

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

October 18, 2006

REGULAR MEETING

The Regular Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairman Larry Ryan on Wednesday, October 18, 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.

APPROVAL OF MINUTES

Ms. Farrier moved to approve the minutes of the September 6, 2006, Joint Meeting, as mailed. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

PLAT - LES AUER - Plat of Tract 1 and 2, consisting of the remainder of the Bavarian and Karoline Lodes, M.S. 1054, Located in the S¹/₂ of Section 14 and the N¹/₂ of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

PLAT - LES AUER/ BY DEVELOPMENT - Plat of Tract B-1 of Tract B of Sunnyside Stone Placer, M.S. 751; Part of M.S. 308; Lots 8, 9 and 10 in Block A of Noble's Addition; a portion of Tract 1 of M.S. 1054, All located in the NW ¹/₄ and NE ¹/₄ of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

Ms. Green referred to the second plat and stated if the plat is recorded, and then later vacated, the first Plat would then have no access. Ms. Green stated that each plat should stand on its own and the Register of Deeds is not supposed to take a plat that does not have legal access. Ms. Green stated there had to be a way to plat the land and show access on the plat. Ms. Williams stated there were no metes and bounds description on this property and explained that Ms. Deb Tridle, Lawrence County Treasurer, researched each deed for this property and had to eliminate the acreage owned by other parties in this mineral survey in order to determine the remainder of M.S. 1054. Ms. Williams stated Otto and Inez Auer's land was described as the remaining portion of M.S. 1054. Ms. Williams questioned Mr. Bill Pearson, Deadwood Stage Run, regarding if he would give an easement to BY Development. Mr. Pearson stated that BY Development must provide a utility easement in return which was stated in the easement agreement provided to the Planning & Zoning Commission. Ms. Green stated she could not vote for a plat that did not have access, it had to stand on its own merits. Mr. Pearson questioned if BY Development and Mr. Auer would be presenting these Plats. Ms. Williams stated neither was going to be present at the meeting. Mr. Pearson stated he was not representing BY or Auer and stated he did not know how the plats could show access.

Ms. Williams stated she requested the statement of "No building permits shall be issued until access easements are recorded" be placed on the plat. Ms. Williams explained that in her research some plats were recorded without access however; if the property is sold, the notation on the plat makes the buyer aware that no access is available. Ms. Green stated that when that happens the City is then liable to provide access to the buyer by going through the other person's property, for example Tract 5 M.S. 81. Ms. Williams stated the owner would need to provide proof of access before a building permit was issued. Ms. Green felt the plat needed to show the access prior to approval.

Mr. Pearson questioned if the agreement, which was provided to P&Z, would meet the standard for access to both lots. Ms. Green questioned if it could be shown on the Plat. Mr. Pearson stated that at this time, they had not platted their subdivision; however, they had a good idea where the road would be placed. He stated they knew the approximate access area on his property; however, he did not know where Auer's and Bradsky's access would be placed. Mr. Clayton Johnson stated if the proposed access on Auer's and Bradsky's was placed on flat ground there would be no problems. Mr. Allen stated with the area being a hillside it

would not be easy to provide access. Mr. Pearson pointed out where his property was located on the map and that the area in question was in fact a cliff.

Ms. Farrier questioned if the agreement could be recorded with the Plat. Ms. Green pointed out the statement "Access and utility easement shall be determined at a later date." was depicted on the Plat. Mr. Pearson also questioned if the agreement could be recorded with the Plat. Ms. Green stated the plat did not show access and it needed to be shown by law. Ms. Williams explained the ordinance to the Commission and pointed out Lot B-3, the former Ridgestone Apartments area, had access even though it was a cliff since it runs next to Main Street.

Ms. Farrier questioned if access would be provided from Plat 1 to Plat 2. Mr. Pearson explained how the plats connected to the Commission. Ms. Farrier questioned if the access extended from one plat to the other. Ms. Green stated it could not because it wasn't depicted on the Plat.

Ms. Farrier questioned if the access needed to be an actual road or just a dotted line on the Plat. Ms. Williams stated if it was a dedicated public way and part of a subdivision of 4 or more lots, it would need to be a street dedicated to the public; however, the plats being presented could depict the easement as a right-of-way with a dotted line. Ms. Farrier questioned if it could be drawn in from the Ridgestone. Ms. Green felt that wouldn't work due to the impossibility of getting to the lots because of Brown Rocks or the cliff.

Mr. Allen referred to Blair's campground regarding easements. He noted an easement was required at that time so the property was not land locked. Mr. Pearson stated the areas being platted were currently land locked. Ms. Farrier agreed. Mr. Allen stated there needed to be an easement included for the future and the dotted line would not work. The Commission agreed.

Mr. Pearson stated the reciprocal easement agreement also addressed the access easements. Mr. Allen stated according to Mr. Fredrickson, City Attorney, actual easements needed to be drawn up, not an agreement. Mr. Allen felt the city attorney should have been present at this meeting. Ms. Williams stated she had requested him to be present; however, he had another commitment. Mr. Allen stated he would be in favor of a special meeting to be held when the correct information was presented. Ms. Farrier questioned Mr. Pearson if they could determine the access from their property to Auer's by the November 1, 2006 meeting. Mr. Pearson stated they would be coming forth with their TIFD request at that time and he added the proposed subdivision for their property had the roads drawn; however, he was uncertain how the other lots would connect to his property.

Ms. Green reiterated the access needed to be drawn on the plat. Mr. Allen stated if the easements would have been depicted on the present plats, they could have approved them.

Ms. Williams questioned Mr. Pearson and Mr. Johnson if they could show their access. Mr. Pearson stated yes; however, Auer/BY must show their accesses and they all needed to tie together.

Ms. Williams questioned the Planning & Zoning Commission what they wanted to be drawn as an access road. Ms. Green stated she had never seen the statement on a Plat before since all access is usually depicted on the Plat and she did not feel that was sufficient. It was felt that the access had to be determined prior to the plats being approved.

Ms. Farrier moved to deny both of the Plats named: PLAT - LES AUER - Plat of Tract 1 and 2, consisting of the remainder of the Bavarian and Karoline Lodes, M.S. 1054, Located in the S½ of Section 14 and the N½ of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota and PLAT - LES AUER/ BY DEVELOPMENT - Plat of Tract B-1 of Tract B of Sunnyside Stone Placer, M.S. 751; Part of M.S. 308; Lots 8, 9 and 10 in Block A of Noble's Addition; a portion of Tract 1 of M.S. 1054, All located in the NW ¼ and NE ¼ of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota, until such time as the easements are shown on the Plats. Ms. Green seconded and the motion carried.

All in Favor - 4
Opposed - 0

Ms. Farrier stated that when they meet on this again she would like the Auer probate issue resolved as well. Ms. Williams stated it would not be cleared up until the first plat was

approved since the legal had to be established. Ms. Green questioned who would then sign the Plats. Ms. Williams stated Les Auer had been approved to sign the first plat. She noted that a deed would then be drawn up from Les Auer to Les Auer with the legal description on the first plat. Auer would then be the legal owner of the land.

Ms. Williams explained the history of the area and the different ownerships in that Mineral Survey. Ms. Farrier felt when First Gold had purchased Lawrence County's interest in Mineral Survey 1054; it had not been platted correctly for First Gold.

Ms. Green stated she would be in agreement for a Special meeting if the accesses were shown on the Plats.

FINDING OF FACTS - CITY OF DEADWOOD/ENGINE HOUSE CHANGE OF ZONING

Mr. Allen moved to approve the Finding of Fact for the City of Deadwood/Engine House Change of Zoning.

Ms. Farrier stated according to the Findings of Fact, the Deadwood Board of Adjustment excluded the stipulation by the Planning & Zoning Commission.

Mr. Allen withdrew his motion.

Mr. Allen felt that the City should not be selling parking spaces. No Action was taken on the Findings of Fact. Ms. Williams stated she would forward the findings without the signatures of the Planning and Zoning Commission.

ADJOURNMENT

Ms. Farrier moved to adjourn the Regular 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 5:40 p.m.

ATTEST:

Larry Ryan
Chairman (Acting)
Planning and Zoning

Marie Farrier
Secretary (Acting)
Planning and Zoning