

LAWRENCE COUNTY PLANNING & ZONING COMMISSION

MINUTES OF January 6, 2005

REGULAR MEETING

Chairman Leo Derosier called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, January 6, 2005 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Leo Derosier, Terry Weisenberg, Barb Mattson, Terry Kullbom, Craig Mickelson

ABSENT: Jacque Fuller, Bill Coburn

MINUTES: Moved-Seconded (Mickelson-Mattson) to approve the minutes of December 2, 2004. Motion Carried

The following times are listed as scheduled then actual.

1:30 p.m. ELECTION OF OFFICERS

1:30 p.m. Moved-Seconded (Mickelson-Kullbom) to keep the current slate of Leo Derosier as Chairman and Craig Mickelson as Secretary.

1:30 p.m. PUBLIC HEARING-CHANGE FO ZONING #240/ DEVELOPMENT PLAN

1:33 p.m. **Owner/Representative:** Doanld & Karen Hander

Action Required: Approval/Denial

Legal Description: W ½ N ½ SE ¼ SE ¼ and the W ½ E ½ N ½ SE ¼ SE ¼ of Section 16, T6N, R4E (Tract H)

From: A-1 Agriculture To: C/LI-Commercial Light Industrial

Location: North of I-90 and Whitewood

Purpose: To build a shop for construction business

Don Hander stated the land was purchased from Homestake. Land borders commercial property, wants to build a 5,000 sq ft building with a fence around 2 acres of the land. This will be to house his construction equipment. There will be a septic system for 2 toilets, they will drill their own well or hook into water system in the development property near the property.

Proponent: None

Opponent: Tommy Thompson, mentioned he was promised this land from Homestake and obviously there word is not good enough anymore. More so he is worried about the gypsum found on this land and he really does not want this in his backyard. He also brought up the Whitewood City Council Meeting, Action 2005-04 Motion Derby, seconded by Williams, to ask the Lawrence County Commissioners to hold off on making any decision about changing the zoning from Agriculture to Commercial Light Industrial on property owned by Donald

and Karen Hander until the City of Whitewood has a chance to pass a resolution that will give the council opportunity to advise on any issue within one mile of the City of Whitewood. All members voting yes. Motion Carried. Charles Windberg another neighbor would rather see a Conditional use Permit be put in place. Colin Thompson lives by the proposed Change of Zoning he would like to see it stay agriculture land; he would prefer to see this as a Conditional Use Permit. Mike Weyrich, he just asked for more information as to where the shop will be built and he questioned where the access would be. He did not say if he was for or against this Change of Zoning.

Don Hander again stated there are already commercial buildings in this area, he also mentioned that there is a CUP for a gravel pit, but it is being used as a junkyard.

Mickelson asked where the homes were sitting? Brandon showed him the pictures and explained where the homes were at.

HEARING CLOSED.

Mattson asked if the Weyrichs was a CUP or a COZ. Brandon explained that part of it was a COZ and the gravel pit under a CUP. She also asked Handers what there plans were for the remaining land, Karen Hander replied they bought 15 acres was because that was the offer from Homestake and they chose this area because their superintendent lives close by so he can keep an eye on the equipment. Weisenberg offered up the difference between a CUP and a COZ and how changes to use in commercial property require a development plan to allow any other additions to the use. Bruce Outka explained that conditions could be added to the CUP to take into consideration the complaints today. Kullbom asked whether or not the 2 acres was close to the road and brought up an idea to subdivide a 5 acres portion of land off the 15 acres and only do a COZ on that 5 acre piece of land. Bruce asked Tommy if he would be happy with the 5 acres COZ and Tommy replied with it would be better than the 15, but wanted the Whitewood City Council decision to be looked at. Brandon then explained the 1 mile area that the Whitewood City Council can give recommendations, he did state that it should not hold today's decision.

Karen & Don Hander stated they would be willing to change their proposal to a 5 acre portion of Tract H for the COZ and keep the remaining 10 acres as Ag.

Moved-Seconded (Mattson-Kullbom) to recommend approval of the change of zoning on a 5-acre portion of Tract H in the NW corner of Tract H. Motion Carried.

2:00 p.m. PUBLIC HEARING-CONDITIONAL USE PERMIT #302-ALLOW A TOWER FOR

2:10 p.m. VERIZON WIRELESS

Owner/Representative: John Rowe/Verizon Wireless

Action Required: Approval/Denial

Legal Description: Lot 18 of East Slope Estates, all located in N ½ SW ¼ and S ½ NW ¼ of Section 16, T6N, R4E.

Location: West of Hwy 34

Purpose: To allow a tower for Verizon Wireless

John Rowe, explained the lighting on the proposed tower and introduced the letter of support from Whitewood. He went through the exhibit of where they would like to put the tower. Brandon explained on the Whitewood map where the tower would be located. Mickelson asked about straight antennas and no dishes. John answered that he did not foresee this being a problem, but he did not want to limit Verizon from being able to use their own tower for other purposes.

Opponents: None

Proponents: None

John states Verizon wants to do 20 towers in South Dakota per year. He again said that he would like to see one dish and the board must approve all others. Weisenberg asked about the taxing of the dishes and asked about 911 services. John said there was no cost to governmental entities to have 911 on the towers, but they do have to pay for the equipment.

HEARING CLOSED.

Moved-Seconded (Mickelson-Kullbom) moved to change condition #8 to one dish may be utilized only by the applicant all others must be reviewed and approved by the Planning & Zoning board. Motion Carried.

Moved-Seconded (Mickelson-Kullbom) moved to approve CUP #302 with above change in condition #8. Motion Carried.

2:20 p.m. PUBLIC HEARING-CHANGE OF ZONING #242-ALLOW SHOP AND STORAGE

2:27 p.m. Owner/Representative: Hemeyer Enterprises Inc.

Action Required: Approval/Denial

Legal Description: "Outlot A" of the unplatted remainder of the NE ¼ NE ¼ of Section 8, all located in T6N, R2E.

From: SRD-Suburban Residential To: C/LI-Commercial/Light Industrial

Location: Spearfish/Pope and Talbot

Purpose: Buildings of shop and storage

Gail Hemeyer wants to build a chop for his construction business. There will be a 60x100 shop with a small office and bathroom. It is across from Pope & Talbot Pellet Mill.

Proponent: None

Opponent: None

Mickelson asked about fencing and gating of the property. Hemeyer stated they will be adding a berm, shrubs, and the building will blend into the surroundings. No galvanized metal will be used. They are on a 5-10 year plan, they will not be starting anything until the road has been re-done, which it sounded like would be started within the next year.

HEARING CLOSED

Mickelson recommends property being fenced, shrouding lights, and earth tone buildings. Mattson asked about the well and the septic system -Hemeyer explained they will be digging their own well and septic will be done by an engineer.

Moved-Seconded (Kullbom-Mickelson) moved to approve with the condition that the property be fenced, the lights are all shrouded and the buildings are all earth tone. Motion Carried.

2:50 p.m. INFORMATIONAL MEETING-CONDITIONAL USE PERMIT #303-ALLOW

2:50 p.m. SEASONAL RENTAL OF CABINS ON PROPERTY
Owner/Representative: David B Cole/Roger Tellinghuisen
Action Required: Discussion
Legal Description: Lots 14,15,16 of HES 137
Location: Highway 385 across from Wild Bill Campground
Purpose: Seasonal Rental

Roger Tellinghuisen was present today because Mr. Cole was out of town. Roger explained that Mr. Cole owns all 5 lots 12-16, currently there are 3 cabins sitting on lot 14,15, and 16. Mr. Cole lives in one of the cabins and the other 2 are mostly used when his family is in the area. He has in the past rented them out to overflow from Wild Bill's Campground and will continue to do so. He has also in the past rented them during the rally. He does not intend to use them as snowmobile or ATV rentals. All 3 lots have their own septic systems, but do share a water system.

Brandon stated that at this time David Cole does not need a CUP in order to do what he has been doing.

Roger stated he would like to do this the right way, so he is coming in now incase he would like to do more later.

3:05 p.m. INFORMATIONAL MEETING-VARIANCE #93-ALLOW 25' VARIANCE TO THE

2:40 p.m. 25'SETBACK FROM ROAD R.O.W.

Owner/Representative: James A. Benson

Action Required: Recommendation to County Commission

Legal Description: Tract 38 located in Section 9 and 16, T4N, R2E

Location: Spearfish Canyon/Elmore

Purpose: Variance for 25' setback

Brandon explained Benson would not be here, Benson got a building permit to put up a garage, when looking at this they found a section line, a BLM easement, and a forest service easement. He is in the process of vacating the section line and he is asking for a variance from the easements for the existing garage, which will eventually have an attached cabin. He has a letter from the forest service.

Moved-Seconded (Mickelson-Kullbom) moved to approve Variance #93 to allow a 25' variance to the 25' setback from the R.O.W. Motion Carried.

3:15 p.m.

INFORMATIONAL MEETING-REVIEW OF DEVELOPMENT PLAN

3:20 p.m.

Owner/Representative: Doug Richards/David Adickes

Action Required: Review/Approval/Denial

Legal Description: M.S. 1158, Evangeline #1 and Lot 1 of Evangeline #2 located in Section 18, T4N, R3E

Location: President's Park

Purpose: Snowmobile Rental at President's Park

Brandon began by explaining there would be no new buildings, they would be renting space from President's Park, he had told them for the gasoline and such they would need to speak with the DENR.

Doug Richards explained that the President's Park owners had approached them to rent snowmobiles out of their facility, because they are already a part of the trail system. They have installed a 2,000 gallon above ground gas tank and it has been approved by the DENR. They have no intention of renting the snowmobiles after March 31-because this is when the snowmobile trail system shuts down. He also explained that the gates going out the backside of Presidents Park into the subdivision are closed so that none of the snowmobilers can get into the subdivision. All of the approvals are up to run across the road onto the existing trail system by the gravel pit on Rochford Road.

There will be 30 snowmobiles and all sales tax licenses are in place. They have verbal confirmation from the Lead Fire Department. The park sits at Trail 5P.

Jim Lessard was in the audience for Wharf and he wanted to reiterate that Golden Reward has no problem as long as snowmobiles use only the trail system and there are no ATV's allowed.

Moved-Seconded (Weisenberg-Mickelson) moved to approve the development plan as submitted with the condition that there are only 30 snowmobiles and no ATV rentals. Motion Carried.

3:30 p.m.

FINAL PLAT

3:40 p.m.

Owner/Representative: David Winter/Kinship Mountain Ministries/Arleth & Associates

Action Required: Approval/Denial

Legal Description: Plat of Tract 1 & Tract 7 of Kinship Mountain Estates, Being all of the Remaining portions of Myrtle No. 4, Myrtle No. 1, Myrtle No. 6, Myrtle No. 8 and Myrtle No. 9 Lodes of M.S. No 1730, located in the W ½ of Section 15 and the E ½ of Section 16, T3N, R4E.

Location: Highway 385

Purpose: New Tract 1= 57.40 acres, Tract 7= 9.13 acres

John Arleth explained this is the last of the area to be platted. Tract 1 is the camp and Tract 7 will be a building site.

Moved-Seconded (Kullbom-Weisenberg) moved to recommend approval of the final plat. Motion Carried.

3:40 p.m.

PRELIMINARY PLAT

3:47 p.m.

Owner/Representative: David and Terry Ciani/Arleth & Associates

Action Required: Approval/Denial

Legal Description: Plat of Tract 1A, Tract 3, Tract 4, Tract 5 of the Swisher Tracts, Formerly Tract 1 of the Swisher Tracts and all that part of the SW ¼ SE ¼ of Section 32, T6N, R4E, lying North of Crook City Road, all located in the NW ¼ SE ¼ and the SW ¼ SE ¼ of Section 32, T6N, R4E.

Location: Crook City Road

Purpose: New Lot= Tract 1A= 25.85 acres, Tract 3 = 2.00 acres, Tract 4 = 2.00 acres, Tract 5 = 2.00 acres

Preliminary only today-Chuck wants to go out and look at the roads before the final comes to the board.

Mattson brought up that there were 4 lots here and they need a fire plan. John stated they could have this before the next meeting.

Moved-Seconded (Mickelson-Mattson) moved to recommend approval of the preliminary plat. Motion Carried.

3:50 p.m.

FINAL PLAT

3:52 p.m.

Owner/Representative: Floyd Mount/ John Keene/ Arleth & Associates

Action Required: Approval/Denial

Legal Description: Plat of Lot 18 of Meadow Crest located in the NW ¼ NE ¼ and the NE ¼ SE ¼ of Section 17, T5N, R4E.

Location: Boulder Canyon
Purpose: New Lot 18 = 4.93 acres

Brandon stated this plat shows a forest access easement to the North and it is public access to public land.

Moved-Seconded (Mickelson-Kullbom) moved to approve the final plat. Motion Carried.

4:00 p.m. **INFORMATIONAL MEETING**
3:56 p.m. **Owner/Representative:** Homestake Mining Co./Maitland Partners/Ponderosa Land Surveying
Action Required: Discussion
Legal Description: Plat of Lots 1 thru 5, all located in the SW $\frac{1}{4}$ of Section 3, SE $\frac{1}{4}$ of Section 4, E $\frac{1}{2}$ of 9 & NW $\frac{1}{4}$ of 10, T4N, R3E.
Location: Yellow Creek/Old Wasp Dump
Purpose: New lots = Lot 1 = 46.77 acres, Lot 2 = 170.95 acres, Lot 3 = 13.66 acres, Lot 4 = 8.724 acres, Lot 5 = 11.04 acres

Loren explained the map. Brandon read memo that Julie Stone sent regarding this plat. Julie is asking to waive the fire plan, but Mickelson & Weisenberg state they need a fire plan before the next meeting.

4:10 p.m. **PRELIMINARY AND FINAL PLAT**
Owner/Representative: Brett & Vicki Winsell/Ponderosa Land Surveying
Action Required: Approval/Denial
Legal Description: Plat of Lot 4 & 5 of HES 296 located in the NE $\frac{1}{4}$ of Section 11, T4N, R4E
Location: East of Galena
Purpose: New Lot 4 = 5.50 acres, Lot 5 = 5.50 acres

Moved-Seconded (Mickelson-Kullbom) moved to approve the preliminary plat. Motion Carried.

Moved-Seconded (Kullbom-Mickelson) moved to approve final plat. Motion Carried.

4:20 p.m. **PRELIMINARY AND FINAL PLAT**
4:15 p.m. **Owner/Representative:** Maurice Sween/Black Hills Surveying
Action Required: Approval/Denial
Legal Description: Plat of Lot 1, 2 and 3 Wilson Draw #2 Subdivision, located in the E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 8, the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the remainder of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, all located in T3N, R5E.
Location: Vanocker Canyon
Purpose: New Lot 1 = 19.31 acres, Lot 2 = 46.73 acres, and lot 3 = 31.35 acres

Al explained they were platting an unplatted remainder and creating a new lot line that follows the road.

Moved-Seconded (Weisenberg-Kullbom) moved to approve preliminary plat.
Motion Carried.

Moved-Seconded (Kullbom-Mickelson) moved to approve the final plat. Motion Carried.

4:30 p.m. FINAL PLAT
4:23 p.m. Owner/Representative: Dwight Ahlers/Andersen Engineers
Action Required: Approval/Denial
Legal Description: Lots 14, 15, 20 of Spruce Mountain Estates No. 2 Subdivision, Located in the W 1/2 NW 1/4 and the NE 1/4 NW 1/4 of Section 24, T6N, R4E
Location: Whitewood Valley
Purpose: New Lot 14 = 5.13 acres, Lot 15 = 4.66 acres, and Lot 20 = 4.94 acres

Moved-Seconded (Mickelson-Kullbom) moved to approve the final plat. Motion Carried.

4:40 p.m. STAFF REPORT
4:25 p.m. Representative: Brandon Flanagan
Action Required: Discussion
Purpose: Updating the board

Brandon went through the clustering concept, open space concept-How do you tax? Who pays taxes? Who maintains? He also explained the book we put together for the Board. This book included a subdivision, conditional use, change of zoning, and variance checklists. Also, included a Subdivision Quick Reference, the board by-laws, and the revision copy of the 2005 Comprehensive Plan, and a guide to being a Planning & Zoning Board member. He also gave numbers that would back having a building inspector based off of what we did in residential building last year.

Amber went over the 2004 numbers for Variances, COZ's, CUP's and building permits.

There being no further business, the meeting was adjourned at 4:50 p.m.

APPROVED: _____ **DATE:** _____
Leo Derosier, CHAIR

ATTEST: _____
Craig Mickelson, SECRETARY

LAWRENCE COUNTY PLANNING & ZONING COMMISSION

MINUTES OF March 3, 2005

REGULAR MEETING

Chairman Leo Derosier called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, March 3, 2005 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Leo Derosier, Terry Weisenberg, Barb Mattson, Craig Mickelson, Terry Kullbom (left at 3:50 p.m.), Bill Coburn

ABSENT: Jacque Fuller

MINUTES: Moved-Seconded (Mickelson-Mattson) to approve the minutes of February 3, 2005. Motion carried.

The following times are listed as scheduled then actual.

1:30 p.m. WORK PROGRESS

1:30 p.m. Representative: **Brandon Flanagan**

Action Required: **Discussion/Review**

Purpose: To review comprehensive plan and ordinance schedule

Brandon explained what the gray booklet was The Comp Plan Revisions 2005. He also mentioned IGA's, UGA's, the tier approach to ETJ's, the density bonus, severance tax, consolidation of schools, city parks, and county garbage collection. He explained that the maps were left out, because we have just received the originals on CD Rom, the maps will stay the same except for the new fire district map. Public hearings will be scheduled in May and June, plans are to have the ordinance book and subdivision ordinance done by the end of the month. Weisenberg stated he would like to have scheduled time in the next few meetings to go through the old comp plan and compare it to the new comp plan.

2:00 p.m. PUBLIC HEARING-CONDITIONAL USE PERMIT #304 – ALLOW CITY LANDFILL

2:04 p.m. Owner/Representative: City of Deadwood/Lead/Central City/ Jim Raysor

Action Required: Approval/Denial

Legal Description: Plat of the Municipality Tract, NE ¼ of Section 15 and the W ½ of Section 14, T4N, R3E

Location: Yellow Creek Road

Purpose: **Restricted use landfill and police pistol range**

Jim Raysor with the City of Deadwood explained that the new site was to replace the old Wasp Dump. The cump will be a 20 acre parcel of land, the property was deeded from Homestake Mining Company to the City of Deadwood, Lead, and Central City. They are currently digging out of the new site and transferring this topsoil into the old wasp dumpsite for reclamation purposes. There will be a 50-yard shooting range for police use only. This will be there qualifying range. It will be fenced and locked at all times. They are proposing to use the same operator of the old wasp site, Stan Ager. He will be there to make sure proper items go into the proper places. Once the CUP has been approved they will go through the state process and they are hoping to be open by May. There will be a burn pile and metals will be separated. There will be different places for items such as: construction goods, white goods, metal goods, and combustibles. Another 20 acre parcel will be logged, which will help with the start up costs of the dump.

Propents: None

Opponents: None

Craig Lundorff was present and asked how close to the USFS land the proposed site will be. JR explained where it was and it was decided it was far enough away.

Kullbom asked about a septic system. JR responded that there would be porta potties only. He also explained that at this time there will be no electricity to the dump, if they needed it they would use a generator. Weisenberg mentioned the possibility of dust on the road. JR stated that they have already been using the city water truck to keep the dust down and will continue to do so if needed.

HEARING CLOSED

Moved-Seconded (Mickelson-Weisenberg) moved to approve CUP # 304 with attached conditions. Motion Carried.

Public Hearing set for March 22, 2005 in front of the County Commissioners.

ATTACHED CONDITIONS:

Applicant is requesting the County grant permit to allow restricted use landfill and Law Enforcement shooting range off the Yellow Creek Road near the Grizzly Gulch Tailings Facility.

1. The owner/operator shall comply with all applicable County, State, and Federal regulations.
2. Any construction of structures shall require a building permit from the Lawrence County Office of Planning and Zoning.

3. One on-premise sign may be allowed on the property and conform to Section 4.2 of the Lawrence County Zoning Ordinance.
4. Any septic system shall be designed, inspected and approved by a South Dakota certified professional engineer (PE).
5. All noxious weeds shall be controlled per the Lawrence County Weed Department regulations.
6. Any change of property ownership, with the proposed transfer of this subject Conditional Use Permit, shall be reported immediately to the Office of Planning and Zoning. The new owner shall meet with the Lawrence County Commission to review and accept the conditions of this Conditional Use Permit.
7. This permit shall be reviewed on an annual basis, or an as needed basis should complaints arise to assure compliance with the attached conditions, at which time additional conditions may be attached.
8. If any term, condition or regulation stipulated in the Conditional Use Permit, the Lawrence County Zoning Ordinance or applicable state and federal regulations are not fully complied with in all respects, this permit shall be reviewed and may be suspended or revoked.

2:15 p.m. INFORMATIONAL MEETING –CONDITIONAL USE PERMIT #305 – MUD

2:15 p.m. BOGGING TRACK

Owner/Representative: Glen Nicholas

Action Required: Discussion

Legal Description: W ½ SW ¼ - SE ¼ SW ¼ -SW ¼ SE ¼ of Section 33, T7N, R1E.

Location: Exit 2 South/Wyoming Border

Purpose: **Mud bogging track for jeeps and trucks.**

Glen Nicholas was present and explained the mud bogging track would be located 1.5 miles South of Exit 2 on Red Hill Road. They will use about 10 acres of the 40 acre parcel. There will be 2 pits about 200 feet long, parking for about 200 people off of Red Hill Road in the pasture. The pits will be made out of about 3 feet of clay, they will scrape this out put bentonite down to hold in the water and fill it back in with about 1-2 feet of dirt, fill it with water and make a mud pit. There will be a ¼ of a mile oval track between the 2 pits. Any water run off will be routed to go back into the pits and there will a wash area above one of the pits at the end of the races so that the water and mud goes back into the pits. All water will have to be hauled in because there is no well nearby and he has no plans to put one in. There will also be a berm around the parameter of the track to keep the audience out of the track, the audience areas will also be roped off. There will be porta potties, concession stands will be provided by licensed concession companies, no alcohol will be available. The local Spearfish Four Wheeler club will help provide security, safety equipment, and towing equipment. There will be about 1 event per month during the summer months. The drivers will be required to sign waivers for liability. The fire and medical personnel in the community will be notified prior to a scheduled event. He has a proponent letter from Chuck Edwards, one of the neighbors.

Weisenberg mentioned a reclamation bond and it was decided that it was not needed because he is using his own private land. Bruce Outka asked about electricity and hours of operation, parking and admission. Glen responded that they would not be using power and they would only be open during daylight hours. He also said that there was plenty of acreage to park off the road and they would make sure that people were off of the road before having them pay for admission. Mickelson did mention the noise factor and also said that being a CUP this could be a condition or it could be looked at when there were complaints.

Set public hearing for April 7, 2005.

2:30 p.m. **INFORMATIONAL MEETING – TERRY PEAK SUBDIVISION**

1:50 p.m. Owner/Representative: Black Hills Chairlift/Bob Morcom

2:30 p.m. Action Required: Discussion

Legal Description: Stuart Lodge Area

Location: Terry Peak

Purpose: **New home lots**

Terry Peak was not scheduled until 2:30, but we had extra time at the beginning of the meeting so they started early. Brandon let the board know that the property is currently commercial property. The 1998 comp plan identifies this area as a growth area.

Bob Morcom with TSP explained the map. They are looking at using a PUD on the east side. There will be 2 phases-first phase will contain 7 building sites (5.4 acres) with access off of Deep Snow Road, second phase will contain 10 +/-lots (7.2 acres) with access still being discussed with the USFS and private land owners. The lots will be about .50 acres. The homes will use a common septic and drain field system. The system will be built in order to allow it to hook into a wastewater treatment center at a later date. Two of the current chairlifts will be moved to accommodate the new homes. It will be a ski in ski out facility. Tom Marsing with Terry Peak stated there is a 42,000-gallon water tank always full for snowmaking. There are a total of 12 hydrants for fire protection. He said that they could show the firemen how to turn the system on to the large tank so it would be useable for fires if necessary.

Mickelson brought up the physical barrier and recommended leaving a natural tree line between the subdivision and the ski lifts. Coburn mentioned the fire hazards up in the Terry Peak area. This topic was put on hold in order to keep the meeting on schedule. Terry Peak representatives said they would stay around until 2:30 their normal scheduled time to answer any more questions. They started again at 2:30. Tom Marsing stated that they have been involved with Wharf Resources in removing bug trees and helping to reduce the fire hazards in that area. This will be an ongoing

process for a couple of years. Terry Peak will take on the responsibility of the roads system in the summer and winter of the new subdivision they are proposing. They will have their covenants include homes must be built with fire resistant materials, positioning the homes on the best spot, the size of the homes. The River Run will be abandoned.

The board scheduled a site visit for this property on Wednesday, March 9, 2005 at 3:00 pm. They will meet at Stewart Lodge. Set Public Hearing for April 7, 2005.

2:45 p.m. **INFORMATIONAL MEETING-APPLE SPRINGS PLANNED UNIT DEVELOPMENT**

2:55 p.m. **and SUBDIVISION /PRELIMINARY PLAT**

Owner/Representative: Apple Creek Development LLC/CETEC Engineering Services

Action Required: Discussion of PUD/Subdivision Approval/Denial of Preliminary Plat

Legal Description:

Location: Boulder Canyon

Purpose: **New subdivision and PUD.**

Dave Simpson explained they had bought the old Wildberger Ranch. They are proposing four different zones for the 370 acres parcel of land. Zone 1- Historic Farm and Gardens, which will preserve the Wildberger home and the old school house. They plan on renovating the schoolhouse and having it open to the public. This will also include apple orchards, vineyards, gardens, and rental cottages. Zone 2- the 9-hole golf course extension to the Boulder Canyon Golf Course, including a new clubhouse and residences. The current owners of the golf course will own and operate the golf course. Zone 3- a lodge will be added to include a resort, restaurant, pool, a meeting rooms, family reunion areas, and weddings. Zone 4-home buildings sites. This will have all paved roads with no curb and gutter, open space, wastewater treatment center, and a volunteer fire station. They also mentioned the piece of land that is zoned HSC would most likely be used for a convenience store. They are willing to open up the wastewater treatment center to the other subdivisions already built. They have spoken to the DOT and the Apple Creek Sub will have to pay for re-striping and a turning lane.

Derosier asked about the size of the cottages-Simpson replied with enough room for couple traveling together. 25-30 units. Weisenberg asked about the lakes. Simpson replied with there were a number of natural springs running under the property and they would like to open these up to form man made lakes. They would like to start building this summer, there will be 12 initial homes and they are looking at a 5-10 year plan.

There will be a planned unit development as well as a change of zoning. ½ is SRD and the other ½ is PF. Coburn brought up the density issue. Mickelson and Coburn are concerned with where and when a separate government entity comes into play.

Moved-Seconded (Mickelson-Mattson) moved to approve preliminary Apple Springs Tract (370 +/-) acres. Motion Carried.

The board scheduled an on-site visit on Wednesday, March 9, 2005 at 1:00 p.m. Meeting in the golf course parking lot. Set public hearing for April 7, 2005.

3:00 p.m. FINAL PLAT

3:30 p.m. Owner Representative: **Steve Betten/NJS Engineering**

Action Required: **Waive Preliminary Plat and Approval/Denial of Final Plat**

Legal Description: **Tracts 29A and 29 B of Aspen Hills Development a subdivision of Tract 29 located in the NW ¼ of Section 33, T6N, R2E.**

Location: **Tinton Road/Spearfish**

Purpose: **New Lots = Tract 29A = 6.77 acres and Tract 29 B = 3.07 acres**

Moved-Seconded (Kullbom-Mickelson) moved to waive preliminary plat. Motion Carried

Moved-Seconded (Coburn-Mickelson) moved to approve final plat. Motion Carried.

3:05 p.m. FINAL PLAT

3:33 p.m. Owner/Representative: **Floyd Mount/John Keene / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 1 and Lot 22 of Meadow Crest located in the NW ¼ NE ¼ and the NE ¼ SE ¼ of Section 17, T5N, R4E**

Location: **Boulder Canyon**

Purpose: **New Lot 1 = 2.98 acres, Lot 22 = 8.14 acres**

Moved-Seconded (Kullbom-Mickelson) moved to approve final plat. Motion Carried

3:10 p.m. PRELIMINARY AND FINAL PLAT

3:35 p.m. Owner/Representative: **Roselyn Thompson / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Lot J.S.-3C-1 and Lot J.S.-3C-2 of Sanders Subdivision, formerly Lot J.S.-3C of Sanders Subdivision, located in the W ½ SW ¼ of Section 13, T5N, R4E.**

Location: **Boulder Canyon**

Purpose: **New Lot JS-3C-1 = 2.75 Acres, Lot JS-3C-2 = 2.00 Acres**

Moved-Seconded (Mickelson-Kullbom) moved to approve preliminary plat. Motion Carried

Moved-Seconded (Kullbom-Mickelson) moved to approve final plat. Motion Carried

3:15 p.m. FINAL PLAT

3:40 p.m. Owner/Representative: **Homestake Mining Company/ Ponderosa Land Surveys**

Action Required: **Waive Preliminary Plat and Approval/Denial of Final Plat**

Legal Description: **Plat of Tract C-3A, located in the N ½ of Section 28, T5N, R3E.**

Location: **Central City**

Purpose: Vacate Thoresen Lot

Moved-Seconded (Kullbom-Weisenberg) moved to waive preliminary plat.
Motion Carried

Moved-Seconded (Mickelson-Kullbom) moved to approve final plat. Motion Carried

3:20 p.m. PRELIMINARY AND FINAL PLAT

3:43 p.m. Owner/Representative: **Brett & Vicki Winsell / Ponderosa Land Surveying**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 9 of H.E.S. 296, Located in the SE ¼ of Section 11, T4N, R4E.**

Location: **East of Galena**

Purpose: New Lot 9 = 3.00 acres

Moved-Seconded (Kullbom-Weisenberg) moved to approve preliminary plat. Motion Carried

Moved-Seconded (Kullbom-Weisenberg) moved to approve final plat contingent upon signing a building right affidavit for the remaining acreage. Motion Carried

3:25 p.m. PRELIMINARY AND FINAL PLAT

3:45 p.m. Owner/Representative: **Dennis & Dorothy Winsell / Ponderosa Land Surveying**

Action Required: **Approval/Denial**

Legal Description: **Lots 1, 2 & 3 being all of Fox M.S. 1265 and a portion of Fox No. 1 M.S. 1265, located in Section 16, T4N, R4E.**

Location: **East of Galena**

Purpose: New Lots = Lot 1 = 2.27 acres, Lot 2 = 3.00 acres, Lot 3 = 3.55 acres

Moved-Seconded (Mickelson-Coburn) moved to deny preliminary plat. Motion Carried

Denied plat because there were no covenants in place to tie to the fire plan.

3:50 p.m. **Discussion of Apple Springs Development took place between the board members. Main topic was what they do with this large of a subdivision in an area that already has a lack of police and fire protection.**

There being no further business, the meeting was adjourned at 4:00 p.m. by Mattson.

APPROVED: _____

Date: _____

Leo Derosier, CHAIR

ATTEST: _____

Craig Mickelson, SECRETARY

LAWRENCE COUNTY PLANNING & ZONING COMMISSION

MINUTES OF April 7, 2005

REGULAR MEETING

Chairman Leo Derosier called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, April 7, 2005 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Leo Derosier, Terry Weisenberg, Barb Mattson, Craig Mickelson (left at 6:00 p.m.), Terry Kullbom, Bill Coburn (left at 4:30 p.m.), Jacque Fuller (left at 5:45 p.m.).

MINUTES: Moved-Seconded (Mickelson-Weisenberg) to approve the minutes of March 3, 2005. Motion carried.

The following times are listed as scheduled then actual.

1:30 p.m. PUBLIC HEARING-CONDITIONAL USE PERMIT #305 - MUD BOGGING TRACK

1:30 p.m. Owner/Representative: Glen Nicholas
Action Required: Approval/Denial
Legal Description: NW ¼ SW ¼ of Section 33, T7N, R1E.
Location: Exit 2 South/Wyoming Border
Purpose: Mud bogging track for jeeps and trucks.

Glen Nicholas explained the location would be off of Exit 2 and I-90 on Red Hill Road. He read through the attached application titled "Special Use Permit" and he told the board about the attached approval letter from John Edwards, the closest property owner to the proposed track.

PROPONENTS:

Ed Goss would like to let the P & Z Board know that with the way the USFS and other organizations are about the use of the lands, that this track would be a good way to allow ATV's, jeeps and trucks to have a place to go without ruining the natural forested areas. He thinks that if there is no future of this track here he could foresee their being a future in Butte County.

OPPONENTS:

Lester Nies represents 16 neighbors, which have filled out a petition (attached). This is an A-1 Zone and these neighbors have chosen to live in an Ag Zone because of the environment. Lester brought up the main points of the petition; Noise, Traffic, Trash, and Inconsistent with the Area. He thinks there is a more

proper zone for this type of use. He asks the board to please deny the request not because of the recreation but on behalf of the client's petition that has been attached.

Joe Barany lives on Prairie Ridge Road, and he does not feel they should be subjected to the noise on the weekends. He thinks the board needs to look at the "do no harm clause". Rick Anderson lives in Reebe Ranch Estates his elderly parents and a 32-year-old down-syndrome brother also live here, they live very simple lives and they live out here so that his brother is allowed to have some freedom without being hurt. He needs the quiet in order to function. Vern Lyons just moved to the area and stated he would not have bought the lot out there if he had known about this proposal. He is very much against it.

Glen Nicholas spoke to the people in Reebe Ranch Estates and he referred to the motorcycles during the rally and his tractor. Saying that the motorcycles or his tractor make just as much noise as this track would. He also brought up the extra traffic; he said that hay and logging trucks already use it often. He is a garbage man and he will make sure the trash is kept under control. The majority of the vehicles will be trailered in. He stated that the entire area is looking at change and that is all he is trying to do.

OPPONENTS:

Eileen Lecy is opposed to this being by her property, yes they do have the rally noise but it is only 7-10 days out of the year, she wanted to know who would police the events and she feels that the property value will decrease.

PROPONENTS:

Monty Peterson brought up that there is a large business out in that area, which has tractors and machinery running at all times, Fischer Industries. He just wanted to let the board know that this is an item to consider.

NEUTRAL:

Don Simons stated he would like to know what zone this type of thing would fall into? Is there anything for this type of situation?

CLOSED PUBLIC HEARING

Brandon explained that the office had received a copy of the petition from the property owners that Lester Nies is representing, as well as letters of complaints from Eileen Lecy, Richard Anderson, Joseph & Sandra Barany, and Gary Solomen. Copies of the petition as well as the letters have been attached.

Mattson asked whether or not Glen was a rancher. Glen answered yes, and stated the land he is proposing to use will still be used by his cattle in the season that the track is not running. Mattson agreed that the Ag zone is the best place for this type of activity. Fuller asked how many people would participate? Glen answered, he is not sure but the ones he has gone to in other areas there have been about 30 or more. Kullbom asked if Chuck Williams had reviewed, Brandon stated he had. The road is magged annually and it is a primary road. Kullbom suggested having it only go 7 days per season per a condition. Coburn asked if the mufflers could be required to be quieter. Glen stated no-because that is the way the machines are built so as to go through the mud pits without stalling. Coburn suggested only approving it for 3 days for the first season and gradually get more days if there are no complaints. Glen stepped in to say that he does not need a permit to do this as long as he does not charge, but he wants to do this the right way, he understands that it might not work but he would like to try. Mickelson talked about the motocross track and how the board did a site visit and had some of the motocross people out there and they determined whether or not you could hear them from certain areas. Mattson agreed with Coburns idea of only allowing them to try it for so many days this season.

STAFF REPORT

HISTORY/BACKGROUND

Mr. Nicholas is applying for permission to construct and operate a mud bog track on a 40 ac. Parcel off the Red Hill Road. It is his intent to have this open to the public for weekend events.

ISSUES

Roads, Character of the Area, Noise, Dust

STAFF ANALYSIS/RECOMMENDATION

The Comprehensive Plan has no specific recommendations for this area.

The Character is generally open with scattered Ag use (ranching) and large lot residential a mile or so to the north (Reebe Ranch Estates).

Staff has no recommendation from a Comp Plan/Ordinance standpoint. At minimum the following conditions should be reviewed:

- 1) Access is reviewed and approved by the Lawrence County Highway Superintendent.
- 2) Hours of operation of "modified" vehicles is restricted to minimize noise concerns.
- 3) Provisions are agreed to with regards to security and safety.
- 4) Provisions should be in place to address "legitimate" dust concerns.

(Weisenberg-) motion to deny CUP # 305 due to the noise, dust and roads. Motion failed due to lack of a second.

(Mattson-Kullbom) motion to approve CUP #305 for a mud bogging track for 5 days this year with all conditions attached and the requirement that Nicholas mags the road. Motion amended.

(Coburn-) motion to approve CUP #305 for a mud-bogging track for 3 days with all conditions attached. Motion failed due to lack of a second.

(Mattson-Kullbom) motion to approve CUP #305 for a mud-bogging track, operation of the track shall be approved for up to 4 events in 2005. To be determined in 2006. Dust issue addressed in proposed condition #18. Motion Carried

Roll call vote 3-aye and 3-nay. Derosier broke the tie with an aye.

Aye-Mattson, Kullbom, Fuller

Nay-Weisenberg, Coburn, Mickelson

ATTACHED CONDITIONS:

Applicants are requesting the County grant permit for the operating of a mud-bogging track along the Red Hill Road. This shall be to allow construction and operation of a mud bogging track including; two pits for trucks and jeeps.

9. The owner/operator shall comply with all applicable County, State, and Federal regulations.
10. Any construction of structures shall require a building permit from the Lawrence County Office of Planning and Zoning.
11. The operator(s) and vendor(s) shall be required to obtain a South Dakota Sales Tax License.
12. The operator(s) shall assign one or more persons to remain on the premise at all times when the course is open to the public and during race day for security purposes.
13. The track shall be open only during daylight hours 8:00 am to 6:00 pm.
14. Any vehicle with modified muffler or exhaust system shall only be operated between the hours of 10:00am to 6:00pm.
15. Operation of the track shall be approved for up to 4 events in 2005. To be determined in 2006.

16. The surrounding boundary of this operation shall be fenced and gated and locked when mud-bogging track is not in use.
17. No exterior lights shall be allowed.
18. No parking along the county road shall be allowed. Operator(s) shall post "No Parking" signs along the County Road.
19. A written statement from the Spearfish Fire Chief in regards to equipment and/or fire prevention measures needed at the proposed site will be filed with the Office of Planning and Zoning. The written statement shall address and include the following: 1) fire extinguisher specification and fire preparedness in the pit area and 2) fire possibilities and prevention in the spectator area.
20. Complaints from the Lawrence County Sheriff and/or the Spearfish Police Department could result in revocation of the Conditional Use Permit.
21. No camping or open fires or fireworks shall be allowed.
22. Public parking shall be allowed only within designated areas as assigned by the operators and approved by the Planning Commission.
23. One on-premise sign may be allowed on the property and conform to Section 4.2 of the Lawrence County Zoning Ordinance.
24. Litter containers or trash barrels shall be strategically placed around the area and shall have lids so as to prevent free blowing trash. Trash shall be policed everyday if necessary and especially on race day. All containers shall be emptied at least one-a-week or when full.
25. Ingress and egress from and to the county road shall be approved by the Lawrence County Highway Superintendent prior to operation. If complaints should arise due to only one entrance/exit, the petitioner shall be required to coordinate with the County Highway Superintendent to construct an additional access and/or assign person(s) to direct traffic in and out of the subject property.
26. If dust problem results in a complaint, the operators shall meet with the County Commission and Lawrence County Highway Superintendent to determine maintenance and utilization of dust suppressant.
27. Ambulance services and medical supplies shall be on-hand during race day.
28. A copy of the operator's liability insurance shall be filed with the Lawrence County Office of Planning and Zoning.
29. All noxious weeds shall be controlled per the Lawrence County Weed Department regulations.
30. Any change of property ownership, with the proposed transfer of this subject Conditional Use Permit, shall be reported immediately to the Office of Planning and Zoning. The new owner shall meet with the Lawrence County Commission to review and accept the conditions of this Conditional Use Permit.
31. This permit shall be reviewed on an annual basis, or an as needed basis should complaints arise to assure compliance with the attached conditions, at which time additional conditions may be attached.
32. If any term, condition or regulation stipulated in the Conditional Use Permit, the Lawrence County Zoning Ordinance or applicable state and federal regulations are not fully complied with in all respects, this permit shall be reviewed and may be suspended or revoked.

The Planning & Zoning Meeting was moved from the commissioner's room to the Deadwood City Hall.

2:00 p.m. There will be a concurrent public hearing for Apple Springs Development PUD # 5, COZ

2:30 p.m. #243 and COZ #244.

FINAL PLAT

Owner/Representative: Apple Creek Development LLC/CETEC Engineering Services

Action Required: Approval/Denial

Legal Description: Plat of Apple Springs Tract located in Section 11 and 14, T5N, R4E.

Location: Boulder Canyon

Purpose: **Apple Springs Tract = 369.9 acres**

Brandon explained that the preliminary Apple Springs Tract was already approved.

(Mickelson-Kullbom) motion to approve final plat. Motion Carried.

PUBLIC HEARING-APPLE SPRINGS PLANNED UNIT DEVELOPMENT #5

Owner/Representative: Apple Creek Development LLC/CETEC Engineering Services

Action Required: Approval/Denial

Legal Description: Apple Springs Tract located in Sections 11 and 14, T5N, R4E.

Location: Boulder Canyon

Purpose: **Planned Unit Development to include HSC area retail/courtyard, SRD lodge area, multi-family, town homes, high-density residential/golf course, and public services/facilities.**

PUBLIC HEARING-APPLE SPRINGS CHANGE OF ZONING # 243

Owner/Representative: Apple Creek Development LLC/CETEC Engineering Services

Action Required: Approval/Denial

Legal Description: A portion of Apple Springs Tract located in Sections 11 and 14, T5N, R4E.

Location: Boulder Canyon

Purpose: **Change zoning from PF to SRD.**

PUBLIC HEARING-APPLE SPRINGS CHANGE OF ZONING # 244

Owner/Representative: Apple Creek Development LLC/CETEC Engineering Services

Action Required: Approval/Denial

Legal Description: A portion of Apple Springs Tract located in Sections 11 and 14, T5N, R4E.

Location: Boulder Canyon

Purpose: Change zoning from PF to HSC.

Dave Simpson and Mark Simpson were both present at the public hearing. Dave Simpson went through their plans for the addition of the 9 hole golf course, and the primary and vacation homes. They are willing to listen to all of the neighbors concerns and they would like everyone to know that they do not want to detract from the beauty of the hills. The design of the water system will be similar to a municipal water system and there will be fire hydrants. They are also proposing a centralized waste water treatment system, the water coming out of the plant will be used for irrigation of the golf course, this water will not be foul smelling, the treated water will be a quality similar to lakes and streams in the area. They are willing to maintain the history of the Wildberger property by renovating the Wildberger home and schoolhouse. Fruit trees and gardens will be planted to help keep the beauty of the hills inside the development. The homes in the middle area will have a country theme, there will be some Victorian homes and the outer lots will have log type structures. They own a landscaping business out of Rapid City and have the equipment to move any of the trees to different places. The lodge and convenience store will consist of a timber structure. At first they thought that the convenience store was something the people in Boulder Canyon would like to see, but if this is a big issue they are willing to talk about this. They have also talked with the DOT about the highway problems and they are willing to pay for the upgrading of the highway, which will include adding lanes and re-striping.

The Public Hearing took on an open forum format. Questions were asked by people in the audience and the developers answered. Joe Bride asked about putting lights in to slow down the traffic, Simpson stated this was up to the DOT. Clint Hall asked how many town homes would be put in, Simpson answered 65. Cliff Weber asked about the road maintenance, Simpson answered that Apple Springs would maintain the roads inside the subdivision. Dwayne Finkenbeiner asked about the zoning, the density of the homes, and the wastewater treatment center. Brandon explained that small lot sizes are allowed in SRD zoning because they are putting in central water and central sewer systems. Pat Gibson asked what the county was going to do about the already minimal police and fire service if this was approved, he also asked about speed limit signage. Wayne Hess brought up questions regarding the Madison Formation and the location of the wastewater treatment center. Simpson explained they would be using the Madison Formation and the wastewater system would be located at the front of the property and will be mostly underground. Wayne also brought up the trafficking pattern, and why this development was not being incorporated or annexed into the city? Jeanne Bride asked about the rumors that the Whitewood Road would be extended and widened. Simpson stated that he has talked with the USFS and they do not want this road to be changed in anyway, they would prefer it to stay gated.

PROPONENTS:

Larry Heinz the President of Boulder Canyon Country Club, they are very interested in having this development come into the area. This is a once in a lifetime chance to extend the golf course and they are willing to help in anyway that they can. James Forbes also would like to see the extension of another 9 holes to the course; he is also a firefighter out of Sturgis and would like to see the opportunity to have a fire station right there to make his job easier when responding to fires in Boulder Canyon.

OPPONENTS:

Bob Coolley is very much opposed because they are going to ruin the view. Chuck Nelson is opposed to the retail and the sewage treatment center, the increase in traffic, the decrease in land value, and the fact that the scenic byway will be lost. He is not opposed to the golf course. Sheila Richardson does not want a convenience store and the traffic is already dangerous.

PROPONENTS:

Pat Weber is for the majority of the development, but does not think that the convenience store should be an option. Larry Heinz stated the golf course addition will be managed just like the current course, they will maintain the golf course, and they will also open membership this year to help pay for costs.

Dave Simpson explained that other subdivisions in Boulder Canyon would be allowed to hook up to the wastewater treatment center for a cost. They will develop all the lots and have architectural control of the entire subdivision. The Boulder Canyon Golf Course will control the new course; but costs will be split between the Golf Course and the Apple Creek Development. Simpson stated again if the Commercial property is the big detractor they won't do it. They propose to put a berm and trees around the wastewater treatment center. They will be putting trees around the new golf course building.

Fuller asked that the Simpsons meet with the homeowners in Boulder Canyon in order to answer all of the homeowner's questions before coming to another public hearing.

Brandon talked about the staff recommendation as attached.

STAFF REPORT

HISTORY/BACKGROUND

Apple Springs is applying for a PUD to create a subdivision adjacent to the Boulder Canyon Golf Course. It would include multifamily town houses; small and large lot residential housing, another 9 holes for the golf course, a lodge facility, and area for commercial development. The Plan involves a community water system, a community sewer system, and a lot for public services. This encompasses an area of 370+/-, and would have between 280 and 370 residential units when completed.

ISSUES

Roads, Water, Sewer, Character of the Area, fire suppression.

STAFF ANALYSIS/RECOMMENDATION

The Comprehensive Plan identifies Boulder Canyon as a "Special Focus Area. It suggests allowing increased density and further development, it also recommends "encouraging" incorporation of the Boulder Canyon area. The Comprehensive Plan also encourages the establishment of a "primary neighborhood or community serving commercial location" to be based on design standards and impacts on surrounding land uses. The developers are planning to have a sewer treatment facility large enough to allow additional hook-ups, should adjacent properties want to connect to the system. They are providing for a "public service" lot for a fire hall or other public use. The character of the area is high-density residential properties.

Staff recommends approval of PUD, COZ #244 (SRD), and approval of COZ#243 (HSC) with a clear understanding that development of the commercial property must go through the development plan process.

(Mickelson-Mattson) motioned to table meeting regarding the PUD #5, COZ #243 and COZ #244 until Thursday, April 14, 2005 at 6:00 pm at the Deadwood City Hall.

2:45 p.m. There will be a concurrent public hearing for Terry Peak Subdivision PUD #6 and COZ
3:35 p.m. #245.

PRELIMINARY PLAT/FINAL PLAT

Owner Representative: **Black Hills Chairlift/Tom Marsing/ Bob Morcom**

Action Required: **Approval/Denial**

Legal Description: Tract 1 Terry Peak Estates located in a portion of Government Lot 6 and 11 Section 2, T4N, R2E.

Location: **Terry Peak**

Purpose: **Define PUD boundary**

(Kullbom-Weisenberg) motion to approve final plat. Motion carried.

PUBLIC HEARING--TERRY PEAK ESTATES PLANNED UNIT DEVELOPMENT #6

Owner/Representative: Black Hills Chairlift/ /Tom Marsing /Bob Morcom

Action Required: Approval/Denial

Legal Description: Proposed Tract 1 of the Terry Peak Estates located in a portion of Government Lot 6 and 11 Section 2, T4N, R2E.

Location: Terry Peak

Purpose: **SRD high-density residential/ ski in-ski out homes.**

PUBLIC HEARING – TERRY PEAK ESTATES CHANGE OF ZONING # 245

Owner/Representative: Black Hills Chairlift/ Tom Marsing /Bob Morcom

Action Required: Approval/Denial

Legal Description: Proposed Tract 1 of the Terry Peak Estates located in a portion of Government Lot 6 and 11 Section 2, T4N, R2E.

Location: Terry Peak

Purpose: **Change zoning from RC to SRD.**

Bob Morcom explained they are looking at developing the first 7 lots in the lower part of the tract, the upper part of the tract can not be developed until access is gained. These lots will be ski-in-ski-out. Owners on the other side of the road will still have access to the ski-in-ski-out areas. They will be tying into the existing water and there will be septic tanks on each lot with one drain field. Black Hills Chairlift will maintain the new subdivision road. There is a letter attached from the Trojan Water District giving permission to tie into the water system. There is a letter attached from Wharf giving permission to use the roads. Linda Derosier was present from the Trojan Water District and explained that they can handle the increase in the 7 lots, she also stated the growth has been 10 homes per summer for the past 5 years.

OPPONENTS:

Leroy Hart does not understand why they do not use the access across their own parking lot. Wharf controls the road and does not pay for the maintenance. He thinks this development should be rejected. Jason Smiley is representing property owners in the Terry Peak area. He presented a petition of opponents to the PUD and the COZ, which has been attached. Jason quoted his petition while explaining the reasoning behind the opposition. His petition included 4 specific reasons: maintenance of the road, run-off of proposed sewage system, pressures on existing water supply, and the loss of the current ski-in and ski-out access to Terry Peak. John Torgerson opposed the road being put around his property and wanted to know why they are having to give up their property value. Rod Simons asked why do they want to put it there, they have other land. The property value will decrease. Bob explained why they chose this area, primarily because of the other residential areas in this location. Terry Hart spoke again regarding the many lots that could be there with time, where will the water come from then.

PROPONENTS: NONE

OPPONENTS:

Letters will be attached from the following property owners: Gayla Meyer, Helen Schold, James Morrison, and Bradford & Barbara Roark. Jason Smiley again reiterated that his clients would like to see this subdivision denied, but if the commission is inclined to approve they would like to see conditions in place regarding a waste water system instead of a leach field, an extensive water study done, the ski-in-ski-out areas be left open, and to have the Black Hills Chairlift pay for the road maintenance.

CLOSED PUBLIC HEARING

Weisenberg asked does the DENR have quality water testing? Linda Derosier stated yes. Terry asked about going through their own parking lot, Susan Azarski said this could be done if need be. He also asked about the leach field being approved by the state. Mickelson asked about the road maintenance, Bob stated Black Hills Chairlift would maintain the new subdivision road. Kullbom asked about the covenants, he stated the covenant regarding the 700 sq ft residence should be changed to be at least 1200 so as to keep the homes at a higher end, which will keep the property values higher. Coburn brought up covenants and the defensible space needs to be changed from 30 feet to at least 100 feet. Terry Hart spoke up and said they would be happy to form a road district if Wharf would give them the road, he also said at this time they ask people to pay a voluntary amount of \$240.00 for road maintenance. Rick Meyer asked that all the letters sent in be read into the minutes. Susan said that they would be willing to add to their covenants that each homeowner would be responsible to pay \$240.00 into the road maintenance fund. Jim Lessard from Wharf spoke up and said you do not have to own the roads in order to have a road district. Terry Hart responded with people do not want to pay for a road district where they do not own the roads.

STAFF REPORT

HISTORY/BACKGROUND

Black Hills Chairlift is applying for a PUD to allow up to 17 "ski in/ski out" lots. This will be in the area of the beginner's lift immediately adjacent to the Lost Camp/Terry Valley Subdivision. The plan is to come in 2 phases and hook into the Terry/Trojan water system and utilize a portion of the ski area for a community drain field septic system.

ISSUES

Roads, Water, Character of the Area

STAFF ANALYSIS/RECOMMENDATION

The Comprehensive Plan identifies Terry Peak as a “Special Focus Area” with an eye toward further development as a “destination resort” and as a year round operation. It suggests that development of areas with existing infrastructure and character are appropriate for additional development.

A letter is on file with respect to the roads and a draft copy of approval from the water district was made available. The “community drainfield” concept will allow future connection to any expanded system Black Hills Chairlift might put in the future; it will also address the issue of smaller lot sizes. The character of the area is high-density recreational properties closely tied to the activities at Terry Peak Ski Area.

Staff recommends approval upon review and approval from water district, and approval/understanding of road maintenance issues.

(Weisenberg-Mickelson) motion to approve Terry Peak Subdivision PUD #6 as submitted. Motion carried.

(Weisenberg-Mickelson) motion to approve COZ #245 with the condition that any platted lots pay the Terry Valley Homeowners Association for road maintenance at the same rate association members pay for road maintenance.

3:15 p.m. PUBLIC HEARING – AMENDMENT TO CONDITIONAL USE PERMIT #299

4:45 p.m. Owner/Representative: MPT Inc./Jim Kirby & Bill Pearson/Lawrence County
Action Required: Approval/Denial

Legal Description: Lot 3 Block 1 Except H1 Oak Mountain Country Estates, located in Section 18, T5N, R4E, B.H.M.

Location: Old Forest Service Building

Purpose: To allow for storage of Search and Rescue Trailers and Equipment

Marlene Barrett explained that because of the sale of the slime plant they do not have the use of the white buildings anymore. The County has rented the garages at the MPT building/old Forest Service Building.

Mickelson thinks that the board should uphold condition #5 in the original Conditional Use Permit. Mattson asked what the county leased, Marlene stated the garages. Marlene explained in detail that Search and Rescue is using the buildings and the snowcats do not fit on the trailer inside the garages. They will be transferring the ATV’s and the snowmobiles in and out of the garages. Weisenberg stated if you go out there you really cannot see the storage buildings from the road. Brandon stated the county sent out notices to all surrounding property owners and we had received no complaints against this change. Marlene stated the county signed a lease for 1 year with an option to buy.

CLOSED PUBLIC HEARING

STAFF REPORT

HISTORY/BACKGROUND

Lawrence County has entered into a lease agreement for the “Old Forest Service Building” located outside Deadwood toward Boulder Canyon. The property operated for almost 10 years under a CUP and was denied for a change of zoning in 2003. MPT was reissued a CUP in 2004 for multiple tenant office and storage space which did not allow for outdoor storage. Lawrence County Search and Rescue is looking to keep equipment in the storage building and keep the trailers for this equipment parked outside the building.

ISSUES

Amendment to CUP 299 condition #5 “There shall be no outdoor storage of vehicles or equipment allowed”.

STAFF ANALYSIS/RECOMMENDATION

The Comprehensive Plan identifies this area as a growth area for Deadwood.

The Character is large lot residential with the exception of the MPT building and church adjacent to it.

Staff recommends approval as long as the vehicles/equipment are kept in a designated area and are kept in good repair. Only Search and Rescue vehicles/equipment should be allowed.

Proposed Amendment

Outdoor storage shall be allowed ONLY for Lawrence County Search and Rescue vehicles and/or equipment in proper working condition in the area designated for parking such equipment.

(Kullbom-Weisenberg) motion to approve amendment to CUP #299 with the condition outdoor storage shall be allowed ONLY for Lawrence County Search and Rescue vehicles and/or equipment in proper working condition in the area designated for parking such equipment.

4:00 p.m. INFORMATIONAL MEETING – CONDITIONAL USE PERMIT # 300 – TO ALLOW

4:55 p.m. HORSE CAMP/CAMPGROUND

Owner/Representative: Lindgren, Doug and Jody

Action Required: Discussion and set Public Hearing

Legal Description: Lot 2 of HES 417

Location: Nemo

Purpose: An update on the horse camp and campground access issue.

Doug Lindgren was present to let the board know they have changed the name for the horse campground to Hay Creek Ranch. The last time he came before the board there was an access issue. They have met with Craig Lundorff and have received a letter from Pam Brown, this letter has been attached. They are still working on the remaining 100 feet access into the property. They do still have fire access through Gary Sparks. They will be using a model similar to Jan Kabernas. Weisenberg asked that Doug meet with the surrounding neighbors and let them know what he plans on doing.

An on-site visit was set up for Thursday, April 14, 2005 at 4:00 pm meeting at the Elk Ridge turnoff.

4:15 p.m. INFORMATIONAL MEETING-CONDITIONAL USE PERMIT # 306 – TO HAVE A

5:10 p.m. CABINET/WOODWORKING SHOP

Owner/Representative: **Steven Hauff/Dan Davidson**

Action Required: **Discussion**

Legal Description: **Lots 16 B-1, subdivision of Lot 16 of the subdivision of the W ½ of the SE ¼ of Section 4, T6N, R2E.**

Location: **Spearfish/ Hillsview Drive**

Purpose: **To allow a woodworking and cabinet making shop.**

Dan Davidson is looking for approval of a part-time business for a woodworking shop. Currently full time with City of Sturgis and he wants to be able to do this in his part time. Mickelson stated he would like to see some sawdust collection done.

Public Hearing set for May 5, 2005 before the Planning & Zoning Board.

4:25 p.m. PRELIMINARY PLAT

5:12 p.m. Owner Representative: **Black Hills Chairlift/ Tom Marsing /Bob Morcom**

Action Required: **Approval/Denial**

Legal Description: Plat of Lots 1-7 of Block 1 of Tract 1 of the Terry Peak Estates located in a portion of Government Lot 6 and 11 Section 2, T4N, R2E.(legal may change)

Location: **Terry Peak**

Purpose: **New Lots**

(Mickelson-Weisenberg) motion to approve the preliminary plat contingent upon approval of PUD #6 and COZ # 245. Motion carried.

4:35 p.m. PRELIMINARY AND FINAL PLAT

5:15 p.m. Owner/Representative: **Homestake Mining Company/Ponderosa Land Surveys**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot E,F,G,H,I,J,K all located in 32 and 33, T5N, R3E and Section 4, T4N, R3E.**

Location: **Kirk Road**

Purpose: **New Lots**

(Mickelson-Kullbom) motion to approve preliminary plat. Motion carried.

(Weisenberg-Mickelson) motion to approve final plat. Motion carried

4:45 p.m. PRELIMINARY AND FINAL PLAT

5:20 p.m. Owner/Representative: **Tim Davis/Ponderosa Land Surveys**

Action Required: **Approval/Denial**

Legal Description: **Lots 1 and 2 being a portion of Marengo Lode, M.S. 1452, located in the SW ¼ of Section 14, T4N, R3E.**

Location: **Hideaway Road/Hwy 385**

Purpose: **Lot 1 = 2.83 acres and Lot 2 = 3.55 acres**

(Weisenberg-Mickelson) motion to approve preliminary plat. Motion Carried.

(Kullbom-Mickelson) motion to approve final plat. Motion carried.

4:55 p.m. PRELIMINARY AND FINAL PLAT

5:25 p.m. Owner/Representative: **Dennis & Dorothy Winsell / Ponderosa Land Surveying**

Action Required: **Approval/Denial**

Legal Description: **Lots 1, 2 & 3 being all of Fox M.S. 1265 and a portion of Fox No. 1 M.S. 1265, located in Section 16, T4N, R4E.**

Location: **East of Galena**

Purpose: New Lots = Lot 1 = 2.27 acres, Lot 2 = 3.00 acres, Lot 3 = 3.55 acres

(Mickelson-Kullbom) motion to approve preliminary plat. Motion carried.

(Mickelson-Mattson) motion to approve final plat. Motion carried.

5:10 p.m. PRELIMINARY PLAT

5:30 p.m. Owner/Representative: **Aventure Estates LLC, Mike Percevich / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lots 1 through 19, and dedicated 66' public access and utility easement of Aventure Estates, all located in Sections 11 and 12, T4N, R2E.**

Location: **Terry Peak Summit Road**

Purpose: **19 New Lots**

Mike Percevich and John Arleth were present to explain the plat. Danny Gray and Golden Reward easements are in place, Brad Ellis designed the roads and water system, Chuck Williams has approved the roads, a timber agreement has been signed with Pope & Talbot, Tim Eggers has done an on-site, they will be drilling a well and putting in storage tanks, the power will be coming in from Terry Peak, BH Power has already approved it, water and road districts will be in place before the first lot will be sold.

(Weisenberg-Mickelson) motion to approve preliminary plat. Motion carried.

Kullbom abstained.

5:15 p.m. PRELIMINARY/FINAL PLAT

5:40 p.m. Owner/Representative: **Sally Reiman & Malcolm McKillop / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Tract 4A and 4B being a subdivision of Tract 4, located in the SW ¼ NW ¼ of Section 20, T5N, R4E.**

Location: **Boulder Canyon**

Purpose: **New Lot 4A = 5.00 acres and 4B= 5.00 acres**

(Mickelson-Fuller) motion to approve preliminary plat upon condition access is approved by County Commissioners. Motion carried.

(Mickelson-Kullbom) motion to approve final plat upon condition access is approved by County Commissioners. Motion carried.

5:20 p.m. PRELIMINARY/FINAL PLAT/BUILDING RIGHT AFFIDAVIT

5:45 p.m. Owner/Representative: **John & Laura Vainio / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Tinnel Tract 1 of the NW ¼ NE ¼ of Section 36, T7N, R3E.**

Location: **St Onge**

Purpose: **New Lot = 5.00 acres**

Brandon explained that a building right affidavit has already been obtained.

(Mattson-Kullbom) motion to approve preliminary plat. Motion carried.

(Kullbom-Mickelson) motion to approve final plat. Motion carried.

5:25 p.m. FINAL PLAT

5:47 p.m. Owner/Representative: **Floyd Mount/John Keene / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 6 of Meadow Crest located in the SE ¼ NE ¼ of Section 17, T5N, R4E.**

Location: **Boulder Canyon**

Purpose: **New Lot 6 =2.84 acres**

(Kullbom-Mickelson) motion to approve final plat. Motion carried.

5:30 p.m. PRELIMINARY/FINAL PLAT

5:50 p.m. Owner/Representative: **Tim & Dawn Madsen / Black Hills Surveying**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot I Revised, Lot K Revised, and Lot 4 Revised, a replat of Lot L, Lot K and a portion of Lot 4, all located in M.S. 1845, Section 12, T4N, R3E.**

Purpose: **Change lot lines**

This is just a re-plat, but Tim Madsen did put together a fire plan and covenants.

(Weisenberg-Mickelson) motion to approve preliminary plat. Motion carried.

(Mickelson-Weisenberg) motion to approve final plat. Motion carried.

Kullbom absent from the meeting for this plat approval.

5:35 p.m. FINAL PLAT

5:50 p.m. Owner/Representative: **Ivan Shonley**

Action Required: **Approval/Denial**

Legal Description: **Lot 322 of Block 3 of Boulder Canyon Subdivision of Section 10,11,14, and 15 of T5N, R4E.**

Location: **Boulder Canyon**

Purpose: New Lot = Lot 322 = 2.296 acres

(Mickelson-Weisenberg) motion to approve final plat. Motion carried.

5:40 p.m. FINAL PLAT

5:55 p.m. Owner/Representative: **Dwight Ahlers**

Action Required: **Approval/Denial**

Legal Description: **Plat of Spruce Mountain Estates No. 2, Lots 24, 41, and 57 of Spruce Mountain Estates No. 2, located in the E ½ SW ¼ of Section 13, and the N ½ NW ¼ of Section 24, T6N, R4E.**

Location: **Whitewood North**

Purpose: New Lots = Lot 24 = 5.14 acres, Lot 41 = 5.27 acres, Lot 57 = 7.47 acres

(Mickelson-Kullbom) motion to approve final plat. Motion carried.

6:00 p.m. Brandon explained the handout regarding the comp plan changes. They talked about the green space and who would take care of the taxes. Terry Kullbom submitted his letter of resignation to the board. Copy of resignation attached.

They're being no further business; the meeting was adjourned at 6:15 p.m.

The following is an index of all the attachments, which follow:

of Pages

- 1. Glen Nicholas Mud Bogging Track Application which outlines his presentation.
3**
- 2. Approval letter for Mud Bogging Track from John Edwards.
1**
- 3. Lester Nies petition for the board to deny Mud Bogging Track.
4**
- 4. Opposition letter from Nerm and Eileen Lecy concerning the Mud Bogging Track.
1**

5. **Opposition letter from Richard Anderson concerning the Mud Bogging Track.**
1
6. **Opposition letter from Joseph and Sandra Barany concerning the Mud Bogging Track**
1
7. **Opposition letter from Gary Solomen concerning the Mud Bogging Track**
1
8. **Letter of approval from Wharf Resources for Terry Peak Subdivision.**
1
9. **Letter of approval from the Terry-Valley Trojan Water District for Terry Peak Subdivision.** 1
10. **Jason Smiley petition for the board to deny Terry Peak Subdivision.**
6
11. **Opposition letter from Gayla Meyer concerning Terry Peak Subdivision.**
2
12. **Opposition letter from Helen Schold concerning Terry Peak Subdivision.**
2
13. **Opposition letter from James Morrison concerning Terry Peak Subdivision.**
2
14. **Opposition letter from Bradford & Barbara Roark concerning Terry Peak Subdivision.** 2
15. **Approval letter from USFS for Doug Lindgren.**
2
16. **Changes in the comp plan.**
1
17. **Letter of Resignation from Terry Kullbom.**
1

APPROVED: _____

Date: _____

Leo Derosier, CHAIR

ATTEST: _____

Craig Mickelson, SECRETARY

LAWRENCE COUNTY PLANNING & ZONING COMMISSION

MINUTES OF May 5, 2005

REGULAR MEETING

Vice-Chairman Bill Coburn called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, May 5, 2005 at 1:35 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Terry Weisenberg, Barb Mattson, Craig Mickelson, Rick Tysdal, Bill Coburn, Jacque Fuller

ABSENT: Leo Derosier

MINUTES: Moved-Seconded (Mattson-Weisenberg) to approve the minutes of April 7, 2005. Motion carried.

MINUTES: Moved-Seconded (Mattson-Weisenberg) to approve the minutes of April 14, 2005. Motion carried.

The following times are listed as scheduled then actual.

1:30 p.m. Brandon welcomed Rick Tysdal to the board. Went over suggestions as to what needs to be

1:38 p.m. changed in the Board By-Laws. They also talked about the blanket lists for Conditional Use Permits. Mickelson requested that the wording in 3.1.3 be changed from "another" to "a".

2:00 p.m. PUBLIC HEARING-CONDITIONAL USE PERMIT # 306 – TO HAVE A

2:00 p.m. CABINET/WOODWORKING SHOP

Owner/Representative: **Steven Hauff/Dan Davidson**

Action Required: **Approval/Denial**

Legal Description: **Lots 16 B-1, subdivision of Lot 16 of the subdivision of the W ½ of the SE ¼ of Section 4, T6N, R2E.**

Location: **Spearfish/ Hillsview Drive**

Purpose: **To allow a woodworking and cabinet making shop.**

Dan Davidson was present to explain that he would like to get the CUP for a small part-time woodworking shop. He has 15 years of experience. His business has outgrown his garage. He plans on only being there 2 days a week, mostly on the weekends. It will be a one-man business. Brandon stated that the building is currently in a HSC zoning and this zone requires any light manufacturing to be under a CUP.

PROPONENTS: None

Neutral: Joe Picasso was present only to find out what was going to be in that building.

OPPONENTS: None

CLOSED PUBLIC HEARING

Mickelson asked about the dust and how it was going to be contained and disposed of. Dan said it would be a small vacuum system; garbage disposal will be looked into. Mickelson asked if there were doors and windows on the west side of the building. Dan stated there were no windows on the west side of the building facing the residential area. Bruce asked about outside storage, Dan stated there would be none. Mickelson asked that condition #5 reflect if there is any expansion of the business that they do not have any open windows or doors on the west side of the building because of the residential neighbors. Coburn asked about flammables, expansion and hours of operation. Mickelson stated Spearfish would deal with the flammables and that he did not feel the hours of operation would be a problem. Dan stated there would be no expansion because the building does not have the room.

(Mickelson-Fuller) motion to approve CUP #306 to allow a cabinet and wood working shop. Motion Carried.

2:20 p.m. PUBLIC HEARING – CONDITIONAL USE PERMIT # 300 – TO ALLOW

2:20 p.m. HORSE CAMP/CAMPGROUND

Owner/Representative: Lindgren, Doug and Jody

Action Required: Approval/Denial

Legal Description: Lot 2 of HES 417, Section 3, T3N, R4E.

Location: Nemo

Purpose: To allow a horse camp and campground.

Doug Lindgren was present, he explained that they purchased property in the hills and would like to develop a horse camp and campground. He has begun thinning trees, and working closely with the SD Campground Regulations. Terry Wolterstorff has done perc tests and is working on the septic design. Chuck Williams has been out to the area to look at the access through Elk Ridge; Doug said he is willing to work with the development and the county to address the issues of speed and dust. Craig Lundorff

has been out to the development and has given the Lindgrens permission to use the Lucky Strike road, as long as they work with the Elk Ridge Subdivision. Doug said he is willing to take care of the portion of the road his customers travel. The campground will consist of corrals, tent sites, RV sites, a shower and bathhouse, a dump station, a barn with an office space and bathroom, and 5 cabins with showers and toilets. He believes the total amount of people at any given time would be 80.

PROPOSERS: Jan Kaberna, owner of HOM Camp was present to let everyone know that Doug would never do anything against the county or his neighbors. Jon VanPatten owner of a Bed & Breakfast is in favor of the project as it has been proposed. He thinks it is a sensible and traditional use of the land and does not think it will have much impact on the land. Virginia Eastmo thinks it is a good way to use the land.

OPPOSERS: Gary Sparks is concerned with the private easement, which runs across his property. He will not allow Doug to use this access for his commercial business or any thing to do with the campground. The road is his and he does not want the traffic. He is concerned with the floodplain/wetland area that is on this property, the water table, and how people would get out of the property in case of a fire. Roger Ramsey concerned with traffic and the use of the existing trails and roads. Mike Smedstad concerned with access. Dick Shilvock concerned with the road, the ecosystem, dust, traffic and property value. Sherry Bea Smith concerned with traffic safety and access. She does not want it to become a motorcycle campground.

PROPOSERS: Doug responded to the access issues, he stated he has already helped to maintain the road. If his family wants to see him he would expect they would be able to use this access. He does not believe his business will have an affect on the wildlife. He stated there are a number of existing horse trails. He will make sure dust and speed is managed.

OPPOSERS: Gary Sparks is concerned with how vehicles will get turned around and will the hay coming in be weed certified. Will the campground be for handicap people? If any traffic is associated with the campground he will not allow them to use his access. Jim Wanderscheid was under the impression that he was on a dead end county road and is concerned with how the trails will be used.

CLOSED PUBLIC HEARING

Tysdal asked whether or not there was any other access to the property. Fuller asked about the original purpose of buying this property-Doug stated the horse camp was the original purpose. Mickelson asked about the pond and the cabin design-Doug

answered the pond would not be changed and the cabin design would have a loft area for children. Mickelson stated to make sure the loft areas had egress windows. Mattson is concerned with the traffic and also asked about 4-wheelers and dirt bikes- Doug stated he does not want 4-wheelers or dirt bikes in the campground. Coburn asked why they could not use the access off of Forest Service Road 539. Craig Lundorff answered that there was no reason to not use Rockland Road. Doug stated he had no problem with this. Weisenberg asked Doug if he had any problems with the attached conditions, Doug stated no. Mickelson asked what type of vehicles most horse campers had, Doug stated a truck and a fifth wheel. Mickelson also wanted to clarify a remark made in the audience about it being a requirement of Doug to upgrade the road- Mickelson stated it is not a requirement to upgrade the road. Mattson asked if the USFS gave permission to use the road. Lundorff stated they usually would not turn someone down if they want to upgrade a road. Doug stated he is willing to do this.

(Fuller-Weisenberg) motion to approve CUP #300 with the conditions that hay brought into the camp shall be weed certified and shall be done in coordination with the Lawrence County Invasive Species Department and all advertising shall reflect that the Rockland Road is designated as the entrance/exit to the Camp. Aye-4 (Fuller, Mattson, Weisenberg, Tysdal) Nay-1 (Mickelson)

2:50 p.m. INFORMATIONAL MEETING-CONDITIONAL USE PERMIT # 307-TO ALLOW A
3:07 p.m. SECOND RESIDENCE (HARDSHIP)

Owner/Representative: **Beatrice and Charles Ramsey**

Action Required: **Discussion/Set Public Hearing**

Legal Description: **TR 1B-2 OF Lot 1 in SE1/4SE1/4,Section 8, T6N, R3E.**

Location: **Rainbow Road**

Purpose: **To allow a 2nd residence on property due to hardship**

Brandon explained that the Ramsey's are both ill and elderly people and they would like to put a 2nd mobile home on their property for their granddaughter.

Set Public Hearing for June 2, 2005.

3:00 p.m. INFORMATIONAL MEETING-AMENDMENT TO CONDITIONAL USE PERMIT

3:10 p.m. #126-TO ALLOW CHANGE IN CONDITION #14

Owner/Representative: Golden Reward Mining Co./Wharf Resources

Action Required: Discussion/Set Public Hearing

Legal Description: 772 acres located in SE ¼ of Section 1 and NE ¼ of Section 12, T4N, R2E and Section 6 and 7, T4N, R3E.

Location: Approximately 2 miles SW of Lead

Purpose: To eliminate/adjust condition #14 regarding the domestic sampling wells.

Terese Hruska explained that Wharf had gotten some resistance from neighbors in the past and that is why they are going through the full public hearing process for this amendment. Wharf would like to drop condition #14 and discontinue sampling. They have a letter from Whitetail Court that says it is ok with them, but Wharf feels there will be opposition from Dale and Carol Peters.

Set Public Hearing for June 2, 2005.

3:10 p.m. INFORMATIONAL MEETING-CONDITIONAL USE PERMIT #308-TO ALLOW

3:15 p.m. TOWER

Owner/Representative: Harold & Sharon Hudson/Performance Development Group.

Action Required: Discussion/Set Public Hearing

Legal Description: SE ¼ of Section 17. T6N, R4E.

Location: Whitewood North

Purpose: To allow cell tower on property

Craig Snyder was present for the Performance Development Group. Sharon and Harold Hudson were also present. Performance Development Group develops multi use or multi carrier cell towers. They have a lease signed with Cell One and the proposed site is preferable for their coverage area. They are proposing a 330' tower this would almost fill the current gap. They would like to get a tower approved and have it available for 3 or more tenants.

Mickelson does not think this tower will improve the area very much over the previously approved site (CUP # 302). Brandon asked that better proposal site plan be prepared, also asked that this CUP be reviewed by the PUC.

Set Public Hearing for June 2, 2005.

3:20 p.m. INFORMATIONAL MEETING-CONDITIONAL USE PERMIT #309 – TO ALLOW

3:20 p.m. PRIVATE CHRISTIAN SCHOOL

Owner/Representative: **Black Hills Christian Academy/ Jason Boke**

Action Required: **Discussion/Set Public Hearing**

Legal Description: **N ½, NW ¼, NE ¼ of Section 22, T7N, R2E.**

Location: **North of Spearfish/ Exit 10**

Purpose: **To allow private Christian school.**

Jason Boke was present. He explained that the 20 acres of land the proposal is for has been pledged to the school. They want to build the school on this property. The DOT has been notified. They are willing to abide by all of the conditions. There are currently 75 students; the new school will have a maximum of 200 kids. They teach Preschool through 8th grade.

Set Public Hearing for June 2, 2005.

3:30 p.m. INFORMATIONAL MEETING-CHANGE OF ZONING #246-TO ALLOW

3:30 p.m. RESTAURANT

Owner/Representative: **Dan Martin**

Action Required: **Discussion/Set Public Hearing**

Legal Description: **Tract 3 of the unplatted portion of M.S. 1368 Section 27, T3N, R5E.**

Location: **Nemo**

Purpose: **To allow a restaurant in c-store already approved under CUP #301.**

Mickelson asked why it is a COZ and not an amendment to the CUP. Brandon explained it could go either way, but the property owner has chosen to try for the COZ. Dan Martin explained he would like to put in a small restaurant in the same building as the approved c-store.

Set Public Hearing for June 2, 2005.

3:40p.m. FINAL PLAT

3:40 p.m. Owner/Representative: **Floyd Mount/John Keene / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 10 of Meadow Crest located in the SE ¼ NE ¼ of Section 17, T5N, R4E.**

Location: **Boulder Canyon**

Purpose: **New Lot 10=2.09**

(Mickelson-Tysdal) motion to approve final plat. Motion Carried.

3:45 p.m. FINAL PLAT

3:42 p.m. Owner/Representative: **Maitland Partners/Don Hander / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 1 and Lot 15 of Paradise Acres Subdivision, all located in Sections 7,17, & 18, T5N, R3E. (legal has been shortened)**

Location: **Maitland Road**

Purpose: **New Lot 1 = 2.71, Lot 15 = 2.25**

(Fuller-Mattson) motion to approve final plat. Motion Carried.

3:50 p.m. PRELIMINARY AND FINAL PLAT

3:44 p.m. Owner/Representative: **James & Mary Hoogshagen, Dennis & Janet Forgey / Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 15A and Lot 25A of Aspen Heights Meadows Sub, formerly lot 15 and lot 25 of Aspen Heights Meadows Sub, a sub of HES 499, located in Sections 34 and 35, T3N, R1E.**

Location: **Hwy 85/ Trailshead Area**

Purpose: **New Lot 15A = 5.46, Lot 25A = 6.26**

John explained that the density is the same, but the lot lines have been changed.

(Tysdal-Mattson) motion to approve preliminary plat. Motion Carried.

(Weisenberg-Mattson) motion to approve final plat. Motion Carried.

4:00 p.m. PRELIMINARY AND FINAL PLAT

3:50 p.m. Owner/Representative: **Golden Reward/Jim Lessard/Ponderosa Land Surveys**

Action Required: **Approval/Denial**

Legal Description: **Lots 1 thru 5 being portions of Lone Pine & Lone Jack M.S. 1073, Mohawk, Oxford & Mineral Point M.S. 1065, Alpha M.S. 1063, Ophir M.S. 764, Silver Shower M.S. 543, Clinton M.S. 956 and Former Gov't Lot 6 of Section 6, located in Section 1, T4N, R2E and Section 6, T4N, R3E**

Location: **HWY 85**

Purpose: **Lot 1=2.09, Lot 2=2.15, Lot 3=2.25, Lot 4=2.06, Lot 5=3.10**

Jim Lessard explained former Gov't Lot 6 owned by Wharf and the surrounding ground is owned by Golden Reward. It is currently zoned SRD from the highway up to the center line of the railroad grade. Subdividing for residential lots to head off commercial zoning. They have no intention of selling the lots any time soon. This plat is also allowing them to take care of some access issues along the railroad grade. Gary Engel has looked at the access and has approved them. There is a set of restrictive covenants and a fire plan, which will go with the lots when sold. The railroad grade had been an illegal dumping ground; they put up two gates a number of years ago and will leave these gates locked until 3 out of the 5 lots are sold. They will provide keys for people if needed.

Brandon disclosed he is an adjacent property owner to this plat and would receive access along the railroad grade and stated the plat will also go to the County Commissioners.

Coburn would like the fire plan to state fire resistant materials. Fuller asked about the contract to haul off garbage in areas like this. Brandon stated it is discussed in the Comprehensive Plan, but we currently do not have an ordinance to enforce this.

(Weisenberg-Tysdal) motion to approve preliminary plat. Motion Carried.

(Mickelson-Fuller) motion to approve final plat. Motion Carried.

4:10 p.m. PRELIMINARY AND FINAL PLAT

4:05 p.m. Owner Representative: **Tim Davis/Ponderosa Land Surveying**

Action Required: **Approval/Denial**

Legal Description: Plat of Lots 3 and 4 being the remainder of Marengo Lode, M.S. 1452, located in the SW ¼ of Section 14, T4N, R3E.

Location: **Hideaway Road**

Purpose: **Lot 3=5.15, Lot 4=9.14**

(Mickelson-Tysdal) motion to approve preliminary plat. Motion Carried.

(Mickelson-Tysdal) motion to approve final plat. Motion Carried

4:20 p.m. PRELIMINARY AND FINAL PLAT

4:10 p.m. Owner/Representative: **Maitland Partners, LLC/Ponderosa Land Surveys**

Action Required: **Approval/Denial**

Legal Description: **Plat of Tract 1 being a portion of Connecting M.S. 1888, located in the SE1/4SW1/4, SW1/4SE1/4 of Section 10 and NE1/4NW1/4, NW1/4NE1/4 of Section 15, T4N, R3E.**

Location: **Yellow Creek**

Purpose: **Tract 1=7.99**

(Mickelson-Weisenberg) motion to approve preliminary plat. Motion Carried.

(Mickelson-Mattson) motion to approve final plat. Motion Carried

4:30p.m. PRELIMINARY PLAT

4:12 p.m. Owner/Representative: **Deadwood Hills Estates/Ponderosa Land Surveying**

Action Required: **Approval/Denial**

Legal Description: **Plat of Deadwood Hills Estates No. 1 a subdivision of Last Chance No.1 M.S. 1775, located in the N1/2 of Section 15, T4N, R3E**

Location: **Yellow Creek**

Purpose: New Lots = Lot 1 = 5.03, Lot 2 = 5.03, Lot 3 = 5.05, Lot 4=5.03

Brandon stated that the word has spread that there could be a possibility of the base density changing. Mickelson asked about the maximum cul-de-sac of 500'. Brandon stated it is an existing road and does not fall under our subdivision ordinance.

(Mickelson-Mattson) motion to approve preliminary plat. Motion Carried.

4:40 p.m. PRELIMINARY PLAT

4:20 p.m. Owner/Representative: **Deadwood Hills Estates/Ponderosa Land Surveying**

Action Required: **Approval/Denial**

Legal Description: **Plat of Deadwood Hills Estates No. 2 a subdivision of Last Chance No.4 M.S. 1775, located in the E1/2 of Section 15, T4N, R3E**

Location: **Yellow Creek**

Purpose: New Lots = Lot 1 = 4.76, Lot 2 = 5.92, Lot 3 = 3.92, Lot 4=5.79

(Tysdal-Weisenberg) motion to approve preliminary plat. Motion Carried.

4:50 p.m. FINAL PLAT

4:35 p.m. Owner/Representative: **John Lausser and Deborah Hayes/Beth Mathis**

Action Required: **Approval/Denial**

Legal Description: **Plat of Tracts 22A-1 and 22A-2 a subdivision of Tract 22A of Aspen Hills Development, a replat of Tract 22 and Tract 26 of Aspen Hills Development, located in the NW1/4 of Section 33, T6N, R2E**

Location: **Tinton Road**

Purpose: **New Lot 22A-1 = 2.56 acres and 22A-2= 17.14 acres**

(Weisenberg-Mattson) motion to approve final plat. Motion Carried.

Tysdal abstained from voting.

4:55 p.m. FINAL PLAT

4:36 p.m. Owner/Representative: **Mike Alley / BH Surveying**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 4 , Block 9 of The Pines at Benchmark Subdivision, a subdivision of a portion of Lot 6, Section 12, T3N, R4E, all located in Section 12, T3N, R4E..**

Location: **Nemo Road**

Purpose: **New Lot 4= 2.93**

(Fuller- Mickelson) motion to approve final plat. Motion Carried.

5:00 p.m. PRELIMINARY AND FINAL PLAT

4:37 p.m. Owner/Representative: **Tim Madsen/Todd Bouska/BH Surveying**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot J Revised, a replat of Lot J and the remainder of Lot 4, all located in M.S. 1845, Section 12, T4N, R3E.**

Location: **Strawberry Hill/Hwy 385**

Purpose: **New Lot J= 1.21**

(Weisenberg-Fuller) motion to approve preliminary plat. Motion Carried.

(Weisenberg-Mickelson) motion to approve final plat. Motion Carried.

5:10 p.m. FINAL PLAT

2:15 p.m. Owner/Representative: **Frawley Ranch Inc/NJS Engineering**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 11 of Frawley Ranch East located in the SW1/4 of Section 7, T6N, R4E.**

Location: **Spearfish East**

Purpose: **New Lot 11 =4.17 acres**

(Mickelson-Tysdal) motion to approve final plat. Motion Carried.

5:15 p.m. FINAL PLAT

2:17 p.m. Owner/Representative: **Frawley Ranch Inc/NJS Engineering**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 1, 3, A, B and C of Frawley Ranch East located in the NE1/4 of Section 18, T6N, R4E.**

Location: **Spearfish East**

Purpose: **New Lot 1 =2.88, 3=4.98, A=1.08, B=1.20, C=1.98**

(Mattson-Weisenberg) motion to approve final plat. Motion Carried. Plat will go to the County Commissioners on May 10, 2005.

4:40 p.m. **Mickelson motion to adjourn meeting. Jacque Fuller handed in her resignation letter from the Planning & Zoning Board.**

APPROVED: _____

Leo Derosier, CHAIR

Date: _____

ATTEST: _____

Craig Mickelson, SECRETARY

LAWRENCE COUNTY PLANNING & ZONING COMMISSION

MINUTES OF JUNE 2, 2005

REGULAR MEETING

Chairman Leo Derosier called the regular meeting of the Lawrence County Planning & Zoning Commission to order on Thursday, June 2, 2005 at 1:30 p.m. in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD.

PRESENT: Terry Weisenberg, Barb Mattson, Rick Tysdal, Leo Deroiser

ABSENT: Bill Coburn, Craig Mickelson, Karl Burke

MINUTES: Moved-Seconded (Mattson-Weisenberg) to approve the minutes of May 5, 2005. Motion carried.

The following times are listed as scheduled then actual.

1:30 p.m. Brandon talked about the maps which go in the Comp Plan Revision 2005 booklet he handed

1:30 p.m. out. The only change is that the Fire District map was not included at this time. He would like to bring the ordinance information to the next meeting. Mattson asked about the floating zones-Brandon explained that the concepts are still there, but under different terminology. He also explained that the differences between an ETJ Area, an IGA Area, and an UGA Area.

Set Public Hearings for Revisions of Comp Plan 2005 for July 7, 2005.

1:50 p.m. PUBLIC HEARING-CONDITIONAL USE PERMIT # 307-TO ALLOW A

1:50 p.m. SECOND RESIDENCE (HARDSHIP)

Owner/Representative: **Beatrice and Charles Ramsey**

Action Required: **Approval/Denial**

Legal Description: **TR 1B-2 OF Lot 1 in SE1/4SE1/4,Section 8, T6N, R3E.**

Location: **Rainbow Road**

Purpose: **To allow a 2nd residence on property due to hardship**

Brandon explained that the Ramsey's would not be here today due to illness. They are requesting a temporary 2nd residence on 3.1-acre parcel for use by their granddaughter. There is already a 2nd hookup available on the property. Mattson asked if we only allow 2nd residences in Ag Zone. Brandon stated no- we do them in all zonings if it is a hardship case. Tysdal asked about the septic system being inspected. Brandon stated a Professional Registered Engineer or a state licensed installer could do this. Tysdal asked if there is a way to flag these properties for when the 2nd residence is taken off of

the property or something changes. Brandon stated he did not know, but he would look into it.

OPPONENTS: NONE

PROPONENTS: NONE

CLOSED PUBLIC HEARING

Weisenberg asked if the Ramsey's were ok with the conditions-Brandon stated yes.

(Weisenberg-Mattson) motion to approve CUP # 307 as submitted. Motion Carried.

ATTACHED CONDITIONS:

Applicants are requesting the County allow a temporary 2nd residence on their property. This shall be a mobile home moved in for the purposes of allowing Ramsey's granddaughter to help out her grandparents (hardship on behalf of the grandparents).

33. This permit shall be for; allowing a second residence, for the granddaughter of Beatrice and Charles Ramsey, on a single lot. The permit shall NOT be allowed to continue past the use for which it was granted.
34. The septic system shall be inspected and updated or approved for the additional capacity prior to occupying the second residence.
35. Applicants shall get approval from utility companies prior to moving the second residence onto the property.
36. Applicants shall determine the availability of water (existing or new well) prior to moving the second residence onto the property.
37. At such time as the intended occupants cease to inhabit the residence, the permit holder shall have 6 months in which to remove the second residence from the property and shall notify the Planning and Zoning Office.
38. This permit shall be reviewed on an annual basis, or an as needed basis should complaints arise to assure compliance with the attached conditions, at which time additional conditions may be attached.
39. If any term, condition or regulation stipulated in the Conditional Use Permit, the Lawrence County Zoning Ordinance or applicable state and federal regulations are not fully complied with in all respects, this permit shall be reviewed and may be suspended or revoked.

STAFF REPORT

Item for Consideration: Ramsey – CUP#307 Meeting Date: 2 June, 2005

HISTORY/BACKGROUND

The Ramseys are applying for a temporary Second Residence (hardship) on the same lot. The location is along the Airport Road on a 3.10 acre lot. The property is zoned A-1 – General Agriculture (legal non-conforming).

ISSUES

STAFF ANALYSIS/RECOMMENDATION

Lawrence County has recognized this type of Conditional Use as an appropriate use on a case-by-case basis. 5.11.2
Standards For Conditional Use:

- A. That the Conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor diminish and impair property values within the immediate vicinity;
- B. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
- C. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
- D. For any Conditional Use, lot and performance standards shall be the same as similar type uses located in specific districts.
- E. To defray the administrative costs of processing requests for Conditional Use Permits, a fee of one hundred dollars (\$100) or the actual costs of processing the request, whichever is greater, shall be paid by the applicant. A deposit to cover the anticipated costs of processing the request shall be collected by the administrative official at the time of application, which monies shall be supplemented by the applicant or reimbursed to the applicant as determined by the actual costs.
- F. Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

Staff recommends approval of CUP # 307 with a clear understanding that the second residence is not permanent and shall not be used as a rental.

2:10 p.m. PUBLIC HEARING-AMENDMENT TO CONDITIONAL USE PERMIT #126-TO

2:10 p.m. ALLOW CHANGE IN CONDITION #14

Owner/Representative: Golden Reward Mining Co./Wharf Resources

Action Required: Approval/Denial

Legal Description: 772 acres located in SE ¼ of Section 1 and NE ¼ of Section 12, T4N, R2E and Section 6 and 7, T4N, R3E.

Location: Approximately 2 miles SW of Lead

Purpose: To eliminate/adjust condition #14 regarding the domestic sampling wells.

Terese Hruska was present. She explained that they would like to change Condition #14. In the early 90's the Covells were bought out by the mine and in 1999 Merckels, Cudmore, Wendlands were dropped. Whitetail Court and the Peters wanted the annual sampling continued. 2004 Whitetail Court and Peters were approached to stop sampling. Whitetail Court said yes, but Peters have an objection.

PROPOSERS: NONE

OPPOSERS: Dale Peters realizes Golden Reward is a small mine, but he is concerned that there may be leakage of waste out of this area when the moisture increases. He thinks that the cost of testing is a minimal cost for their protection. Jack

Cole was present and wanted to inform the board about the information on surface mines available. Talked about the water quality and the responsibility that the mine has to the people in the community. He asked that the board table their decision until they are able to hear all the information available.

PROPONENTS: NONE

Carol Koerner stated that we are not looking at the 90 mines in the U.S., but Golden Reward mine here in the community, it is not an acid producing mine and they do not have to treat the water. We have been testing the Peters well for 17 years and the water has been very good. Reclamation is complete. We have over 40 water quality monitoring sites throughout the area and this will continue. Respectfully request that the surface sampling be dropped.

OPPONENTS: Jack Cole is appalled by the DENR. They do not watch over our natural resources. Peters feels that his well is in line with where the drainage would possibly be. Again he brought up once the snowfall and moisture increases what will go into his well.

CLOSED PUBLIC HEARING

Weisenberg asked Carol Koerner what the cost of the testing was and Carol answered \$180.00, this is only for the analysis. Mattson asked how long will you sample the higher wells and she stated anywhere from 5-30 years. Derosier stated there is a minute cost to the mine to continue the testing.

(Mattson-Weisenberg) motion to approve amendment from 2 private sampling wells to 1 private sampling well. With a continued annual testing on the Peters well.

Scheduled to go to County Commissioners on June 28, 2005.

2:30 p.m. PUBLIC HEARING-CONDITIONAL USE PERMIT #308-TO ALLOW TOWER

Owner/Representative: Harold & Sharon Hudson/Performance Development Group.

Action Required: Approval/Denial

Legal Description: SE ¼ of Section 17, T6N, R4E.

Location: Whitewood North

Purpose: **To allow cell tower on property**

**PUBLIC HEARING-CONDITIONAL USE PERMIT #308B-TO ALLOW
TEMPORARY TOWER**

Owner/Representative: **Harold & Sharon Hudson/Performance Development
Group/Western Wireless**

Action Required: **Approval/Denial**

Legal Description: **SE ¼ of Section 17, T6N, R4E.**

Location: **Whitewood North**

Purpose: **To allow temporary cell tower on property for up to one year**

**Concurrent public hearings on permanent tower for Performance Development
Group and temporary tower for Western Wireless.**

Craig Snyder was present from Performance Development Group. He stated they are a locally owned group out of Watertown, SD, since 1999. The driving purpose behind this group is to capitalize on the expanding wireless market in the state, limit the infiltration of towers, and encourage free enterprise among telecommunication companies, and establish reliable wireless communications within the state. Performance Development Group approached Verizon about using the tower on the Hudson property but for whatever reason Verizon did not want to co-locate, they decided to pursue their own tower (CUP 302). They are proposing a 330' guyed tower in the same relative location as the current Verizon tower. It will allow multiple carriers up to 5. He went over the site plan. The location is right next to I-90; it will cover the towns of Whitewood and St. Onge as well as the roadways in between. A couple of points of interest-right now at the Verizon site there is very limited land use, and the RF footprint and coverage is different (explained the maps), this proposal could have been solved if Verizon would have been more willing to work with them. Craig introduced Ralph Wyngarden with Faulk and Foster, the representative of Western Wireless. Also present is Adam Millstone, Acquisition and Location Processing, Howard Blair, RF Engineer Manager and Kurt Carrico, General Manager for Technical Operations. He introduced the RF maps. The red area has further distinctions for coverage. Elevation and coverage is what makes the difference between the Verizon tower and the proposed tower on the Hudson property. Ralph talked about the C.O.W. (cell on wheels) tower and they would like to have it up by the rally for communication purposes. Crank up tower in the same location as the proposed Performance Development Group tower. This tower would be 120' to 150', no disturbance of the ground, trailer is stabilized and guy wires are anchored into concrete blocks, and the structure is on skids. They would like it approved for up to one year. They would be willing to come in after 6 months to give an update. He brought up the access issue with the Hubbards. He read the access easement that he found in the Register of Deeds office. This property was re-zoned Industrial in the 70's for the

Sawmill. When the Hudson acquired the land the sawmill ceased to exist. More recently billboards have been put on the property. Ralph brought up that this area has been used for somewhat of a commercial area for the past 30 years.

PROPOSERS: NONE

OPPOSERS: Lance Hubbard asked how far the tower will sit off the N property line. Craig answered 390'. He owns property E, W, and N of this property. His father put the existing easement in place and it was only for the use of the sawmill. They have had trouble with the use of the gates in and out of the property. Hubbard said they own 4 acres in the North corner and he has the documents at home that will prove this.

Ralph Wyngarden brought up the easement again. The Board asked that the Easement be read into the minutes. Attached at end of minutes.

PROPOSERS: NONE

OPPOSERS: NONE

CLOSED PUBLIC HEARING

Weisenberg asked how close the proposed tower is to the Verizon tower and who owns the Verizon property-Brandon stated the proposed tower is $\frac{3}{4}$ to 1 mile away from the Verizon tower and David O'Neill owns the property in which the Verizon tower is located. Tysdal asked for clarification on the ownership of the 4 acres. Brandon stated he does not know, but he can find out. Bruce Outka stated he thought it would be in the best interest of both parties that the ownership issue is resolved before the Board makes a decision. Brandon said they could table it and have the parties produce documentation, which proves the ownership.

(Weisenberg-Tysdal) motion to table CUP #308 until the ownership issue is cleared up.

(Tysdal-Weisenberg) motion to approve CUP #308B with the following conditions added: This permit shall only be valid if the Communications Tower (#302) has not been constructed in time for occupation and operation by August 3, 2005; prior to placement of any structure or communications equipment, Applicant shall provide

proof of access to property and ownership of subject property; and all attached conditions.

CONDITIONS:

Applicants are requesting the County grant permit for the placement of a 150' **temporary** telecommunications tower and placement of an equipment shelter. Consideration for this CUP is to allow cell service to be functional in the Whitewood area for the 2005 Sturgis Rally, and continue until a permanent location can be secured.

1. The property owner and tower owner/operator(s) shall follow all applicable County, State, and Federal regulations regarding the location, construction and operation of the communication tower.
2. The communication tower shall comply with all applicable Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) and South Dakota Department of Transportation (SD DOT) Regulations.
3. This permit shall only be valid if the Communications Tower (CUP # 302) has not been constructed in time for occupation and operation by 3 August, 2005.
4. Prior to placement of any structure or communications equipment, Applicant shall provide proof of access to property and ownership of subject property.
5. The affected area for the communication tower and associated equipment shelter shall not exceed 50' X 50' excluding necessary guy wiring. *The area shall be surrounded with a six (6) foot chain link fence with barbed wire on top. An entrance gate shall provide access, but be locked at all times when not performing installation and maintenance. (see also # 9)*
6. A 10' X 20' equipment shelter shall be used only for instrumentation and antenna maintenance.
7. The communication tower shall not exceed a height of 150 feet be a "C.O.W." (Cell-On-Wheels) type structure.
8. The communication tower shall not be painted unless required by the FAA or approved by the Lawrence County Planning Commission.
9. Only one communication tower shall be allowed on-site.
10. Only one Commercial Company may be allowed to utilize the communication tower at a time. Antenna space for government services shall be available free of charge.
11. *"No Trespassing" signs shall be posted on the fences surrounding the tower and buildings.*
12. There shall be no lighting of the temporary tower.
13. Any new structures, including the communication tower, constructed or placed on the property shall require a building permit(s) from the Lawrence County Planning and Zoning Office.

14. No outside storage shall be allowed within the affected area.
15. The access road to the communication tower shall be constructed and maintained by the tower owner.
16. The tower owner shall supply the Lawrence County Office of Planning and Zoning a 24-hour telephone number of a person to be contacted in case of emergencies.
17. The duration of this permit shall be for 6 months or until a permanent location is located and constructed, this permit may be extended until such time as a tower has been constructed in the vicinity.
18. The communication tower if not operated for a continuous period of twelve (12) months shall be removed within ninety (90) days after issuance of a removal notice from the Lawrence County Office of Planning and Zoning.
19. Any change of property ownership, with the proposed transfer of this subject Conditional Use Permit, shall be reported immediately to the Office of Planning and Zoning. The new owner shall meet with the Lawrence County Commission to review and accept the conditions of this Conditional Use Permit.
20. If any terms, condition or requirement stipulated in the Conditional Use Permit, the Lawrence County Zoning Ordinance or applicable State and Federal regulations are not fully complied with in all respects, this permit shall be reviewed and may be suspended or revoked.
21. This permit shall be reviewed on an annual basis or on an as needed basis to assure compliance with the attached conditions, at which time additional conditions may be attached or the permit may be cancelled if deemed necessary for the protection of the public interest.

STAFF REPORT

Item for Consideration: Western Wireless CUP308B **Meeting Date:** 2 June, 2005

HISTORY/BACKGROUND

Petitioner is asking for a CUP to erect a temporary communications tower north and west of Whitewood. This would be a "Cell-On-Wheels" type structure with the cell service provider and possibly emergency service space. This property was zoned I-1 Industrial in the late 1970s to bring into compliance an existing sawmill.

ISSUES

Visual Impact, Access

STAFF ANALYSIS/RECOMMENDATION

The Comprehensive Plan identifies this area as a growth area for the City of Whitewood. The City of Whitewood has no input on this request.

Staff recommends approval of CUP # 308B if CUP # 308 is denied or cannot be constructed in time for occupation and operation by 3 August, 2005. Provisions for minimal impact to the property should be provided for as well as an expiration of the permit.

2:50 p.m. PUBLIC HEARING-CONDITIONAL USE PERMIT #309 – TO ALLOW PRIVATE

3:34 p.m. CHRISTIAN SCHOOL

Owner/Representative: **Black Hills Christian Academy/ Jason Boke**

Action Required: **Approval/Denial**

Legal Description: **N ½, NW ¼, NE ¼ of Section 22, T7N, R2E.**

Location: **North of Spearfish/ Exit 10**

Purpose: **To allow private Christian school.**

Jason Boke was present and he explained that the proposal has not changed since the informational meeting. They agree with all of the proposed conditions, except they would like to change Condition #2 to allow 300 children with grades K-12, preschool and a daycare.

PROPONENTS: Rick Furnish, the former chairperson of BH Christian Academy, explained they have found that the school is very regional and they would like to move into this area to make it more centrally located for all the students.

OPPONENTS: Dick Kellem owns land across from the proposed property and he raises horses. He is concerned that the kids will get hurt around the horses and he will get sued for it.

Jason Boke addressed this issue and said their facility will be designed to fit the area and they will address the safety.

PROPONENTS: NONE

OPPONENTS: Dick Kellem stated kids are kids they will still look at them.

CLOSED PUBLIC HEARING

Weisenberg asked how close to the school the Kellem property is. Brandon stated it is across the road (Kellem Lane) from the proposed property.

(Weisenberg-Tysdal) motion to approve CUP # 309 with attached conditions. Motion Carried.

ATTACHED CONDITIONS:

40. The owner and operator shall comply with all applicable County, State, and Federal regulations regarding educational facilities.
41. With the current Conditional Use Permit, the maximum number of students shall be set at 300 children.
42. Any new construction shall require a building permit from the City of Spearfish, and comply with Building Codes and Life Safety Codes, and any other Codes as is deemed appropriate.
43. Exit signs, emergency lighting, fire extinguishers, fire detection and suppression systems will be installed as required State and/or Federal requirements.
44. First aid kit(s) shall be made accessible to the faculty.
45. At any time when school is in sessions, operator shall have on premise at least one (1) employee shall be trained in CPR and/or medical training in case of medical emergencies.
46. A minimum of one (1) telephone shall be available for emergency use. A list of emergency numbers and sheriff department number shall be placed next to the phones.
47. One on-premise sign shall be allowed on the property and conform to Section 4.2 of the Lawrence County Zoning Ordinance. The operator may request directional signs from the South Dakota Department of Transportation for placement along State Highway #85.
48. Litter containers and trash barrels shall have lids and be strategically placed around the area so as to prevent free blowing trash. The employees or designees shall police trash periodically. The trash containers shall be emptied on a regular basis or by demand.
49. The school operator shall assign one or more persons to remain on the premise at all times and to provide security when the facility is open.
50. All noxious weeds shall be controlled per the Lawrence County Weed Department regulations.
51. Exterior lights shall be placed strategically throughout the school grounds for lighting and security.
52. Any parking pertaining to the operation shall comply with Section 4.1 of the Lawrence County Zoning Ordinance. The parking area shall be located within designated areas.
53. Any change of property ownership, with the proposed transfer of this subject Conditional Use Permit, shall be reported immediately to the Office of Planning and Zoning. The new owner shall meet with the Lawrence County Commission to review and accept the conditions of this Conditional Use Permit.
54. This permit shall be reviewed on an annual basis, or an as needed basis should complaints arise to assure compliance with the attached conditions, at which time additional conditions may be attached.
55. If any term, condition or regulation stipulated in the Conditional Use Permit, the Lawrence County Zoning Ordinance or applicable state and federal regulations are not fully complied with in all respects, this permit shall be reviewed and may be suspended or revoked.

STAFF REPORT

Item for Consideration: Black Hills Christian Academy CUP309 Meeting Date: 2 June, 2005

HISTORY/BACKGROUND

Petitioner is asking for a Conditional Use Permit to open and operate private school on a 40-acre tract of land located north of I-90, Exit 10 – along Highway 85. The property is currently zoned A-1 – General Agriculture.

ISSUES

Visual Impact, Traffic safety, adjacent land use

Staff Recommendation/Analysis

The Comprehensive Plan identifies this area as a growth area for the City of Spearfish. There have been several CUPs issued for churches in A-1 zoning. The applicant has been in contact with the DOT with regards to constructing a turning lane (and possibly flashing lights?). The character of

the area is some ranch land with scattered residential development – the City of Spearfish wastewater treatment facility and dump are nearby. There is also a church to the north and west of the proposed location.

The City of Spearfish is in favor of this request.

Staff recommends approval of CUP 309. Provisions for traffic safety should be addressed as well as provisions to allow for growth if necessary.

3:10 p.m. PUBLIC HEARING-CHANGE OF ZONING #246-TO ALLOW RESTAURANT

3:44 p.m. Owner/Representative: **Dan Martin**

Action Required: **Approval/Denial**

Legal Description: **Tract 3 of the unplatted portion of M.S. 1368 Section 27, T3N, R5E.**

Location: **Nemo**

Purpose: **To allow a restaurant in c-store already approved under CUP #301.**

Brandon explained CUP #301 was approved for a convenience store. Dan Martin was present, he explained he has the c-store established and would like to add on a small restaurant in the back of the existing building. It will seat 50-60 people.

PROPONENTS: Dan brought with him 30 letters of support from the Nemo Community; letters are in the COZ file in the Planning & Zoning Office.

OPPONENTS: NONE

Dan Martin stated that there had been no negative comments about the c-store.

(Weisenberg-Mattson) motion to approve COZ #246 as submitted. Motion Carried.

STAFF REPORT

Item for Consideration: Dan Martin COZ 246 Meeting Date: 2 June, 2005

HISTORY/BACKGROUND

Petitioner is asking for a Change of Zoning on property in Nemo. This property is currently under CUP 301 and is being used as a convenience store. His plan is to operate a small restaurant along with the convenience store. The property is currently zoned SRD – Suburban Residential District.

ISSUES

Traffic safety, Adjacent land use, Need

Staff Analysis/Recommendation

The Comprehensive Plan identifies Nemo as a “Special Focus Area”. Currently the only Commercially Zoned property in the Nemo area is the “Guest Ranch”. The petitioner came in for a Conditional Use Permit (301) at the end of 2004 with approximately 40 letters of support and no opposition.

Staff recommends approval of COZ 246.

3:30 p.m. **VARIANCE #94-TO ALLOW A 10’ VARIANCE FROM 12’ SETBACK**

3:30 p.m. **Owner/Representative: Scot Munro**

4:05 p.m. **Action Required: Discussion/Approval/Denial**

Legal Description: Lot 23, Block 4, Tract A of Lost Camp Valley Subdivision. Section 2, T4N, R2E.

Location: Terry Peak

Purpose: Home was built in 1972 does not meet current setbacks.

STAFF REPORT

Item for Consideration: Scot Munro VAR 94 Meeting Date: 2 June, 2005

HISTORY/BACKGROUND

Petitioner is asking for a 10’ variance to the 12’ side setback in SRD – Suburban Residential District. The original structure was constructed before setback regulations were in place. The petitioner filed the request with the intent of remodeling the existing structure and bringing it into compliance. Remodel was determined to be unfeasible due to the condition of the structure by contractors and was taken down to the foundation for re-build. The petitioner is also co-owner of the property adjacent to this lot on which the setback encroaches.

STAFF ANALYSIS/RECOMMENDATION

5.10.3 Requirements for the granting of a Variance:

Before the County Commission shall have the authority to grant a Variance, the person claiming the Variance has the burden of showing:

A. That the granting of the Variance will not be contrary to the public interest;

- B. That the literal enforcement of the Ordinance will result in unnecessary hardship;
- C. That by granting the Variance contrary to the provisions of the Ordinance the spirit of the Ordinance will be observed; and
- D. That by granting the Variance, justice will be done.

Staff can find reasons to both approve and deny this request, and as such offers no recommendation.

(Mattson-Weisenberg) motion to table Variance #94.

(Weisenberg-Mattson) motion to take off from the table.

(Weisenberg-Mattson) motion to approve Variance #94. Motion Carried

Tysdal abstained from voting.

3:40 p.m. INFORMATIONAL MEETING-CHANGE OF ZONING #247-TO ALLOW

3:55 p.m. SUBDIVISION OF THE LOT

Owner/Representative: **Don Busse**

Action Required: **Discussion/Set Public Hearing**

Legal Description: **Lot JS-2 of Sanders Subdivision, Section 13, T5N, R4E.**

Location: **Boulder Canyon – Eddy Simons Sub**

Purpose: **To allow subdivision of the lot.**

Brandon explained the map and that in the late 1900's a CUP was granted for 2 permanent log structures on one lot. There is no intention of further subdivision.

Set Public Hearing for July 7, 2005.

3:50 p.m. INFORMATIONAL MEETING-CONDITIONAL USE PERMIT #310-TO ALLOW

4:10 p.m. TOWING SERVICE WITH SMALL IMPOUND YARD ON PROPERTY

Owner/Representative: **Pat Kinghorn**

Action Required: **Discussion/Set Public Hearing**

Legal Description: **Lot 3B of the subdivision of Lot 3 of the NE ¼ NW ¼ of Section 5, T6N, R2E, and Tract 3A-2 of Tract 1 and Lot 3B-2 of Tract 2, all of Lot 3A of Outlot A in the NE ¼ NW ¼ of Section 5, T6N, R2E.**

Location: **Spearfish West/Diamond Drive**

Purpose: **To allow Johnny's Towing Service and small impound yard.**

Pat Kinghorn explained that he would be closing on this property on June 7, 2005. He intends to put up a 60x60 privacy fence to enclose the abandoned vehicles and tows, there will be a 15-car maximum. He will also store his 2 towing vehicles on the property. There are no covenants attached to this property.

Set Public Hearing for July 7, 2005.

4:00 p.m. INFORMATIONAL MEETING-AMENDMENT TO CONDITIONAL USE PERMIT

4:13 p.m. #276-05-TO ALLOW ROADSIDE BBQ STAND

Owner/Representative: **Diane and Jon VanPatten**

Action Required: **Discussion/Set Public Hearing**

Legal Description: **Portion of Gov't Lot 2, lying south of the county road, Section 3, T3N, R4E**

Location: **East of Brownsville – Nemo Road**

Purpose: **To allow roadside barbeque stand**

Jon Van Patten explained he would like to put in a roadside BBQ stand for a 10-day time period during the rally. He has already contacted the State food service and he knows he will have provisions to follow through them. He said he will have a few tents, tables, a sign on each end of the property and no alcohol will be sold.

Set Public Hearing for July 7, 2005.

4:10 p.m. INFORMATIONAL MEETING-PEARSON PROPERTY SUBDIVISION

4:16 p.m. Owner/Representative: **Bill Pearson/Wyss Associates, Inc**

Action Required: **Discussion**

Legal Description: **TBD - Sec 20, T5N, R4E.**

Location: **Boulder Canyon**

Purpose: **New Subdivision with Conservation Area**

Pat Wyss explained the location is East of Deadwood towards Boulder Canyon. Does not have a name picked out yet, there will be a plat submitted in July. It will be a conservation development with approximately 350 acres of which, 190 acres will be 64 lots and 136 acres will be a conservation area. They have 3 points of egress, 2 through

Pearson Property and 1 through the USFS. There will be an average of 2-acre lots with a few that are larger, paved roads, fire hydrants, and a central water system. This will be done in 4 phases.

Derosier asked about who will own the conservation area, Pearson stated they will. Weisenberg asked about who will pay the taxes, Pearson stated they will.

4:25 p.m. PRELIMINARY PLAT – PARADISE ACRES II

4:25 p.m. Owner/Representative: **Maitland Partners/Don Hander/Ellis Consultants**

Action Required: **Approval/Denial**

Legal Description: **Preliminary Plat of Lots 38-66 and Tract B of Paradise Acres, Sections 7, 8, 17, & 18 of T5N, R3E. (legal shortened)**

Location: **Maitland Road**

Purpose: **New Lots**

Karen Hander called this morning and said they would not be here.

(Weisenberg-Tysdal) motion to approve preliminary plat. Motion Carried.

4:40 p.m. PRELIMINARY AND FINAL PLAT

4:35 p.m. Owner/Representative: **Two Bit, LLC/Ponderosa Land Surveys**

Action Required: **Approval/Denial**

Legal Description: **Plat of Iverson Tract being in portions of B&M and Elgin MS 1707, located in the NW ¼ of Section 36, T5N, R3E and the NE ¼ of Section 31, T5N, R4E.**

Location: **Two Bit**

Purpose: **New Tract = 11.50 acres**

(Tysdal-Weisenberg) motion to approve preliminary plat. Motion Carried.

(Weisenberg-Tysdal) motion to approve final plat. Motion Carried.

4:50 p.m. PRELIMINARY AND FINAL PLAT

4:40 p.m. Owner/Representative: **Cheryl Ruggeri/Ponderosa Land Surveys**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lots 1 thru 4 of Davey's Subdivision being all of Western MS 674, Little Sioux MS 347, Eastern Fraction MS 1963 and a portion of Washington MS 346, located in the SE ¼ of Section 4 and the SW ¼ of Section 3, T4N, R4E.**

Location: **Galena**

Purpose: **New lots 1=5.20, 2=5.20, 3=5.57, 4=5.11 acres**

Paul Gillings and Cheryl Ruggeri were present. He explained how the access will be off of Galena Road, Tim Eggers and Chuck Williams have both been out to the property. A fire plan and covenants are in place.

Brandon explained this plat will go to the County Commissioners.

(Weisenberg-Mattson) motion to approve preliminary plat. Motion Carried.

(Weisenberg-Mattson) motion to approve final plat. Motion Carried.

5:00 p.m. PRELIMINARY AND FINAL PLAT

4:45 p.m. Owner Representative: **Wharf Resources/Ponderosa Land Surveys**

Action Required: **Approval/Denial**

Legal Description: Plat of Lot 1 revised of Lot A formerly Lot 1 of Lot A subdivision of Clarence MS 2021, located in the NE ¼ of Section 2, T4N, R2E.

Location: **Terry Peak**

Purpose: **Revised Lot 1=. 89 acres**

(Tysdal-Mattson) motion to approve preliminary plat. Motion Carried.

(Tysdal-Mattson) motion to approve final plat. Motion Carried.

5:10 p.m. PRELIMINARY AND FINAL PLAT

4:50 p.m. Owner/Representative: **Homestake Mining Co/Ponderosa Land Surveys**

Action Required: **Approval/Denial**

Legal Description: **Plat of Tract A Hillside Addition located in Section 29 & 32, T4N, R3E. (legal shortened)**

Location: **Lead**

Purpose: **Transfer Property**

(Weisenberg-Tysdal) motion to approve preliminary plat. Motion Carried.

(Weisenberg-Tysdal) motion to approve final plat. Motion Carried.

5:20 p.m. PRELIMINARY AND FINAL PLAT

4:55 p.m. Owner/Representative: **Steven & Constance Halverson /Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Tract 1, Tract 2, and Tract 3 being all of the remainder of Last Chance MS 1775, located in the NW ¼ of Section 15, T4N, R3E.**

Location: **Yellow Creek**

Purpose: New Tracts 1=5.36, 2=5.35, 3=5.34 acres

(Weisenberg-Mattson) motion to approve preliminary plat. Motion Carried.

(Weisenberg-Mattson) motion to approve final plat. Motion Carried

5:30 p.m. FINAL PLAT

5:05 p.m. Owner/Representative: **Mattson, Inc/Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 10, 11 and Lot 12A of Two Bit Springs Subdivision, a replat of Lot 12 of Two Bit Springs Subdivision and consisting of Yellow Jacket Fraction Lode of MS 1507; and Mary, Union, Smith, Power No. 2 and Power Lodes of MS 1248, all located in Section 1, T4N, R3E.**

Location: **Two Bit**

Purpose: New Lots 10=3.37, 11=3.94, 12A=3.22 acres

(Tysdal-Weisenberg) motion to approve final plat. Motion Carried.

Mattson abstained from voting.

5:40 p.m. PRELIMINARY AND FINAL PLAT

5:07 p.m. Owner/Representative: **Greg Anderson/Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Tract 1 being the remainder portion of Hardscrabble No. 1 MS 1399, located in the NW ¼ and the SW ¼ of Section 7, T4N, R4E.**

Location: **Hwy 385/Strawberry Hill/Gilt Edge**

Purpose: **New Tract = 4.97 acres**

(Weisenberg-Tysdal) motion to approve preliminary plat. Motion Carried.

(Weisenberg-Mattson) motion to approve final plat. Motion Carried.

5:50 p.m. FINAL PLAT

2:00 p.m. Owner/Representative: **Iowa Rotocast Plastics/John Keene/Arleth & Associates**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 21, Lot 23m and a 66' dedicated public ROW of Meadow Crest Subdivision located in the NE ¼ NW ¼ and the NW ¼ NE ¼ of Section 17, T5N, R4E.**

Location: **Boulder Canyon**

Purpose: **New Lots 21=5.06, 23=5.81 acres**

(Tysdal-Weisenberg) motion to approve final plat. Motion Carried.

5:55 p.m. FINAL PLAT

2:03 p.m. Owner/Representative: **Dwight Ahlers/ Andersen Engineers**

Action Required: **Approval/Denial**

Legal Description: **Plat of Lot 53 Spruce Mt. Estates #2, located in the NE ¼ SW ¼ and the NW ¼ SE ¼ of Section 13, T6N, R4E.**

Location: **Whitewood North**

Purpose: **New lot = 7.32 acres**

(Mattson-Tysdal) motion to approve final plat. Motion Carried.

5:10 p.m. **(Weisenberg-Tysdal) motion to adjourn.**

APPROVED: _____

Leo Derosier, CHAIR

Date: _____

ATTEST: _____

Craig Mickelson, SECRETARY