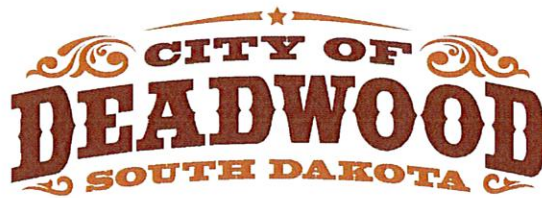


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**DEADWOOD CITY
HALL**
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June 27, 2023

Preacher Smith, LLC
Mr. Randall D. Horner
16 Peck Street
Deadwood, SD 57732

Sent via Certified Mail and Email

Re: The RIDGE at Deadwood
Ordinance Requirements
GPNA File No. 07857.0003

Dear Mr. Horner:

As legal counsel for the City of Deadwood, I have been directed by the Deadwood City Commission to complete a review on the process and approvals obtained by The RIDGE at Deadwood development project to date.

The following items and actions have been on the City Commission agenda.

- Project Plan/October 18, 2021

Jeremy spoke about the public hearing held for creating TIF#14 on Wednesday, October 6 and that Planning and Zoning Commission recommended approval. Tobin Morris, Senior VP Dougherty & Company, spoke about the process. Commissioner Martinisko questioned the amount in the project plan, total going from 10.5 to 15 million. Morris explained it was due to required turn lanes by DOT. Commissioner Todd agrees with Martinisko. Discussion was held concerning costs, itemizations, and cost of turning lane. After discussion, Martinisko moved, Johnson seconded to continue Project Plan for TIF #14. Roll Call: Aye-All. Motion carried.

- Resolution/October 18, 2021

Martinisko moved, Johnson seconded to continue Resolution 2021-23 to create TIF #14. Roll Call: Aye-All. Motion carried.

- Resolution/November 1, 2021

Due to no updated information for Resolution and Project Plan, Martinisko moved, Johnson seconded to continue Resolution 2021-23 to create TIF #14. Roll Call: Aye-All. Motion carried.

- Project Plan/November 1, 2021

Martinisko moved, Johnson seconded to continue Project Plan for TIF #14. Roll Call: Aye-All. Motion carried.

- Project Plan (Continued from November 1, 2021)/November 15, 2021

Discussion continued concerning the turning lane at a cost of two million dollars. Commissioner Martinisko reminded developers that this is an annual appropriation, not guaranteed. Commissioner Todd questioned if the turning lane is going to be required, the cost and the expenditure for turning lane is outside of TIF district so it will not be an asset to the city. Attorney Riggins stated nothing in state statute states that the city could not since it benefits the property located within the TIF. Public Work Director Nelson Jr. stated Dept. of Transportation will require a turning lane once it reaches an occupancy. Tobin Morris, Senior VP Colliers Securities, clarified state statute 11-9-14 states expenditures received or expected to be received by the municipality in connection with the implementation of the plan. He said for example a lift station for development that is a mile away but would have no use without the property located within the plan. After discussion, Martinisko moved, Johnson seconded to approve project plan for Tax Increment Finance District #14. Planning and Zoning Commission recommended approval on October 6, 2021. Roll Call: Aye-Johnson, Martinisko, Struble, Ruth. Nay-Todd. Motion carried.

- Resolution/November 15, 2021

Martinisko moved, Johnson seconded to approve Resolution 2021-23 to Create Tax Increment Finance District #14. Mayor Ruth Jr. thanked developers, engineers and Morris for all their work. Roll Call: Aye-All. Motion carried.

- Agreement/January 18, 2022

McKeown spoke about the agreement. Martinisko moved, Johnson seconded to allow Mayor to sign Development Agreement for The Ridge (TRD LLC) for Tax Increment District #14. Commission thanked Tobin Morris and Leah Berg for the work. Roll Call: Aye-All. Motion carried.

- Certification/February 6, 2023

Historic Preservation Officer Kuchenbecker spoke about the certification. Martinisko moved, Johnson seconded to allow Mayor to sign Planned Unit Development Certification for The Ridge development as required under DCO Chapter 17.72.090. Roll Call: Aye-All. Motion carried.

No formal action has been taken to exempt or grant a variance to the ordinances of the City of Deadwood with regards to this project. The Developers Agreement clearly states the following:

- b) DEVELOPER shall prepare, or cause to be prepared plans and specifications for the Public Infrastructure Improvements in each Phase prior to starting any construction in said Phase. DEVELOPER shall not commence any construction on the Project until the plans and specifications for each Phase have been approved in writing by the appropriate department of CITY and State of South Dakota when applicable
- j) DEVELOPER will comply with all City of Deadwood Ordinances.

Furthermore, the Developer Agreement and Project Plan is tied to the Tax Increment Financing District. Criteria must be followed to ensure the financing is not in jeopardy as well as the acceptance of the infrastructure by the City of Deadwood upon completion of the project.

We are aware of several items that do not meet the criteria set forth in City of Deadwood ordinances. Any variances must go through the required process prescribed in the ordinance itself. The Master Plan has been referenced but that document was never presented to the City Commission in a public forum and therefore never formally adopted and/or approved. Regardless if it had been, the procedure for variances on any City ordinances would still need to be followed.

The City Commission encourages you and your team to work with City staff on any variance requests on items that deviate from the required City ordinances. We understand timing is critical. Yet, there have been several improvements and actions taken to date within this development that have not been approved. It is extremely important to the City Commission that the appropriate action is taken through the proper channels as outlined in the Development Agreement.

I would be happy to discuss this matter in more detail if you so desire.

Sincerely,



Quentin L. Riggins

QLR:mck

CC: David R. Ruth, Jr., Mayor
Leah Berg, Engineer of Record
Lornie Stalder, Public Works Director
Jessica McKeown, Finance Officer
Kevin Kuchenbecker, City Planner
File