



# Planning and Zoning Commission Regular Meeting Minutes

Wednesday, July 19, 2023 at 4:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

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## 1. Call to Order

## 2. Roll Call

PRESENT

Commissioner (Chair) John Martinisko

Commissioner (Vice-Chair) Josh Keehn

Commissioner (Secretary) Dave Bruce

Commissioner Charles Eagleson

Commissioner Ken Owens

Michael Johnson, City Commissioner

STAFF PRESENT

Trent Mohr, Building Inspector

Cindy Schneringer, Zoning Coordinator

Jeramy Russell, Rec Center Manager

Jessicca McKeown, Finance Officer

Quentin Riggins, City Attorney

## 3. Approval of Minutes

a. Approval of July 5, 2023 Minutes

***It was moved by Commissioner Owens and seconded by Commissioner Keehn to approve the July 5, 2023 minutes. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

## 4. Sign Review Commission

## 5. Planning and Zoning Commission

a. Public Hearing - Request for Conditional Use Permit - RV Campground - 20577 Highway 85 - B&L Properties, LLC (Brad Kooiker).

Chairman Martinisko began the public hearing and opened the floor for comments.

Being no comments, Chairman Martinisko closed the public hearing.

b. Conditional Use Permit - RV Campground - 20577 Highway 85 - B&L Properties, LLC (Brad Kooiker)

LOT A IN LOT H2 OF H.E.S. No. 613 IN THE NE1/4 OF SECTION 11, T5N, R3E, BHM, LAWRENCE COUNTY, SOUTH DAKOTA

**AND**

LOT C IN H.E.S. No. 613 IN THE NE1/4 OF SECTION 11, T5N, R3E, BHM, CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA

Mrs. Schneringer stated the applicant has submitted a request for a conditional use permit to operate an RV Park for up to fifteen units located at 20577 Highway 85 legally described as LOT A IN LOT H2 OF H.E.S. No. 613 IN THE NE1/4 OF SECTION 11, T5N, R3E, BHM, LAWRENCE COUNTY, SOUTH DAKOTA AND LOT C IN H.E.S. No. 613 IN THE NE1/4 OF SECTION 11, T5N, R3E, BHM, CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA. The subject property is alongside Highway 85 across from The Ridge Development in an area know locally as McMasters corner. The subject property is surrounded by by the Black Hills National Forest. and the new development on the north end of the Deadwood city limits. The property is currently zoned commercial highway The property is not located within a flood zone and has adequate facilities available to serve the property. The conditional use permit runs with the applicant and not the land. Proof of state sales tax number. Proof of building inspection and meets all codes. Paperwork filed for BID taxes. Proof of Deadwood business license. Obtain lodging license from SD Department of Health.

***After some discussion it was moved by Commissioner Bruce and seconded by Commissioner Owens to approve the Conditional Use Permit - RV Park legally described as LOT A IN LOT H2 OF H.E.S. No. 613 IN THE NE1/4 OF SECTION 11, T5N, R3E, BHM, LAWRENCE COUNTY, SOUTH DAKOTA AND LOT C IN H.E.S. No. 613 IN THE NE1/4 OF SECTION 11, T5N, R3E, BHM, CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA with the following conditions: CUP runs with the applicant not the land, proof of state sales tax number, proof of building inspection and meets all codes, paperwork filed for BID taxes, proof of Deadwood business license, and obtain lodging license from SD Department of Health. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

- c. Discussion and recommendation to Board of Adjustment for setback variance for construction of new carport at 3 Pearl Street - Bob & Bonita Goode

Mrs. Schneringer stated the applicant has submitted a request for a variance to the required 20' front yard setback according to Deadwood City 17.24.040 (Area and Bulk Requirements). The applicant is requesting a 19± variance on Pearl Street for the construction of a new carport. The property is zoned residential district. The property has a contributing historic residential structure which was moved from lower Main Street to this location. The proposed carport would have access from Pearl Street.

***It was moved by Commissioner Eagleson and seconded by Commissioner Keehn to recommend the Board of Adjustment approve setback variance for construction of new carport at 3 Pearl Street. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

- d. Change of Zoning - Planned Unit Development - Amend Stage Run PUD - The Summit at Deadwood Stage Run, LLC

Palisades Tract of Deadwood Stage Run Addition, formerly Tracts E, F, G, H, I, J, K and L and the remaining portion of MS 696 Palisades Stone Placer, all located in the SW1/4, Section 14, the SE1/4 of Section 15, the NE1/4NE1/4 of Section 22 and the N1/2NW1/4 of Section 23, T5N, R3E, BHM, City of Deadwood, Lawrence County, South Dakota.

**AND**

TRACT D-2, FORMERLY TRACT D OF M.S. 696 PALISADES PLACER, ALL LOCATED IN THE NE1/4 AND THE SE1/4, SECTION 15, T5N, R3E, B.H.M., LAWRENCE COUNTY, SOUTH DAKOTA.

**AND**

TRACT B OF PALISADES STONE PLACER MS 696, LAWRENCE COUNTY, SOUTH DAKOTA, RECORDED IN PLAT DOC. #84-2419.

Mrs. Schneringer stated the applicant, Bill Pearson, has submitted a request for a zoning amendment to change zoning district boundaries within the Planned Unit Development (PUD) and to expand the PUD to areas previously annexed adjacent to the PUD. Legally described as Palisades Tract of Deadwood Stage Run Addition, formerly Tracts E, F, G, H, I, J, K and L and the remaining portion of MS 696 Palisades Stone Placer, all located in the SW1/4, Section 14, the SE1/4 of Section 15, the NE1/4NE1/4 of Section 22 and the N1/2NW1/4 of Section 23, T5N, R3E, BHM, City of Deadwood, Lawrence County, South Dakota AND TRACT D-2, FORMERLY TRACT D OF M.S. 696 PALISADES PLACER, ALL LOCATED IN THE NE1/4 AND THE SE1/4, SECTION 15, T5N, R3E, B.H.M., LAWRENCE COUNTY, SOUTH DAKOTA AND TRACT B OF PALISADES STONE PLACER MS 696, LAWRENCE COUNTY, SOUTH DAKOTA, RECORDED IN PLAT DOC. #84-2419. Within the PUD, the applicants request to amend a variety of zoning districts and uses. This request take action in the form of an official change to the City of Deadwood Zoning Map. The property is currently zoned PUD with zoning districts previously approved by the P&Z Commission and the Board of Adjustment. The PUD has overlaying TIF Districts and a development agreement with the City of Deadwood has been adopted. Property is outside the Flood Zone area. Public infrastructure and facilities are being constructed in Phase III, which will match the infrastructure in Phase I and Phase II, to serve the property but not yet accepted by the City of Deadwood. Staff received four calls about variance request just wanting to know what the variance was for. No concerns or complaints received.

***After some discussion it was moved by Commissioner Eagleson and seconded by Commissioner Owens to approve the Change of Zoning to amend the Stage Run PUD legally described as Palisades Tract of Deadwood Stage Run Addition, formerly Tracts E, F, G, H, I, J, K and L and the remaining portion of MS 696 Palisades Stone Placer, all located in the SW1/4, Section 14, the SE1/4 of Section 15, the NE1/4NE1/4 of Section 22 and the N1/2NW1/4 of Section 23, T5N, R3E, BHM, City of Deadwood, Lawrence County, South Dakota AND TRACT D-2, FORMERLY TRACT D OF M.S. 696 PALISADES PLACER, ALL LOCATED IN THE NE1/4 AND THE SE1/4, SECTION 15, T5N, R3E, B.H.M., LAWRENCE COUNTY, SOUTH***

**DAKOTA AND TRACT B OF PALISADES STONE PLACER MS 696, LAWRENCE COUNTY, SOUTH DAKOTA, RECORDED IN PLAT DOC. #84-2419. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens**

- e. Consider donation and recommendation of parcel of ground to expand Stage Run Park from The Summit at Deadwood Stage Run, LLC to the City of Deadwood. (See attached plat.)

Mr. Pearson stated I plotted this when Jeramy Russell was the P&Z Director. There is a piece of land there I was planning on giving to the City to expand the piece you were buying from the neighbor for \$50,000.00. I was going to give you a chunk of it for a dog park and people park. It is contiguous to that. We platted it and everything. Then there was a change over in directors and stuff. Kevin and I finally got up there and looked at it. Randy Adler looked at it. I am at the point where I need to file the plat. Was waiting to see if you will accept it. If you do not accept it, I will do something else with it. I am just planning to give it to the City.

***It was moved by Commissioner Bruce and seconded by Commissioner Keehn to recommend to the City Commission to accept the 1.475 acres of land from Summit at Deadwood Stage Run, LLC to expand Stage Run Park, legally described as: Plat of Deadwood Stage Run Park of Palisades Tract of Deadwood Stage Run Addition to the City of Deadwood all located in the SW1/4 of Section 14, the SE1/4 of Section 15, the NE1/4NE1/4 of Section 22 and the N1/2NW1/4 of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota . Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

- f. Change of Zoning - Planned Unit Development - Amend The RIDGE at Deadwood PUD - Preacher Smith, LLC and TRD, LLC (Randy & Cheri Horner)

PREACHER SMITH TRACT (LESS LOT A OF THE RIDGE DEVELOPMENT); LOT A OF GOV'T LOTS 13 AND 19 IN SECTION 11; LOT B OF GOV'T LOTS 19 IN SECTION 11 AND GOV'T LOT 12 OF SECTION 14 AND LOTS 1 AND 2 IN BLOCK 1B OF THE RIDGE DEVELOPMENT, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA.

Mrs. Schneringer stated the applicant has submitted a request for a zoning amendment to change zoning district boundaries within the Planned Unit Development (PUD) legally described as PREACHER SMITH TRACT (LESS LOT A OF THE RIDGE DEVELOPMENT); LOT A OF GOV'T LOTS 13 AND 19 IN SECTION 11; LOT B OF GOV'T LOTS 19 IN SECTION 11 AND GOV'T LOT 12 OF SECTION 14 AND LOTS 1 AND 2 IN BLOCK 1B OF THE RIDGE DEVELOPMENT, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA. Within the PUD, the applicants request to amend a variety of zoning districts and uses. This request takes action in the form of an official change to the City of Deadwood Zoning Map. The property is currently zoned PUD with zoning districts previously approved by the P&Z Commission and the Board of Adjustment. The PUD is in an Economic Development TIF District #14. It is located out side of the flood zone areas. Public infrastructure and facilities are being installed to serve the property but not yet

accepted by the City of Deadwood. A sign was posted and the notice of public hearing published.

Chairman Martinisko stated he had a question on 6.73 acres. Originally it was going to be 2 lots and now it is going to be 20 lots? I don't understand how you get 20 lots in 6.73 acres..

Ms. Berg stated she believes it is still the same in Phase I where they only have the 2 commercial lots. I don't know where he got the 20 lots.

Chairman Martinisko stated this is something that needs to be clarified.

Commissioner Eagleson asked so it is going from 2 to 15 commercial lots?

Ms. Berg stated not in Phase 1. Well, yes kind of. The main reason that we are bringing this even forward is that after the taskforce and the rezoning requirements for STRs within residential areas, they have to be rezoned to commercial use or commercial highway. That is why there is that lot count showing as commercial highway because a portion of those are going to be limited to STR requirements.

City Commissioner Johnson stated our City Attorney Quentin Riggins has some questions.

Mr. Riggins stated he just want to point out to the Commission the application amendment that is in the packet is different than the one that was discussed between myself and the applicant this morning. After the agenda was posted with Planning Development Amendment, Leah Berg contacted myself and the City this morning to advise us that the amendment didn't match the most up to date version of the amendment. The one that was in the packet was provided to the City on 6/23. The one that was provided this morning to correct the one in the packet was submitted on 7/6. I do have some concerns with that. There are 3 different sections in the Planning Development Amendment all of which have changes between what the general public has as part of the packet and what we need to submit as part of the application. Those changes include two different objectives being added. Also included a number of references to the STR units that are going to be offered that are not in what the general public has. Had we known about this change before yesterday, we could have submitted a change to the packet but we can not now. So what the public has is not what the applicant would like us to pass today. Because of that, my recommendation would be to continue this matter. It could go before P&Z on 8/2 and would still be available even if the Commission hears it and wants to give a recommendation to the City Commission it would still be able to be brought before the City Commission before their next commission meeting which would be on August 7th.

Chairman Martinisko stated thank you for all that. It seems like what we need to do on this is what he said.

***It was moved by Commissioner Owens and seconded by Commissioner Eagleson to continue this to the next meeting at the recommendation of legal counsel. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

- g. Preliminary Plat for Creating Lot Lines - The Ridge Development

PRELIMINARY PLAT OF LOTS 90 THRU 94 OF BLOCK 1 OF THE RIDGE DEVELOPMENT. FORMERLY A PORTION OF BLOCK 1 OF THE RIDGE DEVELOPMENT.

**AND**

LOT 1 OF BLOCK 2 OF THE RIDGE DEVELOPMENT AND LOT 15 OF BLOCK 1B OF THE RIDGE DEVELOPMENT. FORMERLY A PORTION OF PREACHER SMTIH TRACT.

**AND**

THE DEDICATED PUBLIC RIGHT-OFWAY OF WILD CANYON DRIVE AND GOLD SPIKE DRIVE ALL LOCATED NIN GOV'T LOT 5 IN SECTION 12 AND GOV'T LOTS 10 & 12 IN SECTION 11 OF TOWNSHIP 5 NORTH, RANGE 3 EAST, BLACK HILLS MERIDIAN, CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA.

Mrs. Schneringer stated the purpose of this plat is to create property lines legally described as PRELIMINARY PLAT OF LOTS 90 THRU 94 OF BLOCK 1 OF THE RIDGE DEVELOPMENT. FORMERLY A PORTION OF BLOCK 1 OF THE RIDGE DEVELOPMENT AND LOT 1 OF BLOCK 2 OF THE RIDGE DEVELOPMENT AND LOT 15 OF BLOCK 1B OF THE RIDGE DEVELOPMENT. FORMERLY A PORTION OF PREACHER SMTIH TRACT AND THE DEDICATED PUBLIC RIGHT-OFWAY OF WILD CANYON DRIVE AND GOLD SPIKE DRIVE ALL LOCATED NIN GOV'T LOT 5 IN SECTION 12 AND GOV'T LOTS 10 & 12 IN SECTION 11 OF TOWNSHIP 5 NORTH, RANGE 3 EAST, BLACK HILLS MERIDIAN, CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA. These lots are proposed to be commercial highway lots to be allowed as townhomes. Part of the intended use has been stated as vacation home establishments. The developer understands a conditional use permit would be required to operate the townhomes as vacation home establishments. The property is currently zoned PUD R2 residential multi-family. The proposed lots are comprised as follows: Utility Lot 1 = 0.396 Acres $\pm$ , Lot 3 = 0.643 Acres $\pm$ , Lot 4 = 0.313 Acres $\pm$ , Lot 5 = 0.348 Acres $\pm$ , Lot 6 = 0.385 Acres $\pm$ , Lot 7 = 0.419 Acres $\pm$ , Lot 8 = 0.418 Acres $\pm$ , Lot 9 = 0.385 Acres $\pm$ , Lot 10 = 0.351 Acres $\pm$ , Lot 11 = 0.392 Acres $\pm$ , Lot 12 = 0.449 Acres $\pm$ , Lot 13 = 0.482 Acres $\pm$ , and Lot 14 = 0.487 Acres $\pm$ . The property is not located within the flood zone. Public facilities are currently being installed to serve the property but has not been accepted by the City of Deadwood at this time.

Chairman Martinisko state he has a question for Quentin. The fact that the street and the infrastructure is not yet accepted by the City, is that a factor whether we should approve this or not?

City Attorney Riggins stated well ordinarily, what is customarily is you would go through the zoning process first then approve the final plat. It can be done without the approval of the zoning which we just continued under F. That is not how it is typically done. I do have some concerns I believe one of these plats whether it is G or H it revolves around the commercial lots that you identified as being an issue that was highlighted on a prior discussion of number F. I am trying to verify that right now.

After multiple discussions, City Attorney Riggins stated it is separate and can be addressed separately. But because they are inter-related, I do not know if it makes a lot of sense to piece mill in this case. I think it makes the most sense to have it all discussed at the next meeting when we are discussing the amendment. So what I am saying is the recommendation to go ahead and continue both G and H.

***At the recommendation of legal counsel, it was moved by Commissioner Owens and seconded by Commissioner Keehn to continue the preliminary plat for creating lot lines for the Ridge Development until the next meeting. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

- h. Final Plat of Townhome Lots - The RIDGE at Deadwood - Randy & Cheri Horner  
PLAT OF UTILITY LOT 1 AND LOTS 3-14 OF BLOCK 1B OF THE RIDGE DEVELOPMENT. FORMERLY A PORTION OF PREACHER SMITH TRACT LOCATED IN GOV'T LOTS 10 AND 12 OF SECTION 11, T.5N., R.3E., B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA

***At the recommendation of legal counsel, it was moved by Commissioner Bruce and seconded by Commissioner Owens to continue the final plat of townhome lots for the Ridge at Deadwood until the next meeting. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

- i. Discussion and recommendation to the Deadwood Board of Adjustment on request for variance for street grades - The RIDGE at Deadwood - Preacher Smith, LLC.

Mrs. Schneringer stated this is a request for variance under 16.40.20. The ordinance allows for the grad of streets tin a residential zoning district to be a maximum grade of 9%. The application states they are proposing street longitudinal slopes in a variety of areas that will be greater than the maximum allowed. These street grades areas which are greater than the 9 percent requirement of our ordinance are shown on the attached application. The total linear feet is shown below: less than 10% = 173± linear feet, less than 11% = 434± linear feet, less than 12% = 234± linear feet, less than 13% = 74± linear feet, less than 14% = 50± linear feet, less than 15% = 51± linear feet, total greater than 9% 1,016± linear feet. In the application the design engineer states extreme topography and bedrock conditions are present on existing development site which limits lowering grades further. The attached application also shows the longitudinal slopes at each of the intersections within the development. The property is zone PUD. The development will have 3 accesses from US Hwy 85 via Ridge Drive, Gold Spike Drive, and Preacher Smith Drive. Is outside the flood zone area. Has adequate public facilities available to serve the property. A sign was posted and notice of public hearing published.

Mr. Russell stated it would probably good to keep this one going forward due to the fact this is a big part of their project moving forward. When we went through this with Bill it was a new process for Deadwood. Bill and his group kind of set the standards with what they submitted. It might be helpful for Leah to explain a little bit about what we are looking at. I am hoping the Lornie, Public Works Director, has had a chance to look at this. He is arguably the most important person that needs to understand what these grades are and how these grades affect his

equipment. Maybe Leah can give us a quick overview of what we are looking at. What are the high points and what are the low points. Is there any key areas they need to be aware of?

Ms. Berg stated the major road that has the largest above 9% is Preacher Smith Drive. The commercial area. Our goal was to try to keep them in short sessions where we had that topography so that we didn't have long steep runs and the intersections were as flat as possible in a mountainous subdivision. So that is where we called out the intersection grades. I know that was a large concern for City use and staff as far as maintenance goes. You can see the lengths of them. They are short straight distances. Just tried to keep them where it wasn't a long stretch for the duration of the road. It is just the topography and the bedrock that is as good as we can do out there.

***It was moved by Commissioner Keehn and seconded by Commissioner Bruce to recommend the Board of Adjustment approve the street grade variance legally described as Remainder of Preacher Smith Tract (Less Lot A of the Ridge Development); Lots 1 & 22, Block 1B of the Ridge Development; and Block 1 and Block 1A of the Ridge Development, City of Deadwood, Lawrence County, South Dakota. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

- j. Discussion and recommendation to the Deadwood Board of Adjustment on request for variance for Curb, Gutters, Sidewalks, and Storm Sewer requirements - The RIDGE at Deadwood - Preacher Smith, LLC.

***After some discussion and the recommendation of legal counsel, it was moved by Commissioner Bruce and seconded by Commissioner Owens to continue the final plat of townhome lots for the Ridge at Deadwood until the next meeting. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

## **6. Items from Citizens not on Agenda**

(Items considered but no action will be taken at this time.)

## **7. Items from Staff**

- a. Fassbender Collection Newsletter

Mrs. Schneringer stated the City of Deadwood is one of the owners of the Fastbender Collection and this newsletter is provide as a courtesy.

## **8. Adjournment**

***It was moved by Commissioner Bruce and seconded by Commissioner Owens to adjourn the Planning and Zoning Commission meeting. Voting Yea: Martinisko, Keehn, Bruce, Eagleson, Owens***

There being no further business, the Planning and Zoning Commission adjourned at 4:56 p.m.



ATTEST:

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Chairman, Planning & Zoning Commission

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Secretary, Planning & Zoning Commission

*Cindy Schneringer, Planning & Zoning Office/Recording Secretary*