

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

December 7, 2011

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Jim Shedd on Wednesday December 7, 2011 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Jim Shedd, Mel Allen, Marie Farrier, Sheree Green and Mark Speirs.

PRESENT BOARD OF ADJUSTMENT: Mayor Francis Toscana, Georgeann Silvernail, and Gary Todd.

ABSENT BOARD OF ADJUSTMENT: Joe Peterson and Jim Van Den Eykel.

All motions passed unanimously unless otherwise stated.

APPROVAL OF MINUTES:

It was moved by Ms. Farrier and seconded by Mr. Speirs to approve the minutes of the November 16, 2011 Meeting. Aye - All. Motion carried.

CONTINUED FROM NOVEMBER 16, 2011 - DEADWOOD EXPRESS (KLK VENTURES)

Mr. Keith Umenthum stated that the applicant requested the sign permit be continued until the December 21, 2011 meeting.

It was moved by Ms. Farrier and seconded by Mr. Speirs to continue the sign permit application for Deadwood Express (KLK Ventures) until the December 21, 2011 Meeting. Aye - All. Motion carried.

CONTINUED FROM NOVEMBER 16, 2011 - CANYON VIEW AMISH FURNITURE AND GIFT STORE (GARY SCHMALTZ)

Mr. Keith Umenthum stated that the applicant requested the sign permit be continued until the December 21, 2011 meeting.

It was moved by Mr. Speirs and seconded by Ms. Green to continue the sign permit application for Canyon View Amish Furniture and Gift Store (Gary Schmaltz) until the December 21, 2011 Meeting. Aye - All. Motion carried.

AMENDMENT #1 FOR CONTRACT FOR PRIVATE DEVELOPMENT TAX INCREMENTAL DISTRICT NUMBER EIGHT - BETWEEN STAGE RUN, LLC AND CITY OF DEADWOOD

Mr. Nelson turned the meeting over to Mr. Blaise Emerson of Black Hills Council of Local Governments (BHCLG) to review the Amendment #1.

Mr. Emerson explained a brief history of the Private Development Tax Incremental District (TIFD) Number Eight for Stage Run Development, a residential subdivision. Mr. Emerson stated discussion for Stage Run started in 2006 and the Project Plan was approved in 2007. Mr. Emerson stated that at the time of the Project Plan the housing market was strong however; in late 2007 and 2008 the economic crash caused a dive in the housing market. He explained that the lots did not sell as predicted in the Project Plan; therefore, the Tax Increments had not materialized as identified in the Project Plan.

Mr. Emerson identified another issue that arose with the tax assessment of the property. He stated that the property, prior to purchase, was taxed as agricultural property. The State of South Dakota enacted an Agricultural Z or "Ag Z" designation that would, for one year, raise the value of the property high then drop the value back to low after the year. At the time the Project Plan was written, the property was assessed at \$15,000 per year; however, the year the base was set for

the TIFD the property was designated "Ag Z" setting the value at \$934,520 instead of \$15,000 as shown in the Project Plan. Mr. Emerson explained that because of the higher designation the Increment has been a negative while they had been developing the property and would post a positive Increment in 2012.

Mr. Emerson stated that the developers, Mr. Clayton Johnson and Mr. Bill Pearson (in the audience), approached him to help find a solution. Mr. Emerson stated that he proposed to the developers they request the City to extend the TIFD, to help them pay back the funding over a longer period of time. He noted that no additional funding would be requested. He stated that according to State Law, the TIFD can be up to fifteen years from the last occurred cost, which was in 2009. Mr. Emerson stated that would give the developers six additional years to pay back the costs for a total of fifteen years, as allowed by State Law.

Mr. Emerson stated that entities affected by TIFDs would only sustain minimal impact, such as the School District. He explained that the Lead-Deadwood School district pays into the State fund whereas most districts receive funds.

Mr. Emerson stated that the developers were trying to restructure their loans with their financial intuitions and needed the extension to do so.

Mr. Speirs questioned who set the base at the higher rate. Mr. Emerson stated that it was set by the Department of Revenue. Mr. Emerson explained that the district was created in December 2006 and the assessment was set on November 1, 2006. Mr. Emerson stated that there was miscommunication on how it would impact the TIFD creating the issue. Mr. Emerson explained another TIFD in the State of South Dakota had the same instance occur. He stated that the tax assessment with "Ag Z" had been corrected so that it could not happen in the future. Mr. Emerson stated that the Project Plans are written by BHCLG with an estimate of the base and 99% of the time they are correct; this was a rare instance that they were not correct.

Mr. Emerson stated that economic factors in particular the housing market crash significantly impacted the development. According to the Project Plan the development should be at the end of stage two entering stage three but are in fact only at stage one. He noted that other subdivisions have been impacted in surrounding communities.

Mr. Jason Campbell questioned if Mr. Emerson had a revised Project Plan. Mr. Emerson explained that the first revenue would be received in 2012 and that the original plan had predicted eighty homes having been built by 2011; only five had been built. Ms. Silvernail questioned how many homes were owned by NeighborWorks Dakota Home Resources. Ms. Joy McCracken stated there was one home and they had purchased fifteen lots with the option of purchasing an additional five lots.

Mr. Campbell questioned how with the extension of six years changes the economic feasibility of the Project Plan. Mr. Emerson stated that he was unsure of the future of the housing market; however the developers are confident that a number of homes will be built in the next few years. Mr. Emerson stated that they are hopeful that the payoff will be met but there are no guarantees. Mr. Emerson noted that there is no City debt associated with the TIFD and that the debt is the developer's responsibility.

Mr. Emerson explained that the developer is asking for more time to pay off the debt and will need to be aggressive in getting homes built.

Mr. Campbell stated that according to State statute #11-9-13 the City can amend the TIFD in the same manner as the original was executed, which would include an economic feasibility study. Mr. Campbell stated that he did not object to the extension; however, more information was needed in order for Planning & Zoning to make a recommendation to the City for approval.

Mr. Emerson stated that the developers are still responsible for principal and interest listed in the Project Plan and are only asking for more time to repay the debt.

Mr. Campbell stated that he felt the City would need an analysis of the economic feasibility study of the project due to the change of factors of the tax assessment and the impact of the extension. Mr. Emerson stated that in talks with the developers, if they are able to refinance the project at a

lower interest rate, they would need to build a minimum of five houses per year with a value of \$300,000 per home and build the proposed apartment building.

Mr. Campbell restated that the City would need an economic feasibility study in order to make an informed decision and suggested continuing the Amendment #1 until the study was completed. Mr. Emerson agreed that he could complete the study. Mr. Pearson stated that the approval of the Amendment #1 was time sensitive because their financial institutions were awaiting the decision by the City and needed to be completed by the end of the year. Mr. Pearson stated that the debt is their responsibility and did not understand why it could not be approved without the study. Mr. Campbell stated that the City needs to follow statute. Mr. Emerson stated the study could be completed by the December 21, 2011 however, he cautioned that the study is based on projections and assumptions for the project to work and cannot provide a guarantee that the project will succeed.

It was moved by Mr. Speirs and seconded by Mr. Allen to continue the Amendment #1 for Private Development Tax Incremental District Number 8 until the until December 21, 2011 Meeting. Aye - All. Motion carried.

OPEN

None.

ADJOURNMENT:

It was moved by Ms. Farrier and seconded by Ms. Green to adjourn the Joint Meeting of the Planning and Zoning Commission into Executive Session for legal matters per SDCL 1-25-2(3) with no action to be taken. Aye - All. Motion carried.

There being no further business, the Planning & Zoning Commission adjourned from Executive Session at 6:00 p.m.

ATTEST:

Mr. Jim Shedd
Chairman
Planning and Zoning

Ms. Sheree Green
Secretary
Planning and Zoning