CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

May 5, 2010 JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson (Acting)Larry Ryan on Wednesday May 5, 2010 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Sheree Green, Marie Farrier, Larry Ryan, and Mel Allen.

ABSENT PLANNING & ZONING: Jim Shedd.

PRESENT BOARD OF ADJUSTMENT: Georgeann Silvernail and Lenny Schroeder *

ABSENT BOARD OF ADJUSTMENT: Mayor Francis Toscana, Joe Peterson and Mike Klamm.

*** Due to lack of quorum, the Joint Meeting for the Planning & Zoning Meeting was held without the Board of Adjustment. The Board of Adjustment decisions would be made at the May 10, 2010 City Commission Meeting.**

APPROVAL OF MINUTES:

Ms. Farrier moved to approve the minutes of the April 7, 2010 Joint Meeting, as mailed. Ms. Green seconded and the motion carried.

All in favor - 4
Opposed - 0

SIGNS:

DEADWOOD FRONTIER CLUB – 681 MAIN STREET – HANGING A 3'X 1' SIGN FROM EXISTING SIGNAGE WITH A 3' SQUARE FOOT VARIANCE

Mr. Umenthum stated that the applicants were requesting approval to add to an existing projecting sign at 681 Main Street. The applicant is proposing a "sign rider" to existing signage. The building frontage is 32 feet and has the maximum allowable signage. A 3 square foot variance is required from section 15.32.270-2(b)of the Sign Ordinance, due to "The maximum area of one face shall not exceed one square foot of building frontage, subject to a maximum of thirty-six (36) square feet."

Staff recommends approval of the new signage with the size variance of 3 square feet with the understanding that no more signage is allowable at the location.

Ms. Farrier moved to approve the signage for Deadwood Frontier Club at 681 Main Street with the 3 square foot variance. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

NEIGHBORWORKS DAKOTA HOME RESOURCES – JUNCTION OF MT. ROOSEVELT RD AND HIGHWAY 85 – TEMPORARY SIGNAGE AND WAIVER OF FEE

Mr. Umenthum stated that the applicants were requesting to display a temporary off premise sign to advertise an open house in the Stage Run subdivision on April 30, 2010. Mr. Umenthum stated that the application and approval by the Planning and Zoning Commission is "after the fact". Mr. Umenthum stated that he had asked a representative of NeighborWorks to attend the meeting to explain why the application was after the fact; no one was in attendance. He therefore, recommended approval of the temporary sign on the condition that the sign permit is paid.

Mr. Allen moved to approve the temporary off premise sign for NeighborWorks Dakota Home Resources with the condition that the sign permit fee be paid. Ms. Green seconded and the motion carried.

All in favor - 4
Opposed - 0

LEAD-DEADWOOD PARENT TEACHERS ASSOCIATION – 716 MAIN STREET – TEMPORARY BANNER AND FEE

Mr. Umenthum stated that the applicants were requesting to display a temporary banner for "Teacher and Staff Appreciation Week" at 716 Main Street. The banner would be displayed from May 6-7, 2010. Staff recommends approval of the banner and waiver of the banner permit fee.

Mr. Allen moved to approve the temporary banner for Lead-Deadwood Parent Teachers Association at 716 Main Street on May 6-7, 2010 and the waiver of the permit fee. Ms. Farrier seconded and the motion carried.

All in favor - 4
Opposed - 0

PUBLIC HEARINGS:

PUBLIC HEARING FOR A REQUEST FOR A CONDITIONAL USE PERMIT FOR A DWELLING UNIT – MODULAR

Mr. Nelson referred to the following staff report:

STAFF REPORT
PLANNING AND ZONING
REQUEST FOR DWELLING UNIT – MODULAR

APPLICANT: Robert and Barb Shallenkamp

PURPOSE: Request for Conditional Use Permit for a Dwelling Unit – Modular

LEGAL DESCRIPTION: Lot Two (2) in Block (1) of Zoeckler and Sasse Addition to Deadwood (Also known as the Spruce Gulch Addition to Deadwood), as set out in Plat Book in the Lawrence County Register of Deeds according to Plat of Richard G. Anderson, US Deputy Mineral Surveyor, as Subdivision of M.S. 681, Said City of Deadwood.

Lots 3,4,5,6,7 and 8, In Block 1, of Spruce Gulch Addition to the City of Deadwood, together with all improvements thereon and appurtenances thereto belonging.

ADDRESS: 9 Sampson Street

ZONE: R-2 Multi-family Residential District

FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE: FOR: AGAINST:

STAFF FINDINGS:

Surrounding Zoning:		Surrounding Land Uses
North:	R-2 Multi-family/PU – Public Use	Residential/ Sports Complex
South:	R-2 Multi-family/ PF – Park Forest	Residential/ Vacant lands
East:	R-2 Multi-family/ PF – Park Forest	Duplex Home/ Forest
West:	R-2 Multi-family/ PF – Park Forest	Bed and Breakfast/ Forest

SUMMARY OF REQUEST

The petitioner has submitted a request for a Conditional Use Permit for a Dwelling Unit – Modular. The property currently contains a single family dwelling unit and they have been given permission to tear it down. The petitioner is asking for a Conditional Use Permit to allow them to use a modular home in an R-2 Multi-family Residential District.

FACTUAL INFORMATION

1. The property is currently zoned R-2 Multi-family Residential District.
2. The property is comprised of two parcels. The first parcel which the house currently sits now is 5,586, plus or minus, square feet. The second parcel which will have a portion of the new modular home on it is 38,486, plus or minus, square feet.
3. The property has off street parking on the property.
4. The property has access from Spring Street.
5. There is limited commercial use in the vicinity. The land is located in a mixed use neighborhood and is classified as moderate density residential on the adopted Land Use Map in the Deadwood Comprehensive Plan.
6. The land is located outside of Flood Zone X – Area's of 500 year flood and outside of areas of 100-year flood.

7. Adequate public facilities are available to serve the property.

STAFF DISCUSSION

The petitioner has submitted a request for a Conditional Use Permit for a Dwelling Unit – Modular in an R-2 Multi-family Residential District. Mr. and Mrs. Schallenkamp worked together with the Historic Preservation staff to meet all of the criteria for their new modular home given their location. The builder of the modular home, Schult Homes, has verified to Keith Umenthum, Building Inspector, that the modular construction meets all of the codes. It is compliant with HUD, FHA, and the 2003 IRC as set forth in the Zoning Code.

COMPLIANCE:

1. **The Zoning Officer provided notice identifying the applicant, describing the project and its location and giving the scheduled date of the public hearing in accordance with Chapter 17.76.**
2. **A sign was posted on the property for which the request was filed in accordance with Chapter 17.76.**
3. **Notice of the time and place was published in the designated newspaper of the City of Deadwood in accordance with Chapter 17.76.**

GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:

In reviewing any application under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission(s) shall consider, among other things, the following facts:

The proposed use shall be in harmony with the general purposes, goals, objectives, and standards to the City Policy Plan, the ordinance, the district in which it is located, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the City of Deadwood.

The use, as proposed, provides new residential housing that meets all of the construction building codes. The use is listed under Conditional Uses in the R-2 Multi-Family Residential District. This use is in harmony with the general purpose of the Comprehensive Plan and Zoning Ordinance. Conditional uses are those uses which have some special impact or uniqueness since their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

Whether or not a community need exists for the proposed use at the proposed location in light of existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the city and also within the immediate area of the proposed use: (a) the proposed use in the proposed location shall not result in either a detrimental over concentration of a particular use from previously permitted uses within the city or within the immediate area of the proposed use.

A review of the location, configuration and impact has been conducted and compared to uses by right. There is a modular home that was constructed in the McGovern Hill area, as well as a governor's house that was constructed and placed in the Sampson Street area.

The review determines whether the proposed use should be permitted by weighing public need for and benefits to be derived from the use, against the local impact which it may cause. There is another Conditional Use Permit in the area, the B and B at 7 Spring Street, however there where no other Conditional Use Permits for single family dwelling unit – modular in the area. Residential housing is needed in the area and the modular construction will have no adverse affects on the area.

The proposed use at the subject site shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way.

The proposed use would not result in a substantial or undue adverse effect on adjacent property nor will it alter the character of the neighborhood. The establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

The proposed use will not add any more traffic to the area as the modular home is replacing a current single family dwelling. Staff did not receive any response from adjacent landowners.

Whether or not the proposed use increases the proliferation of non-conforming uses as well as previously approved Conditional Use Permits which are still in use, when influenced by matters pertaining to the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Policy Plan, this ordinance, or any other plan, program, map or ordinance adopted, or under consideration pursuant to official notice, by the city or other governmental agency having jurisdiction to guide growth and development.
For any Conditional Use, lot and performance standards shall be the same as similar type uses located in specific districts. The character and use of buildings and structures adjoining or near the property mentioned in the application shall be considered in their entirety.

The proposed use will not increase the proliferation of non-conforming uses. The subject area is comprised of residential homes both single family and multi-family. Structures near the proposed new modular dwelling include newly constructed homes, a governor's house, and a multi-family dwelling that was moved into the area from another neighborhood..

The proposed dwelling unit is new construction and conforms to all building guidelines and codes; therefore, the character and use of the buildings and structures adjoining the subject property will not be adversely affected.

Whether or not the proposed use in the proposed area will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this section.

There will be no significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services. Existing services are available onsite.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

A. Following the issuance of a conditional use permit pursuant to the provisions of this ordinance, such permit may be amended, varied, or altered only pursuant to the standards and procedures established by this section for its original approval.
B. The Board of Adjustment can revoke conditional use permits, once granted, for cause after a hearing is held before them. Complaints seeking the revocation of such permit shall be filed with the Zoning Administrator and may be initiated by the Planning and Zoning Commission OR any three (3) residents within three hundred (300) feet of the property lines of which the application has been filed. All such revocation hearings shall be conducted in the same manner as for the Conditional Use Permit application hearings.

C. The Planning and Zoning Commission shall have the authority to review Conditional Use Permits at any time and/or on an annual basis and place additional stipulations to mitigate a problem.

D. If the use permitted under the terms of a Conditional Use Permit has not been started within six (6) months of the date of issuance thereof, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new conditional use permit has been obtained.

E. If the use permitted under the terms of a Conditional Use Permit, ceases, for whatever reason, for a period of twelve (12) months, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new conditional use permit has been obtained.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

1. Recommendation by Planning and Zoning Commission for approval/approval with conditions/denial.
2. Approval/approval with conditions/denial by Board of Adjustment.

Ms. Green questioned if all permits had been paid. Mr. Nelson stated that all permits had been paid including the demolition permit.

Ms. Green moved to approve the Conditional Use Permit at 9 Sampson Street for Robert and Barb Schallenkamp for a Dwelling Unit –Modular in an R-2 Multi-family Residential District. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

PUBLIC HEARING FOR A VARIANCE REQUEST FOR A PARTIAL 5′ VARIANCE FROM SECTION 17.28.040.C. – SIDE YARD SETBACK REQUIREMENTS

Mr. Nelson referred to the following staff report:

STAFF REPORT
REQUEST FOR VARIANCE
FROM CHAPTER 17.28
SECTIONS 17.28.040.B, C & E

APPLICANTS: David Bosch

SIZE AND LOCATION: The site includes approximately 4,931.80 square feet.

ADDRESS: 10 Centennial Avenue

LEGAL DESCRIPTION: Lot 1 of Lot A of Block N according to Plat of A.B. Mitchell's Map recorded in Book 5, page 88 and 89, and Lot 11, Block K according to the P.L. Rogers Map of the City of Deadwood, Lawrence County, South Dakota

ZONE: R2 – Multi-family Residential District

BACKGROUND:
Variances Requested: ***A partial 5′ Variance from Section 17.28.040.C. – Side Yard Setback Requirements.*** The concrete open driveway with concrete retaining walls on three sides will be very close to the property line in the southwest corner of the structure. As the retaining wall goes toward the front of the property, Centennial Avenue, it moves away from the lot line therefore only requiring a partial variance on the side yard.

Mr. Bosch is proposing to construct a 24′x44′ driveway with retaining walls on three sides. The area of the proposed site for the driveway and walls will need some excavation and the walls are necessary for retaining soil and preventing erosion. The lot does not have an irregular shape however, in respect to how the dwelling lies and how the street adjoins the property, construction of the driveway is difficult without the variance. Zoning ordinance for parking area design standards states that driveways located in required yards are situated at an angle of approximately 90 degrees to the street to which they contact (17.64.050). In this case the driveway will be approximately 10 degrees short of being 90 degrees to the street to which it contacts.

The Comprehensive Plan designates this land as low density residential. This category includes residential densities of up to 5 dwelling units per acre (net). In general, these areas are quiet residential neighborhoods, predominately consisting of single family detached homes. In some areas, a mix of single family homes, duplexes, townhouses, and low-rise apartments are also suitable.

Environmental Corridor Status: The property is not located within Other Flood Area - Zone X – Areas of 500 year flood or areas of 100-year flood.

AREA ZONING PATTERNS: The property is currently zoned R2 – Multi-family Residential District. The area has a mixture of uses including a school, church, apartments and single-family dwellings. The City library is also located in this district.

ADJACENT ZONING AND LAND USES:
The property to the north is zoned R2 – Multi-family Residential District. This area is primarily single family dwelling units along with apartments. The land to the west is zoned R2 – Multi-family Residential and the city library is nearby. The land to the east is zoned R2 – Multi-family Residential District. The land to the south of the site is zoned C-1 Commercial District.

COMPLIANCE:

1. **The Zoning Officer provided notice identifying the applicant, describing the project and its location and giving the scheduled date and time of the public hearing in accordance with Section 17.80.010.B. This notice was mailed to property owners within 300 feet of the subject property.**
2. **A sign was posted on the property for which the request was filed as required by Section 17.80.010.B.**

3. **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.**

VARIANCE:
The purpose of a variance is to modify the strict application of the specific requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional (Amended 99-952) conditions, whereby, such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his or her land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his or her lot as the Zoning Ordinance intended.

The Board shall consider and decide all applications for variances within 30 days of such public hearing and in accordance with the standards provided below.

STANDARDS FOR VARIANCES:
In granting a variance, the Board shall ascertain that the following criteria are met, and presented at the public hearing or otherwise included in the record.

1. A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar, exceptional, and undue hardship on the owner of the property. The previously mentioned circumstances or conditions shall be set forth in the Findings of the Board.

   The Special Circumstance in this case is the fact that the subject site has existing structures that hinders any new construction on the site and the remaining open area(s) involve a narrowing of the size of the lot. The subject lot has an irregular size which presents problems for new construction.

   The term undue hardship encompasses virtually any problem and the hardship only need to be practical. Because of the particular physical constraints of the specific property involved, a particular hardship to the owners would result, as distinguished from a mere inconvenience, if the strict letter of regulations were carried out. Strict compliance with the specific regulations would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations. Approving the variance request would enable the reasonable use of the property and improve operational efficiency and appearance.

2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
   The subject use is a use by right in the R2 – Multi-family Residential District.

3. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.
   That within the intent and purposes of the applications for variance, if granted, is the minimum adjustment necessary to afford relief or the reasonable use of the land. The adjustment necessary is only partial on the side yard where the structure encroaches on the lot line.

4. The granting of any variance is in harmony with the general purposes and intent of this Ordinance and will not be injurious to the neighborhood, and/or detrimental to the public welfare, or in conflict with the established policies of the City of Deadwood.

   The proposed project is compatible with the present and future logical development of the area. The new driveway will not be in conflict with policies of the City of Deadwood or be detrimental to the public welfare.
   The granting of the variances in the subject area would not be injurious to the area in general. The variance, if granted, would not alter the essential character of the surrounding area in which the property is located; substantially or permanently impair the appropriate use or development of adjacent property.

5. There must be proof of practical difficulty, which may be based upon sufficiently documented economic factors but such proof shall not be based solely upon or limited to such economic factors. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without the knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.

   Due to the constrains associated with the presence of the existing structure and the orientation of the structure on the lot, it is not felt that special circumstances in this case are a result from actions of the Applicant. The variance would not constitute a grant of special privilege inconsistent with limitations imposed on similarly situated properties or inconsistent with the purposes of the zoning regulations.

   Strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; and strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.

6. That the proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

   The use and value of the area adjacent to the property included in the variance request will not be affected in a substantially adverse manner. There will be no significant adverse impacts on water supply, fire protection, schools, or other services. The granting of the variance would not be detrimental to public health, safety or general welfare. A variance cannot be granted if it would pose any threat to the public health or safety. This finding includes concerns such as fire safety, structural stability, and visual and aesthetic concerns. Granting this variance will not be injurious to the public health, safety, and general welfare of the community.

7. The fee, as adopted by resolution, was paid to the Zoning Administrator as agent for the Board to cover the costs of notices and other expenses incidental to the hearing.

8. *The applicant has proven that he or she is the owner of the property, or is his or her officially designated agent and has presented proof thereof.*

Requirements for the Granting of a Variance:
Before the Board shall have the authority to grant a variance, the person claiming the variances has the burden of showing:

1. That the granting of the permit will not be contrary to the public interest;
2. That the literal enforcement of the Ordinance will result in unnecessary hardship; and,
3. That by granting the permit, substantial justice will be done.

A variance shall be null and void two (2) years from the date it is granted unless completion or substantial construction has taken place. The Board of Adjustment may extend the variance for an additional period not to exceed one (1) year upon the receipt of a written request from the applicant demonstrating good cause for the delay.

If upon review by the Zoning Administrator, a violation of any condition, imposed in approval of a variance is found, the Administrator shall inform the applicant by registered mail of the violation and shall require compliance within sixty (60) days, or the Administrator will take action to revoke the permit. The Administrator's letter, constituting Notice of Intent to Revoke Variance may be appealed to the Board of Adjustment within thirty (30) days of its mailing. The Board of Adjustment shall consider the appeal and may affirm, reverse, or modify the Administrators Notice of Intent to Revoke. The applicant must comply with the Board of Adjustment's Order on Appeal of Notice of Intent to Revoke Variance within thirty (30) days of the Boards decision.

ACTION REQUIRED:

1. Recommendation by Planning and Zoning to approve/deny/approve with conditions: A 5′ Variance from Section 17.28.040.C. – Side Yard Setback Requirements.
2. Approve/deny/or approve with conditions: A 5′ Variance from Section 17.28.040.C. – Side Yard Setbacks Requirements, by Board of Adjustment.

Ms. Green stated that she had visited the site and felt the lot lines need to be defined. Ms. Green stated that the applicant should be required to conduct a survey to define the lot lines and reconfigure the design to adhere to the 90 degree standard. Mr. Allen agreed that that proposal is close to the lot line and needs to be defined.

Ms. Green moved to table the Conditional Use Permit and require the applicant to survey the lot line and ask the applicant to reconfigure the design to adhere to the 90 degree standard. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

PUBLIC HEARING FOR A REQUEST FOR A CONDITIONAL USE PERMIT FOR A DWELLING UNIT – SINGLE FAMILY

Mr. Nelson referred to the following staff report:

STAFF REPORT
PLANNING AND ZONING
REQUEST FOR CONDITIONAL USE PERMIT
FOR A DWELLING, SINGLE-FAMILY

APPLICANT: John Bolan

PURPOSE: Request for a dwelling, single-family.

GENERAL LOCATION: 1 Railroad Avenue

LEGAL DESCRIPTION: Lot 1-A of Finks Flats, City of Deadwood, Lawrence County, South Dakota.

ADDRESS: 1 Railroad Avenue

ZONE: C1 – Commercial District

FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE: FOR: AGAINST:

STAFF FINDINGS:

Surrounding Zoning:			Surrounding Land Uses
North:	C-1 Commercial		Municipal Parking/ Highway
South:	PF – Park Forest	/ PU – Public Use	Forest/ Mt. Moriah Cemetery
East:	PF – Park Forest		Forest/ Mickelson Trail
West:	C-1 Commercial		Private Parking Lot/ Highway

SUMMARY OF REQUEST

The petitioner has submitted a request for a Conditional Use Permit to allow a Dwelling, Single-family in a C1 Commercial District. This is a permitted use under chapter 17.32 section 17.32.030 conditional uses of the zoning code.

FACTUAL INFORMATION

1. The property is currently zoned C1 – Commercial District.
2. The property used for the dwelling, single family is comprised of 125,197.60, plus or minus, square feet.

3. The property has adequate off-street parking along with a garage attached to the dwelling. The property has an easement running with the land for ingress and egress and driveway purposes over and across property of the City of Deadwood. "Driveway Purposes" as used in this easement means residential driveway. This easement was put in place in 2001.
4. The property has access from Pioneer Way.
5. The property is located within an area close to the highway and Main Street. There is limited residential use in the vicinity. The land is located in a mixed use neighborhood on the adopted Land Use Map in the Deadwood Comprehensive Plan.
6. The land is partially located in Flood Zone X – Area's of 500 year flood. As determined by the Flood Insurance Rate Map.
7. Adequate public facilities are available to serve the property.

STAFF DISCUSSION

The petitioner has submitted an application for Conditional Use for a Dwelling, Single-family to be located at 1 Railroad Avenue. The dwelling is currently being constructed and all of the permits have been filed and building codes have been met. The property was zoned Park Forest until 1990 when it was rezoned to C1 Commercial. The property did not have a Conditional Use Permit with the previous dwelling as it was there prior to the rezoning.

COMPLIANCE:

1. The Zoning Officer provided notice identifying the applicant, describing the project and its location and giving the scheduled date of the public hearing in accordance with Chapter 17.76.
2. A sign was posted on the property for which the request was filed in accordance with Chapter 17.76.
3. Notice of the time and place was published in the designated newspaper of the City of Deadwood in accordance with Chapter 17.76.

GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:

In reviewing any application under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission(s) shall consider, among other things, the following facts:

The proposed use shall be in harmony with the general purposes, goals, objectives, and standards to the City Policy Plan, the ordinance, the district in which it is located, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the City of Deadwood.

The use, as proposed, provides a single family dwelling on the property. The use is listed under Conditional Uses in the C1 – Commercial District. This use is in harmony with the general purpose of the Comprehensive Plan and Zoning Ordinance. Conditional uses are those uses which have some special impact or uniqueness since their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

Whether or not a community need exists for the proposed use at the proposed location in light of existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the city and also within the immediate area of the proposed use: (a) the proposed use in the proposed location shall not result in either a detrimental over concentration of a particular use from previously permitted uses within the city or within the immediate area of the proposed use.

A review of the location, configuration and impact has been conducted and compared to uses by right. The subject property has limited area for development and there are no other Conditional Uses in the immediate area similar to the use at 1 Railroad.

The review determines whether the proposed use should be permitted by weighing public need for and benefits to be derived from the use, against the local impact which it may cause. With limited residential building possible in this location the impact of this use would be minimal. The subject property was previously used as a location for a residential dwelling.

The subject area is zoned C1 Commercial District. The District is intended to provide locations coinciding with the downtown core commercial zone where certain commercial uses and gaming are permitted.

. The proposed use at the subject site shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way.

The proposed use would not result in a substantial or undue adverse effect on adjacent property nor will it alter the character of the neighborhood. The structure is quite larger than the previous dwelling however there is off-street parking and an attached garage for the property. The land does have an easement running with it over and across City of Deadwood property but the use will not impact the city property or the parking lot adjacent the property.

To support a denial of a conditional use permit on the grounds that it will cause increased traffic problems, there must be a high degree of probability that the increase would pose a substantial threat to the health and safety of the community.

Whether or not the proposed use increases the proliferation of non-conforming uses as well as previously approved Conditional Use Permits which are still in use, when influenced by matters pertaining to the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Policy Plan, this ordinance, or any other plan, program, map or ordinance adopted, or under consideration pursuant to official notice, by the city or other governmental agency having jurisdiction to guide growth and development. For any Conditional Use, lot and performance standards shall be the same as similar type uses located in specific districts. The character and use of buildings and structures adjoining or near the property mentioned in the application shall be considered in their entirety.

The Dwelling, Single-family use will not increase the proliferation of non-conforming uses. The subject area is comprised of forest, public uses and commercial uses. Features located near the proposed Dwelling, Single-family are: The Mickelson Trail, a municipal parking lot, and Whitewood Creek.

Whether or not the proposed use in the proposed area will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this section.

There will be no significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services. Existing services are available onsite.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

A. Following the issuance of a conditional use permit pursuant to the provisions of this ordinance, such permit may be amended, varied, or altered only pursuant to the standards and procedures established by this section for its original approval.

B. The Board of Adjustment can revoke conditional use permits, once granted, for cause after a hearing is held before them. Complaints seeking the revocation of such permit shall be filed with the Zoning Administrator and may be initiated by the Planning and Zoning Commission OR any three (3) residents within three hundred (300) feet of the property lines of which the application has been filed. All such revocation hearings shall be conducted in the same manner as for the Conditional Use Permit application hearings.

C. The Planning and Zoning Commission shall have the authority to review Conditional Use Permits at any time and/or on an annual basis and place additional stipulations to mitigate a problem.

D. If the use permitted under the terms of a Conditional Use Permit has not been started within six (6) months of the date of issuance thereof, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new conditional use permit has been obtained.

E. If the use permitted under the terms of a Conditional Use Permit, ceases, for whatever reason, for a period of twelve (12) months, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new conditional use permit has been obtained.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:
1. Recommendation by Planning and Zoning Commission for approval/approval with conditions/denial.
2. Approval/approval with conditions/denial by Board of Adjustment.

Mr. Allen questioned why the applicant was not requesting a Change of Zoning instead of a Conditional Use Permit. Mr. Allen stated that the property was once zoned residential. Mr. Nelson stated the applicant was requesting a Conditional Use Permit for a single family dwelling and was not requesting a Change of Zoning. Ms. Green stated that the Conditional Use Permit would run with the property not the owner.

Ms. Farrier moved to approve the Conditional Use Permit for John Bolan for a Dwelling Unit single-family in C1- Commercial at 1 Railroad Avenue. Ms. Green seconded.

Mr. Allen questioned why it was not a Change of Zoning because the use is residential. Mr. Nelson stated the impression he got from the applicant was that the property was more valuable commercially therefore he did not want a Change of Zoning.

The motion carried.
All in favor - 4
Opposed - 0

FINDINGS OF FACT:

REVOCATION OF A BED & BREAKFAST CONDITIONAL USE PERMIT AT 15 WASHINGTON STREET

Mr. Nelson noted that this was the final step in closing the file.

Mr. Allen moved to approve the Findings of Fact for Revocation of a Bed & Breakfast at 15 Washington Street. Ms. Farrier seconded and the motion carried.

All in favor - 4
Opposed - 0

MICHAEL & DIANE HALL – CONDITIONAL USE PERMIT DWELLING UNIT – MULTI-FAMILY

Mr. Nelson noted that this was the final step in closing the file.

Ms. Farrier moved to approve the Findings of Fact for a Conditional Use Permit for Michael and Diane Hall for a Dwelling Unit –Multi-family at 817 ½ Main Street. Ms. Green seconded and the motion carried.

All in favor - 4
Opposed - 0

APPROVAL OF TEMPORARY VENDOR(S)

Mr. Nelson stated that he had received two temporary vendors permit application for the Mickelson Trail Marathon. The temporary vendors would be headquartered at The Lodge at Deadwood, 100 Pine Crest Lane and recommended approval of the requests. He noted that the fees have been paid and the vendors would be providing sales tax numbers prior to vending.

David Chauvin – SOARK – 100 Pine Crest Lane June 3-17, 2010

Mr. Allen moved to approve temporary vendor, David Chauvin of SOARK at 100 Pine Crest Lane on June 3-17, 2010. Ms. Farrier seconded and the motion carried.

All in favor - 4
Opposed - 0

Jim Newton – WYVERN RUNNING – 100 Pine Crest Lane June 3-17, 2010

Ms. Farrier moved to approve temporary vendor, Jim Newton of WYVERN RUNNING at 100 Pine Crest Lane on June 3-17, 2010. Ms. Green seconded and the motion carried.

All in favor - 4
Opposed - 0

OPEN

Ms. Catherine Ponce de Leon, 10 Denver Avenue, had a few questions regarding the Variance at 10 Centennial. Ms. Green and Ms. Farrier stated that the application had been tabled to address the issues of the lot line and design.

ADJOURNMENT:

Ms. Farrier moved to adjourn the Joint Meeting of the Planning and Zoning Commission. Ms. Green seconded and the motion carried.

All in favor - 4
Opposed - 0

There being no further business, Planning & Zoning Commission adjourned at 5:30 p.m.

ATTEST:

Mr. Jim Shedd	Ms. Sheree Green
Chairman	Secretary
Planning and Zoning	Planning and Zoning