



**BOARD OF ADJUSTMENT
AMENDMENT TO ZONING MAP
– PLANNED UNIT DEVELOPMENT –**

Staff Report

Date: August 3, 2023
From: Kevin Kuchenbecker
Planning, Zoning & Historic Preservation Officer
RE: Rezoning Request – Planned Unit Development

APPLICANT(S): TRD, LLC (Randy & Cheri Horner)
PURPOSE: Amendment to Zoning Map – PUD –
Planned Unit Development
ADDRESS: The RIDGE at Deadwood development
Deadwood, Lawrence County, South Dakota
LEGAL DESCRIPTION: 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
ZONE: PUD – Planned Unit Development with the following
Zones:
R1 – Residential District
R2 – Multi-Family
CH – Commercial Highway

STAFF FINDINGS:

Surrounding Zoning:	Surrounding Land Uses:
North: Lawrence County	Black Hills National Forest
South: PUD – Planned Unit Development	Tatanka – Justice Center
East: Lawrence County	Residential Housing
West: CH – Commercial Highway	Light – Medium Business

SUMMARY OF REQUEST

The applicant has submitted a request for a zoning amendment to change zoning district boundaries within the Planned Unit Development (PUD). Within the PUD, the applicants request to amend a variety of zoning districts and uses. This request takes action in the form an official change to the City of Deadwood Zoning Map.

FACTUAL INFORMATION

1. The property is currently zoned PUD – Planned Unit Development with zoning districts previously approved by the Planning and Zoning Commission and the Board of Adjustment.
2. The Planned Unit Development is an Economic Development TIF District #14.
3. The property is located outside of Flood Zone AE – Areas of 100-year flood and Flood Zone X – Areas of 500-year flood.
4. Public infrastructure and facilities are being installed to serve the property but not yet accepted by the City of Deadwood.

COMPLIANCE

1. A sign was posted on the property for which the request was filed as required by Section 17.80.010.B.
2. Notice of the time and place for the public hearing was published ten (10) days in advance of the hearing in the designated newspaper of the City of Deadwood as required by section 17.80.010.B. [Exhibit A]

STAFF DISCUSSION

Within the existing Planned Unit Development there is 666.20± total acres with 29.84± acres dedicated to public right-of-way.

Within the total acres, it is a phased development with the current approved zoning districts, associated acres, and projected number of lots are as follows based on the applicant's submitted exhibits:

Existing PUD

Phases	Zoning	Acres	Lots
Phase 1	R1 – Residential District	89.36	58 Lots
	R2 – Multi-Family Residential	78.48	68 Lots
	CH – Commercial Highway	6.73	2 Lots
Phase 1A	R2 – Multi-Family Residential	14.95	11 Lots
	CH - Commercial Highway	45.07	16 Lots
Phase 1B	R2 – Multi-Family Residential	19.47	15 Lots
Phase 2	R1 – Residential District	151.78	48 Lots
	CH – Commercial Highway	2.38	1 Lot
Phase 3	R1 – Residential District	219.59	26 Lots

Lots shown in approved PUD with existing Zoning Districts is a total of 245₊.

Proposed PUD Amendment

The applicant is requesting the following changes to the approved Planned Unit Development.

Phases	Zoning	Acres	Lots
Phase 1	R1 – Residential District	86.17	61 Lots
	R2 – Multi-Family Residential	60.87	62 Lots
	CH – Commercial Highway	23.11	20 Lots
Phase 1A	R2 – Multi-Family Residential	15.08	11 Lots
	CH - Commercial Highway	44.40	16 Lots
Phase 1B	R2 – Multi-Family Residential	13.65	3 Lot
	CH - Commercial Highway	5.86	13 Lots
Phase 2	R1 – Residential District	160.50	74 Lots
Phase 3	R1 – Residential District	219.59	49 Lots

Lots shown in approved PUD with existing Zoning Districts is a total of 309 based upon the submitted exhibit. This is an increase in 64 lots within the Planned Unit Development.

Existing PUD

Zoning	Lots
R1 – Residential District	132
R2 – Multi-Family Residential	94
CH – Commercial Highway	19

Proposed PUD Amendment

Zoning	Lots
R1 – Residential District	184
R2 – Multi-Family Residential	76
CH – Commercial Highway	49

The majority of 64+ additional lots in the proposed amendment are within Phase 2 and Phase 3. The developer and engineer of record has stated it is unknown when the construction and build-out of Phase 2 and Phase 3 will happen.

STANDARDS FOR REVIEW:

In reviewing an amendment to the text of this Ordinance or an amendment to the Official Zoning District Map, the City Commission and Planning and Zoning Commission shall consider the following:

- A. Whether the proposed amendment conflicts with any applicable portions of this Ordinance.

The purpose of planned units is to allow flexibility and encourage innovation in land use development, promote the most appropriate use of land, improve the design, character, and quality of new development, facilitate the adequate and economical provision of streets and utilities, and preserve the natural and scenic features of open space. The requested modifications for the planned unit development are to facilitate opportunities for short term rentals in the form of vacation home establishments as described in the application. A portion of the application narrative includes the language as follows:

“The short-term rental areas have been established for the entire PUD Boundary to ensure lot use and intent is transparent to the City and potential property owners.”

This does not comply with the existing ordinances and should be clarified in conditions set forth in the amendment.

The application also includes a draft of the covenants dated June 27, 2023. These covenants can be more restrictive than the City Ordinances but cannot be less restrictive. Any action by the City of Deadwood should not include the adoption of the covenants for this development. Prior to filing of the covenants, the developer should include language to this effect.

- B. Whether the proposed amendment is consistent with all elements of the Deadwood Comprehensive Plan.

The 2018 Comprehensive Plan Future Land Use Map identifies the area as Parks and Recreation use. The initial plans for the RIDGE development included the incorporation hiking and biking trails within the development for residents and visitors alike. Recent discussions and drawings limit these trails in phases by others to act as sidewalks within only portions of the development and does not connect to areas within the development. The development has also not allotted for parks or common space which is a concern of staff. The Comprehensive Plan also advises the city to continue to work with developers to encourage new housing developments and include a variety of housing types to meet the needs of Deadwood residents.

- C. Whether the proposed amendment is compatible with surrounding Zoning Districts and land uses, considering existing land use and neighborhood.

The development is currently comprised of three primary zoning districts: Residential, Residential Multi-Family and Commercial Highway. Within these three zoning districts you will find commercial businesses, residential homes, and multi-family properties. The proposed amendment creates several additional Commercial Highway lots to accommodate short term rentals. This is allowed within the Commercial Highway zoning district and is limited to 10% of the platted lots with approved and accepted city infrastructure improvements complying with Chapter 16.05.020. Additionally, the short term rentals are regulated through a Conditional Use Permit through Planning and Zoning and the Board of Appeals. Furthermore, it should be noted that single family dwellings within the Commercial Highway zoning will also need a Conditional Use Permit. While the applicant intends to have 30 lots available for short term rentals, it should be noted, the City will determine the number of lots available for short term rentals based upon Ordinance 1380. It is not based upon future lots or lots not fully platted and serviced by City infrastructure.

- D. Whether the extent to which the proposed amendment would result in demands on public facilities, and the extent to which the proposed amendment would exceed the capacity of such public facilities, including, but not limited to transportation facilities, sewage facilities, water supply, parks, drainage, schools, and emergency medical facilities.

The proposed amendment does not drastically alter the upcoming demands to public facilities yet the projected impacts on these public facilities are not fully understood or known at this time. Recent discussions have taken place within the city to identify the impacts within the various departments. Separately the applicant has requested a variance to the ordinances dealing with curb, gutter, sidewalks and storm drains. Various departments are concerned about the substantial growth with three new subdivisions planned in the next

few years and the impacts these developments may have on City infrastructure, staffing, growing expenses, future maintenance, and associated equipment. A study of the Deadwoods water capacity is currently being developed and has identified significant expenses forthcoming to develop additional storage and redundancy. Additional work is needed in identifying the full impact to the City of Deadwood.

The subject property is not located within any floodplain.

- E. The effect of the proposed amendment on traffic generation and road safety.

Currently the property has a low volume of pedestrian traffic and vehicular traffic going in and out of the property. Access to the property is off US Hwy 85 and turn lanes into The Ridge Development will be required by the Department of Transportation at some point in the future. Both the City and the developer have that understanding the additional commercial lots will likely have an impact on vehicular traffic.

- F. Whether the proposed amendment is consistent and compatible with the community character in the City of Deadwood.

The proposed amendment is consistent and compatible with the overall character of the proposed RIDGE Development at Deadwood and will have some characteristics like our most recent development at Stage Run. However, the difference from Stage Run would be the proposed open ditch, lack of sidewalks, curb, gutter and storm drains requested under a separate variance request.

- G. Whether there have been changed conditions affecting the subject parcel or the surrounding neighborhood, which support the proposed amendment.

The City of Deadwood is currently in a housing shortage. The proposed amendment does support the current housing needs to some extent as described in the 2021 housing study.

- H. Whether the proposed amendment would be in conflict with the public interest and is in harmony with the proposed amendment may or may not be in conflict with the public interest.

The City has received calls and comments in support and against this project in the past. All comments revolved around short-term rentals.

PLANNING & ZONING COMMISSION ACTION

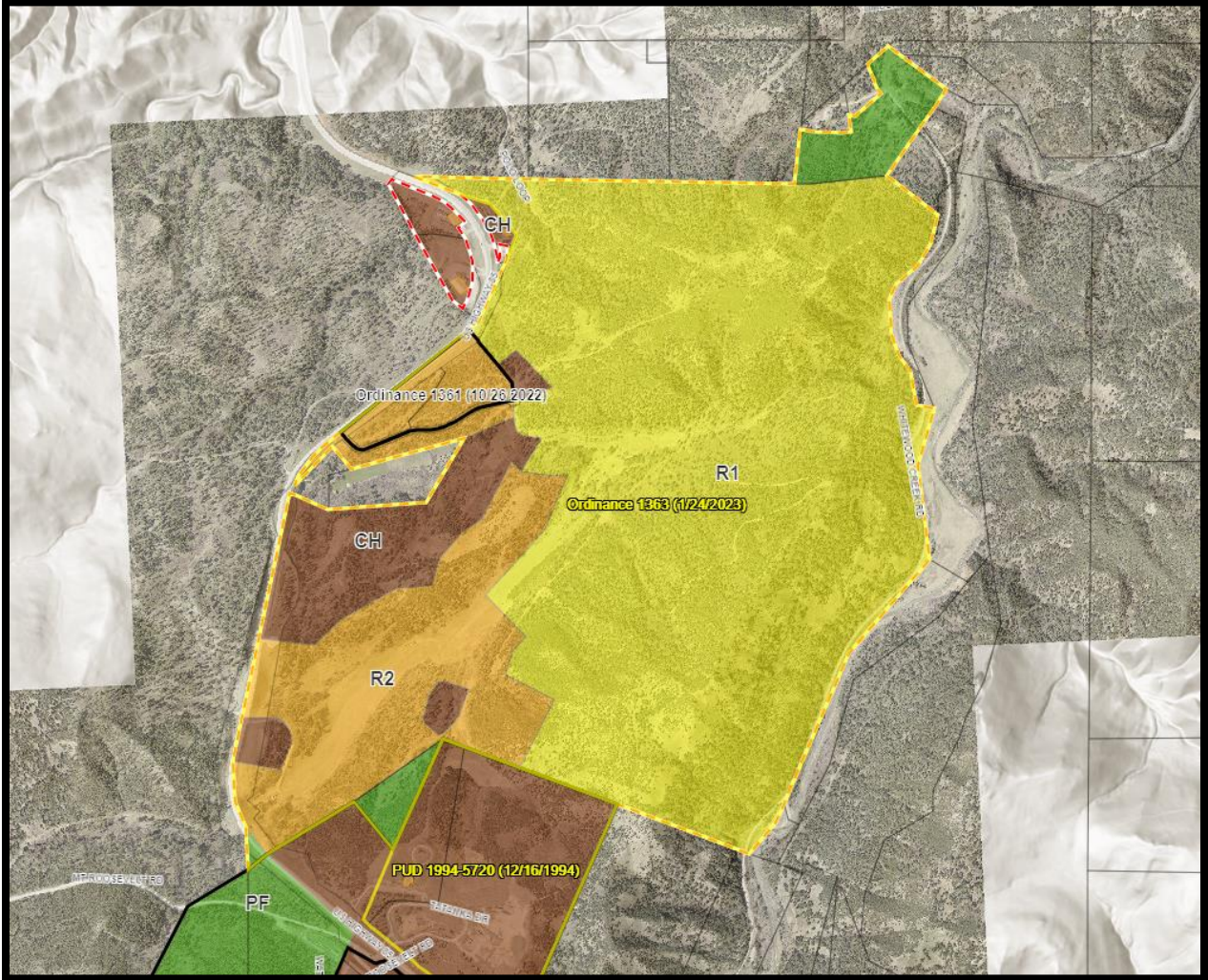
The Change of Zoning for the Planned Unit Development was approved on August 2, 2023, by the Deadwood Planning and Zoning Commission with the following conditions:

- *The acceptance of this Change of Zoning does not approve or accept the covenants drafted for the Homeowners Association by the developer.*
- *The covenants does not limit the City from issuing permits for an activity that is limited by the Homeowners Association and the Homeowners Association would be responsible for the enforcement of its covenants.*
- *The covenants cannot be less restrictive than Deadwood City Ordinances and shall state the covenants cannot be construed as less restrictive than City Ordinances.*
- *The acceptance of the Change of Zoning does not waive any requirements under the Deadwood City Ordinances.*
- *That Vacation Home Establishments will be limited to 10% of the lots platted and serviced by city accepted infrastructure upon approval of each lot through the Conditional Use Permit process.*
- *Adoption of Change of Zoning shall have no impact on the decision on any future submitted variance requests.*

ACTION REQUIRED

1. Act as Board of Adjustment to Approve/Deny/Approve with conditions for the proposed Change of Zoning Amendment to Zoning Map with regards the Planned Unit Development.

LOCATION MAP



Map showing the general vicinity of the subject property.

NOTICE OF PUBLIC HEARING

**NOTICE OF PUBLIC HEARING
BEFORE THE DEADWOOD BOARD OF ADJUSTMENT**

City of Deadwood
Board of Adjustment
Deadwood, South Dakota 57732

NOTICE IS HEREBY GIVEN, that the following person(s) has applied to the City of Deadwood Planning and Zoning Office for a Zoning Amendment for a Planned Unit Development as allowed under Section 17.100 Amendments.

APPLICANTS: TRD, LLC (Randy & Cheri Horner)

LEGAL DESCRIPTION: 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.

ADDRESS: The RIDGE at Deadwood development
Deadwood, Lawrence County, South Dakota

ZONE: PUD – Planned Unit Development

NOTICE IS FURTHER GIVEN that said application will be heard by the Board of Adjustment within and for the City of Deadwood, State of South Dakota, at a regular meeting to be held Monday, August 7, 2023 in the Commission Room at 102 Sherman Street, Deadwood, South Dakota, will at 5:00 p.m. or soon thereafter as the matter at which time and place any such person interested may appear and show cause if there be any, why such special exception should not be granted.

NOTICE IS FURTHER GIVEN, that the proposed request for a Zoning Amendment for the Planned Unit Development is on file and available for public examination at the Deadwood Planning, Zoning Office located at 108 Sherman Street, Deadwood, South Dakota.

ANY interested person or his/her agent is invited to submit oral or written comments or suggestions regarding the request to the Commissions or their agent prior to or at the public hearing.

Dated this 12th of July, 2023.

City of Deadwood, Lawrence County, South Dakota



Kevin Kuchenbecker
Planning, Zoning and Historic Preservation Officer

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