highway. Mickelson asked what was planned for the land north of the highway? Jansen answered that they would build one cabin on that portion of the land for themselves. Coburn stated his concerns about ATV vehicles through private land on the Mickelson trail. After the time frame for snowmobile use expires, there is no allowance for any other vehicles on the trail when it goes through private land. Mickelson stated he had a problem with the ATV traffic and felt the proposal should be limited to the south side of the highway to eliminate any problems with the existing residential area on the north side. Jansen stated that he would be in

agreement to eliminating that portion of the property on the north side of the highway from the change of zoning request. Coburn asked if Jansen was looking at buying the water district? Jansen stated that the contract would include the purchase of the water district owned by Milton Morris, the property owner. Jansen informed the Commission that his idea was to create a co-op with each user of the water from this source; in the event of resale he would take his share from the co-op and then, the co-op would continue. Steve Ryan, who has the DENR certification for the water, was asked if there was adequate water from the Homestake water source for this new proposal? Ryan answered yes. ***Mickelson moved to approve the change of zoning with two stipulations 1) the legal description would reflect the removal of the portion of the property on the north side of the highway from the change of zoning request and 2) if the sale of the property to the applicant should fall through, the change of zoning would be void under the present property owner. Coburn second and the motion carried unanimously. The public hearing with the County Commissioners was scheduled for February 25, 2003.***

REQUEST FOR CHANGE OF ZONING #228 – Dale Bell and J.D. Bell – To allow an outdoor café and general/antique store - Approximately 1½ miles south of Lead off of Hwy. 14A/85.

J.D. Bell, was present at the meeting. Bell began by stating the location of the property and his plans to create a “hometown, folksy” establishment. The existing 1888 cabin would be renovated with a new kitchen, new roof and siding and a covered deck area used for the outdoor café. The hours of operation would be 11 a.m. – 8 p.m., 7 days a week and there would be (2) two employees. Bell would offer an antique store and general merchandise for sale to the public. There would be seating for (20) twenty people at the outdoor café. Bell stated he would like to add on to the original cabin for indoor dining next year. The electrical service and plumbing would be brought up to code. Bell stated that he would install an engineer approved septic system and would use the untapped well that was drilled in 1988 as the water source. Water testing would be conducted as per State requirements. Parking would allow (4) four spaces to the west of the building and (7) seven spaces on the north side with an overflow on a lower lot to the east. The access from Hwy. 14A/85 will be improved to meet line of sight requirements as per SD DOT. Mattson voiced her concern about the approach from the highway. Bell stated that the approach would be improved by moving the highway access 75 feet to the north. ***The Commission will conduct on – site inspections of the property at their convenience. The public hearing with the Planning Commission was scheduled for March 6, 2003.***

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #227 – Timothy Madsen – To allow for cabin rental and snow mobile rental - Lots 10 and 11, H.E.S. 297, Sec. 19, T4N, R4E, B.H.M. - Approximately 7 miles south of Deadwood off of Highway 385.

Timothy Madsen, property owner, was present at the meeting. The property is located (7) seven miles south of Deadwood and is zoned PF-Park Forest. Forest service lands on the west and to the south border the property and a new access would be directly off of Highway 385. There are (2) two commercial properties, each zoned HSC – Highway Service Commercial, adjacent to this property, Hidden Valley Campground and the Charles Vig property (formerly Melody Lane Campground). Madsen stated that snowmobile Trail #7 is routed through his land and he proposes the rental of (20) twenty snowmobiles and the construction of (2) structures with (2) two units in each to rent as cabins. Madsen has constructed a building to be used as an office and will operate during the winter months from 7:30 a.m. until 6:00 p.m., seven days a week.

Portable toilets will provide restroom facilities. The proposed cabins will have an engineered septic system, and water will be provided by the well existing on the property. The cabins will have parking in front of the units, and the cabins will be of rustic design. The cabin dimensions will be 15X15. There will be a bedroom, kitchen and full bath. Madsen stated that the snowmobiles will not be fueled on the property and would be returned after rental with a full tank of gas. Coburn asked about the off-road vehicle rental. Madsen stated that originally he had proposed the ATV rental but has since reconsidered and would not be renting ATV's from the property. After comments from Coburn, Birk asked Madsen, for the record, if he would be renting ATVs from the property? Madsen answered no. Mattson asked how the other properties were zoned in the area? Birk answered that the commercial properties are HSC-Highway Service Commercial. Coburn asked if there would be "an advantage to the county to have this property zoned RC – Recreation Commercial"? Birk answered that zoning the property HSC – Highway Service Commercial would "keep the property consistent with what was out there now". Mickelson asked about the existing billboards? Madsen stated that he owned the existing billboards on the property. Madsen stated that the required distance between the billboards would prohibit him from adding another one to advertise his business so he would probably use an existing one for that purpose. Coburn again stated that he felt this property should be zoned RC – Recreation Commercial because conditions could not be attached to a change of zoning. Coburn reiterated that HSC – Highway Service Commercial permits "all commercial uses". Birk said that when a zoning change is requested the approval of the change of zoning is based on the plan that is presented; any change to that plan would require an amendment to that plan as stated under Zoning Ordinance Sections 3.4.5.H. and 3.9.3.H. The property owner stated he would have no problem with changing the zone from HSC – Highway Service Commercial to RC – Recreation Commercial. Birk stated he could advertise the property for the County Commission public hearing as RC-Recreation Commercial and the County Commission could consider it then. *Flanagan moved to approve the change of zoning with a change from HSC-Highway Service Commercial to RC-Recreational Commercial and with the agreement that there would be no ATV rentals from the property. Mickelson second and the motion carried unanimously. The public hearing with the County Commissioners was scheduled for February 25, 2003.*

REQUEST FOR CHANGE OF ZONING #229 - Leil W. Hayworth – To allow subdivision of the land - Approximately ½ mile west of Spearfish off the McGuigan Road and the Tinton Road.

Leil Hayworth, property owner, was present at the meeting. Hayworth indicated the location of the property and stated he requested the RR – Rural Residential zone to subdivide the land to allow him to place a governor's home on the land. Hayworth stated that he had received a building permit from the City of Spearfish for placement of the home but that the city had informed him that the home could not be placed on the land because there was already a residence on Lot P. Lot P-1 would have the Hayworth residence on it and Lot P-2 would have the governor's home on it. His son would be living in the governor's home. Lot P is adjacent to RR – Rural Residential zoning which is to the north. The land to the west and south is zoned A-1 General Agriculture with some of the land already subdivided with the approval of the City of Spearfish and to the east is A-1 General Agriculture and PF-Park Forest. *The public hearing with the Planning Commission was scheduled for March 6, 2003.*

REQUEST FOR CHANGE OF ZONING #230 - Todd and Sharon Hemmingson – To allow subdivision of the land - Approximately 1½ miles east of Spearfish off of Lookout Mountain Road.

Sharon Hemmingson, property owner, was present at the meeting. Hemmingson indicated the location of the property and stated that she has 66 acres of land. Hemmingson plans to plat off a portion of land if the change of zoning is approved as RR-Rural Residential. The reason for the request is to allow a relative to build a home on a portion of the land. Mickelson asked what the land was zoned around this piece of property? Birk answered that the south side of the property is A-1 General Agriculture and the property to the west is zoned RR-Rural Residential. The property was sold in aliquot descriptions without a zoning change or platting. Mickelson felt that the density was changing in the area and he felt that there would be no problem with this zoning change. ***The public hearing with the Planning Commission was scheduled for March 6, 2003.***

PLAT – FINAL – Dwight Ahlers – Plat of Lots 30, 31 and 32 of Spruce Mountain Estates No.1, located in the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 13, and the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 14, T6N, R4E, B.H.M. (Lot 30 = \pm 5.12 acres, Lot 31 = \pm 5.32 acres and Lot 32 = \pm 5.64 acres).

Dwight Ahlers, developer, was present at the meeting. Birk indicated the location of the plat as northeast of Whitewood. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. The roads are complete within this portion of the subdivision and this lot has access off of Jackson Road; which is a county road. ***Coburn moved to approve the final plat. Flanagan second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – James and Pamela Kirby & William and Jacqueline Pearson – Plat of Lot 7A and Lot 8A of Ponderosa Ridge Subdivision formerly Lot 7 and Lot 8 of Ponderosa Ridge Subdivision located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, T5N, R4E, B.H.M. (Lot 7A = \pm 3.07 acres and Lot 8A = \pm 5.16 acres).

John Arleth of Arleth and Associates was present at the meeting. Arleth stated that Lot 8A was added to in order to allow more room from the lot line for a building site and for better access to the lot. ***Coburn moved to approve the preliminary plat. Mickelson second and the motion carried unanimously. Flanagan moved to approve the final plat. Mickelson second and the motion carried unanimously.***

PLAT – FINAL – Jon Mattson – Plat of Lots 25 and 33 of Shirttail Gulch Subdivision, being a portion of the Theodor Placer, M.S. 777; all located in Section 13, T5N, R3E, B.H.M. (Lot 25 = \pm 2.00 acres and Lot 33 = \pm 2.04 acres).

John Arleth of Arleth and Associates was present at the meeting. Arleth stated that these lots are the final lots that will be brought for final approval within the Shirttail Gulch Subdivision. The preliminary plat was previously approved. ***Flanagan moved to approve the final plat. Coburn second and the motion carried unanimously. Mattson abstained from the vote.***

PLAT – FINAL - Floyd Mount – Plat of Lot 14; and 66' dedicated public right-of-way of Meadow Crest Subdivision, located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, T5N, R4E, B.H.M. (Lot 14 = \pm 2.64 acres).

John Arleth of Arleth and Associates was present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval

as they are sold. Coburn asked if the water system was in? Arleth answered yes, and that they were burying the pipe. ***Coburn moved to approve the final plat. Mattson second and the motion carried unanimously.***

PLAT – FINAL – Ivan Shonley - Plat of Lot 227, Block 2 of Boulder Canyon Subdivision, located in the SE¼SE¼, Section 10, T5N, R4E, B.H.M. (Lot 227 = ±0.978 acres).

Ivan Shonley, developer, was present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. ***Mickelson moved to approve the final plat. Fuller second and the motion carried unanimously.***

DISCUSSION ITEM – Randy Deibert – New lots platted as Black Forest Ranchettes #4.

Randy Deibert, surveyor, was present at the meeting. Deibert indicated the location of the property which is off of the Yellow Creek Road. Deibert stated that the (20) twenty-acre Lot 13 would be divided into 4 lots. There would be an extra lot that would not meet the density that would have a mutually owned building on it for subdivision use (storage, snowmobiles, etc.) The individual owners would build on Lots A through C, and Lot D would be sold. Deibert handed out proposed covenants with a fire plan for the Commission to review and forward comments to him so they will be in place next month when he brings in the preliminary plat. He also noted a preliminary approval letter from the BLM in regard to the road usage accessing the property. Deibert indicated an area with a 10% grade that could be removed when the road design is complete for the preliminary plat. The owners are considering a well share. ***The preliminary plat with attachments would be provided to the Commission at the March 6, 2003 meeting.***

PLAT – PRELIMINARY AND FINAL – Homestake Mining Company – Plat of Tracts E, F, G, H, I, J and dedicated public right of ways, being all of the Richards Fraction Lode of M.S. 1333, Virginia and Realization Lodes of M.S. 1678, Tacoma, Monte Carlo and Wedge Fraction Lodes of M.S. 1237, Garden City Lode of M.S. 865 and the Rochester and Kahoka Lodes of M.S. 1656, all located in Section 18, T5N, R3E, B.H.M.

Julie Stone of Homestake Mining Company was present at the meeting. Stone stated the purpose of the plat was to break out the mine tailings that exist in the old town of Maitland; Homestake will retain ownership of Tract E and Tract F; and the remaining acreage will be conveyed in conjunction with contiguous land to this property. Coburn asked where the fire plan was since the plat was showing (6) six lots? Mickelson asked why this could not have been platted as one lot? Stone said that she would have been okay with that but that the Equalization Office could not transfer remainders of mineral surveys; the mineral surveys must be platted in order to convey them, therefore the plat was presented as (6) six lots. Stone felt that the future buyer of these lots along with the adjoining property will at the time of subdividing follow the subdivision requirements. The Commission felt that prior to the plat being presented at the County Commission level, the proper wording could be discussed with the State Attorneys office. Stone will prepare the final plat with that wording on it. ***Flanagan moved to approve the preliminary plat with the stipulation that no further subdividing or development (roads, building etc.) be done until a fire plan is presented. Mickelson second and the motion carried unanimously. Coburn moved to approve the final plat with the stipulation as discussed. Flanagan second and the motion carried unanimously.***

PLAT – FINAL – Homestake Mining Company – Plat of Tracts 1A and 2A formerly known as Tracts 1 and 2 being portions of H.E.S. 42 and H.E.S. 39 all located in Sections 25 and 26, T4N, R2E and Sections 30 and 31, T4N, R3E, B.H.M. (Tract 1A = ±97.35 acres and Tract 1B =± 45.02 acres).

Julie Stone of Homestake Mining Company was present at the meeting. Stone stated that the purpose of the plat was to add acreage to Tract 1A to take in the new pole building that Lead Country Club had built. Tract 2A will be sold and is platted as a (45) forty - five acre tract of land that could be subdivided again. *Mickelson moved to approve the final plat. Flanagan second and the motion carried unanimously.*

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF MARCH 6, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, March 6, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Derosier, Mickelson, Fuller, Mattson, Kullbom and Flanagan

ABSENT: Coburn

MINUTES *Fuller moved to approve the minutes of February 6, 2003.*

APPROVED: *Mickelson second with changes to the minutes noted and the motion carried unanimously.*

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #228 – Dale Bell and J.D. Bell – To allow an outdoor café and general/antique store - Approximately 1½ miles south of Lead off of Hwy. 14A/85.

J.D. Bell was present at the meeting. Bell stated that he wanted to renovate an existing cabin to include a new kitchen, new roof, siding and a covered deck area used for the outdoor café. Bell would offer an antique store and general merchandise for sale to the public. There would be seating for (20) twenty people at the outdoor café. Bell stated he would like to add on to the original cabin for indoor dining next year. Bell stated he might decide to remodel the old part of the cabin as a living space. The electrical service and plumbing would be brought up to code. Bell stated that he would install an engineer approved septic system and would use the untapped well that was drilled in 1988 as the water source. If the untapped well does not test up to standard, Bell said he would haul water. Water testing would be conducted as per State DENR requirements. The access from Hwy. 14A/85 will be improved to meet line-of-sight requirements as per SD DOT. Bell told the Commission that the approach had been approved by DOT. Mattson asked if Bell was going to have any inside restaurant seating at all? Bell answered that he was going to “play it out” and see how the outside seating works before he decides on indoor seating. Clinton Rose asked about property assessment in the area in relation to this change of zoning? Mattson answered that tax assessment was done a year behind and that property values in that area had probably all went up so that would have nothing to do with this proposal. Derosier read a letter from Tom Huhnerkoch stating his concern about adhering to the 40 mph speed limit coming down the hill with the access to the property being so close at that corner in the highway. The letter also stated Huhnerkochs concern during the motorcycle rally, with the possible large number of motorcycles parked on the shoulder of the road, which would create a dangerous situation. Mike Anderson, a previous neighbor of Bell’s when he owned Boondocks on Highway 385, stated that Bell was a good businessman and that rally time was “no different and probably a lot better” at Boondocks. Flanagan stated that he felt the septic system issue would be addressed with the new septic system and the issue of the line-of-sight in regard to access to the property would be taken care of by moving the access further to the east. ***Kullbom moved to approve Change of Zoning #228. Flanagan second and the motion carried 4-1 with Mickelson voting nay. A public hearing with the Lawrence County Commission will be held on April 8, 2003.***

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #229 - Leil W. Hayworth – To allow subdivision of the land - Approximately ½ mile west of Spearfish off the McGuigan Road and the Tinton Road.

Leil Hayworth, property owner, was present at the meeting. Hayworth indicated the location of the property and stated he requested the RR – Rural Residential zone to subdivide the land to allow him to place a governor’s home on the land. Derosier read a letter from Kenneth Batka, a property owner in the area, Batka voiced concerns in regard to lower density development near A-1 General Agriculture land. A discussion was held with Birk showing the Planning Commission the surrounding lands platted into small parcels in A-1 General Agriculture district zoning without getting the proper change of zoning done by the City of Spearfish. Birk pointed out that a portion of the land to the north was changed to Rural Residential by the county back in 1999. Therefore, Mr. Hayworth’s property is adjacent to higher density zoned land. Mr. Heyworth’s change of zoning request is to allow him to place a second residence on a legally described lot as to complying with county zoning requirements. *Mickelson moved to approve Change of Zoning #229. Mattson second and the motion carried unanimously. A public hearing with the Lawrence County Commission will be held on April 8, 2003.*

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #230 - Todd and Sharon Hemmingson – To allow subdivision of the land - Approximately 1½ miles east of Spearfish off of Lookout Mountain Road.

Sharon Hemmingson, property owner, was present at the meeting. Hemmingson indicated the location of their property and stated that she and her husband own 66 acres of land of which 23.31 acres are already zoned RR-Rural Residential. Hemmingson plans to plat off a (2) two-acres of her land presently zoned A-1 General Agriculture if the change of zoning is approved to RR-Rural Residential. The reason for the request is to allow a relative to build a home on that portion of their land. Hemmingson stated she had sent (9) nine letters to notify property owners within 500 feet of their proposal. Flanagan read a letter from Charles Windham, a property owner north of the Hemmingsons, stating the concern in regard to low-density development if the zoning is changed. Flanagan also read a letter from the City of Spearfish that gave approval of this change of zoning. *Mattson moved to approve Change of Zoning #230. Mickelson second and the motion carried unanimously. A public hearing with the Lawrence County Commission will be held on April 8, 2003.*

REQUEST FOR CONDITIONAL USE PERMIT #286 - David Winter/Kinship Mountain Ministries Kamp, Inc. - To allow an organized group camp - Approximately 2½ miles south of Highway 14A on the Two Bit Road.

David Winter was present at the meeting. Winter indicated the location of the camp and summarized the plans for this camp retreat. The camp will be located on (57) fifty-seven acres of land that has an existing building on it that will be used as a prayer chapel. The Kinship Mountain Ministries will construct a (3) three story, 22,960 sq. ft. lodge. The first floor will house the cafeteria and the sanctuary, the second floor will have (3) three meeting rooms, a lounge and a pool and the third floor will have (15) fifteen hotel type rooms. Winter further stated there would be (4) four additional cabins constructed with plans for another (8) eight cabins in the future. Winter said he was “covering his bases” when he says he would build (8)

eight more cabins but that he honestly did not see the need for them. Other plans would be for a tubing hill, (3) three campfire pits with permits from the State Forestry Service, a concession stand and gift shop and outdoor basketball hoops. Winter will drill a well as the water source for the camp and testing will follow SD Department of Health requirements. Winter outlined all aspects of the operation including garbage collection, parking, security, sanitation, fire protection etc., all of which are detailed in their campground proposal booklet. The projected construction plan will be to reconstruct the road, drill the well, install the septic system, get electricity to the site, build (2) two large cabins and other cabins as needed in 2003-2004. The lodge will be built in 2004-2005 with the remaining areas being finished in 2005-2006. ***A tentative onsite inspection was scheduled for early April with weather permitting. The public hearing with the Planning Commission will be held April 3, 2003.***

REQUEST FOR CHANGE OF ZONING #231 - Frank C. Loup - To allow subdivision of the land - North of Spearfish and approximately ½ mile east of Hwy. 85 on Kerwin Lane (County Road #018).

Frank Loup, property owner, was present at the meeting. Loup indicated the location of the property and stated he would like to divide the 39.12 acres into “not more than (4) four lots”. Loup stated that he had (2) two perspective buyers for the lots. Each lot would have direct access off of Kerwin Lane. Loup stated he would contact Chuck Williams, Lawrence County Highway Superintendent, for each access approval. Loup indicated that there are already (13) thirteen residences within a mile east of his property in the A-1 General Agriculture District. Mickelson asked Loup what lots he would hold on to? Loup answered he would keep the (2) two lots to the north. Mickelson asked, that since Loup plans to do no road building, would he have access to all of the lots that will be platted? Loup answered yes. Mattson asked if any of this property adjoins already zoned RR-Rural Residential district lands. Birk answered, “no”. Birk reiterated to Mr. Loup that he needs to contact the City of Spearfish and get a recommendation from the city prior to the public hearing in April. ***Onsite inspections were to be done on an individual basis. The public hearing with the Planning Commission will be held April 3, 2003.***

PLAT – FINAL – Dwight Ahlers – Plat of Lots 23, 25 and 26 of Spruce Mountain Estates No.1 Subdivision, located in the W½NW¼ of Section 13, and the NE¼NE¼ of Section 14, T6N, R4E, B.H.M. (Lot 23 = ± 8.45 acres, Lot 25 = ±5.47 acres and Lot 26 = ±6.03 acres).

Dwight Ahlers, developer, was present at the meeting. Ahlers is bringing the lots before the Commission for final approval as they are sold. Birk indicated the location of the lots and the road that the access approaches will come off of for the lots. ***Mickelson moved to approve the final plat. Mattson second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Homestake Mining Company – Plat of Tract 2A, being a portion of H.E.S. 41 and all of Tract 2 of the subdivision of Tract A of H.E.S. 139, all located in Section 30, T4N, R3E, B.H.M. (Tract 2A = ±2.83 acres)

Julie Stone of Homestake Mining Company was present at the meeting. Birk indicated the location of the plat. A property owner who owns Tract 2 in the Mountain Streams Estates Subdivision is purchasing a portion of H.E.S. 41 owned by Homestake to add to his lot, and therefore, the property will be called Tract 2A. Birk stated that this portion of the H.E.S. was in

a low-lying wet area and should not be left by itself. Birk further stated that adding this land to an existing lot was an improvement. ***Mickelson moved to approve the preliminary plat. Flanagan second and the motion carried unanimously. Fuller moved to approve the final plat. Mattson second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Homestake Mining Company - Plat of the Schopen Tract, being portions of the Shell No. 1, Ruth, Pearl No. 2, Pearl No. 3 & Leghorn No. 1 Lodes, M.S. 1678, all located in the S½NW¼ and the N½SW¼ of Section 8, T5N, R3E, B.H.M., Lawrence County, SD (Schopen Tract = ±20.80 acres)

Julie Stone of Homestake Mining Company was present at the meeting. Stone indicated the location of the property and stated that the spring used by the property owner was located on this land. Stone also stated that in the platting process it was discovered that the property owner actually did not own the land next to the road as she thought. So, the portion that she had been paying tax on was platted into this tract. ***Flanagan moved to approve the preliminary plat. Kullbom second and the motion carried unanimously. Fuller moved to approve the final plat. Kullbom second and the motion carried unanimously.***

PLAT – PRELIMINARY – Kelly Maguire – Plat of Lots A through E of Jay Bird Subdivision, a subdivision of Lot 13 of Black Forest Ranchettes #2, all located in Section 15, T4N, R3E, B.H.M. (Lot A = ±2.53 acres, Lot B = ±2.56 acres, Lot C = ±2.66 acres, Lot D = ±9.17 acres and Lot E = ±3.21 acres)

Randy Deibert, surveyor, was present at the meeting. Deibert indicated the location of the property which is off of the Yellow Creek Road. The BLM road that will be used as access will be called White Forest Road. Deibert stated there would be about 400 feet of road to be improved. Deibert stated that the subdivision would be called the Jay Bird Subdivision and also said that the property owners changed the alignment of the lots to allow a well share. The Jay Bird Homeowners Association would own the “park lot”, and the covenants would reflect how the association would maintain that lot. Deibert stated that lots A, B, and C would be approved as a final plat first in order to obtain building permits. Deibert presented the Declarations of Restrictions and Covenants, Fire Protection Plan, BLM access permit application with maps, and By-Laws of Jay Bird Property Owners Association to be approved with the plat. ***Mattson moved to approve the preliminary plat. Mickelson second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Arthur and Jacqueline Crowley - Plat of Tract A of the NW¼NW¼, Section 23, T7N, R3E, B.H.M. (Tract A = ±5.00 acres)

Rick Bush, Precision Surveying and Mapping, was present at the meeting. Bush indicated that the property is located approximately 1½ mile north of St. Onge off of the Crooked Oaks Road. The property owner is platting a five-acre portion of his land for his children. The property is located approximately 1½ mile north of St. Onge off of the Crooked Oaks Road. The property owner will relinquish the building rights on the remaining 35 acres. ***Mickelson moved to approve the preliminary plat. Flanagan second and the motion carried unanimously. Mickelson moved to approve the final plat. Mattson second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Arthur and Jacqueline Crowley - Plat of Tract A of the NW¼NW¼ of Section 14, T7N, R3E, B.H.M. (Tract A = ±5.00 acres)

Rick Bush, Precision Surveying and Mapping, presented both plats together since the property owners were the same and the lands were located in the same general area north of St. Onge. Bush indicated that the properties were located approximately ½ mile and 1½ miles north of St. Onge off of the Crooked Oaks Road. The property owner is platting (2) two five-acre portions of his land, one in each Section 23 and Section 14, for each of his children. Since these lands are zoned A-1 General Agriculture, the property owner will have to relinquish the residential building rights on the remaining 35 acres of each forty. ***Flanagan moved to approve both preliminary plats. Mattson second and the motion carried unanimously. Fuller moved to approve both final plats. Kullbom second and the motion carried unanimously.***

PLAT – DISCUSSION OF PROPOSED PLAT – Stephen B. Schloss - Plat of Lots 1 through 18 of Hidden Mine Hollow Subdivision formerly the G.A.R., Anchor, Once More, Goodenough, C.O.D. No. 1, C.O.D. No. 3, C.O.D. No. 4, C.O.D. No. 5, Fortuna and Fabula Lodes of M.S. 1267 located in the SW¼ of Section 16, the SE¼ of Section 17 and the NE¼ of Section 20, T5N, R3E, B.H.M.

John Arleth, Arleth and Associates, was present at the meeting. Arleth indicated the location of the land. The road is called Tetro Rock road and is off of the Maitland road. Arleth stated that a property owner wanted to develop 101 acres that adjoins Lot 10 and Lot 11 of the Skyline Subdivision. Arleth stated that Tetro Rock road has been improved for the homeowners in the subdivision to use and that there would be 6100 feet of road to be improved through the proposed subdivision. Arleth felt they could keep the road grades below 10%. Arleth further stated the developer may consider a 20,000-gallon water storage tank and (5) five fire hydrants. The property owner plans to thin the land out in April and to begin construction of the roads this summer with plans to start selling lots in August.

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

LAWRENCE COUNTY PLANNING AND ZONING COMMISSION

MINUTES OF APRIL 3, 2003

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, April 3, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: *Derosier, Mickelson, Fuller, Mattson, Kullbom, Coburn and Flanagan*

ABSENT: *None*

MINUTES *Coburn moved to approve the minutes of March 6, 2003.*

APPROVED: *Mattson second with changes to the minutes noted and the motion carried unanimously.*

PUBLIC HEARING - REQUEST FOR CONDITIONAL USE PERMIT #286 - David Winter/Kinship Mountain Ministries Kamp, Inc. - To allow an organized group camp - Approximately 2½ miles south of Highway 14A on the Two Bit Road.

David Winter was present at the meeting. Winter began by addressing several opposing issues that were brought forth by letters from property owners that were written to the Commission. Winter stated that he had no desire to destroy or affect the area by constructing this church camp at this location. Winter stated that the plan presented was a full presentation of everything that was “dreamed of” but that they had no intention of constructing the facilities listed in the future expansion section of the proposal. The South Dakota Assemblies of God will use the camp. The camp will be located on (57) fifty-seven acres of land that has an existing building on it that will be used as a prayer chapel. The primary number of guests will be 160, but facilities will be built for 184 guests. Dan Kent, pastor of Calvary Temple in Spearfish, spoke of the need for the camp location to eliminate the travel to the eastern part of the state and the benefit of actually owning a camp in the Black Hills. Winter continued by stating that traffic to the camp will be increased by the arrival of campers in church vans which he felt would be less than the traffic that will be increased by the development of subdivisions off of the Two Bit road. Winter stated that campers would stay on site for the duration of the camp time. Each church will bring staffers that are responsible for the campers; this will allow Kinship Mountain Ministries to be staffed by (3) three families. Winter also continued to say that the delivery trucks for food etc. would be once a week, something like the Schwans truck using Two Bit road. Winter stated that they are “more than willing” to work with Chuck Williams, Lawrence County Highway Superintendent, to contribute to improving the blind corner that exists on Two Bit road. The well will be drilled to the Madison aquifer, and Winter felt that there would be no affect to the creek below because of the aquifer availability. All septic systems in Lawrence County are engineered septic systems so all the proper requirements would be followed. There is 500 feet from the edge of the property to the nearest neighbors residence and at least a 1000 foot buffer from the edge of the land to where the real bulk of the camp will exist on the high point of the hill. Winter felt this would greatly reduce any noise problems from the camp. Shirla Olson, property owner, talked about how her family had always mentioned to new residents of the area of their plan for this church camp on this property. Paul Schipke, spokesman for (9) nine of the (13) thirteen families that live off of the Two Bit Road, voiced significant concerns about this proposal. Schipke stated that he felt the neighbors had misunderstood the size of the church camp and were surprised to hear of the large complex that is proposed. Schipke felt that the proposal is a major commercial venture, and he felt that if the CUP is approved, there was no way to know what the property would “be used for over time”. Other concerns were: 1) the road, with an increase in traffic on the road, width, sight distances and the blind corners; 2) dust; 3) noise; 4) an increase in property

taxes for road maintenance and an increase in use of county services; 5) impacts to the environment and wildlife; 6) treatment and handling of sewage; 7) the existing wells that depend on the water from Two Bit creek and the aquifers that they are associated with; 8) increased fire danger; and 9) possibility of trespass on neighboring properties. Schipke stated (3) three reasons for denial of this proposal: 1) the proposal does not conform to the preferred plan for Lawrence County for future land use and development. The facility's size is equivalent to the size of several hotel/motel complexes, the area is set aside for low density residential housing and light commercial/recreational activity, and there is no unique qualities to the land that would favor a campground site. This dream could be realized in another area of the county; 2) does not meet the standard stipulated in Section 5.11.2, Subsection A, of the Lawrence County Zoning Ordinance; and 3) concern about the lack of detail in regard to the adequate utilities provided, the suitability and protection of water resources, and the suitability of the septic design. Betty Reimer, part owner of the property, spoke of obtaining this land with the future dream of this camp and her qualifications that would allow her to be an asset to this camp. Reimer also stated they would use the camp for family reunions and marriage ceremonies. Trapper and Cookie Lance, neighbors to the property, spoke of the right to do what you want with your land. They felt the applicants have done their homework in regard to what the church camp can provide and are willing to work with the people that can provide those services. David Olson, son of property owner, spoke of the need to develop something for kids to attend and to be involved in. Chuck Williams stated that the mill levy that is set for the care of Two Bit road makes the maintenance budget weak for maintenance of the road. Williams said the Two Bit road is a secondary road in the Lawrence County system. Schipke asked what would happen to the CUP in the event of a resale? Erik N. Birk, Lawrence County Planning and Zoning Administrator, explained that a sale of property with a conditional use permit attached to that property goes before the County Commission, and the new buyer must accept the conditions attached if they plan to operate under a CUP. Birk reminded the Commission that the ordinance allowed them to table this request for no more than 31 days and to keep the public hearing open to allow more time for review. Mickelson explained to the audience that a conditional use permit is reviewed annually and that any complaints that could arise within the year time frame would be addressed and that the conditional use permit could be revoked if warranted. Mickelson felt this would allow a greater dedication by the camp developers to adhere to the proposed plan and to the conditions attached. Coburn stated that he felt the scope of what is proposed is in excess and proposed a scaled down request that could be looked at. Mattson said that the CUP could be amended when the camp wanted to expand. Kullbom felt that if the well were drilled to the Madison aquifer source then there would be no effect on the neighbors. Schipke stated that when he drilled his well he studied the well logs and did not feel there was an aquifer source on the subject property. Mattson stated that the size of the proposal was overpowering to the neighbors and suggested a scaled down version. Schipke felt that approval of a smaller version would allow a small commercial operation in their community and that it would leave the door open to approval of the larger proposal in the future. ***Kullbom moved to approve Conditional Use Permit #286. Flanagan second. The motion failed 3-2 with Mattson abstaining. Mickelson moved to table the request and to keep the public hearing open. Coburn second. The motion carried with Mattson abstaining. A continuation of the Public Hearing was scheduled for May 1, 2003.***

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #231 - Frank C. Loup - To allow subdivision of the land - North of Spearfish and approximately ½ mile east of Hwy. 85 on Kerwin Lane (County Road #018).

Frank Loup, property owner, was present at the meeting. Loup indicated the location of the property and stated he would like to divide the 39.12 acres into “not more than (4) four lots”. Loup stated that he had (2) two perspective buyers for the lots. Leo Orme, Ken Zuercher, Keith Massy and Wayne Linstad voiced their concerns as: 1) the zoning change would be an isolated change since there is no RR – Rural Residential near this property, 2) the county guidelines stipulates the land as agriculture and it should stay that way, 3) previous requests for RR-Rural Residential in the area have been denied, and 4) Kerwin Lane has a dangerous hump in the road that needs to be improved but the County has no money to improve the road. Linstad stated that the well is on this property but that he owns the water rights to that well. Linstad stated that the water from that well would not be used for that development if it were approved. Mattson stated that Loup had stated he planned (4) four lots, but that it would make no difference because the zoning would be changed and the land could be subdivided at 8 residences per 40 acres as allowed in the zoning ordinance. Flanagan asked if the zoning was agriculture all around this property? Birk answered yes. ***Mattson moved to deny Change of Zoning #231. Flanagan second, his reason being that he felt the zoning change would be a spot zone. The motion carried unanimously.***

REQUEST FOR CONDITIONAL USE PERMIT #287 – Vincent Pfeifle - To allow for a Specialty Resort - Approximately 3 miles north of Nemo and a 1¼ mile east on Dalton Lake Road.

Vincent Pfeifle was present at the meeting. Pfeifle indicated the location of the property. Pfeifle owns the Little Elk Creek Enterprises that allows permitted hunting, hiking, fishing, etc. on Forest Service lands. Pfeifle will act as a guide for these activities, as well as guided motorcycle tours. Pfeifle purchased 13.41 acres, and he proposes to build a lodge for his guests to stay in. The lodge will be 24X48 with loft areas on both sides of the centrally located living room. There will be (3) three bedrooms, an office, a kitchen, two full bathrooms and the living room. The guests will utilize the kitchen to prepare their own meals. The building will be constructed with an old west theme with the front of the building and the décor being from the 1880’s period. The remaining 3 sides of the building will be metal with a metal roof, which would add safety during the fire season in the Black Hills. Pfeifle stated there would be parking to hold (5) five cars with (1) one handicapped space. Outdoor lighting and signs will follow the Lawrence County zoning requirements. The septic system will be engineer designed to follow county regulations and percolation tests have been conducted which “look good”. The nearest neighbor is 600 yards to the north and there are (3) three families that live within 1.5 miles of this property. The property is surrounded by Forest Service property. The Pfeifles want to promote the Nemo area and the Northern Hills region and to offer recreational and “get away from it all” opportunities. ***An onsite inspection was scheduled for April 21 at 3:30 p.m. A public hearing will be held on May 1, 2003.***

PLAT – FINAL – Dwight Ahlers – Plat of Lots 3 and 7 of Spruce Mountain Estates No.1 Subdivision, located in the SE¼NE¼ and the NE¼SE¼ of Section 14, T6N, R4E, B.H.M. (Lot 3 = ± 5.10 acres and 7 = ± 4.61 acres).

Dwight Ahlers, developer, was present at the meeting. Ahlers is bringing the lots before the Commission for final approval as they are sold. Ahlers indicated the location of the lots and stated the roads are complete. ***Mickelson moved to approve the final plat. Coburn second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Larry Nelson- Plat of Tracts N1 and N2 of the SW¼NE¼, Section 18, T5N, R4E, B.H.M. (Tract N1 = ±7.89 acres and Tract N2 = ±32.27 acres).

Larry Nelson, property owner, was present at the meeting. Nelson stated the location of the property. Nelson stated that there is a cabin on the southern edge of the property but he wanted to build a new home on the 40 acres so he is platting this lot for the new home to be built on. Mickelson asked how the property was accessed? Nelson answered that he used the “old Hugo road”. Mattson asked if Nelson used the Oak Mountain Estates water? Nelson answered yes, that the subdivision reservoir was on his land and he used that water. ***Kullbom moved to approve the preliminary plat. Mattson second and the motion carried unanimously. Coburn moved to approve the final plat. Fuller second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Mike and Susan Hill – Plat of Tract 1 of H.E.S. 91 located in the N½ of Section 26, T4N, R4E, B.H.M. (Tract 1 = ±5.06 acres)

Susan Hill, property owner, as present at the meeting. Hill indicated the location of the plat. Hill stated that they were platting (5) five acres to qualify for a federal loan. The new home will be situated on the new Tract 1. ***Mattson moved to approve the preliminary plat. Mickelson second and the motion carried unanimously. Flanagan moved to approve the final plat. Mickelson second and the motion carried unanimously.***

PLAT – FINAL – Ivan Shonley – Plat of Lot 219, Block 2 of Boulder Canyon Subdivision, located in Section 10, T5N, R4E, B.H.M. (Lot 219 = ±1.04 acres).

Ivan Shonley, developer, was present at the meeting. Shonley indicated the location of the lot and stated that you enter the subdivision from the Wildberger Road. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. ***Mickelson moved to approve the final plat. Fuller second and the motion carried unanimously.***

PLAT – FINAL – Ivan Shonley – Plat of Lot 312, Block 3 of Boulder Canyon Subdivision, located in Section 10, T5N, R4E, B.H.M. (Lot 312 = ±1.31 acres).

Ivan Shonley, developer, was present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. ***Kullbom moved to approve the final plat. Flanagan second and the motion carried unanimously.***

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF MAY 1, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, May 1, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: *Derosier, Mattson, Coburn, and Flanagan*

ABSENT: *Fuller, Mickelson, and Kullbom*

MINUTES *Coburn moved to approve the minutes of April 3, 2003.*

APPROVED: *Mattson second and the motion carried unanimously.*

Brandon Flanagan acted as secretary in the absence of Craig Mickelson.

PUBLIC HEARING - REQUEST FOR CONDITIONAL USE PERMIT #287 – Vincent Pfeifle - To allow for a Specialty Resort - Approximately 3 miles north of Nemo and a 1¼ mile east on Dalton Lake Road.

Vincent Pfeifle, property owner, was present at the meeting. Pfeifle summarized his proposal. There were no changes to the plan as proposed at the April 3, 2003 meeting (See minutes of April 3, 2003). Pfeifle stated that the Dalton Lake Road is a forest service road, and he had met with Don Murray of the USFS to determine where to place the driveway according to specifications that would not hinder road maintenance by the county. Pfeifle indicated that he was complying with the ADA standards in the construction of the lodge. Mattson asked if the building would comply with building codes? Erik N. Birk, Lawrence County Planning and Zoning Administrator, stated that the county had not adopted the UBC (uniform building codes). So, there would be no building inspections by the county. Pfeifle did state that he would be following state electrical requirements in regard to the electrical work because he is operating as a commercial business. Pfeifle also stated that the plumbing would be up to code, too and including egress windows and access door dimensions, room size and ceiling height will also follow building code requirements. Flanagan stated the area was ideal for this type of structure. Coburn asked if the increased traffic on the road would be minimal? Pfeifle stated that Dalton Lake road had been improved with an established speed limit. Coburn stated that this proposal fits within this area. Birk read the conditions attached to the conditional use permit. *Flanagan moved to approve Conditional Use Permit #287. Mattson second and the motion carried unanimously. A public hearing will be scheduled on May 27th with the Lawrence County Commissioners.*

Derosier called for a motion to allow Barb Mattson to act as chairman for this portion of the meeting. Mattson stated she would abstain from voting on the next agenda item. Coburn moved to allow Barb Mattson act as chairman for this portion of the meeting. Flanagan second and the motion carried unanimously.

CONTINUATION OF PUBLIC HEARING - REQUEST FOR CONDITIONAL USE PERMIT #286 - David Winter/Kinship Mountain Ministries Kamp, Inc. - To allow an organized group camp - Approximately 2½ miles south of Highway 14A on the Two Bit Road.

Mattson began by stating that the public hearing had been closed and this meeting would allow no input from the audience but that the Board would be asking the applicant questions in regard to the group camp proposal. Birk clarified that on April 3, 2003, the public hearing had not been closed since the board had asked the Kinship Mountain Ministries to re-review their proposal in regard to attendance numbers, actual number of cabins being proposed, water availability in the area, and road safety concerns, etc. Therefore, the board had approved a continuation of the public hearing to be held on this date, May 1, 2003, being in accordance with the zoning ordinance's 30-day time limit from the time of presentation of April 3, 2003 to the board's recommendation at this meeting. The Kinship Mountain Ministries had made changes to their plan and this was to be reviewed and discussed at this meeting. David Winter was present at the meeting. Winter stated that revisions to his original proposal were made on pages 7, 8, 9, and 10. Winter stated they would hold a maximum of twelve (12) weddings per year. Winter continued, this change was made because the opposition was concerned that the Kinship Mountain Ministries had plans to branch out into other areas of business other than what was being proposed in their presentation. Winter reiterated that the group had no intention of doing anything other than offering a group camp to help people to "know Jesus". Winter also stated that there would be no advertising to the general public, and the change in construction plans was to remove the plan to build one cabin and to change the size on another cabin. Future expansions plans had stated plans for (8) eight cabins, but they have decided to build only one of these cabins. Winter stated the size of their proposal had been dropped by almost one-third. The change in maximum accommodations was reduced from 128 occupants for the lodge and 200 occupants for the cabins for a total of 328 occupants to 128 occupants for the lodge and 96 occupants for the cabins, which now totals 224 maximum occupants. Winter further stated he felt this was a large adjustment as there was another church camp approved as a conditional use permit that allowed a capacity of over 400 occupants. The Kinship Mountain Ministries feels this proposal would allow adequate facilities to operate the proposed camp. Winter stated that there would be one month out of the year that a particular group would have 160 participants. Winter stated that June through August would be the main camp season, and organized retreats would come out in smaller numbers during the winter months. Winter said that a typical number of camp participants would arrive in vans or that one church had a bus, but typically church campers would arrive on a Monday and not leave until Friday. Winter further explained that if this land were to be developed for residential use, there could be a potential of (11) eleven home sites, the impact on the road could be as much as (22) twenty-two vehicles using the road at any time during the day, seven days a week. Winter continued to state that the group had done soil percolations, and an engineer is designing the septic system. The potential for water from a well has been investigated with information coming from Dan Driscoll, a hydraulic engineer with the USGS. Driscoll had told them that there were fingers coming up from the Deadwood formation that the group could find water, but there was no guarantee in what area a person could reach water. Winter said he asked Driscoll if a shallow well could impact their neighbor's wells? Driscoll told him that if a well was within 100 feet of another well than there could be a chance, but within 1000 feet, it was unlikely. Driscoll's opinion was that the further they went away from a neighboring well the more unlikely there would be an impact. Kinship Mountain Ministries would contact the DENR to begin a state water rights permit process. Winter felt if the professionals determined that there is no way for a septic system to be installed and if water could not be obtained, then the camp would not proceed. Paul Schipke, spokesperson for the neighbors in opposition, stated they supported the church camp proposal but they had a hard time with the location. Schipke handed out a list of properties in the Black Hills that they felt would

be better suited for this camp proposal. He cited (3) three reasons that these suggested locations would allow their dream to be realized: 1) better access from State highways or county roads; 2) better recreation potential (i.e. lakes, ponds, creeks); and 3) less impact on the existing community (i.e. property surrounded by natural forest). Schipke voiced his concern that if “the conditional use permit is granted there was nothing in the permit that would prevent them from hauling water to their site, even if the well does not pan out...” Schipke handed out a map prepared by Homestake showing the water availability in the area. A letter was handed out with concerns voiced by Scott and Carol Latuseck in regard to their well. Schipke also gave the Board a list with (4) four points of concern that were addressed by Chuck Williams, Lawrence County Highway Superintendent, in regard to Two Bit Road. (Each of these handouts is available as part of the conditional use permit file in the Planning and Zoning Office). Schipke felt the increase in the traffic would expose the residents to a much greater risk on the road. Schipke reiterated Chuck Williams statement that it would cost \$200,000 to \$300,000 dollars per mile to improve Two Bit Road. Schipke stated that with the distance from Highway 14A to the camp being (3) three miles there would be a \$600,000 to \$900,000 cost to upgrade the road for the additional use. Schipke stated that they had reviewed, through the zoning ordinance, the standards through which the conditional use permits can be issued. 1) Schipke felt there would be a degradation of the residential environment in which they live because of the increase of activities; this would be a reason to deny this conditional use permit. 2) The group strongly felt that there would be an impact to the water resources for the residents on Two Bit road. 3) Schipke stated that the camp together with the proposed residential development would impact the road that already needs an upgrade and granting the CUP would have an additional impact on the area for future residential housing. 4) Schipke questioned whether the standard for adequate utilities, access roads, drainage, suitability of proper disposal of sewage, would be provided. Dr. Jeffery Buchau, Mountainside Family Practice, spoke of the (4) four or (5) five other families, including his family that is moving here to become part of this ministry. Buchau reminded the Board that at the last meeting, it was suggested by one of the Board members that the Ministries “pare down” the proposal. Buckau said that they had cut out one-third of what was proposed at the first meeting. Buckau felt that the Ministries were trying to compromise but the opponents were not. Winter stated the camp proposal at this time would keep the occupants at the camp with no additional travel on the road once they had arrived. Winter continued that when talking with the neighbors, the one switchback in the road was of most concern in regard to safety. Winter stated that basically there would be an equal number of cars traveling to the camp as compared to the amount of traffic that would be generated if they were to subdivide this land so they would not be interested in fixing the whole road but would be willing to be part of fixing the dangerous switchback. Schipke stated that they were led to believe that this camp would serve more than just church functions. Schipke pointed out that it was not clear, because of the size, what other activities it would be used for; the camp would be allowed as a “for profit” operation; and the lodge could be opened up for general public use. Buckau explained the “for profit” reason for the camp was to prevent the land that is owned by Shirla Olsen and Betty Reimer from being passed to another “not for profit organization”, and if the camp was “not for profit” and was dissolved, the land would have to be given to another “not for profit organization”. The only reason it is “for profit” is that if this proposal does not go through, the land would go back to Olsens and Reimers so the land remains in the family. Buckau felt their proposal outlined what their plan was and wanted the facts looked at and not “the conjectures of what the opposition was thinking”. Mattson asked the Ministries if they would be paying taxes? They answered yes. Coburn stated that they do not have to drill the well, but that they had to apply for a well permit from the State. Winter said that he had started the process. Coburn suggested

looking at the well permit and the water potential before going ahead on this to clear up this question. Flanagan stated that the Board was required to make a decision on this day but asked if this could be attached as a condition? Mattson asked if they said they would haul water? Winter said no. Mattson said they could attach a condition stating that they would not haul water and you will drill an adequate well. Coburn spoke about “overloading the branch to the breaking point” with additional impacts with roads, water, utilities, etc. in PF-Park Forest land with future development and asked where to draw the line. Coburn stated that his biggest concern was the water issue and the road. Flanagan stated that as per the zoning ordinance there could be (11) eleven homes with wells and septic systems on this land without any objection. Flanagan felt this proposal would have a lesser impact than the residential development but that he understood the concerns. Birk read the proposed attached conditions. Birk clarified the application process for conditional use permits by reading Section 5.11.1 from the ordinance. Mattson asked about condition #22 and the point of contact with Sheriff’s Office? Birk explained that the Sheriff’s Office had requested a contact number if a problem would arise. Mattson asked what kind of emergencies? Birk stated that anything, like trash, noise, etc. that would be considered a nuisance. Flanagan suggested an additional condition that would state the camp needed to provide a State approved well permit and proof of an adequate water supply. Birk stated that the well permit should be a written document. Flanagan said the Planning and Zoning Office should receive a written confirmation by a recognized entity. Mattson asked Winter if they would “do this” (build the camp) if there was not adequate water? Winter said no. Coburn wanted it noted that “if and when” the road is improved the Ministries would provide a reasonable cost share. Coburn suggested (3) three additional conditions: 1) a provision to allow no hauling of water; 2) provide a fire plan, such as consideration of building materials, etc.; and 3) a water storage tank in order to fight a fire because of the size of the structure. Winter stated that the architect that they were working with was allowing for the fire resistant building material considerations. Birk stated the conditions would be forwarded to the Planning Commission and the applicant for review and approval before presenting to the County Commission’s meeting. ***Flanagan moved to approve Conditional Use Permit #286 with the attached conditions and the four new conditions that were discussed. Derosier second.*** Coburn stated that at some point it has to be figured out where to “draw the line on commercial versus residential development” and that he was “uncomfortable with the location in regard to the rural nature of the area”. Coburn further stated he was “uncomfortable with the “for profit” business, but he understood why, but he was still uncomfortable with it”. Coburn said when it was first presented it was for a small church camp, but “it is not a small church camp, it is a camp that will be used for a lot of other purposes and just because what is said there doesn’t mean other uses won’t be done.” Coburn felt there were other opportunities available with no conflicts with the existing infrastructure that could provide a better location. ***The motion failed 2-1 with Flanagan voting for the proposal and Derosier and Coburn voting against the proposal. The proposal will go before the County Commission on May 27th.***

PLAT – FINAL – Dwight Ahlers – Plat of Lots 10, 16 and 17 of Spruce Mountain Estates No.1 Subdivision, located in the SE¼NE¼ and the NE¼SE¼ of Section 14, T6N, R4E, B.H.M. (Lot 10 = ± 5.23 acres, Lot 16 = ± 5.04 acres and Lot 17 = ±9.75 acres).

Dwight Ahlers, developer, was present at the meeting. Ahlers is bringing the lots before the Board for final approval as they are sold. Ahlers indicated the location of the lots and stated the roads are complete. Coburn suggested that Ahlers contact the Lawrence County Fire Advisory Board to allow a representative of that group time to inspect the dry hydrant that is installed in

the dam in his subdivision. Coburn stated that at a recent meeting with the LCFAB they voiced concern on the hydrants and rather they were working. Ahlers stated that since last summer the hydrant had been installed correctly and would be in working order. ***Coburn moved to approve the final plat. Mattson second and the motion carried unanimously.***

PLAT – FINAL – Dwight Ahlers – Plat of Tract R located in the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 13, and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24, T6N, R4E, B.H.M. (Tract R = \pm 5.28 acres)

Dwight Ahlers, developer, was present at the meeting. Ahlers stated this plat was part of a transfer agreement with the neighboring property owner to clear up a question of land owned within an old fence line. ***Coburn moved to approve the final plat. Flanagan second and the motion carried unanimously.***

PLAT – FINAL – Floyd Mount – Plat of Lot 38 of Meadow Crest Subdivision, located in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ all in Section 17, T5N, R4E, B.H.M. (Lot 38 = \pm 2.07 acres)

Roger Nelson of Arleth and Associates was present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. Coburn asked where the water system was at in regard to installation? Birk stated that he had seen the tank and that the water lines had been installed. ***Coburn moved to approve the final plat. Flanagan second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Plat of Lot 1-AR of Valhalla Subdivision, formerly Lot 1-A of Valhalla Subdivision; and Lot S-3A of Sanders Subdivision, formerly Lot S-3 of Sanders Subdivision and a portion of Lot 1-A of Valhalla Subdivision; all located in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 13, T5N, R4E, B.H.M. (Lot 1-AR = \pm 0.730 acres and Lot S-3A = \pm 0.215 acres)

Roger Nelson, Arleth and Associates, was present at the meeting. Nelson stated that the Valhalla Water Association was taking a small portion of the Sanders Subdivision lot to enlarge the existing Valhalla Subdivision lot to drill a new well for the subdivision. ***Coburn moved to approve the preliminary plat. Mattson second and the motion carried unanimously. Coburn moved to approve the final plat. Flanagan second and the motion carried unanimously.***

PLAT – FINAL – Plat of Lot 9 and dedicated road right-of-way in Frawley Ranch East, located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 7 and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T6N, R4E, B.H.M. (Lot 9 = \pm 5.6 acres)

Jim Walker of NJS Engineering was present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. Walker stated the roads were built and a portion has been paved; the lots are now on the market for sale. ***Flanagan moved to approve the final plat. Coburn second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Plat of Lot 1 of On Time Subdivision, including portions of On Time No. 2 and On Time No. 3 of M.S. 1158, all located in Section 18, T4N, R3E, B.H.M. (Lot 1 = \pm 4.62 acres)

Randy Deibert of Black Hills Surveying was present at the meeting. Deibert indicated the location of the property. He stated the road was already there and that the land was zoned RC – Recreational Commercial. Coburn asked if a house could be put on this lot? Birk answered yes. Coburn asked about the density within the quarter-quarter? Birk stated there were no residential structures in the area; there is no density in RC- Recreational Commercial. Mattson asked what 40 acres this was part of? Birk stated that the ski lodge was on these 40 acres. Birk stated that as part of the amended change of zoning there could be (7) seven cabins on this lot. Mattson asked if there could be a hotel on this lot? Birk said no, there would have to be an amendment to the original change of zoning request to allow a hotel. ***Coburn moved to approve the preliminary plat. Flanagan second and the motion carried unanimously. Flanagan moved to approve the final plat. Coburn second and the motion carried unanimously.***

PLAT – FINAL – Ivan Shonley – Plat of Lot 205, Block 2 of Boulder Canyon Subdivision, located in Section 10, T5N, R4E, B.H.M. (Lot 205 = ± .910 acres).

Ivan Shonley, developer, was present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. Boulder Canyon Subdivision has a central water system that allows him to have smaller lot sizes within the SRD –Suburban Residential District. ***Flanagan moved to approve the final plat Coburn second and the motion carried unanimously.***

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF JUNE 5, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, June 5, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: *Derosier, Mattson, Coburn, Fuller, Mickelson, Kullbom, and Flanagan*

ABSENT: *None*

MINUTES *Mattson moved to approve the minutes of May 1, 2003.*

APPROVED: *Kullbom second and the motion carried unanimously.*

REQUEST CHANGE OF ZONING #232 – Lawrence County and Office of Planning and Zoning - To void Change of Zoning #226 - Aztec Hill, 2½ miles southwest of Lead off of Hwy. 14A/85 (next to Recreational Springs Resort).

Erik N. Birk, Lawrence County Planning and Zoning Administrator, explained that the Lawrence County Planning and Zoning Commission approved the change of zoning for perspective buyers, Joseph and Irma Jansen, on February 6, 2003. The change of zoning was approved with (2) two stipulations; 1) the legal description would reflect the removal of the portion of the property on the north side of the highway from the change of zoning request, and 2) if the sale of the property to the applicant should fall through, the change of zoning would be void under the present property owner. Birk stated that the Jensen's were unable to purchase the property due to financial reasons, and therefore as per the second stipulation, this request is to change the approved RC – Recreation Commercial District zone back to the original PF – Park Forest District zone. Mickelson questioned the wording and clarified whether the request was necessary. Mickelson felt that the request needed to be acted on and it was decided that this request should follow the standard process as per the Lawrence County Zoning Ordinance with a recommendation given by the States Attorney's Office. ***A public hearing has been scheduled for July 3, 2003.***

REQUEST FOR CONDITIONAL USE PERMIT #288 – Gary and Jan Kaberna (H.O.M. Camp) - To allow a seasonal beer garden – Approximately 1 mile south of Nemo.

Jan Kaberna, property owner, was present at the meeting. Birk explained that Kaberna had requested a malted beverage license from the County Commissioners for this beer garden on the same property as the H.O.M. campground. The County Commissioners felt that this proposal is not the same as the approved campground and directed Jan to apply for an amended conditional use permit to operate a beer garden. Birk stated that since the beer garden fell 1100 feet outside the boundaries of the campground, a request is being made for a new conditional use permit to operate the beer garden. Kaberna began by stating that the proposal for a beer garden would be operated on a seasonal basis from June through November 1 of each fiscal year. Kaberna plans to build a pole building that will be used for hay storage when not in use as a beer garden. Kaberna indicated the location of the building and the distances from the closest neighbors property boundaries. The building will have a garage door on each end with the entrance door on the south side. There will be one standard and one handicapped portable toilet and a portable

washing sink attached to the building in the outdoors bathroom area. Trash collection will occur on a daily basis with 40-yard trash container on-site and galvanized trash containers inside and outside the building. The hours of operation will be 1:00 p.m. to 10:00 p.m. or 11:00 p.m. on a regular day; during the rally week, the hours will be 11:00 a.m. to 12:00 p.m. Kaberna asked the Planning Commission if she could operate during rally week until 2:00 a.m. as per State regulations? Security will be provided by a company from Sturgis and will be on the premise at all times. Kaberna further stated she would offer 8 to 10 different kinds of beer, 2 to 4 types of wine coolers, a selection of 4 to 6 types of pop and bottled water. Kaberna stated she was not proposing a “full running bar “ but wanted to offer a “watering hole” for local community members. Kaberna stated she would run the beer garden as disciplined and professionally as she has run her campground and horse camp. Flanagan asked Kaberna to bring a drawing to the public hearing of the Brian Rech’s property and the highway in relation to the proposed beer garden. Flanagan asked about a sign permit? Birk stated that there was no sign permits but that as per the Lawrence County zoning ordinance there could be an on-premise sign. Mattson asked if Kaberna was planning to have water in the proposed building? Kaberna stated the outdoor sink would have towels available and planned that as the “sanitation part of it.” Brian Rech, an adjacent neighbor, wanted to voice his concerns in regard to the proposed beer garden. The Planning Commission explained that this was a review meeting for information only and that ***the public hearing would be held at the July 3rd meeting***. Rech was told that at the public hearing he would be allowed to voice his concerns. Fuller asked when she planned to open? Kaberna stated that the pole building would be constructed, and if the conditional use permit were approved she would open the beer garden after the approval. ***An onsite review was scheduled.***

PLAT – FINAL – Floyd Mount – Plat of Lot 5, Lot 28 and Lot 31 of Meadow Crest Subdivision, located in the NW¼ of the SE¼ all in Section 17, T5N, R4E, B.H.M. (Lot 5 = ±2.08 acres, Lot 28 = ±2.51 acres and Lot 31 = ± 2.58 acres).

Birk stated the land was zoned PF-Park Forest and that the preliminary plat had already been approved. The water tank is installed and the roads are being constructed. Birk stated the plat was in compliance and met the PF - Park Forest requirements. The lots are bought before the Planning Commission as they are sold for final approval. ***Flanagan moved to approve the final plat. Mickelson second and the motion carried unanimously.***

N, PLAT – FINAL – Ivan Shonley – Plat of Lot 302, Lot 308 and Lot 317 of Block 2 of Boulder Canyon Subdivision, located in Section 10, T5N, R4E, B.H.M. (Lot 302 = ±1.83 acres, Lot 308 = ±3.44 acres and Lot 317 = ±1.53 acres).

Ivan and Dorothy Shonley, property owners, were present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. ***Flanagan moved to approve the final plat for Lot 302. Mickelson second and the motion carried unanimously. Mickelson moved to approve the final plat for Lot 308. Flanagan second and the motion carried unanimously. Flanagan moved to approve the final plat for Lot 317. Kullbom second and the motion carried unanimously.***

PLAT – FINAL – Mike Alley - Plat of Lot 2, Block 10 of The Pines at Benchmark Subdivision, a subdivision of portions of the Funston Fraction Remainder, Bird No. 2, Lot 11 of Section 11 and Lot 6 of Section 12, T3N, R4E, B.H.M. (Lot 2 = ±5.52 acres).

Randy Deibert of Black Hills Surveying was present at the meeting. Deibert indicated the location of the property. Deibert stated that the road shown on the plat was constructed and was called Shiprock Road. Deibert further stated that there had been further fire mitigation done on the land and the hydrants were active. Coburn asked about the water storage gallery? Deibert stated that he was not onsite when the gallery was tested but was told the gallery was working and was full. ***Kullbom moved to approve the final plat. Fuller second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Leo Derosier – Plat of Lots 1 and 2 of Derosier Subdivision, all located in the SW¼SW¼ of Section 15 and the NW¼NW¼ of Section 22 lying north of Highway 34 right-of-way, T7N, R3E, B.H.M. (Lot 1 = ±19.88 acres and Lot 2 = ±38.52 acres).

Randy Deibert of Black Hills Surveying was present at the meeting. The land is being platted for transfer purposes to family members. Deibert stated that the land had been previously deeded to each child by legal description. Deibert indicated that the existing driveway and existing approach off of Highway 34 had been dedicated as a 40-foot access easement on the plat. ***Derosier abstained from voting. Mickelson moved to approve the preliminary plat. Flanagan second and the motion carried unanimously. Flanagan moved to approve the final plat. Fuller second and the motion carried unanimously.***

Vice-chairman, Bill Coburn, signed the plat since the land was being platted by Chairman Leo Derosier.

PLAT – FINAL – Dwight Ahlers – Plat of Lot 9 of Spruce Mountain Estates No.1 Subdivision, located in the SW¼NW¼ of Section 13 and the SE¼NE¼ of Section 14, T6N, R4E, B.H.M. (Lot 9 = ±5.14 acres).

Dwight Ahlers, developer, was present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. ***Kullbom moved to approve the final plat. Fuller second and the motion carried unanimously.***

PLAT – FINAL – Dwight Ahlers – Plat of Lots 27 and 28 of Spruce Mountain Estates No.1 Subdivision, located in the NE¼NE¼ of Section 14, T6N, R4E, B.H.M. (Lot 27 = ±4.98 acres and Lot 28 = ±5.74 acres).

Dwight Ahlers, developer, was present at the meeting. The preliminary plat was previously approved and the lots are brought before the Planning Commission for final approval as they are sold. ***Flanagan moved to approve the final plat. Fuller second and the motion carried unanimously.***

PLAT - PRELIMINARY AND FINAL – John Fredrickson and Rick Ribstein – Plat of Lot 1 and Lot 2 of South, Dalu, Cattle, and Cavoure Lodes, M.S. 1726, located in the W½W½ of

Section 30, T5N, R3E, and the E½E½ of Section 25, 5N, R2E, B.H.M. (Lot 1 = ±18.97 acres and Lot 2 = ±26.46 acres).

John Arleth of Arleth and Associates was present at the meeting. Arleth indicated the location of the property. Arleth indicated that perspective buyers wanted to purchase the land on the east and west side of the section line, so the property owners are platting the land to show this division. Birk stated that the property owner is required to provide a letter from the Bureau of Land Management (BLM) showing access to the land. Coburn read the Subdivision Regulations Section 3.1.1 to the Commission in regards to the access easement requirement. Birk stated he would hold the approval of the plat until the property owner provides the Planning and Zoning Office with a letter from the BLM. ***Flanagan moved to approve the preliminary plat with the stipulation that the road indicator, "C/L 66' R.O.W. Sheep Tail Gulch Road Dedicated as Access and Utility Easement" be removed and replaced with "existing trail" as the access. Mickelson second and the motion carried unanimously. Flanagan moved to approve the final plat with the same stipulation as stated above. Fuller second and the motion carried unanimously.***

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF JULY 3, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, July 3, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Derosier, Mattson, Coburn, Fuller, Mickelson, Kullbom, and Flanagan

ABSENT: None

MINUTES: Fuller moved to approve the minutes of June 5, 2003.

APPROVED: Mickelson second and the motion carried unanimously.

PUBLIC HEARING - REQUEST CHANGE OF ZONING #232 – Lawrence County and Office of Planning and Zoning - To void Change of Zoning #226 - Aztec Hill, 2½ miles southwest of Lead off of Hwy. 14A/85 (next to Recreational Springs Resort).

Erik N. Birk, Lawrence County Planning and Zoning Administrator, explained that a stipulation was placed on Change of Zoning #226 that should the prospective buyer not purchase the property, the change of zoning will be void and changed back to PF – Park Forest District zoning. Birk stated that the Change of Zoning #226 will be voided, but to change the zoning of the property had to be done through another change of zoning. Birk also stated that the notices had been mailed out to the adjacent property owners within 500 feet and the property owner, himself. Being there were no opponents or proponents at the meeting, the public hearing was opened and then, closed. *Mickelson moved to approve the Change of Zoning #232. Kullbom second and the motion carried unanimously.*

PUBLIC HEARING - REQUEST FOR CONDITIONAL USE PERMIT #288 – Gary and Jan Kaberna (H.O.M. Camp) - To allow a seasonal beer garden – Approximately 1 mile south of Nemo.

Jan Kaberna, property owner, was present at the meeting. Kaberna handed out pictures of the property and indicated where the beer garden would be located. Chuck Williams, Lawrence County Highway Superintendent, Terry Weisenberg and Jim Seward visited the property prior to this Planning and Zoning meeting. Kaberna stated that the building for the beer garden would be a 9X40 metal portable-storage building for this year. Kaberna stated that Seward agreed that she could have that sort of building. The building would be temporary until next year when she will put up a new building. Mattson asked what the hours of operation would be? Kaberna answered that the hours during normal operation would be 1 p.m. until 11:00 p.m./12:00 a.m. and during bike week 11:00 a.m. until 11:00 p.m./12:00 a.m. Kaberna stated she did not want to be open any time after midnight, and Bestgen Security from Whitewood will be used for security during the operation of the beer garden. Jerry Atkinson, Paul Dangle, Margie Ford, and Joe Coin spoke in favor of the proposed beer garden; they stated that Kaberna was an honest person; she ran a peaceful, enjoyable and professional campground operation with good security; and they had every confidence this proposal would be run the same way. There were no opponents at this meeting. Flanagan questioned the closing time in reference to a noise ordinance. Flanagan stated that he felt that people sitting outdoors would not cause a problem but if there was any

other activity there may be a problem. Mickelson stated he had an issue with the portable building and felt that the “hurry-up time table” that would allow this type of building to sell beer in an open field would not be an enhancement to the community and that there should be a commitment by the applicant to put the a building up. Kaberna stated that the female County Commissioner had requested she have a building before she came before the County Commission. Kaberna said that this proposed portable storage building would be her secure building. Mickelson stated that he did not feel this was a secure building. Mattson asked if Kaberna would have a new building next year? Kaberna answered yes. Flanagan suggested a condition stating that a permanent structure would be constructed by next year. ***Flanagan moved to approve Conditional Use Permit #288 with the condition that within one year of approval a permanent structure will be built. Fuller second, and the motion carried 5-1 with Mickelson casting the dissenting vote.***

PLAT – FINAL – Floyd Mount – Plat of Lot 27 of Meadow Crest Subdivision, located in the NW¼ of the SE¼, all in Section 17, T5N, R4E, B.H.M. (Lot 27 = ± 2.64 acres.).

Birk stated the land was zoned PF-Park Forest and that the preliminary plat had already been approved. The water tank is installed, and the roads are being constructed. Each lot is brought before the Planning and Zoning Commission as they are sold for final plat approval. Kullbom asked if the well had been drilled? Coburn stated that the well drillers were there working. ***Flanagan moved to approve the final plat. Mattson second, and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Homestake Mining Company – Plat of Ryan Tract being a portion of Flora McDonald M.S. 295, No Good M.S. 1190, Prosperity M.S. 1338 and Gov’t Lot 16, located in the NE¼ of Section 4, T4N, R3E, B.H.M. (Ryan Tract = ±2.03 acres).

Julie Stone, Homestake Mining Company, was present at the meeting. Stone indicated the location of the property and explained that the land had been offered to the current homeowner on the land. The homeowner lived on the land under a Homestake license. ***Mickelson moved to approve the preliminary plat. Coburn second, and the motion carried unanimously. Flanagan moved to approve the final plat. Fuller second, and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Homestake Mining Company – Plat of Tract 1 being a portion of Government Lot 4, Section 10, T4N, R3E, B.H.M. (Tract 1 = ±4.66 acres)

Julie Stone, Homestake Mining Company, was present at the meeting. Birk indicated the location of the property. Stone stated that Homestake was keeping 224 acres around the Wasp Dump as a buffer. The land was described, “as best they could” by following the mineral survey lines. Homestake is retaining the north part of Government Lot 4 in the buffer area, but the southern part with some surrounding land created Tract 1. Birk stated there was no visible access to Tract 1 on the plat. Stone indicated that the access to Tract 1 would have to be across other mineral surveys. Stone continued that Tract 1 with surrounding mineral surveys to the south was in the process of being purchased by one owner and would probably be platted at a later date. Stone therefore, recommended that a note be placed on the plat that the tract was being done “for transfer purposes only”. ***Mickelson moved to approve the preliminary plat with the note added “for transfer purposes only”. Mattson second, and the motion carried***

unanimously. Kullbom moved to approve the plat with the “same wording”. Flanagan second, and the motion carried unanimously.

PLAT – FINAL – Dwight Ahlers – Plat of Lots 1 and 2 of Spruce Mountain Estates No.1 Subdivision, located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T6N, R4E, B.H.M. (Lot 1 = \pm 5.49 acres and Lot 2 = \pm 4.67 acres).

Erik N. Birk, Planning and Zoning Administrator, indicated the location of the property as being off Jackson Road. The preliminary plat was previously approved and the lots are brought before the Planning and Zoning Commission for final approval as they are sold. ***Kullbom moved to approve the final plat. Mattson second, and the motion carried unanimously.***

PLAT – PRELIMINARY - Stephen B. Schloss - Plat of Lots 1 through 19, Common Lots 1 through 3, and dedicated 66 foot public Right – of –Way of the Hidden Mine Hollow Subdivision formerly the G.A.R., Anchor, Once More, Goodenough, C.O.D. No. 1, C.O.D. No. 3, C.O.D. No. 4, C.O.D. No. 5, Fortuna and Fabula Lodes of M.S. 1267 located in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 16, the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 17 and the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 20, T5N, R3E, B.H.M.

Todd Christensen, Realtor, John Arleth of Arleth and Associates, and John Frederickson, Attorney, were present at the meeting to represent the developer. Christensen spoke of the advantage to the area by adding this development was platted into lots greater than the (2) two-acre minimum lot size as required in the PF – Park Forest District regulations. Christensen also stated that the developer is willing to take on his fair share in conjunction with the property owners of Skyline Subdivision to improve the Tetro Rock Road, which is primary access through Skyline Subdivision to the proposed subdivision. Arleth stated that the land was previously (12) twelve mineral surveys that could have been sold individually without any access requirements. Mattson asked if there were no road district formed, would the developer maintain the roads forever? Kullbom voiced his concern about the undergrowth and timber in the area that needed to be cleaned up. Christensen stated that they had a contract with Alan Aker to “clean up” and that was “happening as we speak”. He further stated that the harvestable timber would be removed and the money regenerated from the timber sales would be used for the removal of the undergrowth to comply with the fire plan that was presented. A letter was presented from Tim Eggers, Fire Management Officer, with recommendations to comply with a fire plan. Mattson asked if there would be individual wells? Christensen answered yes. Coburn voiced his concern about water storage with the number of homes in the area. Coburn stated that a water source close to the subdivision would be needed to alleviate the need to shuttle water to a fire. Christensen stated his position on the water source was that he was willing to do anything in regard to safety, but he was not prepared to commit to any water source or storage. Arleth asked if a dam would work? Coburn stated it would have to be “something you could get a dry hydrant in and something that would be usable 365 days a year.” Frederickson asked what storage capacity was considered? Coburn stated that a tanker fills once every (15) fifteen minutes to a 3,000-gallon capacity. Frederickson stated a “30,000-gallon water storage tank gave them some concern, just from an economic standpoint”. Mickelson asked if the road grades would meet ordinance requirements? Arleth stated that there is a lot of 12% grade within the subdivision roads. Mickelson stated that the subdivision regulations specified “with short stretches of 14% allowable”. Arleth stated a total of 6000 feet of road with 700 to 750 feet of road at 12% grade within the subdivision and that does not include Tetro Rock road. Mickelson made the point that

the Tetro Rock Road was not a good road and adding a possible (18) eighteen more users to the road was not a good idea. Christensen reiterated that it was the developer's plan to improve the Tetro Rock road. Kelly Fuller, a resident adjacent to the proposed subdivision, asked Christensen to "define help improve". Christensen stated that they would form a road district and then a pro-rated share would be obtained from the property owner "based on the footage the land owner had and the number of land owners involved". Mickelson asked how you were going to form a road district with somebody that is not in your subdivision? Christensen answered, "Frankly, that was an issue he would have to get some advice on". Frederickson stated that you could join two subdivisions into "one body". Kullbom pointed out that you have to get the absentee property owners to join the road district and that had been a problem in other subdivisions. Frederickson thought that you could draft this requirement into the by-laws pertaining to the subdivision to enforce the road district. Mattson said it was state law that you were required to be a registered voter in South Dakota to be part of a road district. Coburn stated that he would have to have some issues satisfied before he was willing to sign off on the preliminary plat: 1) steep roads with significant grades, 2) water storage with the capacity to fill a fire truck within a (15) fifteen minute turn around. Frederickson asked if it would be possible to approve the plat with a condition that these items be satisfied? Mickelson wanted the subdivision brought forward as a workable package before he was willing to sign the preliminary plat. Arleth answered that he felt there had been "no hurry" bringing this plat through the board and that the road grades were not a problem, he felt they had one of the better road plans. ***Coburn moved to table the decision on the preliminary plat until the August meeting. Fuller second and the motion carried unanimously.*** Birk requested comments from the Commission within a two-week time frame for the developer to use as guidelines.

OPEN DISCUSSION – Fire Advisory Board Members – Members of the Lawrence County Fire Advisory Board that included Chuck Nicholas, Chairman of the Lawrence County Fire Advisory Board, Mike Craig, Spearfish Fire Department, Rob Mattox, Secretary of the Fire Advisory Board, and Jerome Harvey, Lead Fire Department. After discussion about the requirements in the fire plan that include steep grades on subdivision roads that do not allow tanker trucks access to the area, water storage and supply, vegetation management, fire retardant building materials, width of primary roads with a road in and a road out, cul-de-sac turn around with enough radius for emergency vehicle turn around, etc. The Commission expressed their desire for a consistent approach in requirements that could be integrated into the subdivision regulations for developers to follow when subdividing their land. The Commission scheduled a meeting on July 22, 2003 to develop what would be needed when presented at a public hearing to allow the requirements to be made part of the Lawrence County Subdivision regulations.

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF AUGUST 7, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, August 7, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Derosier, Coburn, Mickelson and Kullbom

ABSENT: Flanagan, Fuller and Mattson

MINUTES: *Mickelson moved to approve the minutes of July 3, 2003.*

APPROVED: *Kullbom second and the motion carried unanimously.*

REQUEST FOR CHANGE OF ZONING #234 – Donald and Karen Hander - To allow for subdivision of the land. – Approximately 6 miles from Lead. (3 miles from Lead to Rochford Road; 2.4 miles down Rochford Road to Hanna Road; 0.4 miles along Hanna Road to the property; Next to the Lead Country Club.)

Roger Tellinghuisen, attorney, and Donald and Karen Hander, property owners, were present at the meeting. Tellinghuisen began by handing out a detailed copy of the change of zoning request proposal for the Country Club Estates located near the Lead Country Club. Tellinghuisen indicated the location of the property and referred to a proposed plat that would be brought to the Commission for approval if the change of zoning were approved. The property is zoned PF – Park Forest District and the zoning request is for SRD – Suburban Residential District. Each of the (9) nine considerations from the Lawrence County Zoning Ordinance was addressed in the booklet that was handed out. Development roads, which will be paved, a central water system either by connection to the Lead-Deadwood Sanitary Water System or a private well; a 30,000-gallon reservoir; and fire hydrants every 600 feet were presented as part of the proposal. A fire protection plan was also included for review. Tellinghuisen stated that percolation tests were done at different locations on the property and presented that data. Mickelson noted that some of the perc tests were not successful. Tellinghuisen stated that “pass/fail” system, in regard to perc tests allow for use of only a standard septic system. Tellinghuisen reminded the Commission that each lot as it is developed, would require its own individual septic system and where a soil problem exists a “specialized system” would have to be developed to meet the state standards. Coburn asked about a homeowner’s association? Tellinghuisen stated that covenants would be drafted for the subdivision to provide for a homeowner’s association and that the covenants would take care of the road maintenance. Tellinghuisen recommended a road district be incorporated prior to the sale of lots. Coburn made some suggestions to follow in regard to fire protection when the preliminary plat is presented. Mickelson asked about the open spaces that were designated on the plat. Onsite inspections will be done on an individual basis. ***A public hearing will be held on Thursday, September 4, 2003.***

PLAT - PRELIMINARY – Maitland Partners, L.L.C. – Plat of Lots 1-37 of Paradise Acres Subdivision and dedicated right-of-way, all of the Rodman, L. Fraction, and Ibex Lodes of M.S. 1237; Edge, Goannex Fraction, Contention, Golden Slipper, Golden Ledge, Golden Age, Combination, Anticipation and Bessie Fraction Lodes of M.S. 1678, a portion of the Beulah No.

1 Lode of M.S. 1678; Tract H and Tract I, all located in the NE¼ and the SE¼ of Section 18, T5N, R3E, B.H.M. and the S½ of Section 7, T5N, R3E, B.H.M

Roger Tellinghuisen, attorney, and Donald and Karen Hander, property owners were present at the meeting. The proposed subdivision would be called Paradise Acres, this would be Phase 1, and would meet the PF – Park Forest District density; the subdivision would offer (37) thirty-seven lots on 192 acres. Donald and Karen Hander own the property surrounding the proposed subdivision. A booklet was handed out which covered material in regard to the access roads, percentage of road grades within the development, the type of finished surface on the roads within the subdivision, covenants with a stipulation stating the homeowners responsibility for maintenance of the roads, a 30,000-gallon water storage tank that would be fed by one or more wells and a fire protection plan. A road profile was handed out as a separate attachment. Coburn stated his concern in regard to Road A on the road profile with 550 feet at 11.41%. Coburn felt that when looking at the plat the entire Road A is at the 11.41%, which is 950 feet of road. Coburn said that almost 1000 feet of road at 11% did not qualify as a “short stretch”. Emergency vehicles such as a fire truck can’t make 11% for a long distance. Coburn also pointed out that an emergency vehicle would have a hard time turning onto Road B from Road A with the grade at 11%. Tellinghuisen stated that he would take the preliminary plat back to Brad Ellis, engineer, and tell him the concerns of the Commission. The decision on the preliminary plat was tabled until the September meeting. Tellinghuisen will list concerns as: 1) road grade on Road A; 2) additional fire protection requirements; and 3) fine-tuning the covenants.

REQUEST FOR CONDITIONAL USE PERMIT #289 - David Winter/Kinship Mountain Ministries - To operate an organized group camp. - Approximately 12 miles south of Deadwood on 385 and 4 miles south on Forest Road 193 (Paha Sapa).

David Winter, representing Kinship Mountain Ministries, was present at the meeting. Winter stated that Kinship Mountain Ministries has a purchase agreement to buy the Paha Sapa Campground. Winter handed out a booklet with his proposal that is close to the same as the one they had proposed at a different location. The camp will use the existing buildings on the property. There will be bath and shower houses added to the existing cabin clusters. There will (4) four new cabins added that would be winterized so that the camp can operate during the winter months. Future plans would include construction of a 60X100 lodge that will be connected to the existing lodge, stable and corrals, and a storage building. Maximum accommodations would be 370. There is an existing well but the camp will drill a new well. The existing well has some minor contamination problems so the water will be used for irrigation use. Derosier asked if one septic system would be designed for the whole camp? Winter answered that there would be multiple septic systems; each of the shower houses would have an individual system. Winter noted that there is a pipe into the pond that fire trucks can use and there is a nice secondary road leading out that can be an emergency exit. ***A public hearing will be held on Thursday, September 4, 2003.***

REQUEST FOR CHANGE OF ZONING #235 – Brian Meyer (Meyer Landscaping and Lawncare) – To allow for a landscaping and snow removal business. – The northwest corner of West Oliver Street and McGuigan Road, west of Spearfish.

Brian Meyer, property owner, was present at the meeting. Meyer handed out information about his business and his proposed change of zoning. Meyer has been in business for (6) six years.

The property is zoned A-1 General Agriculture District. Meyer requests a change of zoning to HSC – Highway Service Commercial on 2.5 acres within a 40-acre tract of land that he owns. Meyer stated he had no plans to expand to use the remainder of the 40-acres; the remaining acreage would be residential. The approach has already been put in with approval by the County; Meyer met with Chuck Williams, Lawrence County Highway Superintendent, to discuss relocation of the access after McGuigan Road has been rebuilt. Meyer has purchased a 40X60 and a 30X50 metal post building. A site plan was included in the booklet. An additional office space with restrooms will be constructed within 5 to 7 years in the joined area of both buildings. There will be a portable toilet used in building #1 until a septic system is installed. When the new home is built on the land, a well would be drilled to provide water to both the house and the business buildings. At present, a 300 to 500-gallon water tank placed in one of the buildings will be used for hand washing. Landscaping will be done on-site as examples of the type of work offered by Meyer. There is (1) one year around employee and up to 7 to 12 seasonal employees. The day starts at 7 a.m. - 5 p.m.; during winter hours with snow removal planned they begin work at 3 a.m. Typically during the day, there are no employees on the site; occasionally they come to get equipment or to make repairs on a piece of equipment. Meyer stated that Pope and Talbot are in close proximity as commercial property, and there are a low number of residential properties in the area. Mickelson stated this a comparable zoning situation that was turned down because of the land existing within close proximity of a residential area. On-site inspections will be done individually. ***A public hearing will be held on Thursday, September 4, 2003.***

PLAT – FINAL – Floyd Mount – Plat of Lot 39 of Meadow Crest Subdivision, located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, T5N, R4E, B.H.M. (Lot 39 = \pm 2.61 acres).

Birk stated the land was zoned PF-Park Forest and that the preliminary plat had already been approved. Each lot is brought before the Planning and Zoning Commission as they are sold for final plat approval. Kullbom asked about the water system in the subdivision. Birk replied that they had some problems, but were in the process of getting water to the lots. ***Kullbom moved to approve the final plat. Coburn second, and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Paul Hammett - Plat of Lots 3A and 4A of Alpine Acres Addition of H.E.S. 111, formerly known as Lots 3 and 4, Alpine Acres Addition of H.E.S. 111, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T2N, R4E, B.H.M. Lawrence County and Pennington County, South Dakota (Lot 3A = \pm 2.67 acres and Lot 4A = \pm 10.25 acres).

Paul Hammett, property owner, was present at the meeting. Hammett explained that his father is aging and he plans on taking over the care of the additional acres of land that is being platted. Hammett explained that prior to actually moving the fence and taking over ownership of the new platted portion of the property, he would be helping his father out. A waterline easement was shown on the plat to allow the water supply from his fathers lot to his lot to remain available. ***Mickelson moved to approve the preliminary plat. Coburn second, and the motion carried unanimously. Kullbom moved to approve the final plat. Mickelson second, and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Scott Anderson - Plat of Tracts 1 & 2 of the Stanchion M.S. 1914, located in the SW $\frac{1}{4}$ & SE $\frac{1}{4}$ of Section 6, T4N, R4E, B.H.M. (Tract 1 = \pm 2.48 acres and Tract 2 = \pm 7.94 acres).

Birk indicated the location of the property. The property lies off of the Gilt Edge Road and east of the Brohm mine. ***Mickelson moved to approve the preliminary plat. Coburn second, and the motion carried unanimously. Kullbom moved to approve the final plat. Mickelson second, and the motion carried unanimously.***

PLAT – FINAL - Benchmark Properties Inc. - Plat of Lot 3, Block 9 of the Pines at Benchmark Subdivision, a subdivision of a portion of Lot 6, Section 12, T3N, R4E, B.H.M. (Lot 3 = ±3.90 acres).

Birk indicated the location of the property. The lots are brought before the Commission for final approval as they are sold. ***Kullbom moved to approve the final plat. Coburn second, and the motion carried unanimously.***

PLAT – FINAL – Kevin McKee – Plat of Lots 3 through 5 of Haven Meadows Subdivision, all located in NE¼SE¼ and the SE¼SE¼ of Section 12, T2N, R4E, B.H.M.; lying west of Highway 385, and the unplatted portion of Government Lot 4 of Section 7, T2N, R5E, B.H.M., lying west of Highway 385, Lawrence County, South Dakota. (Lot 3 = ±5.58 acres, Lot 4 = ±4.94 acres, and Lot 5 = ±6.86 acres).

Birk indicated the location of the property. Birk stated that these lots would be the last lots in the subdivision brought before the Commission for final approval along Highway 385. ***Coburn moved to approve the final plat. Mickelson second, and the motion carried unanimously.***

OPEN DISCUSSION

The Planning Commission discussed requirements for approval of a preliminary plat. ***Coburn made a motion to allow the Planning and Zoning Office the discretion to require an information meeting prior to the meeting that would require a recommendation of approval or denial of a preliminary plat. Mickelson second and the motion carried unanimously.***

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF SEPTEMBER 4, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, August 7, 2003 at 1:00 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Mickelson, Coburn, Flanagan and Mattson

ABSENT: Kullbom and Fuller

MINUTES: *Mickelson moved to approve the minutes of August 7, 2003.*

APPROVED: *Flanagan second and the motion carried unanimously.*

REQUEST FOR CONDITIONAL USE PERMIT #290 – Bernie Reausaw - To allow construction of six (6) storage sheds with up to forty – seven (47) units - West of Deadwood, approximately 1½ miles off of Highway 14A on the Cutting Mine Road.

Bernie Reausaw, property owner, was present at the meeting. Reausaw stated that he proposed building 47 storage units on 7.12 acres of land with 400 feet along the existing road; the proposed area will be fenced for security purposes with signage on the fence stating the hours of operation; twenty-five feet will exist between each building with space to drive in front of each unit; and there will be no water or septic system on the land. Discussion was held on the type of properties that already exist in the area and whether they were grandfathered in as commercial businesses. Flanagan stated that he felt this was an appropriate area for this type of use. *A public hearing will be held with the Planning and Zoning Commission on October 2, 2003.*

REQUEST TO AMEND CHANGE OF ZONING #211 – David Adickes / Presidents Park - To include mineral surveys Bayard Faction, Golden Key, McLeod with Presidents Park's current site, Evangeline #1 and Evangeline #2; and to allow placement of signage and sculpture display along Highway 85 /14A; and expansion of the visitor's center - Deer Mountain.

David Adickes, property owner, was present at the meeting. Adickes stated he proposed this zoning amendment to join a newly acquired 23 acres with the 20-acre Presidents Park, which is, zoned RC – Recreation Commercial. Adickes has also placed a sculpture of Abraham Lincoln to be used as signage at the new entrance to Presidents Park from Hwy. 14A/85. Erik N. Birk, Planning and Zoning Administrator, stated that this proposed amendment to the existing change of zoning would allow the sculpture to remain at its present location as to comply with South Dakota Codified Law (SDCL) Highway Sign regulations. Adickes further stated the new property would also allow future expansion of the parking lot and allow for enlarging or building a new educational meeting room. Mickelson asked if it was the intent to change the zoning on the entire lot? Birk stated that was the intent. Mickelson asked if the Planning Commission wanted to approve the entire 23 acres as RC-Recreation Commercial or just a platted portion to allow the sign? Mattson stated that Recreation Springs, which is in the immediate area, was zoned commercial. Adickes stated that all they wanted to do was to have a location to put a sign. Coburn stated that he agreed with Mickelson's concerns. The Planning Commission suggested Adickes contact a surveyor to plat a portion of the land to place the sign on. After a plat is

approved, the legal description of that land will be considered for a change of zoning to commercial. *There may be a public hearing on October 2, 2003.*

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #234 – Donald and Karen Hander - To allow for subdivision of the land. – Approximately 6 miles from Lead. (3 miles from Lead to Rochford Road; 2.4 miles down Rochford Road to Hanna Road; 0.4 miles along Hanna Road to the property; Next to the Lead Country Club.)

Roger Tellinghuisen, attorney, and Donald and Karen Hander, property owners, and Brad Ellis, engineer, were present at the meeting. Tellinghuisen summarized the proposed change of zoning and pointed out a plat concept that would be brought to the Planning Commission for approval if this zoning were changed. Tellinghuisen stated that a well would be drilled to allow community water to the subdivision. Flanagan voiced his concern on the open spaces that were designated in the subdivisions; he felt that the county could end up with the ownership of these lots because of nonpayment of taxes. Mickelson stated that the Lawrence County Zoning Ordinance required “green space” as part of subdivision requirements. Hander will pave a portion of the Hanna Road to the subdivision entrance. *Flanagan moved to approve Change of Zoning #234. Mickelson second and the motion carried unanimously. A public hearing with the County Commission will be held on September 23, 2003.*

PLAT - PRELIMINARY – Maitland Partners, L.L.C. – Plat of Lots 1-37 of Paradise Acres Subdivision and dedicated right-of-way, all of the Rodman, L. Fraction, and Ibex Lodes of M.S. 1237; Edge, Goannex Fraction, Contention, Golden Slipper, Golden Ledge, Golden Age, Combination, Anticipation and Bessie Fraction Lodes of M.S. 1678, a portion of the Beulah No. 1 Lode of M.S. 1678; Tract H and Tract I, all located in the NE¼ and the SE¼ of Section 18, T5N, R3E, B.H.M. and the S½ of Section 7, T5N, R3E, B.H.M.

Roger Tellinghuisen, attorney, and Donald and Karen Hander, property owners, and Brad Ellis, engineer, were present at the meeting. The proposed subdivision would be called Paradise Acres, this would be Phase 1, and would meet the PF – Park Forest District density; the subdivision would offer (37) thirty-seven lots on 192 acres. Donald and Karen Hander own the property surrounding the proposed subdivision. Tellinghuisen stated that he had prepared a set of covenants that does not include the language regarding the Planning Commissions requirements for fire prevention. Fire prevention requirements will be included at the time of final approval of each lot. Paradise Acres will be incorporated into a road district, and the paper work will be started after approval of the preliminary plat. Brad Ellis, engineer, indicated the changes made to the road profile after the onsite conducted by the Planning Commission. (A copy is included on file in the Planning and Zoning Office.) Ellis stated that the “long climb” had been excavated enough to bring it in at 10% but that left the short stretch (about 450 feet including the cul-de-sac) at 12% grade. The 12% stretch of road will serve three (3) lots. There will be a water storage tank with hydrants every 500-600 feet. Road D crosses an easement with an existing trail that will be improved and paved as per a Homestake agreement; the road will be used as a primary access. An existing road called Paradise Gulch road will be used as a secondary access as the topography will not allow it to be approved to county standards. Flanagan reiterated his concern about the open spaces in the subdivision. Tellinghuisen stated the open spaces in the subdivision would be named as lots and deeded to the Homeowner’s Association for annual assessments, and the homeowners association would pay the taxes. *Mickelson moved to approve the preliminary plat with the stipulation that the fire protection,*

covenants and road district be in place at the time of final approval of the lots. Flanagan second and the motion carried unanimously.

PUBLIC HEARING - REQUEST FOR CONDITIONAL USE PERMIT #289 - David Winter/Kinship Mountain Ministries - To operate an organized group camp. - Approximately 12 miles south of Deadwood on Hwy. 385 and 4 miles south on Forest Road 193 (Paha Sapa).

David Winter, representing Kinship Mountain Ministries, was present at the meeting. Winter stated the property was already established as a campground and Kinship Mountain Ministries plans to use 40 acres of the total 102 acres they are purchasing as the campground. Winter stated they would drill a new well for the campground. A Forest Service road allows access to the campground, and a permit will be obtained to do snow removal. Mickelson asked if the R.V. spots were figured into the occupancy of the campground? Winter answered that the R.V. locations were addressed in attached conditions #3 and #5. *Flanagan moved to approve Conditional Use Permit #289. Mickelson second and the motion carried unanimously. A public hearing will be held with the County Commission on September 23, 2003.*

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #235 – Brian Meyer (Meyer Landscaping and Lawncare) – To allow for a landscaping and snow removal business. – The northwest corner of West Oliver Street and McGuigan Road, west of Spearfish.

Brian Meyer, property owner, was present at the meeting. Meyer summarized the proposed change of zoning and stated there were no changes in the presentation that he presented at last month's meeting. The approach will be relocated after construction on McGuigan Road begins and an approach has been approved off of West Oliver Street. There is a home located west of the proposed buildings, and a new home is planned on the property. Meyer stated one building has been moved to the site and the other building is ready to be moved onto the land. Brandon Flanagan read a letter from Norma Thomson, a neighbor and an opponent to the change of zoning. Meyer felt the issues, such as the lights on the property, and early morning traffic could be handled in a manner so as to not disturb the Thomson property. Mickelson asked Meyer if the new buildings in the larger area would allow more time inside the buildings for loading of vehicles and for storage? Meyer said yes, and that was part of the reason for the larger buildings. John Marta spoke in favor of the proposal and stated that he was confident that "what Meyer says he will do, he will do". Another proponent from the area felt that with the addition of Exit 8 off of I-90, the area is seeing more commercial traffic and could be looked at for commercial development. Mickelson stated that his thought all along was that a conditional use permit was more applicable for this proposal. Mickelson further stated that he felt the area could be developed with residential lots. Mickelson felt the conditional use permit would allow the county more leverage and agreed that the concerns stated in the letter from Thomson could be addressed so that the business would not be intrusive. Mattson felt a conditional use permit would be appropriate. Meyer reiterated that he was proposing the change of zoning on 2.5 acres of a 40-acre tract of land. Meyer said that his concern was that he would have a substantial amount of money into this land and did not want the CUP "jerked". Coburn felt the concern was that the land would be zoned commercial and Meyer may find a better location and decide to move leaving a commercial zone open for consideration for another business. Meyer stated that he had no plans to move and that he wanted to build his dream home on this property. Mattson pointed out that since Meyer had a house on the 40 acres he could not build a second residence. *Mickelson moved to deny Change of Zoning #235. Mattson second. The motion carried 2-1*

with Flanagan casting the nay vote. Birk explained to Meyer that the Planning Commission was a recommendation board and this proposal could be brought before the County Commission for approval or denial. The Commission suggested that if he wanted to proceed with a CUP, the paperwork could be completed and a public hearing on the CUP could be held on October 2, 2003. Meyer stated that he would contact the Planning and Zoning Office with his decision about how to proceed with his proposal. ***At a later date, Meyer chose to present his proposal at the County Commission meeting on September 23, 2003.***

PLAT – PRELIMINARY AND FINAL – Edwin, Alice and Rodney Petranek – Plat of Lot 39A being a portion of Baltimore Lode M.S. 1780, Eagle No. 6 and Maitland Fraction M.S. 1754, formerly known as Lot 39 of the subdivision of Baltimore Lode M.S. 1780, located in the NW¼ of Section 18, T5N, R3E, B.H.M. (Lot 39A = ±0.69 acres)

Birk indicated the location of the property off the Maitland Road. The property is being platted to include land once owned by Homestake Mining Company, which bordered the Maitland Road and adjoined the old Lot 39. The Petranek had an access easement across this land, but have since purchased the land and are now including the land into their new Lot 39A. Birk further pointed out that the new lot increased the size of the old lot, but was still less than one acre and that there is already a residence on the lot. ***Mickelson moved to approve the preliminary plat. Mattson second, and the motion carried unanimously. Mickelson moved to approve the final plat. Flanagan second, and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – James A. Swaby - Plat of Tract S, located in the SW¼SE¼, NW¼SE¼ of Section 32, T6N, R4E, B.H.M. (Tract S = ±17.7 acres)

Randy Deibert, Black Hills Surveying, was present at the meeting. Deibert indicated the location of the land on the Crook City road. The property is zoned PF- Park Forest District. The property owner is platting at this time to build a new house on this land. Deibert stated that the property owner would work with Chuck Williams, Lawrence County Highway Superintendent, about a new approach off of Crook City road. ***Mickelson moved to approve the preliminary plat. Flanagan second, and the motion carried unanimously. Flanagan moved to approve the final plat. Mickelson second, and the motion carried unanimously.***

INTRODUCTION AND DISCUSSION OF PROPOSED COUNTY FIRE ORDINANCE – Discussed Firewise issues and ordinance and scheduled a firewise onsite inspection of several structures for September 24, 2003.

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF OCTOBER 2, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, October 2, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Derosier, Flanagan, Kullbom and Mattson

ABSENT: Coburn, Mickelson and Fuller

MINUTES: Flanagan moved to approve the minutes of September 4, 2003.

APPROVED: Mattson second and the motion carried unanimously.

PUBLIC HEARING - REQUEST FOR CONDITIONAL USE PERMIT #290 – Bernie Reausaw - To allow construction of six (6) storage sheds with up to forty – seven (47) units - West of Deadwood, approximately 1½ miles off of Highway 14A on the Cutting Mine Road.

Bernie Reausaw, property owner, was present at the meeting. Reausaw stated that he proposed building 47 storage units on 7.12 acres of land. Reausaw stated that he had been approached about building some larger units for larger vehicles but that the units would all be standard units. Kullbom asked if other storage unit proposals were under conditional use permits? Birk said yes, storage units could be conditioned when they were approved as CUPs. Mattson asked if Reausaw would be building the total of (6) six units at one time? Reausaw said he would start out with (2) two buildings and see how it goes. Reausaw stated that he had used all the space provided on the land with his proposal and had no plans to expand. ***Flanagan moved to approve Conditional Use Permit#290 with conditions that are attached. Kullbom second and the motion carried unanimously. A public hearing will be scheduled with the Lawrence County Commission on October 28, 2003.***

PLAT – FINAL – Dwight Ahlers – Plat of Lot 34, Spruce Mountain Estates #1, located in the NW¼NW¼ of Section 13, T6N, R4E, B.H.M. (Lot 34 = ±7.88 acres).

Dwight Ahlers, developer, was present at the meeting. The lot was previously approved as part of a preliminary plat. The lot is brought before the Commission for final approval as they are approved. Ahlers stated that he had the weeds in the subdivision controlled with a residual weed spray to control the growth for the next year. ***Flanagan moved to approve the final plat. Kullbom second and the motion carried unanimously.***

PLAT – FINAL – Ivan Shonley - Plat of Lot 66 Revised of Block 1 of Boulder Park Subdivision, formerly known as Lots 66 and 67 in Block 1 of Boulder Park Subdivision, located in portions of the NE¼ of the NE¼ and Tract K in Section 15, T5N, R4E, B.H.M. (Lot 66 Revised = ±2.131 acres).

Ivan Shonley, developer, was present at the meeting. The lots were previously approved as part of a preliminary plat and then approved as final plats. Shonley stated the lots are being combined to allow a larger area for construction of a home. Birk asked Shonley if combining the lots would cause a problem with the assessments by the Homeowner's Association for road

maintenance? Shonley stated that he did not know of any problem. ***Kullbom moved to approve the final plat. Flanagan second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Homestake Mining Company – Plat of Lot 1 and Lot 2 being portions of M.S. 733, located in the NW¹/₄NW¹/₄ of Section 27 and the NE¹/₄NE¹/₄ of Section 28, T5N, R3E, B.H.M. (Lot 1 = ±1.67 acres and Lot 2 = ±0.21 acres).

Julie Stone, Homestake Mining Company, and Loren Vrem, Ponderosa Land Surveying, were present at the meeting. Birk indicated the location of the property. The lots are being platted to convey to Bob Ruth, the property owner, who had leased the land from HMC since 1960. The mobile home on Lot 2 is connected to city water and sewer. Lot 1 is platted for transfer purposes only to clean up the legal description on an existing mineral survey. This will be noted on the final plat. ***Flanagan moved to approve the preliminary plat. Kullbom second and the motion carried unanimously. Kullbom moved to approve the final plat with the note. Mattson second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – George Peska, Maitland Partners L.L.C.– Plat of the Peska Tract being portions of Eagle, Eagle No. 1, Eagle No. 4 Lodes of M.S. 1754 and International Lode, M.S. 1678, located in the SW¹/₄ of Section 7, T5N, R3E, B.H.M. (Peska Tract = ±17.01 acres).

Loren Vrem, Ponderosa Land Surveying, was present at the meeting. Vrem stated the property owner would use Paradise Gulch Road, a 66-foot access road that is off the Maitland Road as access to this lot. The lot is being platted as a building site for a new home. Mattson asked if the lot could be platted without the fire plan etc. that is required for subdivisions? Birk answered that the fire plan etc. information is required for (3) three or more lots and this was (1) one lot. Mattson stated that this is part of “a whole”, suggesting that it was part of the Paradise Acres Subdivision. Birk stated the Peska Tract was created out of land that is northwest of the approved subdivision. Birk explained that Mr. Peska is a partner of the Maitland Partners L.L.C. who are developing the Paradise Acres subdivision and this lot may be included later into this subdivision once the unplatted portion of lands are platted. ***Kullbom moved to approve the preliminary plat. Mattson second and the motion carried unanimously. Mattson moved to approve the final plat. Kullbom second and the motion carried unanimously.***

PLAT – FINAL – Kelly Maguire – Plat of Lots A, B, C and Lot E (Park Lot) of Jay Bird Subdivision, a subdivision of Lot 13 of Black Forest Ranchettes #2, located in M.S. 1764, Section 15, T4N, R3E, B.H.M. (Lot A = ±2.54 acres, Lot B = ±2.50 acres, Lot C = ±5.00 acres and Lot E = ±2.30 acres).

Randy Deibert, Black Hills Surveying, was present at the meeting. Lots A, B and C have been approved as part of a preliminary plat and the property owners are going to build homes on these lots. Deibert stated the White Forest Road has been completed as the subdivision road. Lot E will have a common building on it, which will be owned by the Homeowner’s Association. Lot D will be platted later as a (5) five-acre lot and will be sold; a note will be added to the final plat on Lot D that will state the lot cannot be subdivided. ***Flanagan moved to approve the final plat. Kullbom second and the motion carried unanimously.***

PLAT – FINAL - Benchmark Properties Inc. - Plat of Lot 1, Lot 5, and Park II, Block 9 of The Pines at Benchmark Subdivision, a subdivision of a portion of Lot 6, Section 12, T3N, R4E, B.H.M. (Lot 1 = ±3.27 acres, Lot 5 = ±2.55 acres and Park II Lot = ±1.91 acres).

Randy Deibert, Black Hills Surveying, was present at the meeting. The lots were previously approved as part of a preliminary plat and are being brought to the Commission for final approval. Deibert stated that the road and the cul-de-sac are completed. ***Flanagan moved to approve the final plat. Mattson second and the motion carried unanimously.***

PLAT – FINAL – Benchmark Properties Inc. – Plat of Lot F, Block 13 of The Pines at Benchmark Subdivision, a subdivision of a portion of the Funston No. 5 Lode of M.S. 1902, and dedicated Public Right Of Way, located in Black Horse, Funston No. 5, Funston No. 6, Funston Fraction and Bird No. 2 Lodes of M.S. 1902, all located in Section 11, T3N, R4E, B.H.M. (Lot F = ±4.00 acres).

Randy Deibert, Black Hills Surveying, was present at the meeting. Deibert stated that the road to this lot is complete including the cul-de-sac that would be used to access the other lots off that cul-de-sac. The road that is used, as an emergency access is visible from this cul-de-sac. ***Kullbom moved to approve the final plat. Mattson second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Kevin McKee – Plat of Lot A and Lot B of Clare No. 4 of M.S. 1135, all located in Section 16, T4N, R4E, B.H.M. (Lot A = ±5.14 acres and Lot B = ±5.13 acres).

Randy Deibert, Black Hills Surveying, was present at the meeting. Deibert indicated the location of the lots. Deibert further stated that the 66-foot right of way was dedicated through the land to the mineral survey to the north. There is also a power line easement to the property. ***Kullbom moved to approve the preliminary plat. Flanagan second and the motion carried unanimously. Flanagan moved to approve the final plat. Kullbom second and the motion carried unanimously.***

PLAT – FINAL – Floyd Mount – Plat of Lot 29, Meadow Crest, located in the NW¼ of the SE¼ of Section 17, T5N, R4E, B.H.M. (Lot 24 = ±2.04 acres).

John Keene, Realtor who represents Floyd Mount, was present at the meeting. Keene explained to the Planning Commission the status of the well drilling and the water availability in the subdivision. Keene said the well was in and Black Hills Power and Light has informed him that there will be power to the well by the 9th of October. The engineer, Brad Ellis, said it would take (20) twenty hours to fill the storage tank so there should be water by October 11th. Keene stated after the (2) two days it takes to flush the lines the (2) two homeowners that are ready for water will have water. The well was drilled 1900 to 2000 feet. The people that will be purchasing property in the subdivision are now given documentation that advises them of the time frame that they have to notify BHP&L that they will need power to begin construction. Prior to closing on the property, the property owner needs to initial each item so that they know what is needed to begin construction. The lot was previously approved as part of a preliminary plat and the lot is being brought before the Commission for final approval because

the property has been sold. *Flanagan moved to approve the final plat. Kullbom second and the motion carried unanimously.*

OPEN DISCUSSION: Karen Everett, manager of the Presidents Park, was present at the meeting. Birk explained that the SD DOT sent a letter stating that changing a small portion of land to commercial to allow for a sign was considered “spot zoning” and was not allowed. The property must be considered for a commercial zone contiguous to an adjacent piece of property already zoned commercial. SD DOT has full jurisdiction in regard to placement of signs along state highways. A discussion was held in regard to the complete plan that is presented as a proposal for a change of zoning. Birk stated that the entire mineral surveys, except that portion of a mineral survey located across the state highway, would have to be changed to RC-Recreation Commercial to allow the signage as presented in the Adickes proposal on September 4, 2003. Birk reiterated to the Planning Commission when a zoning change is requested the approval of the change of zoning is based on the final plan that is presented; any change to that final plan would require an amendment to that plan as stated under the Lawrence County Zoning Ordinance Sections 3.4.5.H. and 3.9.3.H. Everett understood and asked for clarification that if in (5) five years Adickes would change his mind and wanted to build a small motel then he would have to come before the Commission for approval of that motel proposal as an amendment to the change of zoning? Birk answered yes. Everett left the meeting with the understanding that the proposal can be brought forth as a public hearing at the November 6, 2003 Planning Commission meeting for consideration of a change of zoning on the mineral surveys legally described on the application.

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF NOVEMBER 6, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, November 6, 2003 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Derosier, Flanagan, Kullbom, Mickelson, Coburn and Mattson

ABSENT: Fuller

MINUTES: Mattson moved to approve the minutes of October 2, 2003.

APPROVED: Mickelson second and the motion carried unanimously.

PUBLIC HEARING – REQUEST FOR AMENDED CHANGE OF ZONING #211 - David Adickes / Presidents Park - To include that portion of the McLeod and the Golden Key Lodes lying west of State Highway 85/14A and all of the Bayard Fraction, M.S. #1153, of Section 18, T4N, R3E, B.H.M. with Presidents Park's current site, Evangeline #1 and Evangeline #2; and to allow placement of signage and sculpture display along Highway 85/14A; and expansion of the visitor's center – Deer Mountain.

Karen Everett, the President's Park manager, was present at the meeting. The request was to change the zoning to RC–Recreation Commercial on approximately 23 acres of land that lies adjacent to the Presidents Park and west of State Highway 85/14A. The reason for the request is to bring the sculpture display (the bust of Lincoln) and the outdoor advertising signage for the Presidents Park located at the parks entrance into compliance with the Lawrence County Zoning Ordinance and to comply with state law as per the South Dakota Department of Transportation for signage. That portion of the McLeod Lode, M.S. 1153, lying east of the highway was originally included in the change of zoning request. The property was withdrawn due to two reasons; the property on the east side of the highway being separated by the highway could be considered a separate commercial zone and second, the applicant, David Adickes, thought that another sign could be place on this property, but D.O.T. had informed the Planning and Zoning Office that a sign would not be permitted on the property due to state law. Erik N. Birk, Lawrence County Planning and Zoning Administrator, stated the change of zoning request would only allow what was being proposed in the presenter's package and any change to that proposal would have to be brought before the board as an amendment to the change of zoning. ***Mattson moved to approve the Amended Change of Zoning #211. Mickelson second and the motion carried unanimously.***

REQUEST FOR CONDITIONAL USE PERMIT #291 - Mark and Karen ValDez - To allow for a retail store to sell jewelry and gifts - Approximately 2½ miles north of Deadwood on the east side of Hwy. 85 on McMasters Corner.

Mark and Karen Valdez, property owners, were present at the meeting. Mark Valdez began by describing the location, the configuration of the lot and the description of the building that they wanted to place on their property. Mark makes and sells jewelry and would also offer a line of

gifts from the 20X28 foot building. The hours of operation will be 9:00 a.m. to 6:00 p.m., Tuesday through Sunday and the store will be open April through December. There will be one employee and a possible summer time employee. Valdez will not live in the house on the property; the house will be leased to a groundskeeper and a night watchman. The bathroom facility that exists in the building that will be moved on the property will be connected to the septic system on the property. The proposed conditional use permit will be sent to the South Dakota Department of Transportation in regard to the access off and onto Highway 85 for compliance with state law before opening the business. The only sign on the property will be an on-premise sign that will advertise only their business. The sign will be reviewed by the Planning Commission first and have to be approved by the South Dakota D.O.T. prior to construction and placement. Birk asked why there were so many outdoor lights planned for the property? Valdez stated that he thought the additional lights would be for safety but he stated he could remove them in their proposal. Birk recommended not adding the additional lighting. Valdez said that would be no problem. ***A public hearing will be held on December 4, 2003 with the Planning Commission.***

REQUEST FOR CHANGE OF ZONING #236 – MPT, Inc. - To allow for a commercial office building and storage facility - Approximately 2 miles east of Deadwood on the north side of Boulder Canyon, Hwy. 14A.

Roger Tellinghuisen, attorney, Bill Pearson and Jim Kirby, property owners, were present at the meeting. Tellinghuisen stated that the U.S. Forest Service had operated in the existing buildings as office space and storage under a conditional use permit that was approved in 1992. The conditional use ceased at the time the Forest Service operation vacated the property. The

property owners are requesting a change of zoning to HSC – Highway Service Commercial to allow the sale of the buildings. Tellinghuisen stated that any perspective buyers have difficulty obtaining financing to purchase the property when the use of the buildings is pursuant to a conditional use permit. Tellinghuisen recognized that if the property is sold, the buyer would be obligated to use the buildings as per the approved change of zoning and any change in the use of the property would be subjected to this change of zoning process again as an amendment to this zoning change. Tellinghuisen noted Section 3.4.5 and Subsection H of the Lawrence County Zoning Ordinance in regard to amendments to an approved change of zoning. Tellinghuisen stated that there is a well on the property and (2) septic systems; the church on Lot 4 shares the well. Mickelson asked if the church shared the septic system? Birk stated that the church had it's own septic system. Mark Stromberg, a property owner in the area, asked if the meeting time could be changed for the public hearing because of the amount of residents in the area that wanted to be heard. The Commission agreed to change the time from 2:00 p.m. to 4:00 p.m. Birk stated he would notify the property owners within 500 feet of the time change since the notification letters for the public hearing had already been mailed out by the attorney's office. ***A public hearing will be held on December 4, 2003 with the Planning Commission.***

PLAT – FINAL – Dwight Ahlers – Plat of Lot 29, Spruce Mountain Estates #1, located in the NE¼NE¼ of Section 14, T6N, R4E, B.H.M. (Lot 29 = ± 4.87 acres).

Dwight Ahlers, developer, was present at the meeting. Lot 29 was approved initially as a part of a preliminary plat and is being brought to the Commission for final approval as it is being sold.

Coburn moved to approve the final plat. Flanagan second and the motion carried unanimously.

PLAT – FINAL – Ivan Shonley - Plat of Lot 223, Block 2 of Boulder Canyon Subdivision; in Section 11, T5N, R4E, B.H.M. (Lot 223 = ±1.55 acres).

Ivan Shonley, developer, was present at the meeting. The lot legally described was approved initially as a part of a preliminary plat and is being brought to the Commission for final approval as it is being sold. ***Mickelson moved to approve the final plat. Coburn second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Wharf Resources – Plat of Tracts 1 through 9 being portions of Surprise and Little Phill, M.S. 1105, Hidden Fraction, M.S. 1993, Black Moon, M.S. 1704, Santa Fe, M.S. 402, Cygnet, M.S. 1705, Star, M.S. 1493, Ryan Fraction, M.S. 2001, Northside, M.S. 1173 and Kate Putnam, M.S. 1172, located in the NW¼ of Section 1 and the SE¼NE¼ & NE¼SE¼ of Section 2, T4N, R2E, B.H.M.

Jim Lessard, Land Manager for Wharf Resources, was present at the meeting. The land is platted to consolidate the land currently used by the Black Hills Chairlift. Black Hills Chairlift will retain ownership of Tracts 2,3,5,7 and 8, and Wharf will retain Tracts 1,4,6 and 9. Birk stated that the lots followed the natural drainage to the east and the west; Wharf lots will fall to the north of the drainage area and Black Hills Chairlift to the south. Birk explained that the skiers have been using this area to get from one chairlift to another. Flanagan stated that somewhere on the preliminary plat it should be noted that Tracts 1,4,6 and 9 were for transfer purposes only. Birk pointed out that the final plat had the note, “TRACTS 1 THRU 9 FOR TRANSFER PURPOSES ONLY” on the plat below the line/bearing/distance table. Because this final plat has more than three lots, the plat will be brought before the County Commission for their final approval. ***Kullbom moved to approve the preliminary plat. Flanagan second and the motion carried unanimously. Coburn moved to approve the final plat. Kullbom second and the motion carried unanimously.*** Jack Cole, concerned citizen, asked Lessard if any of this land presented for plat approval had been disturbed by mining? Wharf had not mined on this

land. Cole asked who was going to be the POP responsible for any environmental problems on this land? Lessard answered that Wharf would retain mineral rights. Cole asked if the land was taxed? Flanagan answered yes that land is assessed and taxed. Cole asked what entity of Wharf is represented at this meeting. Lessard answered Wharf USA.

PLAT – PRELIMINARY AND FINAL – Homestake Mining Company - Plat of Tracts R1, R2 and R3, Tract R1 formerly known as Tract R, being a portion of the Protection Lode, M.S. 1929 and Lot 2 of Tract A of Placer 252, Tract R2 and Tract R3 being a portion of the Protection Lode, M.S. 1929, located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28, T5N, R3E, B.H.M. (Tract R1 = \pm 2.43 acres, Tract R2 = \pm 9.52 acres and Tract R3 = \pm 0.11 acres).

Julie Stone, Homestake Mining Company, and Tim Davis, potential buyer, were present at the meeting. Stone stated that Davis is purchasing the property and that the building encroachments indicated on the plat would be taken care of by Davis at another time when property owners decide to plat. The plat is cleaning up several remaining pieces of mineral surveyors to allow conveyance to Davis. *Mickelson moved to approve the preliminary plat. Kullbom second and the motion carried unanimously. Flanagan moved to approve the final plat. Kullbom second and the motion carried unanimously.*

PLAT – FINAL – Floyd Mount – Plat of Lot 8 and Lot 32 and 66 foot dedicated public right – of – way of Meadow Crest Subdivision, located in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 17, T5N, R4E, B.H.M. (Lot 8 = \pm 2.79 and Lot 32 = \pm 3.62 acres).

John Arleth, surveyor, and John Keene, Realtor, were present at the meeting. The lots legally described were approved initially as a part of a preliminary plat and are being brought to the Planning Commission for final approval as they are being sold. Discussion was held in regard to reasons to possibly deny this plat because the (3) three residents who have constructed homes in the subdivision have no water at this time. It was decided that the plat would be approved and the developer could obtain it from the Planning and Zoning Office when the engineer confirms that water is provided to the residents with homes in the subdivision. *Flanagan moved to*

approve the plat when potable water is available. Mickelson second and the motion carried unanimously.

PLAT – PRELIMINARY AND FINAL — Duane and Ellen Reddick Living Trust - Plat of Sunset Cemetery Addition, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T7N, R3E, B.H.M. (Sunset Cemetery Addition = ± 1.00 acre).

PLAT – PRELIMINARY AND FINAL — False Bottom Creek Enterprises - Plat of Gateway Cemetery, located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T7N, R3E, B.H.M. (Gateway Cemetery = ± 1.00 acre).

John Arleth, surveyor, was present at the meeting. Derosier, a member of the St. Onge Cemetery Association, explained that each of the existing cemeteries had been given an opportunity to purchase an acre of land, one acre to the south and one acre to the north of the existing cemeteries to allow expansion of the cemetery grounds. *Coburn moved to approve the preliminary plat of each plat. Flanagan second and the motion carried unanimously. Kullbom moved to approve the final plats. Mickelson second and the motion carried unanimously.*

PLAT – FINAL – Gary & Irena Case and Kevin & Joann Pople - Plat of Lot 35R and Lot 36R-A of Valhalla Addition formerly Lot 35 and Lot 36R of Valhalla Addition, located in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 13, T5N, R4E, B.H.M. (Lot 35R = ± 1.67 acres and Lot 36R-A = ± 0.63 acres).

John Arleth, surveyor, was present at the meeting. Arleth stated that a portion of Lot 35 was purchased from that property owner to allow the owner of Lot 36R a better building site for a garage. *Flanagan moved to approve the final plat. Mickelson second and the motion carried unanimously.*

PLAT – FINAL – Delbert and Jean Zambon – Plat of Lot 7A, Block 1 of Whitewood Forest Addition formerly Lot 6 and Lot 7, Block 1 of Whitewood Forest Addition, located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T6N, R4E, B.H.M. (Lot 7A = ± 2.86 acres).

John Arleth, surveyor, was present at the meeting. Arleth stated that the property owner was combining his lots for tax purposes and to allow the existing residence to sit on one lot. ***Coburn moved to approve the final plat. Kullbom second and the motion carried unanimously.***

PLAT – FINAL – Jon Mattson – Plat of Lots 20A and 33A of Shirrtail Gulch Subdivision, formerly Lots 20 and 33 and an unplatted portion of M.S. 777, of Shirrtail Gulch Subdivision, being a portion of the Theodor Placer, M.S. 777; all located in Section 13, T5N, R3E, B.H.M. (Lot 20A = ±2.00 acres and Lot 33A = ±2.32 acres).

John Arleth, surveyor, was present at the meeting. Arleth stated that they were moving the lot line to allow a better building site for the lots. ***Mickelson moved to approve the final plat. Coburn second and the motion carried unanimously. Mattson abstained from the vote.***

PLAT – FINAL – Tim Noteboom, Robert Clanton and Julie Davis – Plat of Lots 18A and 26A of Shirrtail Gulch Subdivision, formerly Lots 18 and 26 and an unplatted portion of M.S. 777, of Shirrtail Gulch Subdivision being a portion of the Theodor Placer, M.S. 777; all located in Section 13, T5N, R3E, B.H.M. (Lot 18A = ±2.24 acres and Lot 26A = ±2.37 acres).

John Arleth, surveyor, was present at the meeting. Arleth stated that the lot line is being moved to allow the existing house to meet the setback requirements. Despite covenant requirements within the Shirrtail Subdivision the house was constructed on the lot line. The lots are also being adjusted by taking portions of land to adjust the right of way. ***Flanagan moved to approve the final plat. Kullbom second and the motion carried unanimously. Mattson abstained from the vote.***

PLAT – FINAL – Janice Helmer – Plat of Tract HH being all of Tract H and unplatted portion of the NE¼SW¼ located in Section 9, T7N, R2E, B.H.M. (Tract HH = ±11.22 acres).

John Arleth, surveyor, was present at the meeting. Arleth stated that the property owner wanted to sell this portion of platted land that extends to the right-of-way. The land is contiguous with an existing five (5) acre lot and contains an existing easement. The property owner has agreed

to relinquish residential building rights on another 40-acre tract of land to comply with the A-1 General Agriculture density requirement. *Mickelson moved to approve the final plat with the condition that an affidavit would be signed to relinquish residential building rights on the remaining NE¹/₄SW¹/₄ tract of land. Kullbom second and the motion carried unanimously. Flanagan abstained from the vote.*

PLAT – PRELIMINARY PLAT – Don and Karen Hander – Plat of Lots 1 through 32 of Country Estates, Tract 2A being a portion of H.E.S. #42 and H.E.S. #39, all located in Section 36, T4N, R2E, and Section 31, T4N, R3E, B.H.M.

Roger Tellinghuisen, attorney, and Don and Karen Hander, property owners, were present at the meeting. Tellinghuisen began by stating that at the time of the change of zoning there were concerns about the open space that was designated on the plat. Tellinghuisen stated that any open space indicated as a Common Lot would be deeded to the Homeowner's Association. The Association would have title to the space and will collect an assessed value in order to pay the tax on the open space. There is an open space lot for the water tank and a small open space for a sign indicating the name of the subdivision. A (20) twenty-foot space was dedicated to the right-of-way on the preliminary plat and would be left as green space and would not be paved.

Mickelson asked who would maintain the "sliver" of land. Brad Ellis, engineer, stated that the road district would maintain this "sliver" of land. Mickelson stated that leaving the "sliver" of land as green space would allow the Homeowner's Association to administer it with the assessment. Birk explained that an amended preliminary plat could be presented at a later time that would address the change in right-of-ways and sometimes lot size, etc. Birk asked if the section line was going to be vacated? Tellinghuisen stated that the section line that exists through some of the lots would be vacated at the time of the affected final plat of lots are approved. *Mickelson moved to approve the preliminary plat. Mattson second and the motion carried unanimously.*

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY

**LAWRENCE COUNTY PLANNING AND ZONING COMMISSION
MINUTES OF DECEMBER 4, 2003**

REGULAR MEETING

Chairman Leo Derosier called the Regular Meeting of the Lawrence County Planning and Zoning Commission to order, on Thursday, December 4, 2003 at 2:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Flanagan, Kullbom, Fuller, Mickelson, and Coburn

ABSENT: Mattson

MINUTES: Coburn moved to approve the minutes of November 6, 2003.

APPROVED: Mickelson second and the motion carried unanimously.

PUBLIC HEARING -REQUEST FOR CONDITIONAL USE PERMIT #291 - Mark and Karen ValDez - To allow for a retail store to sell jewelry and gifts - Approximately 2½ miles north of Deadwood on the east side of Hwy. 85 on McMasters Corner.

Mark and Karen ValDez, property owners, were present at the meeting. Mark ValDez began by describing the location, the configuration of the lot and the description of the building that they are placing on their property. Mark makes and sells jewelry and would also offer a line of gifts from the 20X28 foot building. The hours of operation will be 9:00 a.m. to 6:00 p.m., Tuesday through Sunday and the store will be open April through December. There were no opponents in the audience. Flanagan requested clarification on the size of the cistern on the property? Mark said that the paperwork on the property indicated the size as 25,000 gallons, but he realized that it must be a 2500-gallon cistern. Flanagan asked Erik N. Birk, Lawrence County Planning and Zoning Administrator, if the signage was okay for this property. Birk answered that the Department of Transportation would have to approve the sign. Signs that are placed along State Highways are approved by the DOT with a sign permit and of course, by the county. Pastor McBride, minister of the Baptist Church in Deadwood, spoke of the good location of the business and the way Mark ValDez has kept his business running. Coburn asked if there was a moratorium on signage on Highway 85 to Exit 17? Birk stated that yes there is a moratorium in regard to outdoor advertising signs, but not on-premise signs. The County dictates the size and

some of the design regulations of the sign through the zoning ordinance. The resolution restricted large outdoor advertisement billboards as part of scenic highway beautification. Mickelson voiced concerns in regard to traffic safety, no regard to the speed limit, and the lack of a turning lane into the property. Birk stated that Gary Engel, SD DOT engineer, stated that the need for turn lanes would be evaluated due to the change in use. Flanagan stated that he felt Condition #8 in regard to the conditional use permit addresses these concerns. Coburn stated that the intent in use for this area is non-commercial and that the non-commercial use should be kept in mind going forward. ***Flanagan moved to approve Conditional Use Permit #291. Kullbom second and the motion carried 4-1 with Mickelson casting the dissenting vote. A public hearing will be held with the County Commissioners on December 30, 2003.***

PLAT – PRELIMINARY AND FINAL – Linda Sperlin – Plat of Guider Tract, a portion of M.S. 252, all located in Section 28, T5N, R3E, B.H.M. (GuiderTract = ± 0.70 acres).

Randy Deibert, Black Hills Surveying, was present at the meeting. Deibert stated the tract will be sold but will carry the name of the family selling it on the legal description. The plat is cleaning up a metes and bounds description within a mineral survey. Coburn asked if there would be a problem with the lot size in regard to state law concerning septic systems? It was thought that the existing house on the lot had been there since the turn of the century with modifications and with services already existing on the property. ***Coburn moved to approve the preliminary plat. Mickelson second and the motion carried unanimously. Kullbom moved to approve the final plat. Flanagan second and the motion carried unanimously.***

PLAT – FINAL –Kelly Maguire – Plat of Lot D of Jay Bird Subdivision, a subdivision of Lot 13 of Black Forest Ranchettes #2, located in M.S. 1764, Section 15, T4N, R3E, B.H.M. (Lot D = ±7.88 acres).

Randy Deibert, Black Hills Surveying, was present at the meeting. Deibert stated that the owner of Lot C that was previously approved wanted to purchase Lot D so the plat is being brought to the Commission for final approval. ***Mickelson moved to approve the final plat. Fuller second and the motion carried unanimously.***

PLAT – PRELIMINARY AND FINAL – Homestake Mining Company – Plat of Tract M being portions of Whitewood Fraction M.S. 1351, Mlinarich M.S. 1351, Union M.S. 400, Flora McDonald M.S. 295, and Little Missouri M.S. 1171, located in the NE¼NE¼ of Section 4, T4N, R3E, B.H.M. (Tract M = ±1.32 acres).

Erik N. Birk, Lawrence County Planning and Zoning Administrator, indicated the location of the property. Birk stated that there is an existing propane tank on this land that is being leased from Homestake. The lot platted will legally describe the land the propane tank sits on and will be sold to the owner of the propane tank by Homestake. ***Mickelson moved to approve the preliminary plat. Kullbom second and the motion carried unanimously. Coburn moved to approve the final plat. Mickelson second and the motion carried unanimously.***

PUBLIC HEARING - REQUEST FOR CHANGE OF ZONING #236 – MPT, Inc. - To allow for a commercial office building and storage facility - Approximately 2 miles east of Deadwood on the north side of Boulder Canyon, Hwy. 14A.

Roger Tellinghuisen, attorney for Bill Pearson and Jim Kirby, property owners, were present at the meeting. Tellinghuisen stated that the U.S. Forest Service had operated in the existing buildings as office space and storage under a conditional use permit that was approved in 1991. The conditional use ceased after 10 years when the Forest Service vacated the property. The property owners are requesting a change of zoning to HSC – Highway Service Commercial to allow the sale of the buildings. Tellinghuisen stated that any perspective buyers have difficulty obtaining financing to purchase the property when the use of the buildings is pursuant to a conditional use permit. Tellinghuisen recognized that if the property is sold, the buyer would be obligated to use the buildings as per the approved change of zoning and any change in the use of

the property would be subjected to this change of zoning process again as an amendment to this zoning change. Tellinghuisen handed out a booklet with the proposal documented. Tellinghuisen pointed out that the buildings are established on the property along with the well and septic system. An excerpt from the Oak Mountain Country Estates covenants was included as part of the proposal stating that Lot 4 would be considered for commercial use if the county requirements were met in regard to a change of zoning. Bruce Hubbard, attorney for the opponents, was present at the meeting. Hubbard handed out the letters of opposition to the Commission to be made part of the record. Hubbard began by stating there are 116 homes in the area that would feel the impact of a commercial venture at this location. Hubbard stated this change of zoning would create “a little island” of HSC – Highway Service Commercial zoning as a spot zone within a PF- Park Forest zone. Hubbard stated that a Supreme Court ruling made spot zoning illegal. Hubbard pointed out that in 1991 the owners of this property “took the gamble” and constructed the existing buildings to operate under a conditional use permit. The Forest Service had a (10) ten-year lease so the need for a new conditional use permit should not have been a surprise to the owners. It was stated in the minutes in 1991 that when the Conditional Use of the Forest Service operation ceased, a new conditional use permit would have to be requested. Hubbard’s clients do not oppose the use of this property under a Conditional Use Permit to allow the county control with a certain number of set standards and an annual review of the use. Hubbard pointed out concerns such as traffic safety, environmental issues, i.e. the property lying in wetlands, the septic system may not be sufficient as it is if another use is allowed and the danger to existing wildlife. Tellinghuisen reiterated and read Section 3.4.5 Subsection H to make his point that any change in use to this change of zoning would have to come before the Commission to gain approval for that proposed change. Tellinghuisen showed the access off of Hwy.14 to the property and indicated that the residents used the subdivision

roads to access their property. Roger Merriman, John Arleth, Mike Perceovich, and Kevin Cummings, neighbors in the area, spoke in favor of the proposal. They all stated they had no problem with the use of the property as it is proposed. Bernie Williams, City of Deadwood Planning and Zoning Administrator, stated that the change of zoning would not affect consideration the city may have for annexation into the city limits. Chuck Turbiville, Economic Development Director, City of Deadwood, spoke of the opportunity that an office building like this would offer as employment to the area. Hubbard's interpretation of Section 3.4.5 of the ordinance would allow any commercial use as long as it follows the permitted use as specified in that zone. Several residents of the area were in the audience in opposition and were asked to stand. Mark and Gayle Stromberg, Jerome Harvey, Dwight Peterson, Jerald Kindsfather, voiced their concerns about: 1) the fact the specific use of the building was not addressed, after the sale, what would the next owner propose? 2) The wetlands on the property, a State 404 permit was not obtained when the conditional use permit was granted in 1991, 3) possible water contamination, as the recharge area for the Boulder Canyon basin is in the area, 4) the fear of spot zoning, 5) possible well contamination, 6) traffic visibility, 7) the concern that people had signed a petition in favor of the proposal who did not live in the immediate area, and 8) the loss of county control with a change of zoning versus a conditional use permit. Mickelson asked Brad Ellis, engineer, about the type of septic system? Ellis explained that it was an evaporation system and is an above ground mound system; the system is an evaporation system because of poor percolation. The system was designed to a capacity of 50 people. Mickelson asked if the poor percolation was an inherent problem at this location? Ellis answered, yes, the whole area had slow percolation. Mickelson asked if the cattails were in the location of the mound system? Ellis answered no. Ellis stated there is a high water table but he was not aware of any leaching at the mound site. Derosier asked what the occupancy of the Forest Service building was? Pearson

answered that there were 35-50 people employed at the Forest Service building. Kullbom asked Pearson how many trucks came and went when the Forest Service used the building? Pearson asked Dennis McKay, a former owner of the building, who answered that there were 33-35 employees at one time but he had no idea how many trucks were coming and going. McKay also stated that the public was using the access at that time too. Kullbom asked if there were ever any complaints about the Conditional Use Permit? Birk answered that there were no complaints. Fuller stated that she was concerned about spot zoning. Flanagan felt the location was good because it was close to the highway and that the existing residences can exist around a small business. He felt comfortable agreeing this would not be a spot zone. Kullbom felt this had basically been a commercial operation for 10 years. Coburn asked Birk about County control with a conditional use permit versus a change of zoning? Birk answered that the CUP was for the USFS headquarters and used as a federal office building. If the zoning was changed the development procedure is described in the HSC – Highway Service Commercial section of the ordinance. Birk said that the proposed use as an office building and a storage building left a lot of latitude. If something else is proposed at this location after the sale of the land it will be handled as an amendment to this COZ. Birk felt he was hearing the concerns of the people as this proposal had no specifics in informing the Commission of the use of the buildings, normally when a COZ is requested a specific plan is presented to the Commission. Birk stated the person that usually makes the COZ request is the business owner, rarely is it someone who is trying to sell the property. The applicant at this meeting can say that if a change to this proposal is decided that it can come in as an amendment, which is correct, but there can be a “smart maneuvering” applicant that can say there will be an office building and the other building will be storage. Conditional use permits allow the county to have enforcement, if the conditions are not met than the applicant is called in to answer to the complaints. Mickelson stated that he

heard (2) of the people say they supported the use of the building as a Conditional Use Permit and felt that there would be no hardship to the applicant to not approve this COZ. Birk reminded the Commission of the option that they had 30 days to delay a recommendation to approve or deny this application. ***Flanagan moved to approve Change of Zoning #236. Kullbom second and the motion carried 3-2. Mickelson and Coburn cast the dissenting votes.***

There being no further business the meeting was adjourned.

ATTEST: _____
CHAIRMAN

SECRETARY