

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

August 3, 2005

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission and Deadwood Board of Adjustment was called to order by Chairman Larry Ryan on Wednesday, August 3, 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: Nyla Griffith, Francis Toscana, Ronda Feterl, Georgeann Silvernail

ABSENT BOARD OF ADJUSTMENT: Mark Speirs

APPROVAL OF MAY 18th AND JUNE 21, 2005 MINUTES

Mr. Thorpe moved to approve the minutes of May 18, 2005 and June 21, 2005, as mailed. Mr. Allen seconded and the motion carried.

All in Favor - 5
Opposed - 0

DEADWOOD GULCH RESORTS/THAD FULLER

LEGAL DESCRIPTION: LOT 1 OF DEADWOOD GULCH ADDITION II, FORMERLY A PORTION OF DEADWOOD GULCH ADDITION II, LOCATED IN THE E ½ OF SECTION 27, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA.
ZONE: CH-COMMERCIAL HIGHWAY/PARK FOREST DISTRICT

Ms. Williams referred to the following staff report:

STAFF REPORT
PLANNING & ZONING
August 2005

NAME: Deadwood Gulch Resorts/Thad Fuller

LEGAL DESCRIPTION: Lot 1 of Deadwood Gulch Addition II, Formerly a portion of Deadwood Gulch Addition II, Located in the E ½ of Section 27, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

Location: Pluma Area/Across from Hardware Store

Zoning: CH – Commercial Highway/Park Forest District

PURPOSE:

The purpose of the plat is for transfer purposes. Mr. Thad Fuller is purchasing the property for his construction business. Mr. Fuller proposes to place fill in the area and build a bridge across the creek to access the property. His access would start from the State Highway and cross the trail system. The subject property is located in a flood area and Mr. Fuller will need to hire an engineer that will certify that the subject property is located above base flood elevation prior to being issued a building permit.

Mr. Fuller has contacted the Department of Environment and Natural Resources (DENR), Game, Fish and Parks (GF&P) and the Army Corp of Engineers. His engineer has been in contact with the Zoning staff.

Ms. Williams stated that DENR, GF & P and the Corp of Engineers had all been contacted. She noted she had been working with Gary Engel of the South Dakota Department of Transportation (SDDOT). She pointed out he had signed off on the plat as the Highway Authority. Ms. Williams noted Mr. Engle had requested the Commission to place a stipulation on the plat in regards to Mr. Fuller obtaining an approach permit. Mr. Allen questioned if the access road would cross the Mickelson Trail. Ms. Williams replied that the current access road already crossed the trail and the plat would not change anything. Ms. Farrier questioned whether Ms. Williams had checked with the Lead-Deadwood Sanitary District to see if Mr. Fuller would be able to connect to the sewer line. Ms. Williams stated she had not checked with the Sanitary District. Ms. Green noted the road was designated as a private access road and asked who would own it. Ms. Williams stated Mr. Fuller since the access was located on his property. She noted the remainder of the access was located on state land and they had signed off on the plat. Ms. Green questioned whether Mr. Fuller could potentially cut off access to the Webb residence. Ms. Williams replied that they would still have platted access even though the drive was designated private rather than public. It was questioned what Mr. Fuller's plans were for the land. Ms. Williams noted he proposed to store his construction equipment on the land after the fill was placed. Ms. Ronda Feterl questioned if Planning & Zoning would be referring the issue to Historic Preservation to see if it fell under the guidelines of other view sheds. Ms. Williams noted that zoning did not address screening in this type of situation; however, staff could request a living screen or a slatted fence. Green expressed concern should Mr. Fuller change his mind about allowing access and stated that she would like to get the City Attorney's opinion on the designation of private access road.

Ms. Green moved to table action on the plat for Deadwood Gulch Resorts/Thad Fuller pending the City Attorney's opinion on the private access road and review by the Historic Preservation Commission. Mr. Allen seconded and the motion carried.

All in Favor - 5
Opposed - 0

BILL MATHIEU/4 ACES HOTEL CORPORATION

LEGAL DESCRIPTION: THAT CERTAIN LOT IN THE CITY OF DEADWOOD, DESCRIBED AS FOLLOWS: BEGINNING AT THE SW CORNER OF THE TRACT, FROM WHICH U.S. LOCATING MONUMENT NO. 2, SOUTH 55° 40' EAST 1,956 FEET DISTANT; THENCE NORTH 62° 45' WEST 137 FEET; THENCE SOUTH 27° 15' EAST 232 FEET TO THE PLACE OF BEGINNING, CONTAINING 72/100 ACRES, EXCEPT ROAD RIGHT-OF-WAY; ALSO KNOWN AS PROBATE LOT 227, ALSO KNOWN AS 227 WILLIAMS; AND SCHOOL LOT 66 AND PROBATE LOT 186.

Ms. Williams referred to the following staff report:

NAME: Bill Mathieu/4 Aces Hotel Corporation

LEGAL DESCRIPTION: That certain lot in the City of Deadwood, described as follows: Beginning at the SW Corner of the Tract, from which U.S. Locating Monument No. 2, South 55° 40' East 1,956 feet distant; thence North 62° 45' West 137 feet; thence North 27° 15' West 232 feet; thence South 62° 45' West 137 feet; thence South 27° 15' East 232 feet to the place of beginning, containing 72/100 acres, except road right-of-way; also known as Probate Lot 227, also known as 227 Williams; AND School Lot 66 AND Probate Lot 186.

ADDRESS: 227 Williams Street

PRESENT ZONE: R1 - Residential District

PROPOSED ZONE: C1 - Commercial District

BACKGROUND:

The request for a Change of Zoning was initiated by Four Aces, Hotel Corporation. The request submitted is for a rezoning from R1 - Residential District to C1 - Commercial for the purpose of developing more rooms and parking. Northern Williams Street divides the Probate Lot; therefore, lands, with the same legal description, are located below and above Williams Street. This property is situated around the graveled (dirt) portion of Williams Street and traffic is basically one-way due to the narrowness of the street. Mr. Bill Mathieu currently owns the property and there is an

existing residence at 227 Williams on Probate Lot 227. Surrounding property, located below is partially zoned C1 – Commercial District and R1 – Residential District. Property located above Williams Street is entirely zoned R1 Residential District. The Comprehensive Land Use Plan designates the subject area, above Williams Street, as Low-density residential use. The majority of the land is steep hillside and undeveloped.

Staff's concerns are as follows:

Lands located above Williams Street should remain zoned R1 – Residential District or changed to R2 – Multi-family Residential District. The city comprehensive plan recommends low density residential. Historically, land above Williams Street is zoned for residential purposes. It is not unusual for properties to have two (2) different zoning classifications and in this case, Northern Williams Street divides the properties and identifying the zoning would not be difficult. The Zoning Code states: "Interpretation of District Boundaries. Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the zoning districts map, the following rules shall apply: 1. Boundaries shown as following or approximately following streets, highways or alleys shall be construed to follow the center lines of such streets, highways or alleys;" Therefore, there would not be any confusion in the future if the land above Williams would remain zoned R1 – Residential District.

It would be proper to question whether or not any traffic would be diverted onto the portion of Williams Street abutting the subject properties. Since Williams Street is very narrow, it would not be a good idea to direct traffic to this area for any purpose.

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
2. A sign was posted on the property for which the requests were filed.
3. Notice of the time and place was published in the designated newspaper of the City of Deadwood.

SECTION 17.100.030 - STANDARDS OF REVIEW:

In reviewing an amendment to the text of this Ordinance or an amendment to the Official Zoning District Map, the City Commission and Planning and Zoning Commission shall consider the following:

- A. Whether the proposed amendment is in conflict with any applicable portions of this Ordinance.**

The application is not in conflict with the City of Deadwood Zoning Code if the proposed use is limited to the lands located below Williams Street.

- B. Whether the proposed amendment is consistent with all elements of the Deadwood Comprehensive Plan.**

The Comprehensive Plan Land Use Plan recommends low residential density for the lands located above Williams Street. Again, it is historically accurate to limit the growth to residential uses for lands located above Williams Street.

- C. Whether the proposed amendment is compatible with surrounding Zone Districts and land uses, considering existing land use and neighborhood.**

Williams Street runs above Main Street properties through a good portion of the city. All uses located above Williams Street are residential type uses. Since Williams Street sets above Main Street, most lands abutting Williams Street retain steep hillsides. For that reason, the rise separates the commercial uses from the residential uses located on Williams Street.

D. Whether and the extent to which the proposed amendment would result in demands on public facilities, and the extent to which the proposed amendment would exceed the capacity of such public facilities, including, but not limited to transportation facilities, sewage facilities, water supply, parks, drainage, schools, and emergency medical facilities.

A hotel and parking are being proposed at this time. There would be an additional impact on public facilities such as water and sewer; however, our systems can accommodate the future use. Drainage would need to be addressed at the building permit stage. Due to the location, the trolley rider numbers would more than likely rise. Emergency and medical facilities would be slightly impacted.

STAFF RECOMMENDATION:

The land located above Williams Street should remain zoned R1 - Residential District.

Mr. Roger Tellinghuisen, applicant's attorney, Mike Rodman, Manager of 4 Aces and Mark Mollers, co-owner of 4 Aces were present to address questions about the proposed hotel project. Mr. Tellinghuisen stated that Four Aces Corporation had no objection to staff's recommendation that the land above Williams Street remain zoned R1- Residential District. Ms. Nyla Griffith expressed reluctance to approving the commercial designation in the area of the residence. She questioned whether the commercial zoning classification would make it easier for the applicants to demolish the residence at 227 Williams. She questioned if the line between the two zones could be located so as to leave the residence in the residential zone. Ms. Williams replied that they were allowed to place discretionary lines on the zones. Mr. Frederickson, City Attorney, stated that certain zoning classifications could create more pressure on the Historic Preservation Commission with regard to the ability to demolish a historic structure. Ms. Green agreed with Ms. Griffith and voiced her concern about the residence being located in the Commercial District. Mr. Allen stated that as far as the Planning & Zoning Commission was concerned, all they needed to consider at this time was the change of zoning request and the Historic Preservation Commission would address the demolition issue, if demolition was requested. It was noted the residence was one of the oldest homes in Deadwood and that the structure was considered "Contributing".

Mr. Allen moved to recommend approval of the request for a Change of Zoning to C1-Commercial District, with the stipulation that the lands located above Williams Street remain zoned R1-Residential District. Mr. Thorp seconded and the motion carried.

All in Favor - 4
Opposed - 1

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.

Ms. Feterl moved to continue action on the zoning change request until the August 29, 2005, regular meeting to allow the Historic Preservation Commission to review the matter. Ms. Griffith 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.

Joint Meeting
August 3, 2005

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

ADJOURNMENT:

**Mr. Allen moved to adjourn the Joint Meeting of the Planning and Zoning Commission.
Mr. Thorp seconded and the motion carried.**

All in favor - 5
Opposed - 0

There being no further business, Planning & Zoning Commission adjourned at 5:55 p.m.

ATTEST:

Larry Ryan
Chairman (Acting)
Planning and Zoning

Marie Farrier
Secretary (Acting)
Planning and Zoning