

## **DEADWOOD HISTORIC PRESERVATION COMMISSION**

**Wednesday, November 28, 2007 ~ 5:00 p.m.**

City Hall, 108 Sherman Street, Deadwood, South Dakota

1. Call meeting to order – Chair Willie Steinlicht
2. Review minutes.
3. Voucher approval.
4. Old Business
  - a. 382 Williams Street – Windows – Rand Williams
5. New matters before the Deadwood Sign Commission
  - a. 124 Sherman Street – Blondie’s IGA
  - b. Billboard Upgrades – Lamar Advertising
6. New Matters before the Deadwood Historic District Commission
  - a. 637 Main Street – Exterior Lighting – Patrick Kirwan
  - b. 81 Sherman Street – Windows – Peterson CPA
7. New matters before the Deadwood Historic Preservation Commission
  - a. Buena Vista – Planned Unit Development – Kevin Costner
  - b. 250 Main Street – Retaining Wall – First Gold
  - c. 183 Cliff Street – Demolition – Carl & Valerie Balzanti
  - d. 56 Adams Street – Roofing – James & Eunice Wilson
  - e. 23 Emery Street – Siding, Roofing, Foundation Repair – Melody Vanderlinde
  - f. 38 Jefferson Street – Windows – Fred & Natali Ormiston
  - g. Aerial Photograph print – HPC GIS Division
  - h. Past-Perfect Software Purchase – HPC Archives Division
  - i. Scanning project – HPC Archives Division
8. Revolving Loan Fund/Retaining Wall Grant Update.
  - a. Retaining Wall Applications
    - i. 18 Guy Street – Guy Edwards
    - ii. 476 Williams – John Walsh
  - b. Revolving loan disbursements
  - c. Retaining Wall disbursements
9. Items from Citizens not on agenda.
10. Committee Actions and Reports (*Committee Assignments on Back*)
11. Staff Report
12. Other business
13. Adjournment

*Executive Session – Legal Matters*

**CITY OF DEADWOOD**  
**HISTORIC PRESERVATION COMMISSION**

**Wednesday, November 28, 2007**

**Present Historic Preservation Commission:** Darin Derosier, Ronda Feterl, Mary Ann Oberlander, Mike Olsen, Steve Olson, Matt Pike and Willie Steinlicht. Historic Preservation Officer Kevin Kuchenbecker was also present.

**Absent Historic Preservation Commission:** None.

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**All motions passed unanimously unless otherwise stated.**

A quorum being present, Chairman Willie Steinlicht called the Deadwood Historic Preservation Commission meeting to order on Wednesday, November 28, 2007 at 5:00 p.m. in Deadwood City Hall located at 108 Sherman Street, Deadwood, SD.

**Review Minutes**

*It was moved by Mike Olsen and seconded by Ms. Oberlander to adopt a resolution to approve the minutes of November 14, 2007. Aye - Derosier, Feterl, Oberlander, M. Olsen, S. Olson and Steinlicht. Abstained – Pike. Motion carried.*

**Voucher Approval**

Operating Account:

*It was moved by Mr. Mike Olsen, seconded by Mr. Steve Olson to adopt a resolution to approve the HP Operating Account in the amount of \$28,991.12. Aye - All. Motion carried.*

Bonded Account:

None.

**SCI Engineering – Steve Dasovich**

Commissioner Steinlicht introduced Dr. Steve Dasovich from SCI Engineering. Dr. Dasovich explained that he was hired by the City of Deadwood's Historic Preservation Commission to conduct an architectural survey to update the information on the exterior of the buildings in Deadwood from the 1993 survey. He introduced his crew and explained they would be taking pictures around town over the next couple of weeks.

**AGENDA CHANGE**

*It was moved by Ms. Oberlander, seconded by Ms. Feterl to move agenda items 7 g, h and i to this position of the meeting. Aye - All. Motion carried.*

## **NEW MATTERS BEFORE THE DEADWOOD HISTORIC DISTRICT COMMISSION**

### **Aerial Photograph Print – HPC GIS Division**

Rob Mattox, GIS Coordinator, requested permission to update the aerial photograph mural that is currently on the wall in the Deadwood City Commission Room. He said it would be updated with photographs from the flight of April 2007, and added that it would be placed on ½” gator board backing which is a more rigid durable product. *It was moved by Ms. Feterl, seconded by Ms. Oberlander to approve the expenditure of \$1,900.00 to update the wall mural to be purchased from Horizon’s Inc. and paid from the 2007 GIS Departmental Budget. Aye - All. Motion carried.*

### **PastPerfect Software Purchase – HPC Archives Division**

Mike Runge, City Archivist, requested permission to purchase the PastPerfect 4.0 Museum Collection Management Software. He explained it would be compatible with other Deadwood repositories, including the Adams Museum and House. *It was moved by Mr. Mike Olsen, seconded by Ms. Feterl to approve the purchase of PastPerfect 4.0 Museum Collection Management Software, not to exceed \$2,500.00 and to be paid from the Public Education line item. Aye - All. Motion carried.*

### **Scanning Project – HPC Archives Division**

Mike Runge, City Archivist, explained that it is budgeted in 2008 to have a 35 mm slide collection digitized, but would like to pay for it with remaining funds from the 2007 Public Education line item, leaving the 2008 budget available for other projects. Mr. Runge added that the slides include 8,000 plus images taken by the Deadwood Historic Preservation Officer and the City Archaeologist between 1990 and 1995 and would be incorporated into the Deadwood IMS Project. *It was moved by Mr. Mike Olsen, seconded by Ms. Oberlander to approve the expenditure of \$5,700.00 to digitize the 35 mm slide collection with monies to be taken from the Public Education line item. Aye - All. Motion carried.*

### **Oversized Scanning Project – HPC Archives Division**

Mike Runge, City Archivist, requested permission to spend up to \$500.00 digitizing portions of the City’s architectural plans and maps. *It was moved by Mr. Mike Olsen and seconded by Ms. Oberlander to approve the expenditure of \$500.00 from the Public Education line item to digitize several large maps and other items. Aye - All. Motion carried.*

### **AGENDA CHANGE**

*It was moved by Mr. Mike Olsen, seconded by Ms. Feterl to move agenda items 8 a, b and c to this position of the meeting. Aye - All. Motion carried.*

## **REVOLVING LOAN FUND/RETAINING WALL GRANT UPDATE:**

### **Retaining Wall Applications**

#### **18 Guy Street – Guy Edwards**

*After a recommendation from Historic Preservation Officer, Kevin Kuchenbecker, it was moved by Mr. Steve Olson, seconded by Mr. Mike Olsen to continue the retaining wall application for 18 Guy Street. Aye - All. Motion carried.*

**476 Williams – John Walsh**

Mr. Kuchenbecker explained that it is the opinion of the Building Inspector, Keith Umentum, that the retaining wall is not life safety and that Kevin has concluded at this time it is not historic, nor is it threatening a historic resource at this time. *It was moved by Ms. Feterl, seconded by Mr. Mike Olsen to deny the application for 476 Williams Street based on it not fitting the program guidelines. Aye - All. Motion carried.*

**Revolving Loan Disbursements**

*It was moved by Mr. Mike Olsen, seconded by Mr. Steve Olson to approve the Revolving Loan fund disbursements in the amount of \$2,363.12. Aye - All. Motion carried.*

**Retaining Wall Disbursements**

John Hopkins – 308 Williams Street

*It was moved by Ms. Feterl, seconded by Mr. Mike Olsen to approve the expenditure for the retaining wall grant disbursement of \$20,753.00 to RCS Construction for 308 Williams Street/John Hopkins. Aye - All. Motion carried.*

**Delinquency Report**

Justin Charter from Neighborhood Housing Services, presented a delinquency report.

**OLD BUSINESS**

**382 Williams Street – Windows – Rand Williams**

City Attorney, Jason Campbell, explained that this matter originally came before the Commission in April 2006. The application was denied at that time and the matter was appealed to Circuit Court. He further explained that during the course of that appeal it was determined that the audiotape was inaudible and there was not a transcript of the proceedings; therefore, it is back for a rehearing to obtain a full record. He noted there was a court reporter present to make sure that everything is documented. Mr. Campbell stated the Commission would listen to Mr. Williams's application through his counsel, Robert Morris, and then make a decision.

Robert Morris, representative for Rand Williams, presented the Commission with a packet containing several photographs of the interior and exterior of the building at 382 Williams Street. Mr. Morris explained that Rand Williams is the owner of the property at 382 Williams Street and previously did not obtain a building permit, nor did he obtain any type of approval through the Historic Preservation Commission regarding changing out the sashes of the windows at this residence. Mr. Morris stated repeatedly that upon retrospect Mr. Williams clearly feels that he should have obtained the appropriate approval and that he probably would not have had to go through the endeavors that he has had to go through regarding the situation. Mr. Morris stated that he is coming before the Commission asking for reconsideration based upon the presentation that is presented at this meeting. Mr. Morris went on to say that the indication is that some people may wish that you rely upon the presentations of your previous decision, but is asking in order to get an adequate record and adequate consideration, the Commission make their decision based upon what is talked about at this meeting consistent with what the Commission believes is the right thing to do.

Mr. Morris explained the pictures included in the packet. He stated that the exterior coverings of the windows are aluminum storm windows, which are technically nonconforming, but they are grandfathered in because they existed prior to the historic designation of Deadwood. He said the windows themselves have not been touched. Mr. Morris noted another picture that was one of the exemplars of the sash that was replaced by Mr. Williams. He asked the Commission to notice that the framing and trim were not replaced, but were maintained as they existed and the only thing replaced was the sash and runner. Mr. Morris asked the Commission to look at additional photographs showing the interior and pointed out that there were wood windows that were maintained and it was the larger windows that were replaced. Mr. Morris added that Mr. Williams rents out this property and he had serious concerns about safety issues for ingress and egress. He said it was in Mr. Williams's opinion that the windows were in such a state of disrepair that replacement was appropriate, especially in light of the fact that this would be rented out and would need appropriate ways for escape if necessary. Mr. Morris explained how the pictures view in terms of aesthetics and how they blend into the existing framing and trim that was affected.

Mr. Morris stated repeatedly that Mr. Williams regrets not going through the process, but believes the reason he did not go through the process is that at the time he was merely changing out sashes in the windows. Mr. Morris added that upon reflection, Mr. Williams has realized that there is a greater, larger view of what goes on within the City of Deadwood in terms of the need for Historic Preservation. Mr. Morris added that the only way you can tell these windows are not technically historic, is if you go inside which is from an interior aspect. He said that from the exterior, for all intents and purposes, the historical aspect and integrity of this building has been maintained.

Mr. Morris said it is his understanding that at the time these windows were put in, the Deadwood Residential Neighborhood Guidelines were in place with a specific provision regarding windows. He said that under the guidelines it does indicate if repair is not feasible, then the window must be replaced matching the existing window as closely as possible. Mr. Morris stated Mr. Williams did not give the opportunity for anyone to make that determination, but did believe the windows were irreparable and did believe there were health and safety issues that were necessary for him to address and he chose to buy the windows. Mr. Morris stated that was probably the wrong decision at the time, but they are asking from an equitable standpoint to reconsider for these reasons.

Mr. Morris said the guidelines also indicate elements that should be carefully considered are size, frame material, method of operation, single or double glazing, dividers, etc., and goes on to indicate that the use of non-wood windows on historic buildings is appropriate only if the windows are appropriately colored, sized to match the original opening and provides historic appearance in terms of depth and shadow lines. He said the windows are vinyl case type windows and they are non-wood windows. He said the guidelines that were in effect at the time Mr. Williams changed the windows did not prohibit vinyl windows, and in fact, indicated that it is intended that they may be allowable if guidelines are followed. He went on to say the whole window was not changed, just the sash. Mr. Morris said he felt the windows maintain the historic integrity and appearance of the building as it exists.

Mr. Morris said they are asking for project approval at this time and also submits that with project approval the Commission may put conditions on the property so that it does not happen again. He said after discussion with Mr. Williams and the City Attorney, they are willing to put appropriate covenants on the property so that if Mr. Williams does anything else it must be historically correct and he must follow the process; when the storm windows have to be replaced they are historically correct replacements. In

addition, in the future, if Mr. Williams were no longer the owner the appropriate covenant would always be on the property. He explained that in a title opinion, it would be constructive notice that if things are done to the outside of the house regarding aluminum storm windows, appropriate historic windows must be used.

Ms. Feterl asked Mr. Morris to further explain that the windows are aluminum storm and nonconforming, however grandfathered in. Mr. Morris explained that these storm windows have been on this house for years, prior to the jurisdiction regarding the historic aspect of the home. He said if something were to be done with the storm windows the historic process would have to be gone through.

Kevin Kuchenbecker explained that previous staff reports indicate that project approval was not obtained and if this had been done, staff could have worked with the homeowner to determine if the windows could have been repaired or a suitable material decided upon.

Mr. Pike asked how the Deadwood Residential Neighborhood Design Guidelines have changed, to which Mr. Kuchenbecker said the guidelines have not changed. Mr. Pike asked Mr. Morris if Mr. Williams referred to those guidelines before making his decision to put in replacement sashes, to which Mr. Morris stated he did not. However, Mr. Morris reiterated that the residential guidelines do not prohibit, in fact, allow non-wood windows or sashes under certain conditions as outlined in the residential guidelines. Mr. Pike said that the applicant moved forward and took steps absent any reference to what the standard was, whether it was one that would benefit the choices he made and secondly, is that consequently he did not follow through with any of the appropriate steps. Therefore, the Commission as it stood in time never had the benefit of knowing the condition of the windows and wonders if they could they have been repaired or replaced with a like material. He said it appears the applicant took all steps without any reference to the governing bodies that apply, whether it is the City in the way of a building permit or Historic Preservation.

Mr. Morris said the Commission's jurisdiction is over the exterior of the building and he believes that Mr. Williams did not believe that he needed a building permit or Historic Preservation Commission approval to change a sash. He said that now Mr. Williams realizes he has made a mistake and has been back before the Commission regarding other matters since that time.

Ms. Feterl stated the challenge she is facing is that it is difficult for the Commission to look at whether or not the windows were in disrepair because that information was not available. She added that the Commission follows the Secretary of Interior standards and those recommendations would have been communicated had Mr. Williams initially come forward and got the building permit and project approval. Mr. Morris responded to Ms. Feterl by saying that in terms of all the items not recommended, the only thing that Mr. Williams would have done differently that was not recommended was material.

Mr. Morris asked the Commission to view the situation from an equitable and fair standpoint. He reiterated that Mr. Williams "got the message" and he believes that from this situation everyone else will also get the message and it will not happen again.

Mr. Derosier said one of the things he looks at is whether it is interior or exterior and whether it is truly an exterior alteration. He stated he is struggling with this because it appears to be both interior and exterior. Although, he said it does not appear to take anything away from the exterior of the building.

Ms. Oberlander stated her struggle remains with the fact that Mr. Williams did not apply for a building permit or project approval, because had that been done it would have been a different decision and Mr. Williams would have had the opportunity to make some choices. She stated the Commission did not get to say yes or no before the windows went in, and for all the people who do go through the process correctly, feels it is not fair to them by allowing someone who did not go through the process to suddenly be okay. Mr. Derosier said he agreed, but maybe they could come up with something to penalize the applicant for not following procedure.

Mr. Pike said the difficulty with resolving this issue is that because the applicant innocently overlooked the proper procedures, the Commission puts themselves in a situation where in the future if this kind of thing occurs, they are setting themselves up for standards where they have to determine whether it was intentional or unintentional and deciding the state of mind of the applicant.

Mr. Steve Olson said much has been said about referring to the Deadwood Residential Neighborhood Guidelines and the Department of Interior Standards and there seems to be a disagreement where one is more stringent than the other. He said it is his understanding that when you have a conflict you use the more stringent of the rules and/or laws. Mr. Morris responded that he did not know if the illustrated guideline for rehabilitating historic buildings has always been in place. He said if that is the case, what you have is the residential guidelines that some may go to and follow and then find out there are others that are stricter. He said what happens when there are two entities that have the same jurisdiction such as the State of South Dakota and City Ordinance is that if the State of South Dakota law is more restrictive than the City Ordinance the State law is applied. He added that what you have is the illustrated guidelines for rehabilitating historic buildings, then you have the Deadwood Guidelines and if he were to read the Deadwood Guidelines he would think these are the primary guidelines to follow.

Mr. Morris said he understands the Commission is struggling with this and wondered if the City Attorney, Mr. Williams and the Historic Preservation Officer could come up with proposals that would allay everyone's fears concerning either setting precedence or being disrespectful to people who have followed the process. He said maybe something could be put forth that could be educational to other people. He stated they are not asking for any special treatment, but they are asking for equitable consideration of what they believe to be a transition between the Deadwood Guidelines and the Historic Guidelines.

Ms. Feterl asked Mr. Kuchenbecker if vinyl replacement windows have been approved for such applications to which Mr. Kuchenbecker stated that he was not aware of any on a contributing structure.

Mr. Campbell said he has looked at the Deadwood Residential Neighborhood Design Guidelines, the Secretary of Interior Standards for rehabilitation, and the illustrated guidelines for rehabilitating historic buildings and does not know that they really conflict or that one is stricter than the other. He said in reading through it the main intent seems to be that if you are going to replace windows you need to match the existing windows as closely as possible. He added that in his opinion both guidelines are fairly clear and the existing material is your starting point. He felt both guidelines could be read in conjunction with one another.

Mr. Rand Williams approached the Commission and stated that he has come through this process much better informed about what is allowed and not allowed in terms of improvements. However, he said he

does feel that he made an improvement to the property and to the residents that reside in this home. He said he did not know that project approval was a requirement, but does know that now. He reiterated Mr. Morris' comments that he would be willing to condition that property with a covenant; that if there were any changes in the storm windows it would be a requirement to comply with both the Deadwood Historic Guidelines and the Secretary of Interior Standards.

Mr. Pike stated that he is impressed with the idea that Mr. Williams not be harshly penalized, but perhaps continue this matter for one more chance at discussion between the City Attorney, the Historic Preservation Officer, Mr. Morris and Mr. Williams to see if there is an option to have Mr. Williams contribute to some sort of educational campaign to avoid these kinds of situations in the future without having to suffer the severe economic impact of removing all of the windows. *It was moved by Mr. Pike, seconded by Mr. Derosier to continue this one more time to allow the opportunity to explore the previously stated options if all parties are willing. Mr. Steinlicht added that along with the education Mr. Williams should inform the public of the procedure of applying for a Certificate of Appropriateness. Roll Call: Aye – Derosier, Oberlander, Mike Olsen, Steve Olson, Pike and Steinlicht. Opposed – Feterl. Motion carried.*

#### **NEW MATTERS BEFORE THE DEADWOOD SIGN COMMISSION:**

##### **124 Sherman Street – Blondie's IGA**

*It was moved by Mr. Mike Olsen and seconded by Mr. Steve Olson to approve the sign at 124 Sherman Street/Blondie's IGA with a variance to increase the height from two (2) feet to four (4) feet and a variance for it being more than ten (10) feet from the entrance. Aye - All. Motion carried. (The staff report is attached hereto on Exhibit A and incorporated herein by this reference.)*

##### **Billboard Upgrades – Lamar Advertising**

Mr. Kuchenbecker explained that the applicant, Lamar Advertising, is requesting permission to upgrade four existing billboards in Deadwood. Terry Olson with Lamar Advertising explained that they have four locations with seven (7) faces that they would like to maintain. He explained to the Commission that in prior times the billboards had plywood faces and they would physically take down the plywood face, repaint it and hang it back up. He stated that times have changed and now the billboards have steel faces to which they apply paper. He went on to say that with everyone "going green" they would like to replace the paper with a lightweight vinyl, wrapping the entire face with vinyl that can be recycled. He said the actual advertising area would not change; however, the trim is a lot smaller. Mr. Terry Olson said he understood that signs give the Commission heartburn, but he is appearing to see what he can do to be allowed to replace them. In addition, Mr. T. Olson said in some locations he does have long-term leases that will probably never go away and he is hoping to partner up with the Commission to make them more presentable.

Ms. Feterl questioned whether or not one of the properties has exchanged hands, to which Mr. T. Olson said it had, but that was not the issue at hand. Mayor Francis Toscana said it would not make sense to give approval for the one at the Gold Dust because as he interprets the ordinance the billboard would have to be removed if ownership was changed. Mr. T. Olson respectively added that this is not the issue and also stated that he believes that part of the ordinance is illegal. He said the City could take the sign, but

would have to pay them just compensation. He said he is asking the Commission to put that issue away and concentrate upon what he is asking and deal with the other issue later.

Mr. T. Olson repeatedly asked what could be done to make the signs historically correct. Mayor Toscana questioned whether or not the ordinance states that if the sign is altered it has to come down. City Attorney, Jason Campbell, interjected to say he agrees with both parties. He said it would be a City Commission decision as how to enforce the ordinance, but at the same time that has nothing to do with what the Historic Preservation Commission decides as far as it being historically appropriate to approve or deny the application.

Mr. Steinlicht stated that it was recommended by the Sign Committee to follow the billboard guidelines. Mr. Mike Olsen said that it will visually change the signs a great deal and therefore, they will be altered which is where the historical content becomes completely lost. Mr. Pike asked what exactly was a historic billboard, to which Mr. Kuchenbecker stated that is difficult to determine. He added that in looking at old photos, signs were in many places.

Ms. Feterl told Mr. T. Olson that he needed to appreciate the guidelines that the Commission must follow. Mr. Pike said there is a part of the ordinance that addresses amortized elimination, to which Mr. T. Olson stated that amortization according to law is illegal. Mr. Kuchenbecker said it is a Catch-22 situation because if they allow the signs to be historically more accurate it is an alternation and therefore in violation of the ordinance. Mr. Mike Olsen said he was not even looking at the ordinance, but at the Secretary of Interior Standards. Mr. T. Olson said he could keep the same trim, but his main motive was to change the steel behind the sign, as it is rusting.

Ms. Oberlander asked Mr. Kuchenbecker if there were any alternatives that could be met to which he replied that there probably could be. Ms. Feterl felt the issue was two-fold; dealing with the ordinance, which is not a Historic Preservation Commission decision, and looking at what type of trim would be more appropriate as far as keeping the historic nature, which would be the issue for Historic Preservation to deal with. Mr. Pike said he sees nothing in the application that seems to conform to what the duty of the Commission would be, which is to judge the historic appropriateness of the application. ***It was moved by Mr. Pike, seconded by Feterl to deny the application as it is and hope that the applicant continues to work with the City of Deadwood towards a possible resolution. Aye - All. Motion carried.*** (The staff report is attached hereto on Exhibit B and incorporated herein by this reference.)

## **NEW MATTERS BEFORE THE DEADWOOD HISTORIC DISTRICT COMMISSION:**

### **637 Main Street – Exterior Lighting – Patrick Kirwan**

Mr. Scott Odenbach, representative for Patrick Kirwan, appeared before the Commission. He explained this matter arose in October 2007 concerning exterior modifications to the building at 637 Main Street and the need to get a Certificate of Appropriateness. He explained the photographs that were presented of the building; two different types of lighting, chains, speakers and electric conduits. He added that he spoke with his client and asked him what he based his decision on when the modifications of the building were made. Mr. Odenbach said Mr. Kirwan looked at the surrounding buildings and tried to match them as closely as possible. Mr. Odenbach said when he looked at the ordinances, it seemed to be that the standards for exterior modifications were that they conform to the type of building and its surroundings.

Mr. Odenbach said the letter his client received from the City said to take it all down and do an exterior modification. He went on to say that he had talked to Jason Campbell and told him that they would prefer a situation where they could leave up the lighting until an alternative is arrived at. He also added that Mr. Kirwan looks forward to working with staff to bring it to conformity.

Mr. Kuchenbecker recommended that the project be denied and to work with the applicant on a design solution. *It was moved by Mr. Mike Olsen, seconded by Mr. Pike to deny the Certificate of Appropriateness for Patrick Kirwan at 637 Main Street as submitted, with a stipulation that the building can remain as is for up to 90 days. Aye - All. Motion carried.* (The staff report is attached hereto on Exhibit C and incorporated herein by this reference.)

### **81 Sherman Street – Windows – Peterson, CPA**

Kevin Kuchenbecker explained that the building is a non-contributing resource. He explained the applicant wants to replace two sliding windows on the southeast side of the building with the same size wooden windows. He added the applicant also proposes to install three (3) new thermal pane glass windows on the inside of the existing metal frame windows and re-glaze and paint the existing windows on the exterior. *It was moved by Mr. Derosier, seconded by Ms. Feterl to approve project approval for the Certificate of Appropriateness for 81 Sherman Street. Aye - All. Motion carried.* (The staff report is attached hereto on Exhibit D and incorporated herein by this reference.)

## **NEW MATTERS BEFORE THE DEADWOOD HISTORIC PRESERVATION COMMISSION**

### **Buena Vista – Planned Unit Development – Kevin Costner**

Kevin Kuchenbecker explained that Michael Reynolds, representative for the Buena Vista Planned Unit Development, is requesting project approval to grade and clear property in Buena Vista Tract located in the Hillside Environs Historic Overlay District in the City of Deadwood. He added that the tract of land contains archaeologically significant features including segments of the historic Whitewood & Boulder Ditch water conveyance system dating to circa 1877. He said the proposed development also contains another archaeological feature, which is the Placer Claim on Civilizer's Gulch consisting of a network of water ditches and sluicing works. Mr. Kuchenbecker explained that the applicant has worked with the Historic Preservation Office to hire an archaeologist to record significant archaeological features. Mr. Kuchenbecker added that upon receipt of the archaeological report, he has met with the applicant's landscape planner, Patrick Wyss, and came up with some options that changed the layout to minimize the adverse effect.

Mr. Reynolds added that they have reconfigured the proposed planning development to accommodate as much of the ditches as humanly possible. Mr. Reynolds went on to say that the project has been a collaborative effort between the Bureau of Land Management and the City of Deadwood.

Mr. Kuchenbecker pointed out that on the staff report he reported it would have an adverse effect because part of the ditch is being lost, but stated they have come up with some mitigation and protective measures to preserve as much as possible.

Mr. Reynolds showed the Commission a map and explained that a slight bit of the subdivision has been designated as potential commercial development for the purposes of seeking an economic development

TIF. Mr. Reynolds added that there would be hiking trails so people can actually see the ditch and know the historical significance of it.

Mr. Reynolds explained that if there was any way to do this development and preserve the ditch completely, they would, but given the terrain it would be impossible. Mr. Mike Olsen expressed his appreciation for the new design in the way the lot lines were drawn. He said the ditch runs either at the face of the lot or toward the rear of the lot, therefore the house that is built does not go right on the ditch, preserving the ditch on each individual property.

Mr. Steinlicht reiterated his comments as to when the first house would be seen, as he does not want to see what has been seen previously; five or six years of nothing but roads. Mr. Reynolds responded by saying that if this application is passed the Planned Unit Development Application will hopefully be on Bernie Williams' desk next week. He then hoped they could move dirt in the spring with houses to follow in the summer. Mr. Derosier asked if any lots had been sold yet, because he hates to have a development start with no lots having been sold. Mr. Reynolds said no lots have been sold, but there has been a significant amount of interest.

***It was moved by Mr. Pike, seconded by Mr. Mike Olsen to grant project approval. Although the proposed work and changes will have an adverse impact on the historic character of the Deadwood National Historic Landmark, the applicant has taken measures to protect part of the resource and mitigate the balance from an interpretation plan.*** Mr. Derosier added that there are already a couple of developments in town that are at a standstill and there is a lot of land available. He said that with developments that are not selling he did not feel another one was needed at this point. ***Roll Call: Aye – Feterl, Oberlander, Mike Olsen, Pike and Steinlicht. No – Derosier and Steve Olson. Motion carried.*** (The staff report is attached hereto on Exhibit E and incorporated herein by this reference.)

### **250 Main Street – Retaining Wall – First Gold**

Kevin Kuchenbecker explained the new application to construct a retaining wall within the existing parking area at 250 Main Street in the Fountain City Historic Overlay Zone in the City of Deadwood. He added the applicant proposes to construct a retaining wall with a landscaped planter within the parking area between the Terrace Hotel and the First Gold gaming establishment. He said the proposed work and changes would not have an adverse effect on the character of the buildings and the historic character of the Deadwood National Historic Landmark District.

Brad Hemmah explained the reason for the requested project is to do away with the grade because it is a problem for wheel traffic, foot traffic and drainage.

Mr. Mike Olsen expressed his appreciation for a project coming forward that actually follows the Design Guidelines and the Secretary of Interior Standards. Ms. Feterl thanked the applicant for their cooperative efforts. ***It was moved by Mr. Mike Olsen, seconded by Ms. Feterl to grant project approval to Mike Gustafson at First Gold for the retaining wall in the parking lot between the Terrace Hotel and First Gold. Aye - All. Motion carried.*** (The staff report is attached hereto on Exhibit F and incorporated herein by this reference.)

**183 Cliff Street – Demolition – Carl & Valerie Balzanti**

Kevin Kuchenbecker explained that the Balzantis are seeking demolition of the historic “chicken coop” which is located behind 183 Cliff Street. He explained that 183 Cliff Street is noncontributing, but it is associated with 185 Cliff Street which is contributing. Mr. Kuchenbecker added that in the 1993 Architectural Survey the chicken coop is listed as contributing. He said the applicant proposes to demolish the building due to rot and disintegration and added the applicant feels this loss is due to the actions of the Historic Preservation Commission. Mr. Kuchenbecker said the proposed work would have an adverse effect on the historic character of the building and historic character of the Deadwood National Landmark Historic District. He added that should the applicant be granted Project Approval for the demolition of this resource, recordation should be required.

Mr. Henry Cordes stated he lives at 7 Calamity Lane, which is right behind the chicken coop. He said the light reflects from the roof of the coop into his home. He added that he sees no useful purpose for the coop and that it has a metal roof over shingles.

Jody Kuntz explained that the chicken coop sits in a low lying area on the two lots and during the freeze and thaw of winter water rushes in and pools around the coop. She said this is what has ultimately caused the damage to the foundation and due to the water the interior boards are rotted out. She added that another problem with the coop is that when the structure was placed there the property line was different than it is today. She said the original property line sat back five (5) feet and when the new condominiums were built, they were resurveyed and found that the lot line was different, so where the chicken coop sits today it is within one (1) foot of the property line. She said from a contractor’s point of view, they have looked at the interior and have talked to Kevin Kuchenbecker and Keith Umentum about a way to restore the chicken coop. She said to restore the chicken coop you would need to elevate it to pull it out of the drainage slope. She also questioned, from a legal standpoint, if you elevate the structure and you move it back off of the property line does it still retain historical value. She said another point is that surrounding buildings and structures adversely affect the historical value, to which she feels the historical value has been adversely affected due to the development of the townhouses. So she questioned if this really is a historical structure.

Ms. Kuntz also asked if the chicken coop is not demolished and has to be restored, who would pay for the restoration of it, as the Balzanti’s resources have been exhausted. She also stated that it is an eyesore and does not serve a purpose. She said if the Commission would like to put the money into restoring the structure the Balzantis would like to see it in the form of a grant.

Mr. Steinlicht said there are many properties in Deadwood that do not set back five (5) feet. Mr. Steinlicht asked Ms. Kuntz if the walls deteriorated since the condos were built. Mr. Kuntz stated it had probably deteriorated over a very long, long period of time since it was built in the 1930s. Mr. Cordes said that at one time before the streets were put in at Peck and Ryan Road, the water came down by Stratton’s and around through the lot and probably flooded that area quite a bit at that time. He said to cure the problem a concrete ditch was placed alongside the property line. He added that since the streets have been put in the water does not come down along there anymore.

Ms. Feterl asked if it would affect the status of the property if it was raised and moved. Mr. Kuchenbecker said moving it to another site or location or off premises has an adverse affect. Ms. Kuntz asked if there would have to be a setback if it was raised and moved, to which Mr. Kuchenbecker said that

would be a Planning & Zoning question. Ms. Kuntz said they have tried to construct a fence and the fence is almost complete. She said it is up to the point of the chicken coop where it meets the roof. She said the roof of the chicken coop overextends the property line so they stopped construction of the fence until a decision is made.

Mr. Derosier wondered if the building would fall apart anyway if it were raised. Mr. Kuchenbecker said the structure could be saved, but did not know if it was economically feasible. Ms. Kuntz asked if a feasibility study should be done, to which Mayor Toscana asked who would be responsible for the cost of doing so. ***It was moved by Mr. Derosier to approve project approval for demolition of the chicken coop located at 183 Cliff Street due to the fact that it is not reconditionable, with the applicant getting proper recordation of the structure. Ms. Feterl seconded for discussion. Aye – Derosier. No – Feterl, Oberlander, Mike Olsen, Steve Olson, Pike and Steinlicht. Motion failed.***

Mr. Mike Olsen said he did not feel the Commission needed to hire an engineer for the project. He suggested that Keith Umenthum, Kevin Kuchenbecker and the contractor get together and really look the structure over and come up with a ballpark figure to preserve it for possible future rehabilitation. Mayor Toscana stated he did not feel that should be the role of the City staff. Mayor Toscana added that he believed the Commission would like to have an appraisal done on the structure. Mr. Steve Olson said they needed to know what it would take to stabilize the structure to protect it from further degradation.

Ms. Kuntz asked the Commission if the historical value of the structure was still intact with the addition of the new condominiums surrounding it. Mr. Mike Olsen responded by saying it was and the problem is the City of Deadwood is a National Historic Landmark, and the buildings in town are listed as either contributing to the status as a national landmark or noncontributing to the status. He added that as contributing buildings are lost, the status starts moving into jeopardy and theoretically, at some point in time, landmark status could be lost and the Commission cannot let that happen. He stated that is why he is reluctant to grant permission to take down the structure without thinking very hard about it first.

Ms. Kuntz asked if her construction company's opinion alone would satisfy the Commission or would they want several opinions, to which Mr. Mike Olsen responded that her opinion would be sufficient. Ms. Kuntz then asked if there would be grant money available. Mr. Mike Olsen said she would have to talk to Joy at Neighborhood Housing Services about that.

***It was moved by Mr. Pike, seconded by Mr. Mike Olsen to continue this matter to the first meeting in January 2008 to allow Ms. Kuntz ample time to work up a proposal. Aye - All. Motion carried.*** (The staff report is attached hereto on Exhibit G and incorporated herein by this reference.)

#### **56 Adams Street – Roofing – James & Eunice Wilson**

Mr. Kuchenbecker explained that he felt the applicant needed to provide additional information in order for staff to fully review the project. ***It was moved by Mr. Steve Olson, seconded by Mr. Pike to continue project approval for the new garage and re-roofing at 56 Adams Street. Aye - All. Motion carried.*** (The staff report is attached hereto on Exhibit H and incorporated herein by this reference.)

#### **23 Emery Street – Siding, Roofing, Foundation Repair – Melody Vanderlinde**

Mr. Kuchenbecker explained that the applicant is seeking approval for siding and window replacement at 23 Emery Street. He added that it is a contributing structure in the Highland Historic Overlay Zone of the

City of Deadwood. *It was moved by Mr. Mike Olsen and seconded by Ms. Feterl to grant project approval as presented. Aye - All. Motion carried. It was then moved by Mr. Mike Olsen and seconded by Mr. Derosier to accept Melody Vanderlinde at 23 Emery Street into the window and siding programs. Aye - All. Motion carried.* (The staff report is attached hereto on Exhibit I and incorporated herein by this reference.)

**38 Jefferson Street – Windows – Fred & Natali Ormiston**

Mr. Kuchenbecker explained that this is a contributing structure located in the Ingleside Historic Overlay Zone of the City of Deadwood and built in 1879. *It was moved by Ms. Feterl and seconded by Mr. Derosier to grant project approval to install wooden window sashes at 38 Jefferson. Aye - All. Motion carried. It was then moved by Ms. Feterl and seconded by Mr. Derosier to recommend acceptance into the window program for 38 Jefferson. Aye - All. Motion carried.* (The staff report is attached hereto on Exhibit J and incorporated herein by this reference.)

**ITEMS FROM CITIZENS NOT ON AGENDA:**

**422 Williams Street – Garage – Randi Coddington**

Jim Chadwick appeared before the Commission requesting permission to complete the garage by placing a flat surface roof on it. *It was moved by Ms. Feterl and seconded by Mr. Mike Olsen to grant project approval to construct a garage at 422 Williams Street. Aye - All. Motion carried.* (The previous staff report is attached hereto on Exhibit K and incorporated herein by this reference.)

**COMMITTEE ACTIONS AND REPORTS:**

Advocacy: Commission representatives: Ronda Feterl (chair), Mike Olsen and Willie Steinlicht  
No report was given.

Archeology: Commission representatives: Mike Olsen (chair), Darin Derosier and Willie Steinlicht  
No further report was given.

Archives: Commission representatives: Mike Olsen (chair), Steve Olson, and Matthew Pike  
No further report was given.

Budget: Commission representatives: Ronda Feterl (chair) and Mike Olsen  
No report was given.

Cemetery: Commission representatives: Steve Olson (chair), Mary Ann Oberlander and Matthew Pike  
Mr. Steve Olson stated there was a survey being done at St. Ambrose Catholic Cemetery.

Demolition by Neglect: Commission representatives: Mike Olsen (chair) and Steve Olson  
No report was given.

GIS: Commission representatives: Steve Olson (chair), Mary Ann Oberlander, and Matthew Pike  
Mr. Steve Olson stated that at the last meeting they talked about developing a fee schedule. He added that Rob Mattox has been working on a data base project for Mt. Moriah and Oakridge and when finished a ground proof check will also need to be completed.

Grants: Commission representatives: Mary Ann Oberlander (chair), Ronda Feterl and Willie Steinlicht  
No report was given.

Homestake Archives: Commission representatives: Ronda Feterl (chair) and Mike Olsen  
No report was given.

Loans: Commission representatives: Ronda Feterl (chair), Darin Derosier and Willie Steinlicht  
No report was given.

Policies and Procedures: Commission representatives: Matthew Pike (chair) plus entire HPC  
No report was given.

Signage: Commission representatives: Willie Steinlicht (chair) and Darin Derosier  
No report was given.

Recognition: Commission representatives: Mary Ann Oberlander (chair) and Ronda Feterl  
No report was given.

Representative to the Adams Museum: Commission representative: Mary Ann Oberlander  
No report was given.

Representative to the Chamber: Commission representatives: Darin Derosier (chair) and Willie Steinlicht  
No report was given.

Representative to the Days of '76 Board: Commission representative: Steve Olson  
Mr. Steve Olson said the Days of '76 Board met and reviewed fund raising for the new museum, as well as starting construction of their new building. He also stated that the Ft. Pierre to Deadwood Trail Group met and in August 2008 the wagon train will be arriving in Deadwood from Ft. Pierre, which will commemorate the ending of the usage of the Ft. Pierre to Deadwood Trail. He also added that this would be quite a big event due to the number of requests, in addition to the wagon train arriving at the same time from Cheyenne.

Representative to NHS: Commission representative: Willie Steinlicht  
Mr. Steinlicht stated that Michelle Eddy from Neighborhood Housing Services is looking for families or children that will be in need at Christmastime. She has an individual who would like to help those in need, but the names of the individuals would be kept confidential.

Representative to Planning & Zoning: Commission representative: Mike Olsen  
Mr. Mike Olsen reported that the variance was approved for the Days of '76 and they approved a conditional use permit for a townhouse/condominium at 3 Cemetery Street. They also approved the findings of fact for the conditional use permit for the office at 789 Main Street.

Historic Preservation Staff:  
Kevin Kuchenbecker reported that December 3, 2007 was the opening for the HARC Project bids.

**OTHER BUSINESS:**

None.

**ADJOURNMENT:**

Hearing no further business to come before the Commission at this time and no objections from the commission or the audience, Chairman Steinlicht adjourned the meeting at 7:40 pm to executive session with no action to be taken.

ATTEST:

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Willie Steinlicht  
Chairman, Historic Preservation Commission  
Ronda Morrison, Recording Secretary