

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

AUGUST 16, 2006

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairman Larry Ryan on Wednesday, August 16, 2006 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

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

ABSENT: None - Robert Thorp had recently resigned and no replacement had been appointed.

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

ABSENT: None

APPROVAL OF MINUTES

Ms. Green moved to approve the minutes of the July 5, 2006 Joint Meeting, as mailed. Ms. Farrier seconded and the motion carried.

All in favor - 4
Opposed - 0

REQUEST FOR A VARIANCE FROM PARKING DESIGN STANDARDS

APPLICANT: Kenneth L. Kellar

LEGAL DESCRIPTION: The Northwesterly 50' of Lot 36, Block 30; the Westerly 51' of Lot 37, Block 30; Lots 38-46, Block 30; and, parts of Lots 31 and 32, all located in Block 30, City of Deadwood, Lawrence County, South Dakota

ADDRESS: 9, 11 and 45 Sherman Street

ZONE: C1 - Commercial District

Ms. Williams read the following Staff Report:

VARIANCE REQUEST

APPLICANT: Kenneth L. Kellar

PURPOSE: Applicant is requesting a variance from Deadwood City Ordinance 17.64.050(A)(5) – Parking area design standards:

- (A) Parking areas shall meet the following standards:
 - (5) All parking areas are paved with asphalt, concrete or other similar permanent hard surface except for parking areas for detached dwelling units.

LOCATION: 9, 11 and 45 Sherman Street

LEGAL DESCRIPTION: The Northwesterly 50' of Lot 36, Block 30; the Westerly 51' of Lot 37, Block 30; Lots 38-46, Block 30; and, part of Lots 31 and 32, all located in Block 30, City of Deadwood, Lawrence County, South Dakota

FILE STATUS: All legal obligations have been completed

CITIZENS RESPONSE: FOR: AGAINST:

STAFF FINDINGS:

Surrounding Zoning:

Surrounding Land Uses

North:

Gravel Parking Lot

South:	Branch House/Parking
East:	Hillside
West:	State 4-lane highway

SUMMARY OF REQUEST

The applicant is requesting a variance from the paving requirements for off-street commercial parking lots.

FACTUAL INFORMATION

1. The property is currently zoned C1 – Commercial District.
2. The property involved in the request comprises approximately 30,300 square feet.
3. The subject property has access from the 4-lane state highway.
4. The property is located in flood zone X, Areas of 500 year flood; areas of 100 year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100 year flood.
5. The area is characterized by commercial uses on Sherman Street and across the 4-lane state highway.

STAFF DISCUSSION

The entire parking lot is made up of nonconforming lots and conforming lots. A part of Mr. Kellar's parking lot is nonconforming and has a Grandfather Right. A nonconforming use is defined as any lawful use of a building, structure or land which does not conform to the zoning regulations where it is located.

A violation letter was sent to the applicant on July 18, 2003 regarding compliance with the parking area design standards for the portion of lots under the current zoning code. On September 29, 2003, Mr. Tom Hill, representative of Bullock Properties appeared before the city commission to request an extension to the time frame for paving the parking lot. He indicated that a feasibility study was being conducted for a project on the subject property and the results would not be available until December 18, 2003. The City Commission granted an extension until July 1, 2004.

On May 9, 2006, staff sent another violation letter giving the applicant until July 31, 2006 to bring the parking lot into compliance with the existing ordinance. The applicant is now requesting a variance from the ordinance regarding parking design standards for paving commercial parking lots.

The applicant stated a variance is appropriate for the following reasons:

1. The described property consists of two (2) sections of parking lot contained within a greater parking lot that is exempt (i.e. grandfathered) from the paving requirements of Deadwood City Ordinance 17.64.050(A)(5). As a result, the above-described portions of the parking lot are subject to the current paving ordinance while the remainder (and majority) of the parking lot is not.

Staff: The nonconforming lots contain 42,253 square feet and the remainders of the lots consist of 30,143.52 square feet. If a variance were granted from the paving requirement, the 30,143.52 square feet would become nonconforming. Section 17.56.040.F under Non-conforming Uses –“No conforming use may be changed to a nonconforming use, notwithstanding the fact that some of the features of the lot, building, or parking are nonconforming”. However, Section 17.56.040.C. states “Except as otherwise provided in this chapter, any nonconforming lot or structure lawfully existing on the effective date of the ordinance codified in this chapter or subsequent amendment thereto, may be continued so long as it remains otherwise lawful. All nonconformities shall be encouraged to convert to conformity wherever possible.”

These two (2) sections of the existing ordinance clearly relate that a conforming use cannot be made into nonconforming uses and that nonconforming uses have expressive rights since the use was legal under a previous ordinance.

2. A denial of the variance request would require paving of the non-grandfathered portions of the parking lot. This would result in one parking lot with partially paved and partially graveled sections.

Staff: As stated above, all nonconformities shall be encouraged to convert to conformity wherever possible. Also, by approving the variance to decrease the requirements of the ordinance, the city would be creating another nonconformity and this is not allowed by Section 17.56.040.F. and would be a drastic enlargement of the nonconformity.

The applicant also stated the following:

A denial of the present variance request would result in the following hardships to the property owner:

1. Deadwood City Ordinances do not provide design standards for partially paved, partially graveled parking lots. As a result, compliance with the City's enforcement of 17.64.050.(A)(5) for only certain

portions of one contiguous parking lot would require compliance with two different design standards for one parking lot.

Staff: Once more, the ordinance provides for the applicant to bring all of the parking lot into compliance. Nonconforming uses are expressly protected, but on the other hand, permits cannot be granted allowing a nonconforming use to be made or become higher or become a greater hazard. In general, a nonconforming use may not be extended to encompass new land which was in use at the time of the enactment of the new Zoning Ordinance. The granting of the variance results in a new nonconforming use.

2. A parking lot in a highly visible section of Deadwood that is primarily gravel with a paved interior section, thus producing an inconsistent appearance reflecting negatively on the property owner, the property owner's businesses, as well as the City of Deadwood.

Staff: Again, the property owner is encouraged to bring the entire area into compliance with the existing ordinance. The parking lot is very visible and a paved and landscaped parking lot would have an improved appearance and would be a reasonable goal for consistency and safety. The goal of the zoning code is to ensure uniformity of all uses in the particular district. Dissimilar patterns will detract from that purpose. Section 17.56.040.I. states – The purchase of adjacent property after enactment of the ordinance codified in this title does not authorize owners to extend the nonconforming use to adjacent property on theory that natural growth and expansion of business requires it.

3. Ongoing maintenance challenges for a “partially paved/partially graveled” parking lot.

Staff: A conforming use located in a nonconforming area may be materially changed or altered in compliance with existing land regulations, despite the nonconformity.

This nonconformity has existed since 1991 and bringing it into compliance at this time would be a benefit to the public and the community and the appearance would no longer be inconsistent with other parking lots in the vicinity.

4. Expenditure of substantial amounts of money to pave the above described portions of the parking lot only to have the results of such expenditure be a deterioration in appearance, maintenance and compliance of the parking lot.

Staff: Again, the applicant may bring the entire lot into compliance with the zoning code if he is concerned with the appearance and maintenance. Variances are to be used to provide equality with surrounding uses, not a windfall for the applicant.

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. The notice was mailed to property owners located within 300 feet of the subject property.
2. A notification sign was posted on the property for which the request was filed.
3. Notice of the time and place for the public hearing was published in the designated newspaper of the City of Deadwood.

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 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 thirty (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.

STAFF: The condition of a paved and gravel parking lot being a hardship is not sufficiently unique since the applicant has the choice to come into conformance with the existing regulations. Part of the

parking lot is considered nonconforming and has a right to 4" of base course gravel. At present, the nonconforming lots are not in compliance since the lots do not have 4" of base course gravel. Section 17.56.040.4.I – "The purchase of adjacent property after enactment of the ordinance, codified in this title does not authorize owners to extend the nonconforming use to adjacent property on theory that natural growth and expansion of business requires it." In short, part of the parking lot has Grandfather Rights and therefore has the right to continue with gravel; however, the portion of the lots under the new ordinance are required to come into compliance with the regulations of the current zoning code which requires paving and landscaping.

If generally applicable throughout the district as to require that all parcels similarly situated were granted variances for the same request, the district would be materially changed. The standard of hardship for variances relates to the property, not to the person who owns it. Financial hardship, community benefit, or the worthiness of the project are not considerations in determining whether to approve a variance. Variances from the terms of the zoning ordinances should only be granted because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, and the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the same zoning classification.

2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.

Staff: Section 17.32 C1 – Commercial District permits commercial parking lots as a right with additional standards under Section 17.64. Off-Street Parking and Loading.

2. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.

Staff: The requested variance is the minimum adjustment necessary for the use of a portion of the land being currently utilized for parking. The conditions of the zoning code are meant to maintain parity between the variance site and surrounding properties. In this case, there is a choice; however, Mr. Kellar has requested he be allowed to decrease the requirements instead of upgrading and coming into compliance with the existing zoning code. The granting of this type of variance could constitute a grant of special privilege and be inconsistent with the limitations on other properties classified in the same zoning district. The intent of allowing relief is to provide for a reasonable rate of return not to maximize profit for a single landowner at the expense of others. Again, variances are used to provide equality with surrounding uses.

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. (Amended 99-952) and/or detrimental to the public welfare, or in conflict with the established policies of the City of Deadwood.

Staff: The request for variance would not be in harmony with the general purpose of the C1 – Commercial District and the Deadwood Comprehensive Plan. Because the parking lot is so visible from the state highway, and due to other properties being in compliance with the zoning code, the request would not be in harmony with the surrounding property or the character of the district.

5. There must be proof of practical difficulty, (Amended 99-952) 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.

Staff: The circumstances creating a "practical difficulty" would not deprive the applicant of privileges enjoyed by properties in the same zoning district. Since the applicant has the right to bring the nonconformity into compliance, the hardships could be considered self-created.

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.

Staff: The request will not impair an adequate supply of light and air to adjacent properties or substantially increase the congestion in the public streets, increase the danger of fire. However, the granting of the variance could diminish or impair property values with the neighborhood.

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

Staff: The fee has been received.

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.

Staff: The last deed on the property is in the name of the applicant.

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.

INFORMATIONAL ONLY: The previous ordinance requirements for the nonconforming lots read as follows:

- a. Parking facilities shall be graded for drainage, have an all weather surface and maintained in good condition, free of weeds, dust, trash and debris. At a minimum, all weather surfacing shall be four (4) inches of base course gravel.
- b. Protective barriers shall be provided with barriers of such dimensions that occupants of adjacent structures are not unreasonably disturbed, either by day or night, by the movement of vehicles.
- c. Lighting shall be so arranged that the source of light is concealed from public view and from adjacent residential properties and does not interfere with traffic.
- d. Entrances and exits shall be provided and so located with entrances and exits to minimize traffic congestion.
- e. Parking facilities shall not be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.

Mr. Stacy Kooistra and Mr. Dylan Wild, of Brady Pluimer Law, represented Mr. Ken Kellar and Bullock properties. Mr. Kooistra stated the request for the variance was ordinance based. He pointed out that due to the "grandfathered" areas surrounding the area in question, the Deadwood City ordinance Parking Lot Design Standard could not be met. He noted the conforming and nonconforming issues created a unique situation and due to this fact a variance could be issued to Mr. Kellar for the parking lot. Mr. Kooistra stated if the variance was granted, the entire parking lot would be brought up to the previous zoning code requirement of four (4') base course gravel and would continue in that condition until the area was developed. Mr. Kooistra stated his client would face a hardship in complying with the two different ordinances.

Ms. Farrier questioned if Mr. Kellar could lose his grandfather right since, at present, since the nonconforming parking area did not even meet the 4" base course gravel requirement. Ms. Williams explained the process of losing the "grandfathered" status, would consist of a violation letter being sent to the applicant and a time limit being placed to conform to the standard. If they did not comply, the "grandfathered" status could possibly be revoked. Mr. Kooistra stated that his clients were awaiting the decision from Planning & Zoning and that was why they had not complied with the four inch (4') base course gravel.

Mr. Ryan questioned if a variance was granted, what the time frame would be in regards to construction on the area in question. Mr. Kooistra stated Mr. Kellar hoped to have a plan for the area in four to six months, however there was no guarantee. Ms. Farrier questioned if the first extension had been for a Condition Use Permit or a Variance. Ms. Williams explained the request for a time extension had been brought forth by Mr. Tom Hill, representative of Ken Kellar, in 2003. She noted Mr. Hill presented the request to the City Commission and it was neither a CUP nor a Variance, just a request for an extension of time until the feasibility study

was completed. She noted the violation letter had been sent to Mr. Kellar and the extension was from the time frame given in the letter. She noted there was no formal process at that time.

Mr. Allen questioned why the partial paving of the area. Ms. Williams explained that the portion of land with the Grandfather Right was protected and only had to meet the standards of a previous zoning code. However, at a later date, Mr. Kellar purchased additional land, which abutted the grandfathered land, and such land is required to meet the parking standards of the current ordinance which requires hard surface and landscaping. Ms. Williams pointed out the current ordinance, under nonconforming uses, encourages the applicant to bring the entire parking area into compliance with the existing codes. Mr. Kooistra pointed out that the entrance and the booth would not be required to be paved. Mr. Kooistra noted he had briefly discussed with Ms. Williams an option of swapping square footage for the non-grandfathered area and moving it to an area that would make sense for both the City and Mr. Kellar.

Mr. Kooistra stated with the expense of paving the area and the possibility of future development of the entire area, his client does not want to pave the area, then turn around and tear it out in a short period of time. Mr. Kooistra added that the entire parking area would be uniform, if the variance was granted, with four inch (4') base course gravel.

Ms. Williams pointed out the ordinance states that a conforming section of land cannot be made into a nonconforming use, and therefore disqualified the variance. Mr. Kooistra questioned the use of a variance. Ms. Williams explained variances were exceptions to certain development standards such as setbacks, lot dimensions, and height. She noted the applicant must show that the undue hardship or practical difficulty is not self-imposed. Ms. Williams felt the subject application could not be approved under the current standards. Mr. Kooistra disagreed and stated the application was appropriate for a variance. Mr. Kooistra stated his client, regardless of the current application's outcome, would still have to apply for a variance from the landscaping requirement. Mr. Kooistra restated if granted the request for variance, the entire parking lot would comply with four inches (4") base course gravel and be maintained to those standards, until such time when his client was ready to develop the area.

Mr. Ryan questioned if a plan would be available in four to six months. Mr. Kooistra stated that nothing would be put in place but plans would be available and they would know what type of development would be eventually placed in the area in question.

Ms. Williams stated if the applicant needed other variances, as mentioned by Mr. Kooistra, he could apply for such variances; however, at this time, the commissions were only addressing the current request for variance.

Mr. Allen stated he could see both sides; however, he felt the commission was bound by the existing ordinance and in the past had required others to conform to the ordinance.

Mr. Allen moved to deny the request for a Variance from the Parking Design Standards.

Ms. Williams recommended the commission place a time limit for Mr. Kellar to come into compliance. Mr. Allen questioned if the time limit should be placed with the motion. Ms. Williams felt that was proper. Ms. Williams stated in her letter she had placed a thirty (30) day time frame from receipt of letter. Mr. Kooistra pointed out they had submitted the variance application in that time frame. Mr. Allen suggested thirty (30) days from receipt of letter. Mr. Kooistra stated he would like for the commission to consider that the contractor, Hill Materials, may have scheduling issues and the time line would have to include a P&Z meeting for design.

Ms. Williams stated that the applicant basically provides the parking layout and landscaping plans for review, to staff, and staff reviews the plans for compliance. Mr. Kooistra stated that there also was a thirty (30) day window stated in the ordinance to appeal to the circuit court.

Ms. Farrier suggested that the applicant submit a plan before the next Planning and Zoning meeting. Mr. Allen stated he was only concerned with the issue at hand, the variance for paving the parking lot and reiterated the thirty (30) day time frame from receipt of letter. Ms. Farrier questioned if the thirty (30) days was for them to submit a plan. Ms. Williams stated the applicant would have thirty (30) days to have a plan and the area paved. Mr. Kooistra did not feel that thirty (30) days was adequate to come up with a plan and have it completed. Mr.

Kooistra stated it was his personal belief that a four inch (4') base core grave was not unsightly and it does not reflect poorly on the City and Mr. Kellar and his businesses.

Ms. Williams pointed out the application could not meet all the standards of the zoning code; and therefore, it should not be approved.

Mr. Allen moved to amend his motion to deny the request for variance from the Parking, Design Standards and to insert "applicant must come into compliance within 30 days of receipt of letter" (September 15, 2006). Ms. Farrier seconded and the motion carried.

All in Favor: - 4
Opposed: - 0

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

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order. Mayor Toscana stated the board is to consider a variance for the property, legally described as: The Northwesterly 50' of Lot 36, Block 30; the Westerly 51' of Lot 37, Block 30; Lots 38-46, Block 30; and, parts of Lots 31 and 32, all located in Block 30, City of Deadwood, Lawrence County, South Dakota, owned by Mr. Kellar.

Ms. Silvernail stated in 2003 she sat on the Commission that granted the extension of time to Mr. Kellar, and feels now that it was a mistake to have granted the time frame since Mr. Kellar had not complied when the time frame was completed. Ms. Silvernail stated with the lack of care to the property she agrees with the Planning and Zoning members.

Ms. Silvernail moved to accept the recommendation of Planning and Zoning, with the stipulation for denial of the Variance. Ms. Griffith seconded and stated she had a comment.

Ms. Griffith stated that Mr. Kooistra had expressed he felt the base core gravel was not an eyesore. Ms. Griffith referred to photos of the area (on file) with potholes and weeds in the parking lot. Ms. Griffith stated it was an eyesore and is seen from the four lane highway and reflects badly on the City. Ms. Griffith also stated that the area in question is a paid parking lot with approximate revenue of \$90,000 a year; the revenue would have more than paid for the paving.

Mr. Kooistra stated his comments, on the base core gravel, related to how it would look when the new gravel was placed in the parking lot.

Mayor Toscana commented that the P&Z commission and the Board of Adjustment had recently made a business who demolished a non-contributing building comply with the parking lot design even though they planned to build in the near future. Mayor Toscana noted the parking area was asphalted within a few weeks of the decision.

Mr. Speirs stated the applicant can consider concrete as an alternative to asphalt.

Ms. Griffith noted she felt thirty (30) days was sufficient time to complete the project considering the applicant has had three (3) years to implement a plan for the area.

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 Ryan called the Planning and Zoning meeting back to order.

Ms. Farrier recommended to Ms. Williams to begin proceedings to revoke "grandfathered" status due to non-compliance with the parking lot regulations. Ms. Williams stated she would begin proceedings. The Planning & Zoning commission agreed.

FINDINGS OF FACT - ROBERT AND DEB THORP RE: APPROVAL OF CONDITIONAL USE PERMIT FOR A BED & BREAKFAST AT 20 PLEASANT STREET.

Ms. Williams stated this was the last step in closing out this file.

Ms. Green moved to approve the Findings of Fact for Robert and Deb Thorp. Ms. Farrier seconded and the motion carried.

All in Favor - 4
Opposed - 0

FINDINGS OF FACT - DEADWOOD RESORTS, LLC. REQUESTS FOR VARIANCES FROM HEIGHT, SIDE AND REAR SETBACK REQUIREMENTS IN THE CH - COMMERCIAL HIGHWAY DISTRICT AT 100 PINE CREST DRIVE.

Ms. Williams stated this was the last step in closing out this file.

Ms. Green moved to approve the Findings of Fact for Deadwood Resorts, LLC. Mr. Allen seconded and the motion carried.

All in Favor - 4
Opposed - 0

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

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order.

FINDINGS OF FACT - ROBERT AND DEB THORP RE: APPROVAL OF CONDITIONAL USE PERMIT FOR A BED & BREAKFAST AT 20 PLEASANT STREET.

Ms. Griffith moved to approve the recommendation of Planning & Zoning Commission to approve the Findings of Fact for Robert and Deb Thorp. Ms. Silvernail seconded and the motion carried.

All in Favor - 5
Opposed - 0

FINDINGS OF FACT - DEADWOOD RESORTS, LLC. REQUESTS FOR VARIANCES FROM HEIGHT, SIDE AND REAR SETBACK REQUIREMENTS IN THE CH - COMMERCIAL HIGHWAY DISTRICT AT 100 PINE CREST DRIVE.

Ms. Silvernail moved to approve the recommendation of Planning & Zoning Commission to approve the Findings of Fact for Deadwood Resorts, LLC. 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 Ryan called the Planning and Zoning meeting back to order.

OPEN

Ms. Williams announced that starting in January of 2007, the Planning and Zoning Commissioners will receive twenty-five dollars (\$25) per meeting.

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 6:15 p.m.

ATTEST:

Larry Ryan
Chairman (Acting)
Planning and Zoning

Marie Farrier
Secretary (Acting)
Planning and Zoning