

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

November 16, 2011

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by *Acting Chairperson Marie Farrier on Wednesday November 16, 2011 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Jim Shedd, Marie Farrier, Sheree Green and Mark Speirs.

ABSENT PLANNING & ZONING: Mel Allen.

Due to a scheduling conflict, the Board of Adjustment lacked a quorum. They convened on Tuesday, October 11, 2011 during the City Commission meeting.

*Mr. Jim Shedd stepped down as the Chairperson for the meeting due to a health issue; Mr. Shedd attended the meeting as a regular member of the Commission.

All motions passed unanimously unless otherwise stated.

APPROVAL OF MINUTES:

It was moved by Mr. Speirs and seconded by Mr. Shedd to approve the minutes of the November 2, 2011 Regular Meeting. Aye - All. Motion carried.

CONTINUED FROM NOVEMBER 2, 2011 - REAL ESTATE CENTER (LIBERTY TAX SERVICE)

Mr. Umenthum stated that the applicants had amended the request from the November 2, 2011 meeting to install a wall sign at the Real Estate Center building located at 376 Main Street. Mr. Umenthum stated that the new proposed signage would be 6' x 2' or 12 square feet and made of painted DiBond sign material to be placed on the left side of the window when facing the building. Mr. Umenthum stated that two existing signs are permitted on the façade and stated that a variance would be needed to allow a third sign. He noted that the "Aces & 8's Tattoo and Piercing Parlor" sign would be relocated to right side of the window when facing the building and the "Real Estate Center" sign would remain between the second story windows. Mr. Umenthum stated that a third sign was appropriate to provide advertisement for three separate businesses and recommended approval of the sign with the variance. Mr. Ken Wagenman of Liberty Tax Service was present in the audience.

Mr. Speirs questioned if a variance was in place for a second sign. Mr. Umenthum stated that was correct.

It was moved by Mr. Shedd to approve the wall sign with a variance at 376 Main Street for the Real Estate Center (Liberty Tax Service).

Ms. Green questioned why the Staff Report was not included in the packet. Mr. Umenthum stated that he did not receive the information for the sign until after the packets were mailed.

Mr. Speirs stated that because of statements made at the previous meeting regarding the "unsightly proliferation of signage contrary to the Sign Ordinance section 15.32.030. A. and G." he would not second the motion nor vote in favor of the sign permit application.

Ms. Green asked Mr. Umenthum what changed with the sign application that resulted in Staff being in favor of the sign permit application. Mr. Nelson and Mr. Umenthum noted that the size of the sign had been reduced and the placement had been changed eliminating the need for two variances.

Ms. Green seconded the motion to approve the wall sign with a variance at 376 Main Street for the Real Estate Center (Liberty Tax Service). Roll Call: Aye- Shedd, Green, Farrier. Nay - Speirs. Motion carried.

TDG COMMUNICATIONS (TOM & NYLA GRIFFITH)

Mr. Umenthum stated that the applicants were requesting permission to replace an existing projecting sign at 93 Sherman Street. Mr. Umenthum stated that the signage would be 4' x 3' or 12 square feet and made of sandblasted sign board. The proposed sign would replace an existing 3' x 2' projecting sign. Staff recommended approval of the sign permit. Mr. Dan Dailey of TDG Communications was present in the audience. Mr. Dailey noted that the color changed slightly; however, no changes were made to the sign permit application.

It was moved by Mr. Speirs and seconded by Ms. Green to approve the projecting sign at 93 Sherman Street for TDG Communications (Tom & Nyla Griffith). Aye - All. Motion carried.

CELEBRITY HOTEL (ROBERT & DON NELSON)

Mr. Umenthum stated that the applicants were requesting permission to replace an existing projecting sign at 629 Main Street. Mr. Umenthum stated that the signage would be 2 ½' x 6' or 15 square feet and made of painted aluminum. The sign would to be moved from "The Mint" building to 629 Main Street and would replace the existing "Nelson Garage" sign. Staff recommended approval of the sign permit.

It was moved by Mr. Speirs and seconded by Ms. Green to approve the projecting sign at 629 Main Street for the Celebrity Hotel (Robert & Don Nelson). Aye - All. Motion carried.

DEADWOOD EXPRESS (KLK VENTURES)

Mr. Tom Hill, representative for KLK Ventures requested the sign permit be continued until the December 7, 2011 meeting.

It was moved by Ms. Green and seconded by Mr. Speirs to continue the sign permit application for Deadwood Express (KLK Ventures) until the until December 7, 2011 Meeting. Aye - All. Motion carried.

CANYON VIEW AMISH FURNITURE AND GIFT STORE (GARY SCHMALTZ)

Mr. Umenthum stated that the applicants were requesting permission to erect a freestanding reader board sign at 250 Highway 14-A. Mr. Umenthum stated that the signage would be 8' x 4' or 32 square feet and made of aluminum and acrylic and would to be located in front of the building. Mr. Umenthum stated that the proposed sign is internally illuminated which is allowed outside of the federally designated Deadwood National Historic Landmark District by Amendment #1126 of the Sign Ordinance. Mr. Umenthum explained that a variance would be required for the use of an acrylic sign face because the use of plastic is disallowed under section 15.32.130 #4 of the Sign Ordinance. He explained that variances have been permitted by the Historic Preservation Commission for continuing use of plastic on existing nonconforming signs, such as the signs at the Pack Horse, South Side Service Station and Thundercove. Mr. Umenthum stated that Staff recommended denial of the sign permit for the use of an acrylic plastic face for the internally illuminated sign according to the Sign Ordinance. Mr. Umenthum explained that Staff would recommend approval of the sign using an aluminum face reader board therefore requiring the sign to be externally lit.

Mr. Gary Schmaltz, owner of Canyon View was present to represent the signage.

Mr. Speirs questioned Mr. Schmaltz if he would be willing to have an externally lit sign. Mr. Schmaltz stated that he would reluctantly agree if he had to, however he expressed his desire for all applicants to be treated the same due to the use of other internally lit acrylic signage around the City of Deadwood.

Mr. Speirs stated that most other businesses had compromised and used materials allowed by the Sign Ordinance. Mr. Schmaltz noted that there are existing internally lit acrylic signs and stated that they should be removed if not allowed by the Sign Ordinance. Mr. Nelson stated that the signs in question were existing nonconforming signs that were in place prior to the Sign Ordinance and noted that if ownership remains the same they are not required to conform. Mr. Speirs noted that some of these businesses had changed ownership and had not conformed.

Mr. Schmaltz questioned why the recommendation from Staff was to deny the variance and asked who "Staff" was. Mr. Nelson stated that "Staff" was himself, Mr. Umenthum, Mr. Jim Raysor and Mr. Kevin Kuchenbecker. Mr. Schmaltz stated that in conversations with Mr. Nelson in weeks

prior to the meeting, Mr. Nelson indicated that he did not foresee any problems in receiving approval of the proposed signage so in turn he had ordered the sign. Mr. Nelson explained that after researching the issue he changed his stance on the issue. Mr. Schmaltz stated that Mr. Nelson said that "he did not see a problem" and directed Mr. Schmaltz to attend the meeting. Mr. Nelson stated that it was his job to follow the Sign Ordinance.

Mr. Schmaltz stated that he felt he has been continually rejected by the City of Deadwood when he has only tried to work with the City and feels they have not treated every applicant equally. Mr. Schmaltz then left the meeting.

Ms. Farrier questioned Mr. Umentum if he wanted to continue reviewing the application. Mr. Umentum stated that the application had been reviewed by Staff and it is the responsibility of the Staff to abide by the written Ordinances. Mr. Umentum stated that signage approved by the Historic Preservation Commission did not always reflect the views written in the Staff Reports.

Ms. Green stated that she understood Mr. Schmaltz's frustration and agreed that there had not been consistencies in the past but felt that Planning & Zoning should follow the Sign Ordinance.

Ms. Silvernail stated that she sympathized with Mr. Schmaltz; however, it was his decision to order the sign before approval and that was not the Commissions' problem. Mr. Umentum noted that the sign could be modified, even if ordered.

Mr. Jason Campbell, City Attorney, suggested continuing the application for Staff to conduct more research on the mentioned inconsistencies and to explore the possibility of meeting a compromise on the application. He noted that it was difficult to differentiate if an existing sign was constructed of plastic or metal.

It was moved by Mr. Speirs and seconded by Ms. Green to continue the sign permit application for Canyon View Amish Furniture and Gift Store (Gary Schmaltz) until the until December 7, 2011 Meeting. Aye - All. Motion carried.

BLACK HILLS POWER

Mr. Umentum stated that the applicants were requesting permission to replace a face on an existing freestanding sign at 425 Cliff Street. Mr. Umentum stated that the signage would be 8' x 4' or 32 square feet and made of aluminum and acrylic. Mr. Umentum stated that the proposed sign is internally illuminated which is allowed outside of the federally designated Deadwood National Historic Landmark District by Amendment #1126 of the Sign Ordinance. The proposed signage would replace the existing 42" x 88" aluminum and acrylic sign which is externally lit. Mr. Umentum explained that a variance would be required for the continued use of an acrylic or plastic sign face because the use of plastic is disallowed under section 15.32.130 #4 of the Sign Ordinance. He explained that the variances would be consistent with previous decisions of the Historic Preservation Commission for continued use of plastic on existing nonconforming signs, such as the signs at the Pack Horse, South Side Service Station and Thundercove. Mr. Umentum stated that Staff recommended approval of the sign permit with the variance for the acrylic plastic face.

Mr. Speirs questioned why it was Mr. Umentum opinion that the proposed sign be approved and Mr. Schmaltz sign not be approved. Mr. Umentum explained that there are differences between the two sign applications. He stated that the sign at Black Hills Power is an existing nonconforming sign and Mr. Schmaltz's sign is new.

Mr. Speirs stated that it was his recollection that Black Hills Power was granted the use of plastic with the stipulation that the sign be externally lit.

Mr. Mitchel Carlson of Black Hills Power stated that the sign needed to be replaced due to the change in logo and that the sign had been run into making it structurally unsound. Mr. Carlson stated that the sign had many maintenance issues with it being externally lit.

Mr. Speirs stated that the Commission was being put in an awkward position with the proposed signage. Mr. Carlson stated that according to the Sign Ordinance internally lit signage is allowed in the proposed area. Mr. Umentum stated that he was correct due to Amendment #1126. Mr. Nelson stated that the existing sign is considered "legal nonconforming". Mr. Speirs stated that definition clarifications need to be added to the Sign Ordinance regarding internally lit signage.

Mr. Speirs stated because of the application submitted by Mr. Schmaltz, he felt the Commission needed to follow the Sign Ordinance.

Mr. Nelson explained that Mr. Carlson could legally turn on the internal lighting in the existing sign because internally lit signage is allowed in the area. Mr. Nelson questioned Mr. Campbell if a variance was required because it was a legal nonconforming sign and the acrylic was the existing material used in the sign. Mr. Campbell stated that the way it was handled in the past was that it would not need a variance because it is a legal nonconforming sign continuing the use of an existing acrylic material.

It was moved by Ms. Green and seconded by Mr. Shedd to approve the sign at 425 Cliff Street for the Black Hills Power. Roll Call: Aye- Shedd, Green, Farrier, Nay - Speirs. Motion carried.

Mr. Speirs recommended that the Commission and Staff work on the Sign Ordinance because of the issues that had arose and will continue to arise.

FINAL PLAT - Plat of Lot R-6A and R-6B a subdivision of Lot R-6 or the Deadwood Railroad Property, Located in a portion of Lots 50, 51, 52, and 53, Block 30, Original Townsite and a portion of Outlots 1 and 2, City of Deadwood, Located in the SE ¼ of Section 23, T5N, R3E, B.H.M., Lawrence County, South Dakota.

Mr. Nelson stated that the final plat was to facilitate the transfer of property and provide access to two properties located at the parking lot at the intersection of Wall Street and Pioneer Way.

It was moved by Ms. Green and seconded by Mr. Speirs to approve the final plat for Lot R-6A and R-6B, City of Deadwood. Aye - All. Motion carried.

OPEN

None.

ADJOURNMENT:

It was moved by Mr. Speirs and seconded by Ms. Green to adjourn the Joint Meeting of the Planning and Zoning Commission. Aye - All. Motion carried.

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

ATTEST:

Mr. Jim Shedd
Chairman
Planning and Zoning

Ms. Sheree Green
Secretary
Planning and Zoning