

LAWRENCE COUNTY PLANNING & ZONING BOARD
MINUTES OF: May 4, 2023, REGULAR MEETING

The regular meeting of the Lawrence County Planning & Zoning Board was called to order by Chairman Rick Tysdal on Thursday, May 4, 2023, at 1:30 P.M.

Present: Kelly Fuller, Rick Tysdal, Bob Ewing, Mike Whalen, Timm Comer, TJ Ewing, and Travis Schenk.

Absent: None.

Moved-Seconded (B Ewing-Schenk) to approve the Regular Meeting Minutes for April 6, 2023 meeting. Motion Carried.

Moved-Seconded (Whalen-Comer) to approve the Agenda. Motion Carried.

Conflicts: Item 21-B Ewing and TJ Ewing.

PLATS:

LAYOUT PLAN ~ APPLICANT: Reliable Land Holdings LLC LEGAL DESCRIPTION: Proposed Lots 1-6 of Crook Mt Estates 3 located in the E ½ of the SW ¼ of Section 34, T6N, R4E. VICINITY LOCATION: Crook Mt Road SUMMARY: Creating new subdivision ZONING: PF PARCEL ID: 22850-00604-340-00. There was a discussion about Crook Mtn Rd. and concerns about access. The Board discussed a requirement of proof of access permits from the U.S. Forest Service.

Moved-Seconded (Whalen- B Ewing) motion to continue the Layout Plan to the June 1st meeting due to still waiting on requested information from the applicant. Motion Carried

LAYOUT PLAN ~ APPLICANT: Irene Wehner LEGAL DESCRIPTION: Proposed Lots 1-4 of Wehner Subdivision being a subdivision of Tract 1, located in the W ½ NW ¼ of Section 34, T6N, R4E. VICINITY LOCATION: Crook Mt Road SUMMARY: Creating new subdivision ZONING: PF PARCEL ID: 22000-00604-344-20. Vogt is concerned about the easement and access to lots since Crook Mt Rd is a Forest Service road. A portion of the Whitewood Superfund Site is in this location.

PRELIMINARY & FINAL PLAT ~ APPLICANT: 4 Bears in the Hills LLC and Miles Cooper Ct Partners LLC LEGAL DESCRIPTION: Lots 6B-1, 7A-1, 9A-1, 10A-1, 11A-1, 11B-1, and 12A-1 of Blk 1 of Apple Springs Subdivision; all located in the SE ¼ NW ¼ of Section 14, T5N, R4E VICINITY LOCATION: Hwy 85/Boulder Canyon SUMMARY: Re-plat of existing lots ZONING: SRD PARCEL ID: 18010-00100-070-20; 10; 060-20; 120-20; 090-10; 20; 100-10; 20; 110-10; 120-10; 110-20

Moved-Seconded (Schenk-Whalen) motion to approve the Plat as Exempt. Motion Carried.

Moved-Seconded (Whalen-B Ewing) motion to approve the Preliminary Plat. Motion Carried.

Moved-Seconded (Whalen-Comer) motion to approve the Final Plat. Motion Carried.

PRELIMINARY & FINAL PLAT ~ APPLICANT: CMV Ventures LLC LEGAL DESCRIPTION: Lots 1-4 of Hannah Estates, formerly the SE ¼ SW ¼, in Section 32, T6N, R4E. VICINITY LOCATION: Crook City Rd SUMMARY: New subdivision ZONING: PF PARCEL ID: 22000-00604-323-30. John Frederickson was available for questions on behalf of the applicant. He shared that he has met with the neighbors on the east side of the development, and they have discussed a road maintenance agreement with lots 2 and 4.

Moved-Seconded (B Ewing-Whalen) motion to approve the Preliminary Plat. Motion Carried. Roll Call Vote: Aye: 5-Fuller, Tysdal, B Ewing, Whalen, Comer; Nay: 2-Schenk, TJ Ewing. Motion Carried.

Moved-Seconded (Whalen-B Ewing) motion to approve the Final Plat. Motion Carried. Roll Call Vote: Aye: 4- Fuller B Ewing, Whalen, Comer; Nay: 3-Tysdal, TJ Ewing, Schenk. Motion Carried.

BOUNDARY PLAT ~ APPLICANT: KR Deer Mt Club 2021 LLC **LEGAL DESCRIPTION:** Plat of Blk A-1 of Deer Mt Village (LegalShortened) All located in Section 13, T4N, R2E and Section 18, T4N, R3E. **VICINITY LOCATION:** Deer Mt **SUMMARY:** New Boundary Plat **ZONING:** PUD **PARCEL ID:** 26505-01356-001-00. Eirik Heikes and Alec Keating were present to answer questions. Heikes explained that Blk A-1 would become the Village commercial area with multi-family residential options. The rest of Blk A will be open areas and recreation with single-family residences. They are in the process of doing a development plan for the area with parking and a clubhouse.
Moved-Seconded (B Ewing-Whalen) motion to approve the final plat. Motion Carried.

REVISED PRELIMINARY PLAT ~ APPLICANT: KR Deer Mt Club 2021 LLC **LEGAL DESCRIPTION:** Lots 1, 2, and 10-73 and 75-100 of Blk A of Deer Mt Village and Lots 3-9 and Lots 74, Blk A-1 of Deer Mt Village (LegalShortened) All located in Section 13, T4N, R2E and Section 18, T4N, R3E. **VICINITY LOCATION:** Deer Mt **SUMMARY:** Revised Prelim Lots **ZONING:** PUD **PARCEL ID:** 26505-01356-001-00. Heikes stated that Tansy Trail would be vacated, and the number of lots would remain unchanged. Only configuration is changing.
Moved-Seconded (TJ Ewing-Comer) motion to approve the Revised Preliminary Plat. Motion Carried.

FINAL PLAT ~ APPLICANT: Mark Mayer **LEGAL DESCRIPTION:** Lot 17R and 18R Blk 10 of Trailside Addition being a sub of a portion of Tract 2E and 2F of Tract 2 of Powder House Pass located in Section 18, T4N, R3E. **VICINITY LOCATION:** Hwy 85 **SUMMARY:** Lot line change **ZONING:** PUD **PARCEL ID:** 26452-00403-005-17; 26452-00403-005-18.
Moved-Seconded (Schenk- Whalen) motion to approve the Plat as Exempt. Motion Carried.
Moved-Seconded (B Ewing-Whalen) motion to approve the Final Plat. Motion Carried.

AMENDED PRELIMINARY & FINAL PLAT ~ APPLICANT: BH Dev LLC and BH Properties LLC **LEGAL DESCRIPTION:** Lots 8A, 8B, 11A and 11B, Blk 11 of Trailside Addition being a sub of a portion of Tract 2E and 2F of Tract 2 of Powder House Pass located in Section 18, T4N, R3E. **VICINITY LOCATION:** Hwy 85 **SUMMARY:** Lot line change **ZONING:** PUD **PARCEL ID:** 26450-00200-00-70; 26450-00200-000-00. New lots will be for townhouse construction.
Moved-Seconded (Schenk-B Ewing) motion to approve the Plat as Exempt. Motion Carried.
Moved-Seconded (B Ewing-Schenk) motion to approve the Preliminary Plat. Motion Carried.
Moved-Seconded (TJ Ewing-Fuller) motion to approve the Final Plat. Motion Carried.

FINAL PLAT~ APPLICANT: Whitewood Creek Ranch LLC/Will John and Kylee Johnson **LEGAL DESCRIPTION:** Lot 1 and 2R of the NE ¼ of the SW ¼ of Section 11, T6N, R4E. **VICINITY LOCATION:** Whitewood Valley Rd Crackerjack Rd **SUMMARY:** Replatting an existing lot to make it bigger and keep residence out of LLC **ZONING:** PF **PARCEL ID:** 22000-00604-113-10 and 22000-00604-113-20.
Moved-Seconded (Schenk-Comer) motion to approve the Final Plat. Motion Carried.

FINAL PLAT~ APPLICANT: Whitewood Creek Ranch LLC/Branden and Abby Landphere **LEGAL DESCRIPTION:** Lot 1 of Stagecoach Overlook Subdivision NW ¼ of the SE ¼ of Section 10, T6N, R4E. **VICINITY LOCATION:** Whitewood Valley Rd **SUMMARY:** Creating a 10-acre lot to keep residence out of LLC **ZONING:** PF **PARCEL ID:** 22000-00604-104-20.
Moved-Seconded (B Ewing-Whalen) motion to approve the Final Plat. Motion Carried.

Break: 5 minutes.

AGENDA ITEMS:

PUBLIC HEARING ~ COZ #359 OWNER/APPLICANT: David Elsom and Margaret & Jeremy Elsom

LEGAL DESCRIPTION: Tract B & C of NE¼ SE ¼ of Section 17, T6N, R2E. VICINITY LOCATION: Tinton Rd SUMMARY: Rezone from A-2 to PF to subdivide ZONING: A-2 to PF to create a lot for his daughter/sister ACREAGE: 16.00 acres PARCEL ID: 20000-00602-174-40 & 200000-00602-0174-20.

Proponents: Dr. Elsom was present to address questions.

Opponents: Chris Blain, 223 Union St, Spearfish, and owner of an adjacent lot, stated concern about the current covenants that restrict subdivision. Casey Hibbert, director of the Spirit of the Hills Wildlife Sanctuary, 500 Tinton Rd, asked how a COZ would affect the sanctuary property.

Proponents: Elsom stated that he is in the process of removing the covenants on the four lots that were part of his original subdivision. He believes the COZ is appropriate due to the surrounding zoning.

Opponents: Blain stated that the Owners of Lots A & himself would not approve a vacation of the covenants.

Public Hearing remained open.

Bruce Outka suggested a delay in the Board's decision to allow for any changes to the covenants.

Moved-Seconded (Schenk-TJ Ewing) motion to Continue until the next meeting on June 1, 2023, for COZ #359 Motion Carried.

PUBLIC HEARING ~ COZ # 291-23 OWNER/APPLICANT: BH Properties LLC/BH Development and Powder House Pass LEGAL DESCRIPTION: All of the Powderhouse Pass CID Property-Provided in Exhibit A VICINITY LOCATION: Hwy 85/14A SUMMARY: Amendment to the PUD Land Use Map ZONING: PUD PARCEL ID: 26455-00200-000-25. Vogt explained the purpose of the update to the land use of the master plan for PHP, which is to designate potential areas for commercial use of lots.

Proponents: Ron Williams, AE2S Engineering, was present for questions.

Opponents: Michelle Jacobs, 11288 Black Forest Rd, has a property that neighbors PHP. She is concerned about two pieces in the amended plan surrounding her lot. She wants to avoid being in the middle of commercial zoning when her lot is residential.

Proponents: Williams stated the owner's plan to leave a thick tree buffer between the residence and commercial activity. He noted that the County must approve a development plan for the lots when the time comes.

Opponents: Chad Jacob, 11288 Black Forest Rd, said he wants to keep commercial zoning away from his lot.

Closed Public Hearing.

Moved-Seconded (TJ Ewing-Comerr) motion to Amendment to the PUD Land Use Map COZ #291-23 with the exclusion of the portions along Black Forest Road, per Lawrence County Zoning Ordinance Chapter 6 (L). Motion Carried.

(CC PH & 1st Reading Scheduled for May 23, 2023, at 9:30 am)

PUBLIC HEARING ~ CUP #482 OWNER/APPLICANT: Casey & Heidi Keough LEGAL DESCRIPTION: Lot 2 of the Sub of HES CRM of the sub of Lot A of the sub of Lot 10 of Section 27, T3N, R5E. VICINITY LOCATION: Nemo Rd SUMMARY: to allow a Specialty Resort/Wedding Venue ZONING: PF ACREAGE: 3.09 acres PARCEL ID: 10000-00305-270-10. Vogt said the barn on site would be updated for weddings. She added that a site plan should be drawn showing paring and updates. She would like an update on the safety of the current structures.

Proponents: Casey Keough was present for questions

Opponents: None.

Proponents: Randy Sachau, 20033 Ashlee Court, said the CUP is a fine idea.

Opponents: None

Closed Public Hearing.

Moved-Seconded (Whalen-TJ Ewing) motion to Approve CUP #482 with proposed conditions per Lawrence County Zoning Ordinance Chapter 19. Motion Carried.

(CC PH Scheduled for May 23, 2023, at 9:45 am)

PUBLIC HEARING ~ CUP # 483 OWNER/APPLICANT: Curt & Danette Bauer LEGAL DESCRIPTION: Se ¼ SE ¼ less Tract B & Ne ¼ SE ¼ less N ½ SW ¼ E ¼ SE ¼, Section 16, T3N, R3E. VICINITY LOCATION: Gudat Rd SUMMARY: Campground ZONING: PF ACREAGE: 71.00 acres PARCEL ID: 08000-00303-161-00. Vogt shared the staff report. John Bey, Superintendent of the LC Highway Dept., acknowledged that the County maintains the Gudat Rd that goes to the Bauer's lot. Proponents: None. Opponents: None. Proponents: None. Opponents: None. Closed Public Hearing.

Moved-Seconded (Whalen-Comer) motion to Approve CUP #483 with proposed conditions per Lawrence County Zoning Ordinance Chapter 19. Motion Carried.
(CC PH Scheduled for May 23, 2023, at 10:00 am)

Break: 5 minutes.

PUBLIC HEARING ~ CUP # 484 OWNER/APPLICANT: GF Development LLC/North Star Construction Inc LEGAL DESCRIPTION: S ½ SE ¼ & SE ¼ SW ¼ of Section 34, T7N, R1E and N ½ of Govt Lot 1 & part of Govt Lot 2 lying North of Homestake Rd Section 3, T6N, R1E. VICINITY LOCATION: Homestake Rd SUMMARY: Small Scale Gravel Pit ZONING: A-1 ACREAGE: 192.00 acres PARCEL ID: 19000-00601-031-15; 23000-00701-344-15; 23000-00701-344-10. Vogt reviewed the application's highlights and read a list of the letters received regarding the application. She also said that a socio-economic impact study is not required for a small quarry but can be requested by the Board. John Bey was present for questions/comments about the haul road route.

Proponents: Heath Gran was present on behalf of the applicants.

Opponents: Neil Bowman, 19864 Datum Creek Pl, opposes the CUP and is concerned about how a gravel pit blasting will affect his water well. He said he has an infant and autoimmune diseases that the dust from gravel operations could negatively affect him. He is also concerned about operations beginning at 5 am and a negative impact on property values in the area.

Randy Sachau, 20023 Ashlee Ct, disagrees with having another gravel pit and shared concern about the number of gravel pits in the area and the effects on the area. He would like to see a detailed plan.

J. Frei, 19777 Gobbler Rd, is against the CUP and shared that he took great care in choosing his retirement home and already has dust problems with the existing gravel pit near his home. He does not want another.

Don Simon, 20069 Crow Peak Bench Rd, opposes the CUP and is concerned about increased traffic and the condition of the current road. He said there are narrow spots that are dangerous for residents. He feels the area is growing residentially, and a gravel pit should not be considered because home values will be affected.

Bill & Sandra Johnson, 20011 Cody Ct, does not desire a gravel pit near their property and said that part of Spearfish is an open area and commercial/ industrial business would harm the natural environment there.

Les Turgeon, 19963 Merriam Loop, had a question about buffer zones.

Frank Rubin, 20080 Bench Lane, does not want the CUP approved and made comments of concern for the environment and air quality.

Barbara Running, 609 Bridgewater Ct, is against the CUP and shared her concern about the wildlife in the corridor that runs through the area.

Brenda Vennes, 19890 Gobbler Road, does not want a gravel pit near her selected retirement home. She is concerned about silica dust harming people and wildlife.

Proponents: Gran explained that the pit is small and will only disturb 9-18 total acres. And opponents have mentioned that it is not near most homes. Matt Polish of NorthStar Construction said there would only be five trucks daily for traffic. He mentioned that they will be mining in a low area, so dust and noise

will be minimal. They plan to use the same road as the current gravel pit.

Opponents: Len Levensgood, 10305 Homestake Rd, opposes the CUP and is concerned about traffic and early morning hours of operation. Dust is already a problem at his location, and he worries about property values. Levensgood has an issue with how this will affect the migratory deer and elk population that uses this area for grazing.

Neil Bowman shared that he did not receive notice of the Edwards gravel CUP currently operating and only knew about it once they began working. He stated that he would have been against that pit as well. Frank Rubin questioned how air quality is measured.

Sandra Johnson said they should not be worried about measurements, and the CUP should be denied.

Discussion: B Ewing recommended a motion to continue to the next meeting and that there be an onsite set. John Bey commented that he does not support a truck haul route toward town, and the Hwy Dept is starting a traffic count on the road. Comer expressed his issues with the missing information in the CUP application. He noted inconsistencies in the map and will work with Vogt to list items missing from their application. He suggests a socio-economic impact study. Schenk thanked the public for attending the meeting and being involved in considering this CUP.

Public Hearing remained Open.

Moved-Seconded (B Ewing-Comer) motion to continue to the June 1st meeting and set an onsite of the property for CUP #484. Motion Carried.

INFORMATIONAL MEETING: ORD 23-01 APPLICANT: Gael & Terry Johnson LEGAL DESCRIPTION: All of SRD Zoned Property in Lawrence County VICINITY LOCATION: All of SRD Zoned Property in Lawrence County SUMMARY: Request an ordinance amendment to the existing SRD zoning district to add Wedding Venue as a Conditional Use Permit ZONING: SRD. Vogt explained the relationship between Items 17 through 20. The requests for CUP# 485 would only be allowed if the ORD 23-01 were approved.

(PZ PH: June 1, 2023, @ 1:30 pm)

INFORMATIONAL MEETING ~ CUP #485 OWNER/APPLICANT: Gael & Terry Johnsen LEGAL DESCRIPTION: Tract H excepting Lot H-1 SW ¼ NW ¼ of Section 14, T5N, R45E. VICINITY LOCATION: Boulder Canyon SUMMARY: to allow a Wedding Venue ZONING: SRD ACREAGE: 2.23 acres PARCEL ID: 18000-00504-142-34. Vogt explained the relationship between Items 17 through 20. The requests for CUP# 485 would only be allowed if the ORD 23-01 were approved. Bauer Rd is County maintained. The applicant has been using the lot for this purpose already. They are trying to come into compliance with a CUP. Mrs. Johnsen said she is interested in only 30-35 Weddings per season. There was discussion about the two approaches to this lot and whether a permit is needed for the one off the Highway.

(PZ PH: June 1, 2023, @ 1:30 pm)

INFORMATIONAL MEETING: ORD 23-02 APPLICANT: Gael & Terry Johnson LEGAL DESCRIPTION: All of SRD Zoned Property in Lawrence County VICINITY LOCATION: All of SRD Zoned Property in Lawrence County SUMMARY: Request an ordinance amendment to the existing SRD zoning district to add campgrounds as a Conditional Use Permit ZONING: SRD. Vogt explained the relationship between Items 17 through 20. The requests for CUP# 486 would only be allowed if the ORD 23-02 were approved.

(PZ PH: June 1, 2023, @ 1:30 pm)

INFORMATIONAL MEETING ~ CUP #486 OWNER/APPLICANT: Gael & Terry Johnsen LEGAL DESCRIPTION: Tract H excepting Lot H-1 SW ¼ NW ¼ of Section 14, T5N, R45E. VICINITY LOCATION: Boulder Canyon SUMMARY: to allow a Campground ZONING: SRD ACREAGE: 2.23 acres PARCEL ID: 18000-00504-142-34. Vogt explained the relationship between Items 17 through 20. The requests for CUP# 486 would only be allowed if the ORD 23-02 were approved.

(PZ PH: June 1, 2023, @ 1:30 pm)

INFORMATIONAL MEETING ~ CUP #487 OWNER/APPLICANT: Larson Family LLP LEGAL DESCRIPTION: S1/2 SE ¼ of Section 35, T7B, R1E and NE ¼ of Section 2, T6N, R1E. VICINITY LOCATION: Spearfish/Off Homestake Rd SUMMARY: Small Scale Gravel Pit ZONING: A-1 ACREAGE: 129.60 acres PARCEL ID: 19000-00601-020-00. There is currently a State Mining Lic. for the applicant. Brian Marsh, General Manager of Croell, discussed sound and dust mitigation. He said that they may be able to work with the County to upgrade the road. Marsh added that his employees attend smoke school to mitigate dust issues and meter sound and have more controlled blasting than other mining operations. Bey repeated that he would not support a haul road going towards town even if it is upgraded, and he cited a structure on the property that needs inspection.

(PZ PH: June 1, 2023, @ 1:30 pm)

ITEMS FROM PLANNING & ZONING BOARD MEMBERS:

- Tysdal thanked Mr. Bey for attending the P&Z meeting.
- Discussion about requirements of notice for public hearings. Vogt shared that the State only requires a notice to be given for the County Commission public hearings, but the County Ordinance requires notice for Planning and Zoning meetings too.

PUBLIC COMMENT: None.

SET DATE AND TIME FOR NEXT MEETING: June 1, 2023, at 1:30 p.m.

EXECUTIVE SESSION: The Board went into Executive Session @ 4:35 p.m. No action was taken.

ADJOURN: 4:49 p.m.

APPROVED: _____ Date: _____
Rick Tysdal, CHAIRMAN

ATTEST: _____ Date: _____
Kelly Fuller, SECRETARY