

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

April 20, 2005

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairman Larry Ryan on Wednesday, April 20, 2005, at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

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

ABSENT PLANNING & ZONING: None

PRESENT BOARD OF ADJUSTMENT: Francis Toscana, Joe Peterson, Ronda Feterl, and Bruce Oberlander

ABSENT BORAD OF ADJUSTMENT: Georgeann Silvernail

APPROVAL OF March 2, 2005 MINUTES

Mr. Thorp moved to approve the minutes of March 2, 2005 with the recommended change. Mr. Allen seconded and the motion carried.

All in Favor - 5
Opposed - 0

MALCOLM MCKILLOP AND SALLY REIMAN - REQUEST FOR CONDITIONAL USE PERMIT FOR A THREE (3) UNIT CONDOMINIUM

LEGAL DESCRIPTION: LOTS 1 AND 2, BLOCK B, SUNNYSIDE ADDITION, AND A PORTION OF M.S. 1106 AS DESCRIBED IN DOCUMENT #84-1580, ALL LOCATED IN THE CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA

LOCATION: 846 MAIN STREET

ZONING: R1-RESIDENTIAL DISTRICT

The property is located at 846 Main Street and the land is zoned R1-Residential District. Ms. Williams explained that Mr. McKillop and Ms. Reiman were proposing a 3 unit condominium at 846 Main Street. Ms. Williams referred to the following staff report.

**STAFF REPORT
PLANNING AND ZONING**

APPLICANT: Malcolm McKillop and Sally Reiman

PURPOSE: Request for a three (3) unit Condominium

GENERAL LOCATION: 846 Main Street

LEGAL DESCRIPTION: Lots 1 and 2, Block B, Sunnyside Addition, and a portion of M.S. 1106 as described in Document #84-1580, All located in the City of Deadwood, Lawrence County, South Dakota

ZONING: R1 – Residential District

FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE: FOR: AGAINST:

STAFF FINDINGS:

Surrounding Zoning:

Surrounding Land Uses

North: R1 – Residential District
South: R1 – Residential District

Single-family dwellings
Single-family dwellings

East: R1 – Residential District
West: PF – Park Forest District

Single-family dwellings
Vacant undeveloped land

SUMMARY OF REQUEST

The Zoning Code was recently amended to include "Condominiums" under Conditional Use Permit in the R1 – Residential District. The petitioners submitted an application for a Conditional Use Permit to construct a three (3) unit condominium at 846 Main Street. The owners are proposing to restore the historic appearance of the subject residence. Each floor will be considered one (1) unit. Off-street parking will be provided on a vacant lot that abuts the residence. The owners propose to restore the exterior of the house as closely as possible to its historic appearance; however, provisions may be made to enclose the first floor porch with windows or screens. Siding will be replaced to match the existing siding. The front entry door will be restored to its original configuration. The front door will be a single door with sidelights based on the fabric evidence found during interior demolition. The enclosed porch on the second floor will be retained. The

applicants received approval from the Historic Preservation Commission in March of 2005.

FACTUAL INFORMATION

1. The property is currently zoned R1 – Residential District.
2. The property is comprised of approximately 6,338 square feet.
3. The subject property has access from Upper Main 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; area of 100 year flood with average depth of less than 1 foot (this area is contained within a culvert)
6. Adequate public facilities are available to serve the property.
7. The area is characterized by single-family residences.
8. The subject residence is a contributing home.

STAFF DISCUSSION

The petitioner(s) submitted a request for a Conditional Use Permit for a three (3) unit Condominium and the existing Deadwood Zoning Code permits such in the R1 – Residential District under a Conditional Use Permit.

The majority of the residences in the neighborhood are owner occupied. This neighborhood does not have many non-conforming uses.

The Zoning Code requires the following:

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.**
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.

The subject residence used to house six (6) apartments. The number of units will be cut in half and the units will be owner occupied.

- 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 proposed use in the proposed location does not result in a detrimental over concentration of this particular use. There is a need for this type of housing for our ageing population and for retirees wanting to live in our community.

- 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 and the use would not alter the character of the neighborhood. There will be no change in the size of the dwelling.

Off-street parking will be provided on a vacant lot that abuts the residence.

- 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 Condominium will not increase the proliferation of non-conforming uses. The nearest Conditional Use Permit is located at 830 Main which is located approximately 230 feet down the street. The applicants' residence is located in an area that is primarily made up of single family dwellings. 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 proposed 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.

The Conditional Use Permit will run with the property in this instance and the Zoning Code was amended to reflect that townhouses and condominium were exempt from the regulation stating the CUP ran with the applicant in the R1 – Residential District.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

1. Recommendation by Planning and Zoning Commission
2. Approval/approval with conditions/denial by Board of Adjustment

Ms. Green questioned if the CUP would run with the property and further questioned if the owners would be required to appear before the Planning and Zoning Commission is they wished to construct additional condominiums. Ms. Williams stated the current CUP request was for 3 condominiums and if more were to be built in the future, another request would need to be submitted. Mr. Ryan questioned if there were any comments received from adjacent landowners. Ms. Williams noted no comments had been received in regards to the project.

PLANNING AND ZONING COMMISSION

Ms Farrier moved to approve the Conditional Use Permit (CUP) for 3 condominiums at 846 Main Street. Mr. Ryan seconded and the motion carried.

All in Favor - 5
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.

Mr. Toscana questioned if 846 Main Street was in the 100 year flood plain. Ms. Williams explained that it is not in the 100 year flood plain.

Ms. Feterl questioned if there was a standard distance between Conditional Use Permits since the staff report indicated the closest CUP was located 230 feet away. Ms. Williams noted the zoning ordinance required a distance of 200' between Bed and Breakfasts. She noted the zoning ordinance did direct the commissions to consider how many conditional use permits were in the neighborhood so a neighborhood would not be impacted by conditional uses. Ms. Williams stated that this area will not be greatly affected because there were not many CUP's or non-conforming uses in the area. Ms. Feterl questioned if the Conditional Use Permit would cease if the units were not rented in six months. Ms. Williams explained that the only way the conditional use permit would cease was if the project was not started within the six months of approval of permit; however she pointed out the project had already been initiated.

Mr. Peterson moved to accept the recommendation of the Planning and Zoning Commission for approval of the conditional use permit for 3 condominiums at 846 Main Street. Ms. Feterl seconded and the motion carried.

All in Favor - 4
Opposed - 0

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

Mr. Ryan called the Planning and Zoning meeting back to order.

DISCUSSION

Comparable use for used car lot in C1- Commercial Use District

Ms. Williams explained that Mr. Lenny Mamola had visited the office to inquire whether he could start a used car lot 795 Main Street. Ms. Williams explained that a used car lot was not listed in the C1 – Commercial District. Ms. Williams provided the Commission with a list of the

uses allowed under C1 – Commercial Use District and stated they had the authority to allow the use if they found it to be comparable to any uses listed in the district.

Ms. Williams noted the Mr. Mamola would have a small office located in 795 Main Street and the vehicles would be parked along the side and in the back of the building. Mr. Ryan stated that he would like to notify the surrounding neighbors and business to get their opinion on the situation. Ms. Williams noted that could be accomplished.

Ms. Feterl did not feel the location was appropriate since this area had a mixture of residential and commercial uses. Ms. Feterl expressed concern about the use creating parking problems for the cleaners and other businesses in the area. Ms. Williams expressed concern in regards to traffic from the state highway finding its way into the restricted R1 – Residential neighborhood located up the street to access the car lot.

Mr. Ryan requested that staff send a letter explaining the request and that staff also ask for comments from adjacent landowners. Ms. Williams noted that she would send out a letter and the request would be placed on the next Planning and Zoning Agenda.

CUP FOR 846 MAIN STREET

Mr. Gale Grinager’s son stated he had two questions regarding the conditional use permit request for 846 Main Street. He questioned if the parking area would be paved and if the erosion problem in the rear of the property would be addressed. Ms. Williams explained that she had not received any plans for paving the parking lot for the condominiums. She noted they were not required to pave the lot, but they were required to place 4 inches of base coarse gravel in the parking area. Ms. Williams noted the city did not get involved in erosion issues and usually if there was a problem, the landowner addressed it. Mr. Grinager thanked the Planning and Zoning Commission and stated those were the only questions he had regarding the project.

ADJOURNMENT:

**Mr. Allen moved to adjourn the regular meeting of the Planning and Zoning Commission.
Ms. Farrier seconded and the motion carried.**

All in favor - 5
Opposed - 0

There being no further business, Planning & Zoning Commission adjourned at 5:30 p.m.

ATTEST:

Larry Ryan
Chairman (Acting)
Planning and Zoning

Marie Farrier
Secretary (Acting)
Planning and Zoning