

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF LAWRENCE)

BEFORE THE
COUNTY COMMISSION OF
LAWRENCE COUNTY

BH DEVELOPMENT, LLC,)
)
Petitioner.)

PETITION TO ESTABLISH
THE POWDER HOUSE PASS
COMMUNITY IMPROVEMENT DISTRICT

Comes now, BH Development, LLC, a South Dakota limited liability company, licensed to do business in South Dakota, and the primary landowner within the proposed improvement district, hereinafter "Petitioner," and PETITIONERS: the County Commission of Lawrence County, State of South Dakota, for its Order, Findings of Fact and Conclusions of Law approving and consenting to the establishment of the "Powder House Pass Community Improvement District," as follows:

1. That this Petition is filed pursuant to South Dakota law, SDCL 7-25A, a copy of which is appended as Appendix A hereto and incorporated by this reference as though set forth herein in detail.
2. That Petitioner, along with all other owners within the proposed district, are the sole owners of 100% of the real estate contained within the boundaries of this proposed improvement district and as such owners, have consented to this Petition and agreed to the establishment of the "Powder House Pass Community Improvement District" if approved by this Commission, a copy of said Authorization is appended hereto as Appendix B and incorporated by this reference as though set forth herein in detail.
3. That the legal description of all the real estate to be included in the proposed "Powder House Pass Community Improvement District" is set forth in Appendix C which is incorporated by this reference as though set forth herein in detail.
4. That the initial five (5) members of the Board of Supervisors of the proposed "Powder House Pass Community Improvement District" are:

Greg and Jennifer Kaschmitter
BH Development, LLC
P.O. Box 647
Deadwood, SD 57732

Rob and Miriam Broin
3220 E. Old Orchard Trail
Sioux Falls, SD 57103

Kristen Palmer
3430 Corral Drive
Rapid City, SD 57702

all of whom will serve until replaced by elected members,
and hereby requests Lawrence County to appoint (1)
additional member as required by law.

5. That the proposed name of the improvement district shall be:
“Powder House Pass Community Improvement District.”
6. That an accurate, verified survey and map of the area within
the proposed “Powder House Pass Improvement District” are
appended hereto as Appendix D which is incorporated by
reference as though set forth in detail.
7. That an estimated “timetable and estimated cost” for the
continued construction of the proposed services for the
proposed “Powder House Pass Community Improvement
District” is appended hereto as Appendix E which is
incorporated by this reference as though set forth herein in
detail.
8. That a study and “statement of economic impact” of the
proposed “Powder House Pass Community Improvement
district” upon Lawrence County has been performed and that
the results and findings of that study are appended hereto as
Appendix F which is incorporated by this reference as
though set forth herein in detail.
9. That a study and “survey of the environmental impact” of the
proposed “Powder House Pass Community Improvement
District” upon Lawrence County has been performed and
that the results and findings of that survey are appended
hereto as Appendix G and incorporated by this reference as
though set forth in detail.

10. That the development and zoning ordinances and plans of Lawrence County have been reviewed by Amber Vogt, Director of the office of Planning & Zoning, and Bruce Outka, Esq., Lawrence County Deputy State's Attorney, and that the creation of the proposed "Powder House Pass Community Improvement District" will not conflict with and is consistent with all such Lawrence County and local comprehensive development and zoning ordinances and plans as set forth in the Affidavit of Compliance of Amber Vogt, Appendix H hereto, which is incorporated in total by this reference as though set forth in detail.

11. That pursuant to the requirements of the statute allowing creation of improvement districts, Appendix A, petition is hereby made requesting the approval and consent of Lawrence County to authorize and empower the "Powder House Pass Community Improvement District" to "plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain additional systems and facilities for:
 - a) Parks and facilities for indoor and outdoor recreational, cultural, and educational uses;
 - b) Fire prevention and control, including fire stations, water mains and plugs;
 - c) Security (law enforcement), subject to compliance with all applicable state regulations;
 - d) Water and waste collection and disposal;
 - e) Conventions and community gatherings;
 - f) Parking.

12. That Petition has established this proposed improvement district based on a tract of land with 1,023 acres, more or less, which is a large, contiguous and compact tract of land as set forth in Appendices C and D which are sufficiently contiguous to and will be developed as one functional, interrelated community pursuant to a "Master Plan," which is generally described in Appendix H which is incorporated by this reference as though set forth herein in detail.

13. That the Lawrence County Commission establish September 28, 2010 as the date set for a public hearing to review this Petition and that a "Notice of Public Hearing" in the form appended hereto as Appendix I, incorporated by this reference as though set forth herein in detail, be published in the _____, on September _____, 2010 and again on September _____, 2010, allowing this "Petition" to be inspected by any interested person at the offices of the Lawrence County Auditor pursuant to the Designation of the County Auditor, Appendix J hereto, incorporated by this reference as though set forth in detail.
14. That the Lawrence County Commission pass a Resolution and enter an Order and Findings of Fact and Conclusions of Law substantially in the form of those set forth in Appendices _____, which appendices are incorporated by this reference as though set forth herein in detail, approving and consenting to the establishment and empowerment of the "Powder House Pass Community Improvement District."
15. That the Lawrence County Commission authorize the Lawrence County Auditor to publish its unapproved minutes of the September _____, 2010, hearing containing its Resolution approving and consenting to the establishment of the "Powder House Pass Community Improvement District" on or before September _____, 2010.
16. That the Lawrence County Commission authorize the Lawrence County Auditor to file a "certified" copy of its Resolution, Appendix L, and Findings of Fact, Conclusions of Law, and Order, Appendix M, approving and consenting to the establishment of the "Powder House Pass Community Improvement District," in the offices of the Lawrence County Auditor and the Lawrence County Register of Deeds as required in the statute set forth in Appendix A.

WHEREFORE, Petitioner prays that the Lawrence County Commission pass a Resolution and enter its Findings of Fact, Conclusions of Law and Order approving and consenting to the establishment and empowerment of the "Powder House Pass Community Improvement District" with additional powers petitioned for herein.

Dated this _____ day of September, 2010.

BH DEVELOPMENT, LLC

By Greg Kaschmitter
Its: Managing Partner

By Jennifer Kaschmitter
Its: Managing Partner

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF LAWRENCE)

On this ____ day of September, 2010, before me, the undersigned officer, personally appeared Greg Kaschmitter and Jennifer Kaschmitter, BH Development, LLC, Petitioners above, after being first duly sworn on oath, and depose and state that they have reviewed this Petition and Appendices A through M appended thereto and know the contents thereof and that the same are true and of their own knowledge and belief, and that Petition was executed for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

(SEAL)

Notary Public
My Commission Expires: _____