

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

October 4, 2006

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairman Larry Ryan on Wednesday, October 4, 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.

Due to a conflict with the Municipal League Meetings, no members from Board of Adjustment were able to attend.

ABSENT BOARD OF ADJUSTMENT: Francis Toscana, Mark Speirs, Georgeann Silvernail, Nyla Griffith and Mike Klamm.

APPROVAL OF MINUTES

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

All in favor - 4
Opposed - 0

AMDENDMENT TO ZONING MAP: CITY OF DEADWOOD

LEGAL DESCRIPTION: Plat of Bank lot 2; Dedicated access easement and street right-of way, Located in a portion of Lot R1, City of Deadwood Railroad property, All located in the NW ¼ of Section 26, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

ADDRESS: 180 Sherman Street
EXISTING ZONE: PU - Public Use District
PROPOSED ZONE: CE - Commercial Enterprise District

Ms. Williams referred to the following staff report:

APPLICANT: City of Deadwood

LEGAL DESCRIPTION: Plat of Bank Lot 2 and dedicated Western Way Road and access and utility easements, Located in a portion of Lot R1, and Lot R1B, City of Deadwood Railroad Property, All located in the NW ¼ of Section 26, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

ADDRESS: 180 Sherman Street

EXISTING ZONE: PU - Public Use District
PROPOSED ZONE: CE - Commercial Enterprise District

ASSESSOR'S NO: 30025-09200-000-00

BACKGROUND:

The request for a Change of Zoning is submitted for a rezoning from PU - Public Use District to CE - Commercial Enterprise District for the purpose of developing offices and parking for First Western Bank. The PU - Public Use District is intended to provide locations for areas worthy of preservation due to their natural beauty and open space character or otherwise to provide for public uses which will serve the public good. The CE - Commercial Enterprise District is intended to provide locations for the development of a shopping area or center which will include commercial service establishments primarily catering to the retail service and merchandise needs of the local population. Gaming is not a permitted use in this district. The plat has received the proper certifications from the City of Deadwood and has been filed.

This property is situated in Railroad Lot 1, known as the Sherman Street Municipal Parking Lot. Bank Lot 1, owned by First Western Bank, was involved in a land trade with the City of Deadwood and platted for transfer purposes in 1993. The Engine House was restored with an ISTE A Grant and interpretative plaques presenting the railroad history of Deadwood were placed in the Engine House for public display; however, it was scarcely used or promoted

and the rear portion of the Engine House was leased out to a party for bicycle rentals. The bicycle rental business will be relocated to an area, not yet determined.

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 or Land Use Plan. The CE - Commercial Enterprise Zone is a non-gaming zoning classification.

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

The Comprehensive Plan Land Use Map depicts the area as Community Commercial and Open Space/Park. This use would be appropriate for the subject area.

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

The subject property abuts Bank Lot 1, owned by First Western Bank. That lot is also zoned CE-Commercial Enterprise District. The Hardware Store is zoned C1 - Commercial District. The remainder of the land surrounding the area is zoned PU - Public Use District since it is used for public parking.

- 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.

Offices would create a small impact on water and sewer and our systems can accommodate the future use. The subject property is located in Zone X - Areas of 500-year floods; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees-from 100-year flood. The building has been in existence, and only new construction or substantial improvements are addressed in this flood zone. This structure would be considered non-conforming since it was built prior to flood regulations.

Dr. Mike Guilbert addressed the Planning & Zoning Commission. Mr. Guilbert stated he did not disagree that First Western Bank would utilize the building and safeguard the historical significance of the building; however he expressed concerns regarding the area, that it is a staging area for hiking and biking on the Mickelson Trail. Dr. Guilbert stated the City needed

to protect the subject area for the Mickelson Trail or it would gradually be lost. Dr. Guilbert felt the Mickelson Trail was one of the most pristine and significant trails in the United States. He noted the surroundings in this area made it convenient to get to the trail and park in the area. He also felt the bike shop was important and enhanced the gateway to the trail. Dr. Guilbert stated that First Western Bank could still go into the Engine House however restrictions need to be addressed by the City to help safeguard the Mickelson Trail.

Mr. Allen pointed out the Planning & Zoning Commission was only addressing the change of zoning at this time, not the sale nor the modification of the building. Mr. Allen stated Dr. Guilbert's comments were valid; however they needed to be directed at the City Commission. Dr. Guilbert stated he was opposed to the change of zoning if no provisions were attached to the sale that would protect public use. Ms. Williams informed the citizens that the Board of Adjustment (City Commission) was not in attendance due to the Municipal League meetings in Spearfish, and that this issue would be brought forth at the City Commission Meeting scheduled for Tuesday, October 10, 2006 at 5:00 p.m.

Dr. Guilbert reiterated this area was very important to the Mickelson Trail and he would attend the City Commission meeting to address these issues. Mr. Allen agreed but restated that the Planning & Zoning Commission was only addressing the zoning change. Dr. Guilbert suggested conditioning the change of Zoning to safeguard the public use of area and stated this area was used by the public on a regular basis. Dr. Guilbert felt that protecting the trail way access was more important than another bank. Ms. Green questioned if the parking had been zoned PU - Public Use. Ms. Williams stated yes. Chairman Ryan stated the sale of the engine house was still up in the air due to the relocation of the bike shop and that was a City Commission issue.

Ms. Patricia Sherman, 5 Harrison, questioned if the Engine House could be torn down with the sale of the building and if the bank had a right to do what they wished with the property. Mr. Ryan noted that also was a City Commission and/or Historic Preservation issue. Ms. Williams stated that staff had not been involved in the discussions with First Western Bank; however, a façade easement had been slightly discussed by some of the members of the City Commission. She noted a façade easement would protect the engine house from any changes on the exterior and that the exterior would be required to be maintained in good condition. Ms. Sherman questioned what would happen to the Railroad Museum displays that were currently located in the Engine House. Ms. Williams stated the City would more than likely keep the displays and they would possibly be placed into storage. Ms. Sherman questioned if they could be placed in the area for public display. Ms. Williams stated since staff had not been involved in the discussions with First Western Bank, she did not know if that subject had been discussed and whether the displays could withstand the weather conditions. Ms. Sherman questioned why the zoning had not been changed when the Bike shop moved into the Engine House. Ms. Williams stated that the Bike shop was leasing from the city and the Engine House was still owned by the City of Deadwood.

Mr. Ron Russo questioned the transfer of sixteen (16) parking spots with the sale of the Engine House. Mr. Russo questioned if this transfer was setting precedence on the sale of City owned parking. Mr. Russo stated for an example, he would be interested in purchasing the parking spots in front of the Fairmont.

Mr. Jim Sherman stated that the Engine House was an historic building and it should not be torn down but protected by the city. He stated he used to play around this building and area and if the city continued to own it, it would maintain its historic significance. Mr. Ryan stated he was not aware of any plans to tear down the Engine House. Ms. Williams stated there were no plans to tear the building down. Ms. Sherman questioned if the proposed property owners could tear it down. Mr. Ryan felt that because of the historic significance of the building, it could not be torn down. Dr. Guilbert stated as a former Historic Preservation Commission member the building could not be torn down without a fight.

Ms. Williams referred to other comments made by concern citizens:

COMMENTS RECEIVED REGARDING THE CHANGE OF ZONING

1. Concern regarding the number of parking spaces being given up by the city. Had been questioned why so many parking spaces were being given up when there was

- parking all around the building. Also, that the parking spaces themselves were worth \$300,000.00 (only an opinion).
2. Negative comment regarding the selling price. Felt if the city was going to sell the building, it should have been offered to the public. Tim Conrad may have been interested in the property since he was an adjoining neighbor.
 3. Lady from Mitchell, South Dakota indicated they used the trail when they visited Deadwood and they used the Bike Shop. She noted the location for the bike shop was ideal for people who wished to use the trail. Also, she indicated that "Tony", manager of the bike shop, was an advocate for Deadwood.

All the above comments were directed at the arrangement being proposed and do not relate to the change of zoning itself.

Ms. Farrier stated that as an employee at the Information Booth, she gets questioned about where the trailhead is located in the City and where to park. Ms. Farrier stated that it was very important to keep the parking in this area for people using the trail. Ms. Sherman questioned why so many parking spaces were being given. Ms. Williams stated the parking went with the sale of the building. Mr. Guilbert questioned if the parking spaces would be available for public use in non business hours. Ms. Williams reiterated she was not aware of any arrangements since staff had not been involved in the discussions.

Ms. Deb Figueora questioned if this sale was finalized. Ms. Williams stated it was not final at this time and this was a step to have the area properly zoned for the sale. Ms. Figueora questioned if the Planning & Zoning Commission's decision was final for the sale of the property. Ms Williams replied the Deadwood Board of Adjustment needed to make the decision and that the Planning and Zoning Commission's action was only a recommendation. She noted the Change of Zoning was only a step to prepare the property for transfer purposes.

Ms. Green questioned if the parking spaces were included on the plat. Ms. Williams stated the parking had been platted within the lot. Ms. Green questioned if it would have been better not to include them in the plat. Ms. Williams stated it could have been a possibility. Ms. Farrier questioned if Ms. Williams had recorded the plat. Ms. Williams states she had not at this time since the plat still required Mayor Toscana's signature, under ownership. Mr. Allen stated that he agreed with Ms. Green and felt the City should lease the parking not sell it. The Planning & Zoning Commission instructed Ms. Williams to hold the plat until the issues were completed.

Mr. Allen moved to approve the change of zoning from PU - Public Use to C-E Commercial Enterprise with the stipulation that the parking area be leased rather than sold.

Ms. Green stated that land cannot be conveyed in that manner and the area would need to be replatted due to the changes in the legal description. Ms Williams stated the legal would not change just the dimensions. Ms. Green agreed.

Mr. Allen moved to approve the change of zoning from PU - Public Use to C-E Commercial Enterprise with the stipulation that the parking area be leased rather than sold and that a new plat is drawn to eliminate the parking spaces. Ms. Green seconded and the motion carried.

All in favor	-	4
Opposed	-	0

Ms. Williams informed the citizens in the audience that this matter would come forth to the City Commission on Tuesday October 10, 2006.

Ms. Farrier reaffirmed her concern about the parking on Sherman Street. She stated with the new archives in the former Thorpe Building, parking was going to be used up and the City was losing more with the sale of the Engine House. Ms. Williams pointed out when the Thorpe building was purchased by the city, they gained 71 parking spaces. However, Ms. Williams agreed the City needed to be careful or they would slowly lose more spaces. Ms. Farrier stated that large buses will suffer because there will be no place for them to park. Also, during the rally, that parking lot is full with trailer and vehicles.

PLAT - FRANKLIN HOTEL - Plat of Franklin Lot, formerly all of Lots 1, 3, 5, 7, 9, 11 and 14, and a portion of lots 8, 10, 12, 14 and vacated alley - aka Broadway Street, adjoining lots 1-14, all in Block 23, O.T., section 22, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

Ms. Williams referred to the following staff report:

REQUEST FOR COMMISSIONS ACTION
STAFF REPORT
APPROVAL OF FINAL PLAT
October 4, 2006

Summary of Project Proposal:

NAME: Franklin Hotel

LEGAL DESCRIPTION: Plat of the Franklin Lot, Formerly all of Lots 1, 3, 5, 7, 9, 11 and 14, and a portion of Lots 8, 10, 12, 14, and vacated alley, all in Block 23, O.T., SE1/4 of Section 22, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

ADDRESS: 700 Main Street

Approval is requested for the Final Plat as described above. The owners are confirming their boundaries and also the plat will clean up the legal description of the property since it consisted of several lots.

The subject property is located in the C1 – Commercial District zone. The subject land contains 0.59 acres, more or less. The size of the lot meets the C1 – Commercial District standards of minimum lot area of 2,500 square feet, as required under Area and Bulk requirements in Section 17.32.040.

The property is located within Zone X – Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 100-year flood.

The North Arrow is shown on the plat with a direct reference to the city coordinate mapping system.

Surveyor's Certificate is shown with the name of the surveyor and his registered land surveyor number.

Date is shown on the plat and serves to "fix in time" the data represented on the plat.

Dimensions, angles and bearings are shown along the lot lines.

Scale of the plat is shown and accompanied with a bar scale.

Location of Monuments are shown and described on the final plat.

Ms. Farrier stated she would like the legal to include Block 23 and Original Town (O.T.) in the heading due to the fact on tax statement it will only state Plat of the Franklin Hotel. Ms. Green agreed that it should include Block 23 and O.T.

Ms. Green moved to approve the PLAT - FRANKLIN HOTEL - Plat of Franklin Lot, formerly all of Lots 1, 3, 5, 7, 9, 11 and 14, and a portion of Lots 8, 10, 12, 14 and vacated alley - aka Broadway Street, adjoining Lots 1-14, all in Block 23, O.T., Section 22, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota with the corrections of Franklin Hotel not Motel and add Block 23 and O.T. in the heading, following Franklin Hotel in the legal description.

All in Favor - 4
Opposed - 0

OPEN

Ms. Williams read a letter she had written to former Planning & Zoning Commissioner, Robert Thorpe, thanking him for his years of service.

ADJOURNMENT

Ms. Farrier moved to adjourn the Joint Meeting of the Planning and Zoning Commission. Ms. Green seconded and the motion carried.

Joint Meeting
October 4, 2006

All in favor - 4
Opposed - 0

There being no further business, Planning & Zoning Commission adjourned at 5:35 p.m.

ATTEST:

Larry Ryan
Chairman (Acting)
Planning and Zoning

Marie Farrier
Secretary (Acting)
Planning and Zoning