



# Planning and Zoning Commission Regular Meeting Minutes

Wednesday, September 03, 2025 at 4:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

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## 1. Call to Order

The Planning and Zoning Commission Meeting was called to order by Chairman Martinisko on Wednesday, September 3, 2025, at 4:00 p.m. in the Deadwood City Hall Meeting Room, located at 102 Sherman Street, Deadwood, SD 57732.

## 2. Roll Call

### PRESENT

Commissioner (Chair) John Martinisko  
Commissioner (Secretary) Dave Bruce  
Commissioner Ken Owens  
Commissioner Jim Williams

City Commissioner Blake Joseph  
Historic Preservation Commissioner Beverly Posey

### ABSENT

Commissioner (Vice-Chair) Josh Keehn

### STAFF PRESENT

Kevin Kuchenbecker – Planning, Zoning and Historic Preservation Officer  
Trent Mohr – Building Official  
Leah Blue-Jones – Zoning Coordinator

Quentin Riggins – City Attorney

## 3. Approval of Minutes

- a. Approve the minutes of the August 20, 2025, Planning and Zoning Commission Meeting.

***It was moved by Commissioner Bruce and seconded by Commissioner Owens to approve the minutes from the August 20, 2025, Planning and Zoning Commission Meeting. Voting yea: Martinisko, Bruce, Owens, Williams.***

## 4. Sign Review Commission

## 5. Planning and Zoning Commission

- a. Petition for Deannexation of Territory for land legally described as Buena Vista Tract, being a portion of M.S. 343, M.S. 681, M.S. 685, M.S. 788, M.S. 840, M.S. 920, M.S. 1208, and Lot R7 of M.S. 840, located in Sections 23 and 24, T5N, R3E, B.H.M.,

containing portions within and outside the City of Deadwood, Lawrence County, South Dakota.

Mr. Kuchenbecker introduced the Petition for Deannexation of Territory and further introduced Kellen Willert of Bennett Main Gubbrud & Willert, P.C.. Mr. Willert is providing legal representation of Boot Hill Estates LLC.

Mr. Willert addressed the Commission and explained his client is seeking deannexation from the city limits and is requesting a recommendation by the Planning and Zoning Commission to the City Commission to grant the deannexation. The property is currently zoned as forestry land and does not contain infrastructure or residences. Deannexation would not cause the boundaries of the city to become extremely irregular. The only negative impact to the city would be loss of revenue through taxes. The deannexation should be granted in the name of justice and equity.

Commissioner Williams inquired as to the status of the property as it pertains to development. Mr. Willert responded his client has attempted to develop the property in the past, but development has been discouraged by the city, which is contrary to the City of Deadwood Comprehensive Plan. In addition, the cost of development has increased since COVID.

Commissioner Williams asked Mr. Willert to clarify his statement by asking if the property would remain undeveloped if it was deannexed. Mr. Willert responded that while he could not commit to the property never being developed in the future, any future development is not a consideration in the proposed deannexation since it is zoned forestry.

Commissioner Bruce inquired as to the motivation of the property owner to request a deannexation. Mr. Willert responded that the motivations are partly financial and to allow the property owner more freedom to do what he wants with the land outside of the rules of the municipality.

Commissioner Owens asked why a deannexation is necessary if there are no plans for development and nothing has recently changed with the property. Mr. Willert stated his client could answer such questions at the City Commission meeting.

Commissioner Williams stated that the property owner entered a contract with the City in July 2024 in which he agreed to maintain the property and protect the viewshed. Commissioner Williams expressed concern that the motivation for deannexation is to get around those requirements, which may have an end result that is not in the best interest of the community. For example, if the property was developed after deannexation, the tax base would change which could result in significant financial loss to the city. Mr. Willert responded that the city could seek to reannex the land in the future if it was later felt it would be beneficial. In the past, development on the property stopped because of regulations required by the city which resulted in increased cost to the property owner.

Commissioner Martinisko voiced concern that deannexation could degrade the National Landmark status of the city. This property is part of the original boundaries of the city and deannexing could have a negative impact on that status. Mr. Kuchenbecker added that a consultation with the National Park Service would be

needed to determine if changing the boundaries of the Historic Landmark District would adversely affect the Historic Landmark District status for the entire city. However, the property would remain under the purview of the National Park Service and State Historical Society due to its National Landmark status regardless of whether it is within city limits or not and would continue to be subject to regulation by those departments.

Mr. Kuchenbecker further stated there is a need for housing within the city, as laid out in the Comprehensive Plan. A development plan was submitted by the property owner with extensive housing. It is important to note the city does not have a 3-mile zoning jurisdiction, which would prevent the city from having oversight of the viewshed of this property if it were to be deannexed. Commissioner Martinisko expressed concern that, if deannexed, the city would not have a say on any future development.

Commissioner Williams stated that until questions pertaining to the National Landmark status of the property and future zoning changes and their effects are researched further, deannexing the property would not be advisable.

***It was moved by Commissioner Bruce and seconded by Commissioner Owens to recommend to the City Commission to not permit the deannexation of the subject property, and to deny the Petition for Deannexation of Territory. Voting yea: Martinisko, Bruce, Owens, Williams.***

- b. Consideration of use for an IV Hydration Therapy business located at 604 Main Street legally described as Lots 26 and 26A being a portion of Block 15, O.T., City of Deadwood, located in the SW 1/4 of Section 23, T5N, R3E, B.H.M. Lawrence County, South Dakota.

Actions:

1. Provide opinion of appropriate land use designation
2. Provide opinion of necessitation to amend ordinance

Mr. Kuchenbecker introduced Consideration of Use for an IV Hydration Therapy business and explained the business owner has requested a business license which has not been issued. Staff have been researching how the requested business can fit into the zoning requirements of the city since such a business is not permissible as a use within the C1 - Commercial zoning district. Research on the topic has included verifying how other municipalities have classified such a business. Spearfish and Sioux Falls consider such a business to be personal services while Rapid City considers them to be medical clinics. Staff recommend the Commission consider creating a new usage category within the current zoning ordinance if an existing category cannot be used. It is important to note that medical clinics are only allowed within the CH - Commercial Highway zoning districts. Further discussion about business categories occurred.

Ms. Daphne Loup introduced herself to the Commission and described her qualifications to operate such a business. Ms. Loup is requesting her business be allowed as a use by right within the C1 - Commercial zoning district. Her intention is

to include additional services to the IV hydration, such as red light, heat and hydro therapies.

Commissioner Martinisko asked if IV therapy requires a prescription from a physician. Ms. Loup responded that oversight by a Medical Director is required, and she has a Medical Director.

Commissioner Bruce stated the services seemed more personal than medical. Commissioner Martinisko commented that an ordinance amendment may be necessary to allow the business to operate. Discussion about the pros and cons of creating a new category and whether to create one as a use by right versus a conditional use occurred.

Lee Harstad introduced himself to the Commission and suggested the business could fit the category of "Restaurant, Bar and Lounge" as listed in Ordinance 17.32.020 (AM) by claiming the business is a wellness lounge. This would allow the business to continue to operate and prevent it from missing out on income during the upcoming fall events. Commissioner Martinisko expressed dismay at the idea of a Lounge classification.

Commissioner Martinisko requested clarification as to whether the business was currently in operation. Ms. Loup confirmed she has been operating her business. Mr. Kuchenbecker advised the Commission a letter was sent to Ms. Loup instructing her to cease operations since the business was not allowed in the location she began operating in.

State Representative Scott Odenbach introduced himself to the Commission and suggested the business be able to operate as a lounge temporarily until the ordinance can be amended to allow her business to operate at the location she desires. Quentin Riggins, City Attorney, warned that if the ordinance amendment does not pass, the business would be permanently classified as a lounge which could cause a problem in the future.

Ms. Loup complained about businesses in the city whom she believes are operating within the incorrect zoning classification. Discussion about legal non-conformity occurred, including the fact that if allowed to operate temporarily until the ordinance was amended, Ms. Loup's business would fall into the legal non-conforming category.

Ms. Loup stated she did not want to obtain a Conditional Use Permit and requested the ordinance be amended to allow her business to operate as a use by right so the value of her business would not be affected should she choose to sell it in the future.

***It was moved by Commissioner Bruce and seconded by Commissioner Owens to allow the business to temporarily operate under the category of a Lounge to allow the city time to amend the ordinance to include a category for wellness and/or spas as a use by right within the C1 - Commercial Zoning District. Voting yea: Martinisko, Bruce, Owens, Williams.***

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

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

Beverly Posey, Historic Preservation Commissioner, reminded the Commission that the Community Picnic would be held Sunday, September 7 at Gordon Park. In addition, the Farmer's Market will be open on Friday, September 5.

**7. Items from Staff**

Mr. Kuchenbecker briefly discussed ongoing budget meetings, the Stage Run development and the water redundancy line project.

**8. Adjournment**

***It was moved by Commissioner Williams and seconded by Commissioner Bruce to adjourn the Planning and Zoning Commission Meeting. Voting yea: Martinisko, Bruce, Owens, Williams.***

There being no further business, the Planning and Zoning Commission adjourned at 5:04 p.m.

ATTEST:

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Chairman, Planning & Zoning Commission

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Secretary, Planning & Zoning Commission

***Minutes by Leah Blue-Jones, Zoning Coordinator***