

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

October 15, 2008

REGULAR MEETING

The Regular Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Marie Farrier on Wednesday October 15, 2008 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

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

APPROVAL OF MINUTES:

Mr. Ryan moved to approve the minutes of the October 1, 2008 Joint Meeting, as mailed. Mr. Shedd seconded and the motion carried.

All in favor - 5
Opposed - 0

SIGN PERMITS:

Pat and JoAnn Eastman - 73 Sherman Street (Former Texaco Gas Station)

Mr. Keith Umenthum, Deadwood Building Inspector, reviewed his staff report with the Commission members. Mr. Umenthum stated the applicant is requesting to change and insert additional text on the existing building and Texaco sign in order to keep with the original Texaco theme. The signage would advertise the new coffee, deli and children's clothing business.

The applicant proposes to touch up the existing free standing Texaco sign and change the text to "Pumphouse Coffee Deli Little Wheels Clothing" on the sign face. Ms. JoAnn Eastman stated the sign would have a star in the middle with the text being placed above and below it.

A "Pumphouse" sign in 10" tall letters will replace the Texaco sign on the building and a "Coffee" sign in 6" tall letters will be placed below. The "Little Wheels Clothing" sign in 6" tall letters would be placed above the garage doors. The proposed signs would be made of high density foam, previously approved by the Historic Preservation Commission as an alternative to wood. Mr. Umenthum recommended approval on the signage.

Mr. Shedd moved to approve the signage for 73 Sherman Street. Mr. Allen seconded and the motion carried.

All in favor - 5
Opposed - 0

INFORMATIONAL ONLY: Deadwood Volunteer Fire Department - 2- 3'x9' Chili Feed Banners

Mr. Umenthum stated the Deadwood Volunteer Fire Department would be placing two (2) 3'x 9' Chili Feed Banners on the Fire Hall from October 27 through November 2, 2008.

NEW BUSINESS:

REPLAT - DEBRA BROWN - Plat of Lots A, B and C, Block 10, Highland Park Addition to the City of Deadwood, Lawrence County, South Dakota, Formerly Lots 1 thru 5, and vacated portion of alley, Block 10, Highland Park Addition, Located in the NW ¼ of Section 23, T5N, R3E, B.H.M.

Ms. Williams reviewed the following staff report:

STAFF REPORT
PLANNING AND ZONING
OCTOBER 15, 2008 MEETING

APPLICANT: Debra Brown

PURPOSE: For transfer purposes only

GENERAL LOCATION: 31 Burnham

LEGAL DESCRIPTION: Plat of Lots A, B and C, and a portion of vacated alleyway, Block 10, Highland Park Addition to the City of Deadwood, Lawrence County, South Dakota, Formerly Lots 1-5, Block 10, Highland Park Addition, Located in the NW ¼ of Section 23, T5N, R3E, B.H.M.

FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE: FOR: NA AGAINST: NA

STAFF FINDINGS:

Surrounding Zoning:

North: R1 – Residential District
South: R1 – Residential District
East: R1 – Residential District
West: R1 – Residential District

Surrounding Land Uses

Single-family residential
Single-family residential
Single-family residential
Single-family residential

SUMMARY OF REQUEST

The purpose of the plat is for transfer purposes only. Ms. Brown is replatting her properties into three (3) new lots. The lots will set towards Pleasant Street instead of Burnham Street; however, this land is located right across from 45 Burnham. Forty-five Burnham had replatted their lots in the direction of Pleasant Street; therefore, there is potential for 4 new homes to face this street and it will appear natural since these are corner lots.

Lots A and B require variances from lot size requirements in the R1 – Residential District. Section 17.24.040 requires 5,000 square feet for new lots. Lots 1-5 are already non-conforming lots which do not meet the 5,000 square foot requirement and the reconfiguration or replat achieves closer compliance to the current zoning requirements.

Lot A - requires a 787.1 square foot variance from Section 17.24.040.A.2.

Lot B - requires a 798.6 square foot variance from Section 17.24.040.A.2.

FACTUAL INFORMATION

1. The property is currently zoned R1 – Residential District. All existing uses are permitted by right in this zoning classification.
2. Acreage – Lot A = 4,212.9 sq. ft. – Lot B = 4,201.4 square feet – and, Lot C = 7,409.2 square feet.
3. The property gains access from Pleasant or Burnham Streets.
4. The area under discussion is located within a low density residential designation in the Comprehensive Plan.
5. The land is located outside of the Flood Zone.
6. Public facilities are available to serve the property.
7. The neighborhood is characterized by single-family residential uses.

STAFF DISCUSSION

The subject plat is a necessity to clear a clouded title to the property.

- The plat has a North Arrow.

- Signature and seal of the surveyor
- Dimensions are shown on all sides of the property
- Scale of drawing is shown
- Acknowledgements are shown
- Certification for City and County are shown

Ms. Farrier stated approval of two (2) variances were required prior to the approval of the plat: Lot A required a 787.1 square foot variance from Section 17.24.040.A.2 and Lot B required a 798.6 square foot variance from Section 17.24.040.A.2.

Ms. Barb Hansen, 23 Burnham, requested the plat be tabled or denied due to the intentions of the applicant to sell the two lots and build new homes on the lots. Ms. Hansen stated that currently two "cracker box houses" were being constructed on the corner of Burnham and Pleasant Street. She stated that by replatting the lots to face Pleasant Street and new construction of two more small homes would cause access and congestion problems on Pleasant Street. Ms. Hansen gave further details about an incident that she and her husband recently had with the applicant. Ms. Hansen stated she had communicated with City Commissioner, Mr. Lenny Schroeder, regarding land use in the neighborhood. Mr. Schroeder stated he had also spoken with Ms. Williams prior to the meeting regarding the situation. Ms. Williams noted that Mr. Schroeder had visited with her before the meeting.

Ms. Williams explained that the replatting of the area was improving the situation by dissolving the three 30' by 100' existing lots of record and creating two larger lots. Ms. Williams stated that it would be within the owner's right to individually build on the three existing lots of record since the existing lots of record are legally honored. Ms. Williams stated that at this time, the Planning & Zoning Commission was only looking at the plat as presented, not future use of the lots.

Ms. Green and Mayor Francis Toscana questioned how a person could build anything the twenty-five by one hundred foot (25'x100') lots. Ms. Williams pointed out that a five foot side yard setback was only required on interior lots.

Ms. Hansen questioned what would happen to the historic aesthetic value of the neighborhood if the lots were replatted. Ms. Williams pointed out there were three existing lots and they were being made into two lots, therefore, the situation was being improved and the dimensions of the lots were nearer to what the current ordinance requires. She noted the historic nature of the neighborhood was a Historic Preservation Commission issue not Planning & Zoning. Mr. Terry Hansen, 23 Burnham, declared his disapproval with the construction of the new homes on Burnham and Pleasant and he felt he should have been informed of the proposed construction at the time it was approved. Mr. and Ms. Hansen pointed out that new houses would be constructed on these replatted lots as well.

Ms. Williams reiterated that the issue being addressed was the plat. Ms. Green questioned the minimum lot size in Residential Zoning. Ms. Williams stated the minimum lot size was 5,000 square feet for a new lot in the R1 - Residential District. She noted the proposed lots were 4,212.9 and 4,201.4 square feet each; therefore, variances were required.

Ms. Farrier questioned which lot the applicant's home was on. Ms. Williams stated the existing residence set on the new Lot C and noted the applicant also owned vacant Lots 6, 7 and 8 that fronted on Burnham.

Ms. Green questioned if building permits could be issued if the variances were approved. Ms. Williams stated building permits could be issued after plat approval; however, she also pointed out that building permits could be issued for the three existing lots of record.

Mr. Hansen declared that the houses being built, on Pleasant, were too small and stated there were larger garages in the area than the proposed houses. Ms. Farrier pointed out that the smaller homes were more affordable and sometimes they were needed for the labor force.

Ms. Williams reiterated that the replatting was improving the current situation. Mr. Allen pointed out it was possible for the applicant to sell and build on the three lots. Ms. Green questioned if off street parking would be required. Ms. Williams stated off-street parking would be required at the building permit stage and would be possible on the proposed lots. Ms. Williams stated future uses of vacant existing lots of record, privately owned, were protected and the only way to stop further development would be to purchase the lands yourself. The subdivision standards in this instance could deny a property owner reasonable use of the property.

Ms. Silvernail questioned what the sizes of the new lots were. Ms. Williams stated they would be 53' by 78' and the original lots were 30' by 100'.

Ms. Williams stated that the Planning & Zoning officials were required to stick to the rules and apply those rules equally to all people. Ms. Hansen stated the ordinance needed to be changed. Ms. Williams stated non-forming lots could be considered in the future but it could be a legal issue also. Ms. Hansen questioned if the ordinance changed would the applicant have "grandfathered in" status. Ms. Williams stated she would have "grandfathered in" status. Mr. and Ms. Hansen stated they were disappointed with that answer.

Mr. Allen explained that the variances were improving the situation. Ms. Hansen stated the applicant would have a hard time selling three small lots and that the applicant was replatting out of spite. Mr. Allen stated lots sell in Deadwood regardless of the size. Mr. Hansen stated he had issues with Ms. Brown regarding a retaining wall. Ms. Hansen stated Mr. Hansen had had a physical altercation with the applicant.

The Planning & Zoning Commission agreed the plat should not be tabled and the ordinance had to be followed as written.

Ms. Lila Sorensen, adjacent landowner living at 26 Burnham agreed that the variances and replat created a better situation in the neighborhood. Mr. Keith Harrison stated the issue in the neighborhood was the off street parking and limited emergency access. Mr. Terry Hansen pointed out there was no emergency exit out of the Burnham Hill neighborhood. Ms. Williams stated there were legally platted streets above the subject area; however she agreed that currently, there was probably only one way out in case of an emergency.

Ms. Barbara Hansen requested and received a copy of the Zoning and Subdivision Ordinances.

Mr. Loren Vrem, Ponderosa Land Surveys LLC., stated he had conducted the survey and had produced the plat. Mr. Vrem stated Ms. Brown replatted her property in order to provide two (2) larger lots. He noted that similar plats and variances had been approved in the past. Mr. Vrem pointed out the frontage was wider allowing off street parking or a garage to be built on the proposed lots.

Ms. Green pointed out the Planning & Zoning Commission was required to follow the Ordinances, as they currently existed.

Ms. Green moved to approve the variance for Lot A requiring a 787.1 square foot variance from the Ordinance Section 17.24.040.A.2. Mr. Shedd seconded and the motion carried.

All in favor - 5
Opposed - 0

Ms. Ryan moved to approve the variance for Lot B requiring a 798.6 square foot variance from Section 17.24.040.A.2. Mr. Shedd seconded and the motion carried.

All in favor - 5
Opposed - 0

Ms. Green moved to approve the Plat for Debra Brown of Lots A, B and C, Block 10, Highland Park Addition to the City of Deadwood, Lawrence County, South Dakota,

Formerly Lots 1 thru 5, and vacated portion of alley, Block 10, Highland Park Addition, Located in the NW 1/4 of Section 23, T5N, R3E, B.H.M. Mr. Shedd seconded and the motion carried.

All in favor - 5
Opposed - 0

PLAT - DEADWOOD STAGE RUN ADDITION - Plat of Lots 21 and 22, Block 1 of Palisades Tract of Deadwood Stage Run Addition, all located in the SW 1/4 of Section 14, the SE 1/4 of Section 15, the NE 1/4NE 1/4 of Section 22 and the N 1/2 NW 1/4 of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

Ms. Williams referred to the following staff report:

PLAT STAFF REPORT

To: Deadwood Planning and Zoning Commission

From: Bernadette Williams, Zoning Administrator

Date: October 15, 2008

Re: Final Plat

General Information

Applicant: Deadwood Stage Run, LLC

Requested Action: Approval of final plat for transfer purposes.

Location: Off Mt. Roosevelt Road

Lot Sizes: Lot 21, Block 1 = 0.67 Acres/29,185 square feet
Lot 22, Block 1 = 0.65 Acres/28,314 square feet

Existing Land Use – Vacant land zoned R1 – Residential District thru a PUD

Proposed Land Use – Single-family homes

Number of Lots – Two (2)

LAND USE GOALS AND OBJECTIVES:

Overall, the development of the property has been established by a PUD. The existing zoning includes R1 – Residential District; R2 – Multi-family Residential and Commercial zoning.

The PUD and changes of zoning have already been approved. Water and sewer facilities are available. The expansion of the water and sewer facilities are in progress and the systems will provide adequate services. Street facilities are available to this subdivision and fire protection will be available.

Ms. Green moved to approve the Plat of Lots 21 and 22, Block 1 of Palisades Tract of Deadwood Stage Run Addition, all located in the SW 1/4 of Section 14, the SE 1/4 of Section 15, the NE 1/4NE 1/4 of Section 22 and the N 1/2 NW 1/4 of Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota. Mr. Ryan seconded and the motion carried.

All in favor - 5
Opposed - 0

OPEN:

Ms. Williams reviewed the memo from Mr. Kevin Kuchenbecker, Historic Preservation Officer, regarding Winter & Company. Ms. Williams stated that following the Planning and Zoning Commission Meeting on November 5, 2008, there would be an informal meeting with Historic Preservation, City Commission and Winter & Company regarding the Design Guidelines.

ADJOURNMENT:

**Mr. Ryan moved to adjourn the Regular Meeting of the Planning and Zoning Commission.
Mr. Shedd seconded and the motion carried.**

All in favor - 5
Opposed - 0

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

**

ATTEST:

Ms. Marie Farrier
Chairman (Acting)
Planning and Zoning

Ms. Sheree Green
Secretary (Acting)
Planning and Zoning

** The City Commission had a quorum at the meeting and they took action on the plats; however, the City Attorney advised the Zoning Administrator that such action would be improper since the notice to the public and newspaper stated the subject meeting would be a Regular Meeting. Therefore, the plats were added to the October 20th City Commission Meeting for action.