

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

May 30, 2007

SPECIAL JOINT MEETING

The Special Joint Meeting of the Deadwood Planning and Zoning Commission and Deadwood Board of Adjustment was called to order by Chairperson Marie Farrier on Wednesday May 30, 2007 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

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

ABSENT PLANNING & ZONING: None.

PRESENT BOARD OF ADJUSTMENT: Francis Toscana, Mike Klamm and Georgeann Silvernail, Mark Speirs and Nyla Griffith.

ABSENT BOARD OF ADJUSTMENT: None.

APPROVAL OF MINUTES

Mr. Ryan moved to approve the minutes of the May 16, 2007 Joint Meeting, as mailed. Mr. Shedd seconded and the motion carried.

All in favor - 5  
Opposed - 0

NEW BUSINESS:

REQUEST FOR CONDITIONAL USE PERMIT FOR A HOME OCCUPATION AS A REGISTERED ELECTROLOGIST

**APPLICANT:** Janice Heffron-Fogle, R.E.  
**LEGAL DESCRIPTION:** Lots 5 and 6, Block 51, O.T., City of Deadwood, Lawrence County, South Dakota.  
**ADDRESS:** 12 Washington Street  
**ZONE:**R1 -Residential District

Ms. Williams referred to the following staff report:

**STAFF REPORT**  
**PLANNING AND ZONING**

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**APPLICANT:** Janice Heffron-Fogle  
**PURPOSE:** Request for a Home Occupation as a Registered Electrologist  
**GENERAL LOCATION:** 12 Washington  
**LEGAL DESCRIPTION:** Lots 5 and 6, Block 51, O.T., City of Deadwood, Lawrence County, South Dakota  
**FILE STATUS:** All legal obligations have been completed.

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**CITIZENS RESPONSE:** FOR: AGAINST: 1

**STAFF FINDINGS:**

Surrounding Zoning:

North: R1 – Residential District  
South: R1 - Residential District  
East: R1 – Residential District  
West: R1 – Residential District

Surrounding Land Uses

Single-family dwellings/B&B  
Single-family  
Single-family  
Single-family/House Museum

**SUMMARY OF REQUEST**

The petitioner has submitted a request for a Conditional Use Permit for a Home Occupation to operate an Electrologist Business. The business would be run by appointment only; therefore, more than one vehicle at a time should not be there. Ms. Heffron-Fogle has off-street parking.

**FACTUAL INFORMATION**

1. The property is currently zoned R1 – Residential District.
2. The property is comprised of approximately 0.12 Acres.
3. The subject property has access from Washington Street.
4. The subject property is located within a low density residential land use classification on the adopted Land Use Map.
5. The property is located in Zone X, areas determined to be area of 500 year flood.
6. Adequate public facilities are available to serve the property.
7. The area is characterized by single-family residences/Bed and Breakfast and the Adams House Museum.

**STAFF DISCUSSION**

The petitioner(s) submitted a request for a Conditional Use Permit for a Home Occupation for a Electrologist. The use is clearly incidental and secondary to the residential use of the residence. No employees will be hired. If the applicant wishes to advertise her business, she will need to apply for a sign permit. Off-street parking has been provided to accommodate her request.

The majority of the residences in the neighborhood are owner occupied. There are two (2) Bed and Breakfasts in the vicinity; however, both have off-street parking and have not received complaints in the past.

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 Section 17.96.020.D.2. Two inquires were made; however, neither expressed opposition to the request.**
2. **A sign was posted on the property for which the requests were filed as required by Section 17.76.060.J.**
3. **Notice of the time and place was published in the designated newspaper of the City of Deadwood as required by Section 17.76.060.J.**

**CONDITIONAL USE PERMIT**

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:

- A. 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.

*ANSWER: The current zoning allows Home Occupations if the following are met: 1) Is Clearly incidental and secondary to the residential use of the building; 2) Does not change the essential character of the use; 3) Employs no more than one person who is a nonresident of the building; 4) Operates pursuant to a valid occupational license for the use held by the resident of the dwelling unit; 5) Is confined to no more than 25 percent of the total floor area of the dwelling; 6) Does not advertise, display or otherwise indicate the presence of the home occupation on the premises other than provided by the city's sign ordinance; 7) Does not store outside of the dwelling any equipment or materials used in the home occupation; and, 8) Provides off-street parking to accommodate the needs of the home occupation. All these have been met.*

- B. 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.

*The use as proposed use in the subject location does not result in a detrimental over concentration of this particular use since it is the first of its kind in the city.*

- C. The proposed use at the proposed location 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 or the character of the neighborhood since it would basically only bring in one vehicle at a time and the business is a type which is non-offensive. There will be no change in the sizes of the dwellings.*

- D. 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 Home Occupation should not increase the proliferation of non-conforming uses. This Home Occupation is located across from a Bed and Breakfast under a Conditional Use Permit; however, since off-street parking is being provided, no conflict should arise with the B&B. The applicants' residence is located in an area that is primarily made up of single family dwellings. The appearance of the residence will not change. The character and use of the buildings and structures adjacent to the subject property will not be adversely affected.*

- E. 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.

*The anticipated use will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services. Existing services are available onsite. This type of use does not demand a high level for services.*

#### 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.

Ms. Williams noted she had received a letter from Ms. Misty Morse, of 20 Washington, opposing the CUP, late this afternoon. Ms. Morse felt the CUP would open up the residential area to businesses.

Ms. Williams pointed out the CUP runs with the applicant not the property. Ms. Williams stated she would suggest the following stipulations be added to the motion: 1. Ms. Heffron-Fogle comes in compliance in obtaining a building permit for her bathroom (in which the work has been completed) and the hand rail and stairs, be reviewed by Historic Preservation for approval; and, 2. The State of South Dakota Department of Health be contacted regarding if a license is required for this use. Ms. Williams stated Ms. Heffron-Fogle had communicated with Mr. Keith Umentum, building inspector, regarding the need for a building permit.

Ms. Green questioned if this should be tabled until these condition were met.

Ms. Heffron-Fogle stated that she had not contacted the State of South Dakota Department of Health because she was waiting for approval from Planning & Zoning. Ms. Williams stated that licensing was required for tattooing; however, she was uncertain if such was required for this use.

Ms. Heffron-Fogle stated she is currently registered and has been since 1975 and she has had businesses in California, Minnesota and South Dakota.

Ms. Farrier questioned who Ms. Heffron-Fogle was registered with. Ms. Heffron-Fogle stated she was currently registered through the State of California, and stated that the State of South Dakota had no licensing for electrologists since there were only two (2) in the state. Ms. Farrier questioned who inspected the businesses. Ms. Heffron-Fogle stated there were no inspections through the state.

Ms. Farrier questioned what kind of training and education Ms. Heffron-Fogle had received in regards to electrology. Ms. Heffron-Fogle stated she attended Wilshire College of Electrology in Los Angeles and had taken her state boards in 1975. She noted she had kept up her registration with the State of California.

Ms. Farrier questioned if she had spoken to Mr. Umentum regarding the building permits. Ms. Williams and Ms. Heffron-Fogle stated yes.

Mr. Allen suggested the stipulations be attached to the motion and pointed out that Ms. Heffron-Fogle had done a lot of work to her home and the unresolved issues were known and staff would take care of them. Ms. Williams noted that if Ms. Heffron-Fogle was not in compliance with the ordinances, her CUP could be revoked. Ms. Heffron-Fogle stated she was currently working with Historic Preservation for the hand rail and lattice in the rear.

Ms. Farrier questioned if Ms. Williams would contact the state regarding electrologist. Ms. Williams stated she would contact the Department of Health. Ms. Heffron-Fogle stated that the State of California electrologists were regulated through the Department of Cosmetology; however, that was not the case in South Dakota. Ms. Heffron-Fogle stated this occupation would be part-time since she had a full-time job.

**Mr. Allen moved to approve the Conditional Use Permit for a Home Occupation as a registered electrologist with the following stipulations: 1) Ms. Heffron-Fogle obtain Historic Preservation's approval/denial for the handrail and lattice. 2) Verification be sought by staff, from the State, whether this type of use required a license. 3) A building permit be obtained for the bathroom renovation that had already been completed. Mr. Ryan seconded and the motion carried.**

All in favor - 5  
Opposed - 0

Chairperson Farrier adjourned the Planning and Zoning meeting and turned the meeting over to the Board of Adjustment.

**DEADWOOD BOARD OF ADJUSTMENT**

Mayor Toscana called the Board of Adjustment to order.

**Ms. Griffith moved to approve the request for a Conditional Use Permit as recommended by Planning & Zoning, with the three (3) stipulations stated above. Mr. Speirs seconded and the motion carried.**

All in favor - 5  
Opposed - 0

Mayor Toscana adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

Chairperson Farrier called the Planning and Zoning meeting back to order.

**REQUEST FOR A PLANNED UNIT DEVELOPMENT - ZONING FROM PF - PARK FOREST DISTRICT TO: R1 - RESIDENTIAL DISTRICT; R2 - MULTI-FAMILY RESIDENTIAL DISTRICT; CH - COMMERCIAL HIGHWAY DISTRICT; AND PU - PUBLIC USE DISTRICT**

**NAME:** Deadwood Stage Run, LLC  
**LEGAL DESCRIPTION:** Tracts G, H, I, J, K and L of Mineral Survey No. 696, Palisades Stone Placer, according to Plat Document No. 84-2419; the unplatted remainder of Palisades Stone Placer of Mineral Survey No. 696; and Tracts E and F of Mineral Survey No. 696 Palisades Stone Placer, according to Plat Document No. 81-2887, City of Deadwood, Lawrence County, South Dakota (approximately 121.36 Acres)  
**ADDRESS:** Off Mt. Roosevelt Road/above First Gold Hotel  
**ZONE:** PF - Park Forest District

Ms. Williams referred to the following staff report:

PLANNED UNIT DEVELOPMENT  
DEADWOOD STAGE RUN

**APPLICANT:** Deadwood Stage Run

**PURPOSE OF PLANNED UNIT DEVELOPMENT**

The purpose of the planned units is to allow flexibility and encourage innovation in land use development, promote the most appropriate use of land, improve the design, character and quality of new development, facilitate the adequate and economical provision of streets and utilities and preserve the natural and scenic features of open space. Permitted uses include single-family, multi-family, limited commercial uses, recreational uses; and public and semi-public uses. Limited commercial uses include, but are not limited to, municipal buildings, schools, churches, art galleries, professional offices, theaters (but not drive-ins), motels/hotels and restaurants. Limited commercial shall not be construed to include "gaming" unless such use is listed and permitted under Uses By Right in the subject zoning district for which the application is being filed and excludes lands which were not established within the city limits as of January 1, 1989. Tracts E, F and a portion of Tract G were included in the city limits of January 1, 1989; therefore, gaming would be a possibility in this commercial zone.

**REQUEST:**

The applicants are requesting a Planned Unit Development overlay and Changes of Zoning, as depicted on the plan. The petitioner(s) PUD contains four (4) zoning designations. R1 - Residential District which use is primarily single-family dwellings. R2 - Multi-family Residential District. This area is for apartments, townhouses, duplexes etc. There are two (2) commercial designations. The commercial designation will be CH - Commercial Highway District since C1 - is more appropriate for the historic sections of the city. Phased development is planned; therefore, the building sites shall be approved separately as the parcels are platted. Each division of development

in a multiphase PUD is required to meet all the requirements of the PUD independently. A proposed master development plan for the entire area has been submitted.

The main access is proposed off of Mt. Roosevelt Road. The US Forest Service has not yet signed off for that access; however, all the properties, located in that area, need access off of the road to reach their properties. Also, it has not yet been determined if Mt. Roosevelt Road will be upgraded by the developer since it is a Forest Service Road and they need consent from the U.S. Forest Service to place the improvements. If Mt. Roosevelt Road is not upgraded, a part of the TIFD will not be used and the numbers will be readjusted. This land does have legal access across Mr. Tom Johnson's property; however, that access is not being considered in this application.

On an average, the amount of wastewater produced by one person per day is 230 gallons. Letters were sent to the Lead-Deadwood Sanitary District and to the Deadwood Public Works Department to address adequate capacity for water and sewer. The subject property is sloped in areas and the grade will support the movement of waste by gravity. The proposed development will tap into the municipal water supply from the Deadwood Hill Water Tank and the lines will be run along Mt. Roosevelt Road right-of-way. An easement will be required from the Forest Service to run the lines in their right-of-way to reach the proposed site. At the time of our last meeting, an easement had not been signed for this portion of the proposal. Jim Raysor, Deadwood Public Works Director and City Planner has been working with the developers and the Forest Service. He is recommending approval of the PUD with the stipulation that the approval is contingent upon the developers obtaining the easement along Mt. Roosevelt Road for the water lines or else they would need to come in with Plan B for the water service. An emergency fire exit will follow a trail across Auer's property to the Burnham Hill area. An easement is forthcoming from Auer.

Phase I proposes 37 single-family homes, 21 Townhouses and 1 apartment building. The streets have a 28' right-of-way and the streets, in the entire project, retain short stretches of 12% grade, as allowed under the subdivision ordinance. The Subdivision Ordinance states: "Dead-end streets are prohibited, but cul-de-sacs will be permitted where topography or other conditions justify their use. Cul-de-sacs shall normally not be longer than 500 feet, including a terminal turn-around which shall be provided at the closed end, with a right-of-way radius of not less than fifty (50) feet." The first cul-de-sac in the first phase will require a 100' variance since the length extended beyond the 500'. The streets to the cul-de-sac's retain a 5%-8% grade. The trail system will, to some extent, follow the old stagecoach run trail. Drainage plans have been provided by the engineer and a copy of such is enclosed with the staff report.

Again, the final step will depict the setbacks for structures, elevations and parking. Building permits for all or any of the PUD shall be issued on the basis of the approved plan. Plats will come forward as the Phases progress and the lots are sold. The plats will require accurate legal descriptions and dedication of the public access and will follow the plan as presented.

A Tax Increment District (TIFD) has been approved for the following:

1. Paving of Mt. Roosevelt Road from Highway 85 to the project boundary and extension of city water main from Mt. Roosevelt water reservoir to project boundary.
2. Extension of sewer line from northwest boundary of First Gold Property to project boundary.
3. Development of all infrastructure components and proposed lots within project boundary.

The TIFD for the development will include all site grading and street construction as well as all associated curb and gutter, sidewalk, drainage and utility work. The proposed development will yield 104 lots for single-family residential use (of which 20 lots are dedicated for workforce housing for a two year time frame, from the time the lots are ready for use) 21 town houses lots (which will accommodate 42 town house units), one apartment lot and two commercial lots. Phase I of the overall project will start in 2007, while Phase II is expected to begin in 2009 and the final Stage III in 2010.

Approximately One hundred (100) acres of land had been recently annexed to the City of Deadwood and the subject land is currently vacant. This property lies in the annexation growth area depicted by the Comprehensive Plan.

The property has proceeded through several phases already. Step one was the annexation; step two was the TIFD and the PUD is the third step of this process and the platting will be the fourth step and lastly the development of the structures on the lots. The PUD process generates the overall plan for the project area.

Examples of the types of zoning deviations which can be allowed through the PUD process include:

- \* Allowing uses not listed as permitted, conditional or accessory by the zoning district in which the property is located,
- \* Modifying lot sizes,
- \* Reducing building setbacks from property lines,
- \* Allowing zero setbacks,
- \* Altering parking requirements, and
- \* Increasing building height limits.

**SIZE AND LOCATION:** The 134.61 acre property is located on the south side of Mt. Roosevelt Road.

**EXISTING ZONING AND LAND USE:**

The subject property was zoned PF – Park Forest District within the city limits and the newly annexed land will be rezoned by this plan. The entire Planned Unit Development will be comprised of the following:

- Two (2) commercial lots 8.04 Acres
- One (1) apartment Building Lot (R2) 3.13 Acres
- One hundred four (104) Single Family Lots (R1) 81.90 Acres
- Twenty-one (21) Multi-family Lots (R2) 6.50 Acres
- SUB-TOTAL** **99.57 Acres**

- Open Space and street r-o-w 35.04 Acres

**TOTAL PROJECT:** **134.61 Acres**

This is a proposed project with a combination of uses. The proposed zoning classification of the commercial lots are CH - Commercial Highway District since it should not be considered C1 – Commercial District given that such district is associated with the core historic district. However, CH – Commercial Highway District would be appropriate since it is intended to provide locations for commercial uses, which require access to roads and highways. If the developer dedicates the trail and park to the city, such area will be zoned PU - Public Use District.

Apartments and townhouse uses would fall under R2 – Multi-family Residential District. This district is intended to provide locations for medium density, multiple-family units such as duplexes, townhouses, condominiums and apartment dwellings. The single-family dwelling area is zoned as R1 - Residential District, primarily single-family dwellings.

Some type of living screen should be placed between uses that conflict to protect the residential areas from commercial uses. Some concerns have been voiced regarding the development. There is a recognition that the proposed uses will cause increased traffic, noise and other problems; however, it does not justify their exclusion. There needs to be a high probability that approval of the project would result in a serious detriment to the city or surrounding areas.

The archeology study on the property has been completed.

#### **ADJACENT ZONING AND LAND USES:**

The property to the east is zoned CH – Commercial Highway District and PF - Park Forest District. Gold Mine Resort (Silverado), Deadwood Resorts (Ramkota) and US Forest Service are located in this area. The property to the west is vacant land owned by Les Auer and the US Forest Service. The property to the north is located in the county and is owned by Stan Radle, Tom Johnson, Les Auer and the US Forest Service. The properties to the south are owned by Mariagnes Caron and Les Auer and it is vacant unimproved land.

#### **COMPLIANCE:**

**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.**

**A sign was posted on the property for which the request was filed in accordance with Chapter 17.76.**

**Notice of the time and place was published in the designated newspaper of the City of Deadwood in accordance with Chapter 17.76.**

#### **COMPREHENSIVE PLAN COMPLIANCE**

Deadwood's Comprehensive Plan recommends the following:

- Development of undeveloped parcels in the city in a manner that results in a successful land use pattern in physical and economic terms;

Utilities being placed in this area will make it more economical for adjacent properties to develop. Deadwood has vacant lands; however, up to this point, no development has taken place in some of these areas, due to the lack of water and sewer.

- Supporting the construction of diverse housing types for residents and visitors, including affordable housing for area workers;

There is a mixture of uses in this project, including twenty (20) affordable lots, apartment lots, townhouses and single-family lots.

- Improvement of pedestrian and vehicular circulation through-out the community and to nearby recreation and tourist activities;

The project includes a park, trail system and sidewalks. These areas are being dedicated to the city.

- Unite a "sense of community" in terms of the physical connections of all parts of the community.

Some of the things that contribute to a 'sense of community' are porches, front windows, sidewalks, shared driveways, and a park. Street lighting style could be one way to connect the area to Deadwood. It is important that this area feels connected to the City of Deadwood.

The plan also encourages open space that is common, either public or private.

Again, a trail system and a park area are proposed in this development.

The platting will take place in phases. The plat will illustrate the lot layouts, dimensions of each lot and lot numbers and the names and width of the streets to be offered for dedication to the city.

#### **ATTACHMENTS:**

See Map

**The presenters should answer most of issues listed below.**

Criteria for review.

No PUD application shall be approved unless the approving agency finds that:

- A. The plan is consistent with the purposes and policies of the Deadwood comprehensive policy plan; and,

**Answered above under 'Comprehensive Plan'.**

- B. That the plan utilizes site design techniques which enhance the quality of the development. In determining whether this subsection is met, the approving agency will consider the following factors:

1. Open space, including without limitation, parks, recreation areas and playgrounds.
  - a. The required open space is accessible, functional and useable by the people being served;
  - b. Private open space is provided for each residential unit;
  - c. The project provides for the preservation of natural features, including without limitation, trees and drainage areas; and
  - d. The open space provides a relief to the density, both within the project and from surrounding development.
2. Landscaping.
  - a. The project provides for a variety of plant and hard surface materials and the selection of materials provide a variety of colors and contrasts;
  - b. The setbacks, yards and useable open space along public roadways are landscaped to provide attractive streetscapes to enhance architectural features and to contribute to the development of an attractive site plan;
  - c. The landscaping is designed to facilitate the buffering of one use from another;
  - d. Screening of service yards and other places which tend to be unsightly is accomplished by the use of walls, fencing, planting or a combination of these; and
  - e. The project provides for continual maintenance of landscaping.
3. Circulation, including the transportation system that serves the property, whether public or private and whether constructed by the developer or not.
  - a. High speeds are discouraged or a physical separation between streets and the project is provided;
  - b. Pedestrian-vehicular conflicts are minimized;
  - c. Safe and convenient connections within the project and between the project and existing and proposed transportation systems are provided, including without limitation, streets, bikeways and pedestrian ways;
  - d. The amount of land devoted to the street system is minimized;

- e. The project is designed for the types of traffic expected, including without limitation, automobiles, bicycles and pedestrians, and provides safety, separation from living areas and control of noise and exhaust;
  - f. City construction standards are met and emergency vehicle use is facilitated; and
  - g. On-site facilities for external linkage with other modes of transportation, where applicable, are provided.
4. Parking.
- a. The project incorporates into the design of parking areas, measures to provide safety, convenience and separation of pedestrian movements from vehicular movements;
  - b. The minimum amount of land necessary to meet the demands of the project is devoted to parking;
  - c. The design and treatment of parking areas and light is such as to reduce the visual impact on the project, adjacent properties, and adjacent streets; and
  - d. The project meets the parking requirements of this title, unless modified by the provision of Section 17.72.060 of this chapter.

**These issues are addressed at the building permit stage.**

5. Livability.
- a. Noise is minimized between uses and units, within and between buildings and from external sources, either on or off site;
  - b. For all projects, sunlight is provided and shadows are minimized on windows, roofs, parks, recreation areas, playgrounds, open space (both public and private) and sidewalks;
  - c. A lighting plan is provided which addresses security, conservation, safety and aesthetics; (The Post Office wishes to be involved in the addressing).
  - d. Impacts of wind are mitigated;
  - e. View corridors toward the mountains or the city are protected throughout the project, and internal views are provided where applicable; and
  - f. Cut and fill are minimized on the site, and the design of structures conforms to the natural contours of the land.
6. Building Design and Relationship to Surrounding Area.
- a. The building design and type provide a variety and quality that adds to the visual attractiveness of the community;
  - b. The building height, mass, scale, orientation and configuration are compatible with the general character of the area;
  - c. The orientation of the building or buildings is such to minimize shadows or blocking of views from adjacent properties;
  - d. Where the character of the area is identifiable, the project is compatible with such conditions by the appropriate use of color, materials, vegetation, signs and lighting; and
  - e. The project meets the density requirements of Chapters 17.16 through 17.48 of this title, unless modified by the provisions of Section 17.72.060. (Ord. 831 § 9.5, 1992)

The commission, may at their discretion, require that a public hearing be held for the PUD. The plan must be certified by the Architect, Engineer, Planning and Zoning and the City Commission.

Staff set the public hearing for this Planned Unit development since there were two (2) parties interested in this proposal and they had expressed concerns.

**ACTION REQUIRED:**

The Commissions may approve the development concept plan in whole or in part or may indicate required changes, and such approval or requirements shall be binding in determinations concerning the final development plans.

If the easements with the US Forest Service is not signed, and the plan is being presented with this access in mind, you may condition approval and stipulate that if the Forest Service easement is not obtained, they are required to come in with Plan B that addresses an accurate representation of the access and extension of water lines.

1. Recommendation to approve/approve with conditions/deny for the Planned Unit Development and the 100' Variance for the length of the first cul-de-sac.
2. First Reading by the Deadwood City Commission.

Ms. Williams stated Mr. Pat Wyss, Wyss Associates was present to answer any questions.

Mr. Wyss thanked the Commission for the opportunity to present the plan and stated Mr. Bill Pearson, Mr. Clayton Johnson, Scott Omach, and Mr. Roy Boschee were also present to answer any questions.

Mr. Wyss stated the emergency exits were set and pending the outcome of current litigation on the property, the access points would be defined. Mr. Wyss referred to the layout plan and corrected a mistake of zoning, in which should be C-H Commercial Highway instead of R-2 Residential. Mr. Wyss stated there would be an interim turn around located in the development.

Mr. Wyss addressed the sewer plans and stated they were looking into utilities easements. Mr. Allen requested the settling pond be addressed for drainage. Mr. Wyss stated a storm and silt pond had been engineered to control the run off. Mr. Boschee explained the engineering regarding the water run-off and over flows.

Mr. Allen questioned the access off of Mt. Roosevelt Road and further questioned if they had secured permission from the Forest Service for access. Mr. Pearson stated they had a 66' right - a-way that was not on Forest Service property and they would propose an alternate access from what currently was shown if the Forest Service did not grant them access.

Mr. Allen questioned who would build the emergency access. Mr. Johnson and Mr. Wyss explained that they were proposing using an existing trail and it would only be used for emergencies only. Ms. Farrier questioned if it was passable. Mr. Pearson stated a stock truck had been up the trail. Mr. Wyss stated it would be gated with a sign for emergency purposes only. Ms. Green questioned if the trail would be improved. Mr. Wyss stated not at this time. Ms. Williams stated she had spoken with George Auer and he had indicated that the trail had a lot of trees he did not know if it was passable for a vehicle without some improvement. Mr. Pearson stated if they had to, they would improve the trail to make it passable.

Mr. Allen questioned if the cul-de-sacs were big enough to turn a fire truck around. Mr. Klamm stated he believed it was. Mr. Wyss stated there was a 100' turning diameter in the cul-de-sacs.

Ms. Williams referred to a letter, received from George Auer, regarding the emergency exit across his land. He indicated that he was willing to provide an access across his land.

Ms. Williams referred to a letter from Mr. Jim Raysor, Public Works Director and City Planner in regards to the capacity for water.

Mr. Wyss pointed out that the subdivision would be providing twenty (20) lots for affordable housing which was agreed to when they had applied for a Tax Increment District (TIFD). He noted it was included in their project plan and they had an agreement for the affordable housing with NHS.

Ms. Green questioned the sewage capacity. Mr. Toscana corrected that the usage would more than likely be 100 gallons per person not 230 for waste water. Mr. Toscana stated he would like more information regarding this development to know what the impact would be on the resource.

Mr. Roger Tellinghuisen, attorney, represented Mr. Tom Johnson, adjacent landowner to the north (Tract D) and owner of property adjacent to the proposed access. Mr. Tellinghuisen stated Mr. Johnson brought forth a title action in 2005 disputing the existence of the claimed 50' easement to the area. Mr. Tellinghuisen stated if his client was successful in proving the 50' easement did not exist, Stage Run would be forced to use the 66' easement on his property that does exist and he questioned the rezoning of the area to Commercial-Highway District. Mr. Tellinghuisen stated his client would be back at the platting stage at which time, they would begin to address issues on his client's property.

Mr. Wyss pointed out the Commercial Highway zoning designation was an appropriate land use for this request because it had access to the highway.

Mr. Allen questioned what was required for width. Ms. Williams stated the City was flexible and usually worked with the land. She noted the city did not have a set standard like Lawrence

County. Ms. Williams noted that currently, zoning views usually recommended narrower streets in residential areas since it slowed down traffic.

Mr. Scott Ormach, attorney for Stage Run, stated a decision in this case would be handed down shortly and it was a matter of where that access was going to be, not if they had access. Mr. Tellinghuisen agreed.

Ms. Green questioned how they could plat without knowing the access. Ms. Williams stated they would have to wait until the litigation was cleared up. Ms. William pointed out the PUD was the overall plan for the use of the property and it sets the zoning.

Ms. Green stated that the Planning & Zoning Commission was being asked to approve the Planned Unit development, variance for the cul-de-sac, access easement, water line easement and emergency easement with it being passable. Mr. Pearson questioned whether an emergency access being passable had ever been required before and where was the authority. Ms. Williams stated people had to be able to get out of the area; therefore, the emergency exit had to be passable. She noted it did not have to be paved.

Ms. Silvernail stated she believed the area would not be passable because it was rugged terrain on the Burnham hill side. Mr. Pearson stated they were talking about the access from Mt. Roosevelt. Mr. Pearson stated an access from First Gold that ran in the area of the proposed sewer easement would be the best emergency access.

Mr. Wyss stated the area that was mis-colored should be included in the motion.

Ms. Green questioned if the motion should include that the easements should be written and recorded. Ms. Williams felt that would be appropriate.

**Ms. Green move to approve the PUD for Deadwood Stage Run LLC with the 100' variance for cul-de-sac number one in the first phase and the changes of zoning from PF - Park Forest District to R-1 Residential, R-2 Residential and C-H Commercial Highway, including the correction on the map from R-2 Residential to C-H Commercial Highway and Public Use District with the following stipulations: 1) Written easements for access, water lines and emergency exits be provided and recorded and emergency exit agreement address the issue of making the trail passable for emergency vehicles. Mr. Allen seconded and the motion carried.**

<b><u>All in favor</u></b>	<b><u>-</u></b>	<b><u>5</u></b>
<b><u>Opposed</u></b>	<b><u>-</u></b>	<b><u>0</u></b>

Chairperson Farrier adjourned the Planning and Zoning meeting and turned the meeting over to the Board of Adjustment.

#### **DEADWOOD BOARD OF ADJUSTMENT**

Mayor Toscana called the Board of Adjustment to order.

Ms. Silvernail questioned if the motion should have included making the road passable for residents' vehicles as well. Mr. Toscana stated if the road was passable for emergency vehicles it would most likely be passable for residents' vehicles as well. Mr. Klamm questioned who would maintain the road in the future. Mr. Ormach stated the homeowners' association would later assume the maintenance of the access not the developer. Mr. Toscana questioned if these properties were located in the City of Deadwood. Ms. Williams stated they were not.

Mr. Pearson questioned how far the emergency access had to go. The Board of Adjustment's consensus was that the emergency exit needed to extend to a road for safe passage. Ms. Griffith felt the best emergency exit option would be in the area of the sewer lines that would run from the First Gold and it would eliminate these questions. Ms. Griffith explained to Mr. Pearson that the City needed to require an emergency exit so that people can get away safely. Mr. Wyss

stated it would only be used for emergencies, not a city road. Mr. Wyss stated that every attempt was being made to insure emergency access.

Ms. Griffith questioned the total acreage of the area. Mr. Wyss stated the total acreage was 121 acres.

Ms. Griffith stated there were challenges when developing in Deadwood and with the development it must meet the City's ordinances, be safe and done correctly.

**Ms. Griffith move to approve the recommendation from the Planning & Zoning for the PUD for Deadwood Stage Run LLC and the 100' variance for the cul-de-sac number one in the first phase and the changes of zoning from PF - Park Forest District to R-1 Residential, R-2 Residential, and C-H Commercial Highway which included the correction on the map from R-2 Residential to C-H Commercial Highway and Public Use District with the following stipulations: written easements for access, water lines and emergency exits; and agreement to make road passable for emergency vehicles. Ms. Silvernail seconded and the motion carried.**

**All in favor - 5**  
**Opposed - 0**

Mayor Toscana adjourned the Board of Adjustments and turned the meeting over to the Planning and Zoning Commission.

Chairman Farrier called the Planning and Zoning meeting back to order.

Mr. Pearson stated for the record that the owners of Deadwood Stage Run are himself, Mr. Clayton Johnson, Mr. Steve Slowly and Mr. Wayne \_\_\_\_\_ of Yankton, South Dakota.

**FINAL PLAT - PLAT OF TRACTS 1A, 1B, 1C and 7A of M.S. 735, BEING A PORTIONS OF TRACT 1 AND TRACT 7 AS SHOWN IN PLAT DOCUMENT 97-1005, LOCATED IN THE NE1/4 AND SE 1/4 OF SECTION 23, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA**

Ms. Green stated that the reference to a previous plat cannot be in the heading. Ms. Williams stated she would request a new Mylar with the following heading: **PLAT OF TRACTS 1A, 1B, 1C and 7A FORMERLY PORTIONS OF TRACT 1 and TRACT 7 OF M.S. 735, INCLUDING BLOCK 4 OF THE ESTER POWER SUBDIVISION ALL LOCATED IN THE NE1/4 AND SE 1/4 OF SECTION 23, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA**

**Ms. Green moved to approve the PLAT OF TRACTS 1A, 1B, 1C and 7A FORMERLY PORTIONS OF TRACT 1 and TRACT 7 OF M.S. 735, INCLUDING BLOCK 4 OF THE ESTER POWER SUBDIVISION ALL LOCATED IN THE NE1/4 AND SE 1/4 OF SECTION 23, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA with the stipulation a new Mylar be ran deleting the language "AS SHOWN IN PLAT DOCUMENT 97-1005 and moving it to the notes section of the Plat. Mr. Ryan seconded and the motion carried.**

**All in Favor - 5**  
**Opposed - 0**

Chairman Farrier adjourned the Planning and Zoning meeting and turned the meeting over to the Board of Adjustment.

#### **DEADWOOD BOARD OF ADJUSTMENT**

Mayor Toscana called the Board of Adjustment to order.

**Ms. Silvernail moved to approve the recommendation of the final PLAT OF TRACTS 1A, 1B, 1C and 7A FORMERLY PORTIONS OF TRACT 1 and TRACT 7 OF M.S. 735, INCLUDING BLOCK 4 OF THE ESTER POWER SUBDIVISION ALL LOCATED IN THE NE1/4 AND SE 1/4 OF SECTION 23, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA with the stipulation a new Mylar be ran deleting the language "AS SHOWN IN PLAT DOCUMENT 97-1005 and moving it to the notes section of the Plat. Mr. Speirs seconded and the motion carried.**

**All in Favor - 5**  
**Opposed - 0**

Mayor Toscana adjourned the Board of Adjustments and turned the meeting over to the Planning and Zoning Commission.

Chairman Farrier called the Planning and Zoning meeting back to order.

**FINDINGS OF FACT:**

**1) Bryan and Robin Aragua - 128 Williams - 13' Variance from front yard**

**Mr. Allen moved to approve the Findings of Fact for a 13' Variance from the front yard setback requirements at 128 Williams. Mr. Shedd seconded and the motion carried.**

**All in Favor - 5**  
**Opposed - 0**

Chairman Farrier adjourned the Planning and Zoning meeting and turned the meeting over to the Board of Adjustment.

**DEADWOOD BOARD OF ADJUSTMENT**

Mayor Toscana called the Board of Adjustment to order.

**Mr. Klamm moved to approve the Findings of Fact for a 13' Variance from the front yard setback requirements at 128 Williams. Ms. Silvernail seconded and the motion carried.**

**All in Favor - 5**  
**Opposed - 0**

Mayor Toscana adjourned the Board of Adjustments and turned the meeting over to the Planning and Zoning Commission.

Chairman Farrier called the Planning and Zoning meeting back to order.

**OPEN**

Ms. Williams stated that Deadwood Resort LLC. will be requesting Variances from height and they included a variance from parking; however, they had taken all uses into consideration for parking. She noted they would be appearing at the June 20, 2007 meeting. Ms. Williams pointed out the ordinance allows the Planning and Zoning Commission to consider the primary use in a multi-use project and in the past, the commission has always determined the use requiring the most parking to be the primary use. The commission agreed that the convention center would require the most parking; therefore, the convention center would be considered the primary use of the project.

**ADJOURNMENT:**

**Mr. Ryan moved to adjourn the Joint Meeting of the Planning and Zoning Commission. Mr. Shedd seconded and the motion carried.**

**All in favor - 5**  
**Opposed - 0**

There being no further business, Planning & Zoning Commission adjourned at 6:30 p.m.

ATTEST:

\_\_\_\_\_  
Ms. Marie Farrier  
Chairman (Acting)  
Planning and Zoning

\_\_\_\_\_  
Ms. Sheree Green  
Secretary (Acting)  
Planning and Zoning