

DEADWOOD PLANNING AND ZONING COMMISSION

Wednesday, February 5, 2020 – 5:00 p.m.
City Hall, 102 Sherman Street, Deadwood, SD

AGENDA

1. Call Meeting to Order
2. Approval of January 15, 2020 Minutes

3. Sign Review Commission

Scott Jacobs – 79 Sherman Street – Install New Projecting Sign

Action Required:

- a. Approval/Denial by Sign Review Commission

Celebrity Hotels Inc. – 623 Main Street – Re-install Projecting Sign

Action Required:

- a. Approval/Denial by Sign Review Commission

Celebrity Hotels Inc. – 627 Main Street – Re-install Projecting Sign

Action Required:

- a. Approval/Denial by Sign Review Commission

4. Planning and Zoning Commission

Condensing Parcels/Construction – Scott and Sharon Jacobs – Sherman Street and Pine Street

Plat of Lot 23A, Block 34 Original Townsite, City of Deadwood, Located in the SW ¼ of Section 23, T5N, R3E, B.H.M., Lawrence County, South Dakota Formerly Lots 19, 21 & 23, Block 34

Action Required:

- a. Approval/Denial by Planning and Zoning Commission

Conditional Use Permit – Steve Wells – 786 Main Street

Lot 10 in the Grantz Addition to the City of Deadwood, According to A.B. Wilson recorded in plat book 1, page 238, Lawrence County, South Dakota

Action Required:

- b. Approval/Denial by Planning and Zoning Commission
- c. Approval/Denial by Board of Adjustments

Conditional Use Permit – Steve and Kym Flaigg – 28 Lincoln Avenue

Lots 1 and 2, Block 49, O.T., City of Deadwood, Located in the NW ¼, Section 26, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

Action Required:

- a. Approval/Denial by Planning and Zoning Commission
- b. Approval/Denial by Board of Adjustments

Memorandum of Agreement – Second Stage LLC – Roadways

Explanation of responsibilities in regards to developer infrastructure and roads.

Action Required:

- a. Approval/Denial by Planning and Zoning Commission
- b. Approval/Denial by Board of Adjustments

5. Items from Staff

- a. Vacation Rental (Airbnb, VRBO) Public Meeting February 19, 2020
- b. 2020 Census

6. Adjourn

CITY OF DEADWOOD
PLANNING AND ZONING COMMISSION
Wednesday, January 15, 2020

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

Planning and Zoning Commission Present: John Martinisko, Jeff Lawler, Bill Rich, and Josh Keehn

Absent: Brett Runge,

Board of Adjustments Present: Charlie Struble

Staff Present:

Trent Mohr and Bonny Anfinson

Approval of December 18, 2019 Minutes:

It was moved by Mr. Rich and seconded by Mr. Keehn to approve the December 18, 2019 meeting minutes. Aye - All. Motion carried.

Sign Review Commission

Super G Investments - 708 Pioneer Way (Silverado) - Install New Wall Sign

Mr. Mohr stated the applicant is requesting permission to install a new wall sign above the northeast exterior door of the building. The proposed sign does require a variance from the requirement of 15.32.300 paragraph 1 which states the maximum vertical dimension of a wall sign shall be two feet. The proposed sign is three feet in height. The applicant is requesting a variance. All other aspects of the sign and the location are compliant with the sign ordinance.

It was moved by Mr. Keehn and seconded by Mr. Lawler to approve the installation of the new wall sign above the northeast exterior door located at 708 Pioneer Way and to approve the variance for the sign being three feet in height. Aye - All. Motion carried.

Firewise Update

Mike Runge gave a report and update from his meeting in Colorado in December. Deadwood needs to continue its efforts in planning such as land use planning, way finding, evacuation plans and public education.

Items From Staff (no action taken)

- Main Street Master Plan: The charrette's (public meetings) will be held next week in the Shelby Room at Tin Lizzies on January 14, 2020 - 5:00 p.m. - 7:00 p.m., January 15, 2020 - 10:00 a.m. - 12:00 p.m., along with an open house on January 15, 2020 - 5:00 p.m. - 6:30 p.m. There will be a report at the next meeting.
- Vacation Rental (Airbnb, VRBO) Public Meeting February 19, 2020: The public has been invited to attend the Planning and Zoning Commission's February 19, 2020 meeting to give comment on Vacation Rentals.
- 2020 Census: April is the Kick Off. Computers will be made available at city hall and the library. They are currently recruiting workers.

Adjournment:

It was moved by Mr. Lawler and seconded by Mr. Rich to adjourn the Regular Meeting of the Planning and Zoning Commission. Aye - All. Motion carried.

There being no further business, the Planning and Zoning Commission adjourned at 5:23 p.m.

ATTEST:

Chairman, Planning & Zoning Commission

Bonny Anfinson, Planning & Zoning Office/Recording Secretary

Secretary, Planning & Zoning Commission



"The Historic City of the Black Hills"
Deadwood, South Dakota 57732

SIGN PERMIT STAFF REPORT

Sign Review Commission
February 5, 2020

Applicant: Scott Jacobs

Address: 670 Main Street, Deadwood, SD 57732

Site Address of Proposed Signage: 79 Sherman Street (Jacobs Brewhouse – formerly ABC Business Supply)

Computation of Sign Area

Building Frontage: 120 Feet

Total Available Signage: 240 Square Feet

Existing Signage: None.

Remaining Available Signage Area: 240 Square Feet

Proposed Sign Project: Install new projecting sign (18 Square Feet).

Proposed Building Materials: High Density Urethane and Metal. (see attached rendering and e-mail).

Proposed Lighting of the Signs: External Illumination.

Location of Proposed Sign: Centered above front door on Sherman Street.

Discussion

The sign permit application in review is proposed at a location inside the locally-designated historic district which is regulated by chapter 15.32.300 of the sign ordinance. The current signage at the subject property is compliant with the sign ordinance. The sign proposed in the current application is regulated by 15.32.090 of the Sign Ordinance, reference below.

- A. *Before any sign can be erected or altered in any way, a valid permit must be issued. Any further alteration of the sign shall require an amendment of the existing permit or the issuance of a new permit. Such changes, as well as original permits, shall be issued pursuant to review by the sign review commission. It is unlawful to display, construct, erect, locate or alter any sign without first obtaining a sign permit for such sign.*

The applicant is opening a new business at this location and this sign is to advertise this business.

The proposed sign and its location are compliant with the sign ordinance.

OFFICE OF
Planning & Zoning
108 Sherman Street
Telephone (605) 578-2082
Fax (605) 578-2084



"The Historic City of the Black Hills"
Deadwood, South Dakota 57732

TRENT MOHR
Building Inspector
Dept. of Planning & Zoning
Telephone: (605) 578-2082
Fax: (605) 578-2084

Variances

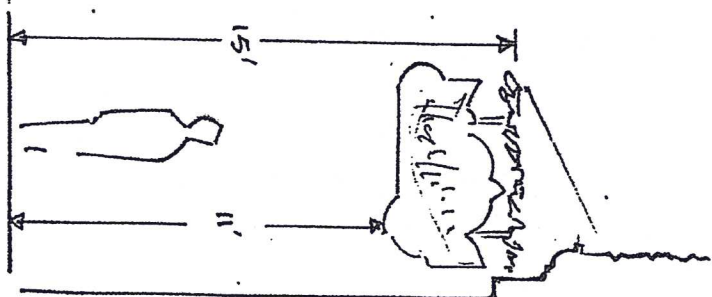
The sign permit application in review as proposed requires no variances from the sign ordinance. Signage variances may be obtained if the sign review commission is able to find *"special circumstances or conditions such as the existence of buildings, topography, vegetation, sign structures, distance or other matters on adjacent lots or within the adjacent public right-of-way that would substantially restrict the effectiveness of the sign in question and such special circumstances or conditions are peculiar to the business or enterprise to which the applicant desires to draw attention and do not apply generally to all businesses or enterprises in the area."* However, it is the responsibility of the applicant to provide adequate evidence of such special circumstances or conditions.

Sign Review Commission Action

Motion to approve permit for new projecting sign at 79 Sherman Street

OR

Motion to deny proposed sign permit application as submitted.



Tim Peterson

323 E. FAIRGROUNDS LOOP STE. C
SPRINGFIELD, SD 57783
(605) 642-5794

Designed exclusively for:

JACOBS BREAD & CROCKERY WHOUSE

Address:

79 SHERMAN ST. DEADWOOD

Date:

1/6/20

Phone:

The prices, specifications, and conditions as described are satisfactory and are hereby accepted. You are authorized to do the work as specified.

50% DEPOSIT REQUIRED ON ALL WORK. BALANCE DUE ON COMPLETION.

Signature

Date

This design is the property of the designer, and may not be reproduced in any manner without written permission.

Trent Mohr

From: Tim Peterson <tim@timpetersonstudio.com>
Sent: Thursday, January 23, 2020 9:24 AM
To: Trent Mohr
Subject: Re: sign for Scott Jacobs

Good morning, Trent!

Scott's sign is 40"h x 66"w x 4" thick. It is a double sided sandblasted High Density Urethane. The boom pole is of steel square tubing covered with copper cut out leaves. I will be using two side guy cables and one from above. There will be two bullet lights on each side.

Thanks, Trent!

Sent from my iPhone

On Jan 23, 2020, at 7:53 AM, Trent Mohr <trent@cityofdeadwood.com> wrote:

Hi Tim,

I have received a sign permit application from Scott Jacobs. What are the dimensions of the sign and what materials is it to be constructed of please?

Best Regards.

Trent

Trent Mohr
Building Inspector
City of Deadwood
Planning and Zoning
108 Sherman Street
(605)578-2082

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SIGN PERMIT STAFF REPORT

Sign Review Commission
February 5, 2020

Applicant: Celebrity Hotels Inc.

Address: PO Box 822 Sioux Falls, SD 57101

Site Address of Proposed Signage: 623 Main Street (Celebrity Hotel – north end)

Computation of Sign Area

Building Frontage: 144 Feet

Total Available Signage: 288 Square Feet

Existing Signage: wall sign (44 Square Feet)

Remaining Available Signage Area: 244 Square Feet

Proposed Sign Project: Re-install projecting sign that was removed when business closed (33 Square Feet). This sign is to be refaced before installation.

Proposed Building Materials: Painted wood. (see attached rendering).

Proposed Lighting of the Signs: External illumination.

Location of Proposed Sign: Attached is a photograph showing the sign as it was previously installed.

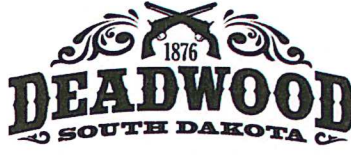
Discussion

The sign permit application in review is proposed at a location inside the locally-designated historic district which is regulated by chapter 15.32.300 of the sign ordinance. The current signage at the subject property is compliant with the sign ordinance. The sign proposed in the current application is regulated by 15.32.090 of the Sign Ordinance, reference below.

- A. *Before any sign can be erected or altered in any way, a valid permit must be issued. Any further alteration of the sign shall require an amendment of the existing permit or the issuance of a new permit. Such changes, as well as original permits, shall be issued pursuant to review by the sign review commission. It is unlawful to display, construct, erect, locate or alter any sign without first obtaining a sign permit for such sign.*

The applicant has recently purchased this property from First Interstate Bank and being a previous owner of this property, wishes to operate under the same name as before. This sign was originally granted a permit in 2013 and was removed when the business closed per ordinance 15.32.130 paragraph 17: *No sign shall remain beyond thirty (30) days after the activity, product, business, service or other use that is being advertised has ceased or vacated the premises. This provision shall not apply to signs that are physically designated as landmarks, or to*

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permanent signs to businesses that are open only on a seasonal basis, providing that there is clear intent to continue operation of the business.

The proposed sign and its location are compliant with the sign ordinance.

Variances

The sign permit application in review as proposed requires no variances from the sign ordinance. Signage variances may be obtained if the sign review commission is able to find *"special circumstances or conditions such as the existence of buildings, topography, vegetation, sign structures, distance or other matters on adjacent lots or within the adjacent public right-of-way that would substantially restrict the effectiveness of the sign in question and such special circumstances or conditions are peculiar to the business or enterprise to which the applicant desires to draw attention and do not apply generally to all businesses or enterprises in the area."* However, it is the responsibility of the applicant to provide adequate evidence of such special circumstances or conditions.

Sign Review Commission Action

Motion to approve permit for projecting sign at 623 Main Street

OR

Motion to deny proposed sign permit application as submitted.

PRINTED/LAMINATED & SIGN GOLD 22KT GOLD (FLORENTINE) GRAPHICS
TOTAL: 2



New Sign Graphics

Sign D

Re-install 1 flag mounted double face sign,
rear of building, 6' x 5'6"

Update logo and graphics
on upper 23.53 inches of sign

Sign Contractor -
Conrad Big C Signs,
Rapid City, SD 605-348-8744



Existing Sign Graphics

623 Main Street - projecting sign

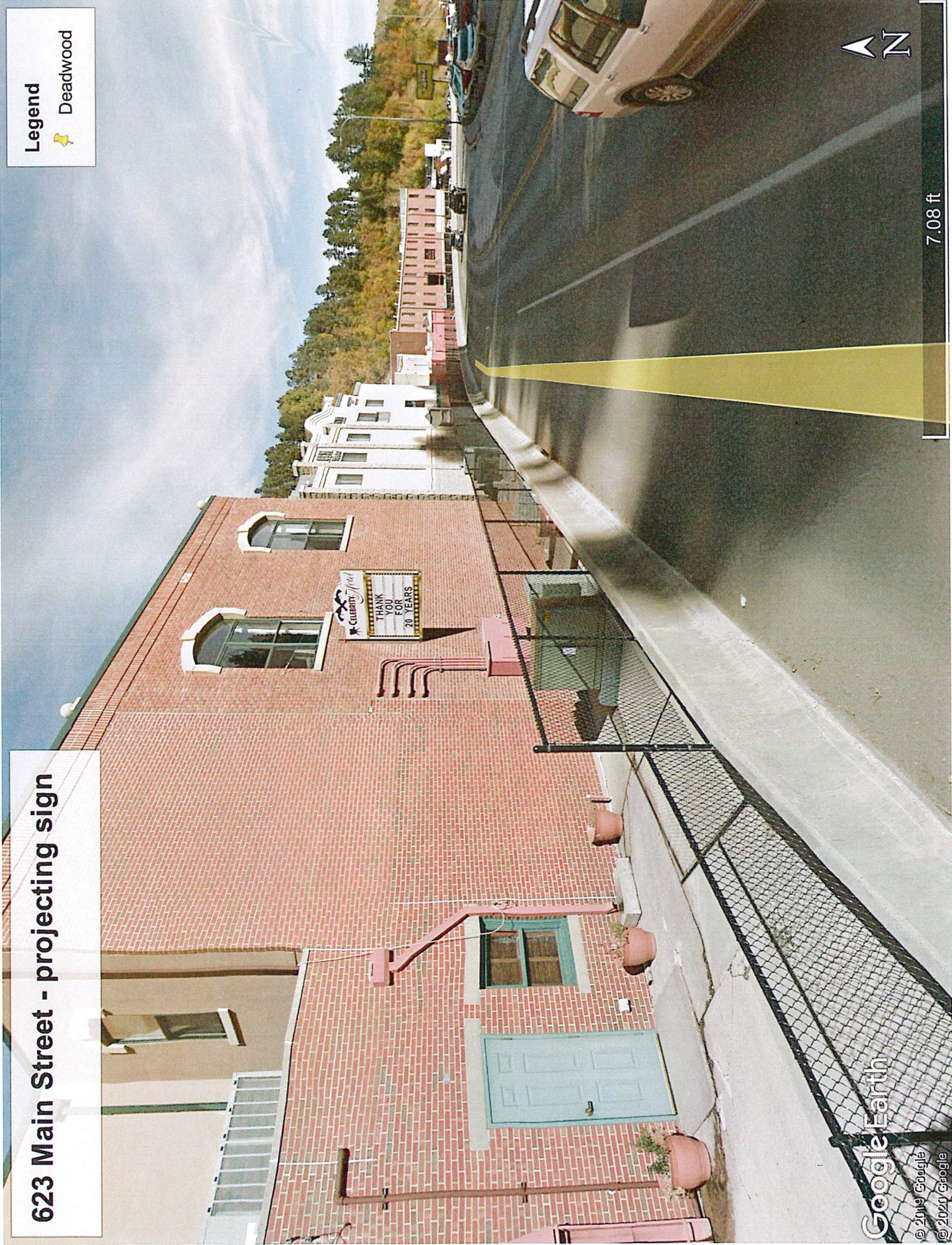
Legend
Deadwood



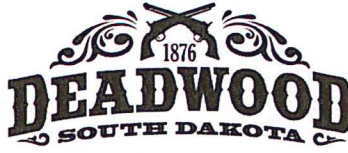
7.08 ft

Google Earth

© 2019 Google
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SIGN PERMIT STAFF REPORT

Sign Review Commission
February 5, 2020

Applicant: Celebrity Hotels Inc.

Address: PO Box 822 Sioux Falls, SD 57101

Site Address of Proposed Signage: 627 Main Street (Celebrity Hotel)

Computation of Sign Area

Building Frontage: 25 Feet

Total Available Signage: 50 Square Feet

Existing Signage: None

Remaining Available Signage Area: 50 Square Feet

Proposed Sign Project: Re-install projecting sign that was removed when business closed (22 Square Feet).

Proposed Building Materials: Painted wood. (see attached photograph).

Proposed Lighting of the Signs: None.

Location of Proposed Sign: Attached is a photograph showing the sign as it was previously installed.

Discussion

The sign permit application in review is proposed at a location inside the locally-designated historic district which is regulated by chapter 15.32.300 of the sign ordinance. The current signage at the subject property is compliant with the sign ordinance. The sign proposed in the current application is regulated by 15.32.090 of the Sign Ordinance, reference below.

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The applicant has recently purchased this property from First Interstate Bank and being a previous owner of this property, wishes to operate under the same name as before. This sign was removed when the business closed per ordinance 15.32.130 paragraph 17: *No sign shall remain beyond thirty (30) days after the activity, product, business, service or other use that is being advertised has ceased or vacated the premises. This provision shall not apply to signs that are physically designated as landmarks, or to permanent signs to businesses that are open only on a seasonal basis, providing that there is clear intent to continue operation of the business.*

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The proposed sign and its location are compliant with the sign ordinance.

Variances

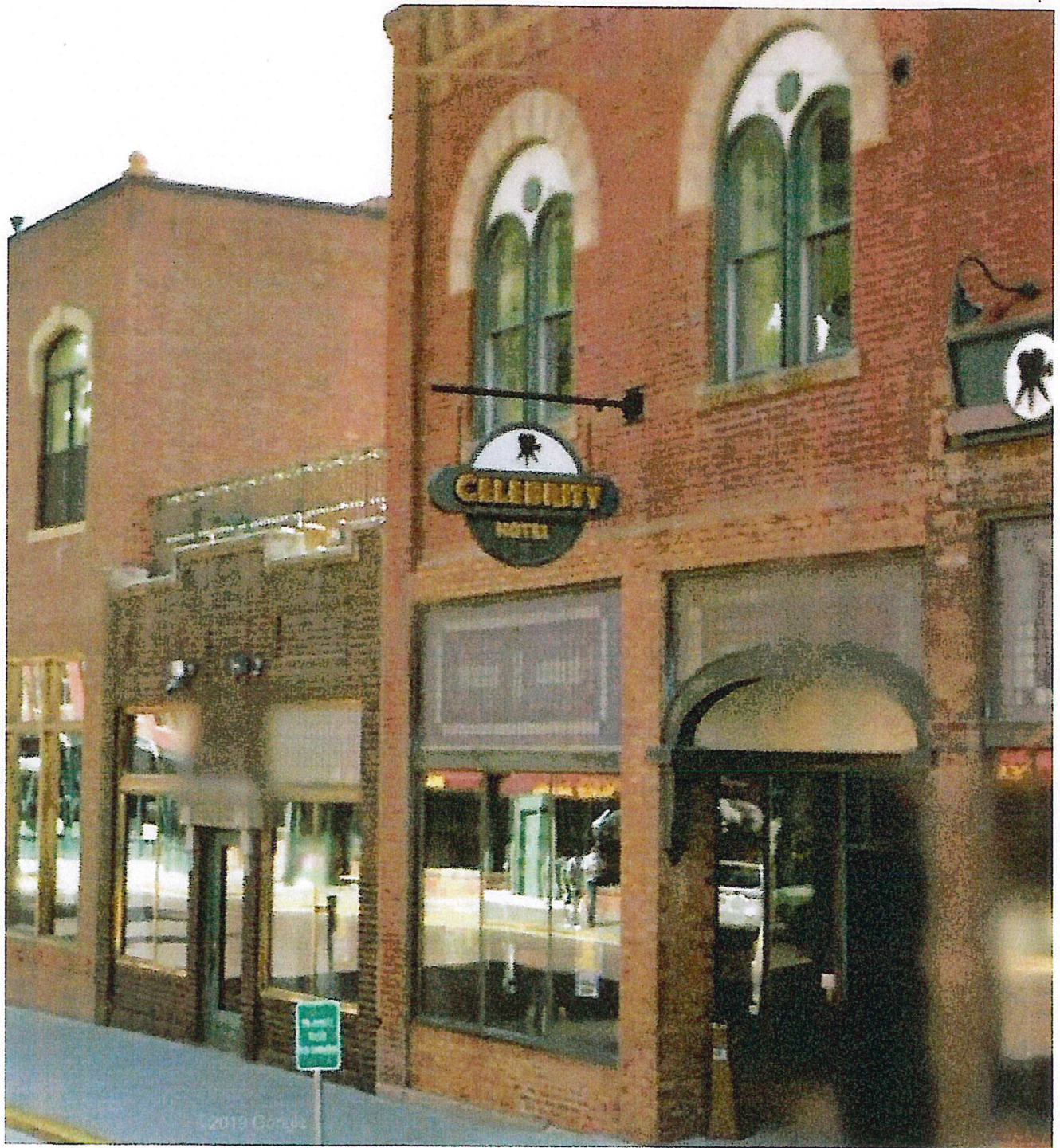
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Sign Review Commission Action

Motion to approve permit for projecting sign at 627 Main Street

OR

Motion to deny proposed sign permit application as submitted.



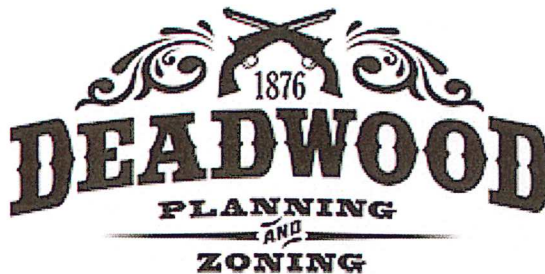
Sign C

Re-install 1 pedestrian sign above front entrance, 49" x 64"

Recondition existing sign with new paint and 22k gold leaf

Sign Contractor - Conrad Big C Signs, Rapid City, SD 605-348-8744

OFFICE OF
PLANNING, ZONING AND
HISTORIC
PRESERVATION
108 Sherman Street
Telephone (605) 578-2082
Fax (605) 578-2084



Jeremy Russell
Planning and Zoning Administrator
Telephone (605) 578-2082
jeramyr@cityofdeadwood.com

**STAFF REPORT
PLANNING AND ZONING
FEBRUARY 5, 2020 MEETING**

APPLICANT: Scott and Sharon Jacobs
670 Main Street
Deadwood, SD 57732

PURPOSE: Condensing parcels/Construction

GENERAL LOCATION: Sherman Street and Pine Street

LEGAL DESCRIPTION: PLAT OF LOT 23A, BLOCK 34 ORIGINAL TOWNSITE, CITY OF DEADWOOD, LOCATED IN THE SW ¼ OF SECTION 23, T5N, R3E, B.H.M., LAWRENCE COUNTY, SOUTH DAKOTA FORMERLY LOTS 19, 21 & 23, BLOCK 34

FILE STATUS: All legal obligations have been completed.

ZONE: C1 - Commercial

STAFF FINDINGS:

Surrounding Zoning:

North: C1 – Commercial
South: C1/Public Use
East: C1-Commercial
West: C1-Commercial

Surrounding Land Uses:

Commercial Businesses
Commercial/Public Use
Commercial Businesses
Commercial Businesses

SUMMARY OF REQUEST

Scott and Sharon Jacobs recently purchased these three buildings and to complete the remodel they will need to re-plat this into one parcel. This will allow them to create a pass through doorway from the Brew House into the next building. For the pass through to take place, the building code requires a re-plat.

FACTUAL INFORMATION

1. The property is currently zoned C1 – Commercial
2. Lot 23A is comprised of 0.139 Acres±
3. The subject property is located within a low density residential designation.
4. The property is not located within a flood zone or flood hazard zone.
5. Public facilities are available to serve the property.

STAFF DISCUSSION

Scott and Sharon Jacobs recently purchased these three buildings and to complete the remodel they will need to re-plat this into one parcel. This will allow them to create a pass through doorway from the Brew House into the next building. For the pass through to take place, the building code requires a re-plat.

1. The North Arrow is shown on the plat with a direct reference to the coordinate mapping system.
2. Land is identified with a new legal description for the transfer of the land.
3. Surveyor's Certificate is shown with the name of the surveyor and his registered land surveyor number.
4. A date is shown on the plat and serves to "fix in time" the data represented on the plat.
5. The street bounding the lot is shown and named.
6. All certificates are indicated and correct on the plat
7. Dimensions, angles and bearings are shown along the lot lines.
8. Scale of the plat is shown and accompanied with a bar scale.
9. Area's taken out of the mineral survey and remaining acreage is indicated on the plat.

ACTION REQUIRED:

1. Approval / Denial by Deadwood Planning and Zoning Commission.
2. Approval / Denial by Deadwood Board of Adjustment.

OWNER'S CERTIFICATE
STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

I, _____ DO HEREBY CERTIFY THAT I/WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREIN. THAT WE DO APPROVE THIS PLAT AS HEREIN SHOWN AND THAT DEVELOPMENT OF THIS PROPERTY SHALL CONFORM TO ALL EXISTING APPLICABLE ZONING, SUBDIVISION, EROSION AND SEDIMENT CONTROL REGULATIONS.

OWNER: _____ ADDRESS: _____
OWNER: _____ ADDRESS: _____
ACKNOWLEDGMENT OF OWNER
STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

ON THIS _____ DAY OF _____, 20____, BEFORE ME THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED _____, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE.

MY COMMISSION EXPIRES: _____ NOTARY PUBLIC: _____
CERTIFICATE OF COUNTY TREASURER
STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

I, _____, LAWRENCE COUNTY TREASURER, DO HEREBY CERTIFY THAT _____ TAXES WHICH ARE LIENS UPON THE HEREIN PLATTED PROPERTY HAVE BEEN PAID. DATED THIS _____ DAY OF _____, 20____.

LAWRENCE COUNTY TREASURER: _____
APPROVAL OF HIGHWAY OR STREET AUTHORITY
STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

THE LOCATION OF THE PROPOSED ACCESS ROADS ABUTTING THE COUNTY OR STATE HIGHWAY AS SHOWN HEREIN, IS HEREBY APPROVED. ANY CHANGE IN THE PROPOSED ACCESS SHALL REQUIRE ADDITIONAL APPROVAL HIGHWAY OR STREET AUTHORITY: _____

APPROVAL OF THE CITY OF DEADWOOD PLANNING COMMISSION
STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

THIS PLAT APPROVED BY THE CITY OF DEADWOOD PLANNING COMMISSION THIS _____ DAY OF _____, 20____.

CHAIRMAN: _____ ATTEST: _____ CITY PLANNER

APPROVAL OF THE CITY OF DEADWOOD BOARD OF COMMISSIONERS
STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

BE IT RESOLVED THAT THE CITY OF DEADWOOD BOARD OF COMMISSIONERS HAVING VIEWED THE WITHIN PLAT, DO HEREBY APPROVE THE SAME FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS, LAWRENCE COUNTY, SOUTH DAKOTA,

DATED THIS _____ DAY OF _____, 20____.

ATTEST: _____ FINANCE OFFICER _____ MAYOR

OFFICE OF THE COUNTY DIRECTOR OF EQUALIZATION
STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

I, LAWRENCE COUNTY DIRECTOR OF EQUALIZATION, DO HEREBY CERTIFY THAT I HAVE RECEIVED A COPY OF THIS PLAT. DATED THIS _____ DAY OF _____, 20____.

LAWRENCE COUNTY DIRECTOR OF EQUALIZATION
STATE OF SOUTH DAKOTA COUNTY OF LAWRENCE

OFFICE OF THE REGISTER OF DEEDS
STATE OF SOUTH DAKOTA

FILED FOR RECORD THIS _____ DAY OF _____, 20____, AT _____ O'CLOCK, _____ M., AND RECORDED IN DOC. _____

LAWRENCE COUNTY REGISTER OF DEEDS

Date:	1/15/2020
Drawn By:	L. D. Vrem
Project No.:	20-6
Dwg. No.:	20-6.dwg

Prepared By:
PONDEROSA LAND SURVEYS, L.L.C.
332A WEST MAIN ST.
LEAD, SOUTH DAKOTA 57754
(605) 722-3840

PLAT OF LOT 23A, BLOCK 34
ORIGINAL TOWNSITE, CITY OF DEADWOOD, LOCATED IN
THE SW1/4 OF SECTION 23, T5N, R3E, B.H.M.,
LAWRENCE COUNTY, SOUTH DAKOTA
FORMERLY LOTS 19, 21 & 23, BLOCK 34



○ MAG NAIL
● REBAR & CAP (VREM LS6577)
⊗ CHISELED 'X' IN SIDEWALK

I, LOREN D. VREM, 332A WEST MAIN ST., LEAD, SOUTH DAKOTA, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF SOUTH DAKOTA. THAT AT THE REQUEST OF THE OWNER AND UNDER MY SUPERVISION, I HAVE CAUSED TO BE SURVEYED AND PLATTED THE PROPERTY SHOWN HEREON TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF. THE PROPERTY WAS SURVEYED IN GENERAL CONFORMANCE WITH THE LAWS OF THE STATE OF SOUTH DAKOTA AND ACCEPTED METHODS AND PROCEDURES OF SURVEYING, DATED THIS _____ DAY OF _____, 20____.

LOREN D. VREM, R.L.S. 6577



STAFF REPORT
PLANNING AND ZONING AND BOARD OF ADJUSTMENT
REQUEST FOR A CONDITIONAL USE PERMIT
FEBRUARY 5, 2020

APPLICANT: Steve Wells

PURPOSE: Request for a Bed and Breakfast with Three Bedrooms

GENERAL LOCATION: 786 Main Street

LEGAL DESCRIPTION: Lot 10 in the Grantz Addition to the City of Deadwood, According to A.B. Wilson recorded in plat book 1, page 238, Lawrence County, South Dakota

FILE STATUS: All legal obligations have been completed.

STAFF FINDINGS:

Surrounding Zoning:

North: R1 - Residential District
South: C1/PF – Commercial/Park Forest
East: R2 – Multi-Family/Public Use
West: R1 – Residential District

Surrounding Land Uses

Residential Housing
Residential Housing
Residential Housing
Residential Housing

SUMMARY OF REQUEST

The petitioner has submitted a request for a Conditional Use Permit to operate a Bed and Breakfast establishment at 786 Main Street. The subject property is located in the 700 block of Upper Main Street.

FACTUAL INFORMATION

1. The property is currently zoned R2 – Residential Multi-Family District.
2. The property comprises approximately 6,135 square feet \pm .
3. The subject residence was constructed in 1900 and has been used as Bed and Breakfast since 1993. The property was recently sold to Steven Wells who would like to continue to run it as a B & B. The non-conforming use status for a Bed and Breakfast runs with

- the property but with approval it would be issued to the applicant and no longer with the property.
4. The subject property has access from Main Street.
 5. The subject property is located within a very low density land use classification on the adopted Land Use Map.
 6. The property is located outside of Flood Zone AE – Areas of 100 year flood and Flood Zone X – Areas of 500 year flood.
 7. Adequate public facilities are available to serve the property.
 8. The area is characterized by a mixture single family dwelling, multi-family dwellings and commercial businesses.

STAFF DISCUSSION

The petitioner has submitted a request for a Conditional Use Permit for a Bed and Breakfast establishment and the city regulations permit Bed and Breakfast establishments in the R2 – Residential Multi-Family District with a Conditional Use Permit.

The subject property is currently utilized as a residential dwelling. The petitioner indicates they intend to rent up to three bedrooms at one time. The Deadwood Zoning Code requires a bed and breakfast establishment to be occupied by the owner(s). The code also states a requirement of one off-street parking space per guestroom in section 17.64.060 of the ordinance book. This particular establishment is unique in that it has non-conforming status with the City of Deadwood for a Bed and Breakfast which does not allow for the City to enforce the parking requirement.

According to the City regulations defining a bed and breakfast, it cannot be situated on a lot closer than two hundred (200) feet or eight (8) residences, whichever is greater, from any other lot containing a bed and breakfast home. In this instance there is a bed and breakfast use within the two required buffers. Shirley Karas has a current Bed and Breakfast CUP at 771 Main Street but again the existence of the non-conforming status of the property allows for the CUP to be reinstated with application and approval. The code also defines that the Building Inspector is to inspect the premises to ensure compliance with the Building Code.

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 10.10.B.**
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.

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 City Comprehensive Plan encourages a variety of uses and a mixture of housing types. Preserve the existing stock of historic structures by working with the individuals and guiding the uses is an acceptable means. Traffic and parking should not significantly affect the neighborhood. This area has a mixture of single family and multi-family dwellings.

- 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 subject area is zoned R2 - Residential Multi-Family District. The R2 – Residential Multi-Family District is intended to provide locations for low to medium density residential. Medium density residential is designed to provide apartment and multi-family dwellings as well as parks and recreation areas. .

- 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. To support a denial of a conditional use permit on the grounds that it will cause increased traffic problems, there must be a high degree of probability that the increase would pose a substantial threat to the health and safety of the community.

- 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 use would not increase the proliferation of non-conforming uses. The subject residence is located in an area that has apartment buildings and an additional B and B. The appearance of the structure will not change; therefore, the character and use of the buildings and structures adjoining 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.

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

Steve Wells
Request for CUP – Bed and Breakfast
February 5, 2020

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.

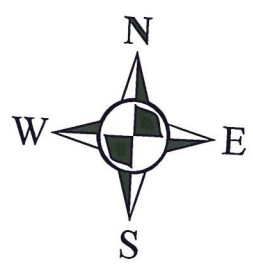
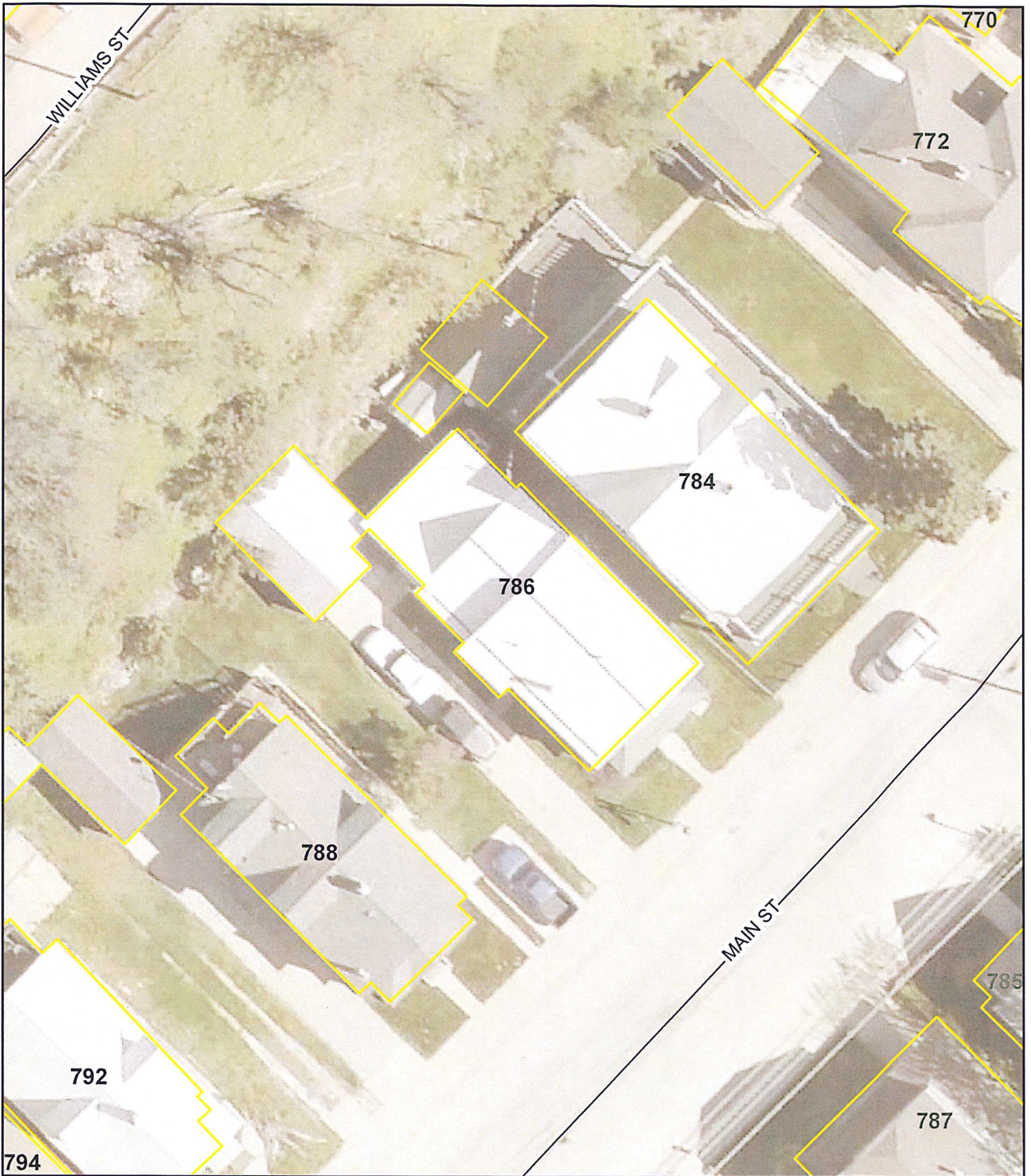
- E. If the use permitted under the terms of a Conditional Use Permit, ceases, for whatever reason, for a period of twelve (12) months, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new conditional use permit has been obtained.

If approved, staff recommendations for stipulation(s):

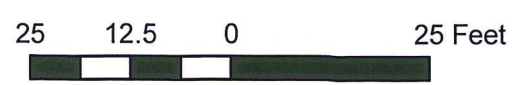
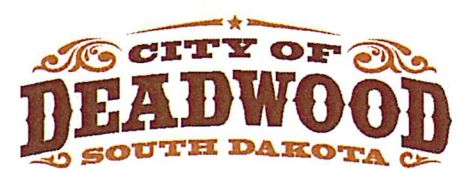
1. The Bed and Breakfast must be owner occupied.
2. Proof of a state excise number shall be provided to the Planning and Zoning Office for their files.
3. Proof that the Building Inspector has inspected the building and it meets all of the building codes.
4. Proper paperwork is filed with the City of Deadwood Finance office for BID taxes.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

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



786 Main Street
Conditional Use Permit
Bed and Breakfast
2020





STAFF REPORT
PLANNING AND ZONING AND BOARD OF ADJUSTMENT
REQUEST FOR A CONDITIONAL USE PERMIT
FEBRUARY 5, 2020

APPLICANT: Steve and Kym Flaigg

PURPOSE: Request for a Bed and Breakfast

GENERAL LOCATION: 28 Lincoln Avenue

LEGAL DESCRIPTION: Lots 1 and 2, Block 49, O.T., City of Deadwood, Located in the NW 1/4, Section 26, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE: FOR: 0 AGAINST: 0

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 dwellings
Single-family/B&B
Single-family/Multi-family
Single-family/House Museum

SUMMARY OF REQUEST

The petitioner has submitted a request for a Conditional Use Permit to operate a Bed and Breakfast at 28 Lincoln Avenue. The B&B would offer overnight lodging for one (1) family. The Flaiggs' would offer the Cottage in the rear of their residence and detached garage. The Cottage includes a studio room, one bedroom, which would sleep a maximum of three (3) and a bathroom (see drawing). A coffee maker, microwave and refrigerator would be provided with baked goods, coffee and juice for the guests. Off-street parking will be provided in the two (2) stall detached garage.

HISTORY OF RESIDENCE

The main residence is a contributing resource in the Deadwood National Historic Landmark District. This is an early Deadwood house which was remodeled during the pre-World War II years; consequently, it has historic associations with both Deadwood's nineteenth-century mining boom and the region's mining revival of the late 1920s and 1930s. This house displays architectural elements which were popular during the latter period. In Deadwood, as elsewhere in the United States, residential remodels commonly borrowed from the then popular Craftsman Style. Other remodels copy traditional forms seen in the "Picturesque Revival" styles.

The earliest documentation found for this house is a circa 1888-1890 photograph of the Ingleside Neighborhood, in which it is clearly depicted. Since the early 1900s, the house appears to have been home to various members of the Zoeckler-Yeager Family. William Zoeckler, presumably his daughter Ruth, and Sadie Zoeckler. By the early 1930s, Mrs. Ruth Yager [perhaps the former Ruth Zoecker] was living here with Sadie Zoeckler who conceivable was Ruth's mother or sister. Directories show that Ruth Yeager continued to reside at this address until at least 1944.

FACTUAL INFORMATION

1. The property is currently zoned R1 – Residential District.
2. The property is comprised of approximately 6,534 square feet/0.15 acres, more or less..
3. The subject property has access from Monroe 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.
6. Adequate public facilities are available to serve the property.
7. The area is characterized by single-family residences/Bed and Breakfast and the Adams House Museum.

STAFF DISCUSSION

The petitioner(s) submitted a request for a Conditional Use Permit for a Bed and Breakfast and the existing Deadwood Zoning Code permits Bed and Breakfasts in the R1 – Residential District under the Conditional Use Permit section. It also requires that Bed and Breakfasts cannot be located on a lot closer than two hundred (200) feet or eight (8) residences, whichever is greater, from any other lot containing a bed and breakfast home. Since the site is located in a residential district, the Conditional Use Permit runs with the applicant; therefore, the use would be voided under new ownership.

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 of Deadwood's Comprehensive 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.

ANSWER: The current zoning ordinance requires that Bed & Breakfasts must be owner occupied. However, the Cottage is separated from the residence itself. The R1 - Residential District allows, under Conditional Use Permit, several uses that allow higher densities.

- 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 since it is a nightly rental accommodation in single-family homes and not hotel/motel lodging. However, it is on an appointment basis and limited in size.

- 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 sizes of the dwellings.

The applicants have stated that off street parking would be provided to the west of their detached garage.

- 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 Comprehensive 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 Bed and Breakfast should not increase the proliferation of non-conforming uses. This Bed and Breakfast is the only Conditional Use Permit in the immediate area. The applicants' residence is located in an area that is primarily made up of single family dwellings. The appearance of the residence will not change; only a small sign will be placed beneath the eaves on the west side of their home. 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.

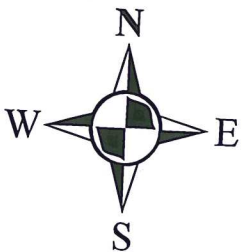
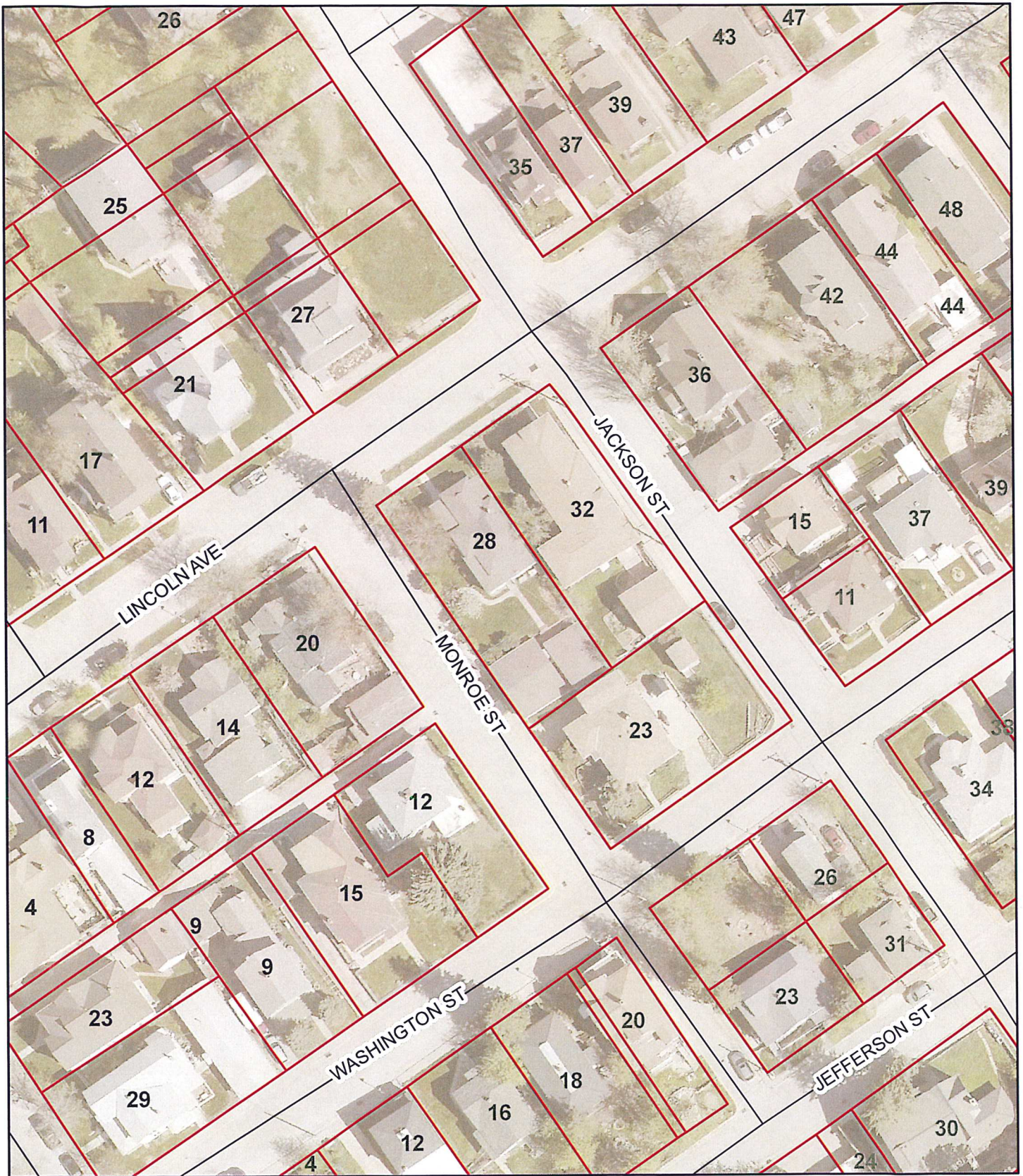
The Conditional Use Permit runs with the applicants in the residential areas of Deadwood; therefore, should the Flaigg's sell their property, the Conditional Use Permit will be voided.

If approved, staff recommendations for stipulation(s):

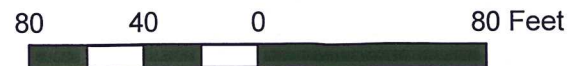
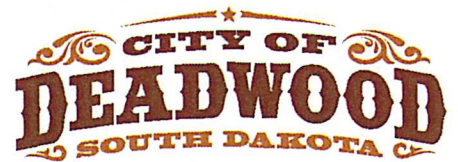
- 1. The Bed and Breakfast must be owner occupied.
- 2. The Conditional Use Permit runs with the applicants' and not the home; therefore, should property be sold, the Conditional Use Permit is considered null and void.
- 3. Proof of a state excise number shall be provided to the Planning and Zoning Office for their files.
- 4. Proof that the Business Improvement District has been notified of the nightly rental.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

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



**28 Lincoln Avenue
Conditional Use Permit
Bed and Breakfast**



MEMORANDUM OF AGREEMENT

BETWEEN

**THE CITY OF DEADWOOD,
A MUNICIPAL GOVERNMENT**

AND

Second Stage LLC

I. PARTIES

This document constitutes an agreement between the **CITY OF DEADWOOD**, a municipal corporation, with its principal office at 102 Sherman Street, Deadwood, South Dakota 57732 (DEADWOOD), and **Second Stage LLC**, a South Dakota corporation, with its principal office at PO Box 1282, Spearfish, South Dakota 57783.

II. PURPOSE

A. Background

As part of its project to construct residential housing known hereafter as the "Project", SECOND STAGE LLC has access roadways with infrastructure approved by DEADWOOD; all of the components of the infrastructure and roadways will remain in the ownership of SECOND STAGE LLC. SECOND STAGE, LLC wishes for these access roadways to be given the names of "ASPEN ROAD and STAGE RUN LOOP" and assign future residential structures with appropriate addresses associated to said street names. However, both SECOND STAGE LLC and DEADWOOD agree that these access roadways shall remain private roadways and shall not become public streets.

B. Purpose

DEADWOOD requires assurances that "ASPEN ROAD and STAGE RUN LOOP" shall remain private roadways, wholly the responsibility of SECOND STAGE LLC. SECOND STAGE LLC is committed to retaining "ASPEN ROAD and STAGE RUN LOOP" as its private roadways.

III. MUTUAL INTEREST OF THE PARTIES

DEADWOOD and SECOND STAGE LLC each have a mutual interest in being able to assign addresses to SECOND STAGE LLC's Project, while defining responsibilities for each with regard to the roadways used for such addresses.

IV. RESPONSIBILITIES OF THE PARTIES

A. General.

1. The Parties agree to jointly participate in the assignment of addresses to the Stage Run LLC Project.

B. DEADWOOD.

DEADWOOD agrees to perform the following activities and provide the following resources in support of the Project:

1. DEADWOOD shall recognize the roadways perpendicular to existing Stage Run named "ASPEN ROAD and STAGE RUN LOOP".
2. DEADWOOD shall not recognize "ASPEN ROAD and STAGE RUN LOOP" as official public streets and will not maintain said private drives.
3. DEADWOOD shall establish a code compliant address system for 911 purposes as the development begins to be constructed.
4. DEADWOOD shall not expend any public funds in any fashion to accomplish this goal.

C. SECOND STAGE LLC.

SECOND STAGE LLC agrees to perform the following activities and provide the following resources in support of the Project:

1. SECOND STAGE LLC shall be responsible for all maintenance and repairs (and all costs associated therefor) of the roadways perpendicular to Stage Run and known as "ASPEN ROAD and STAGE RUN LOOP".
2. SECOND STAGE LLC shall be responsible for all snow removal and any cleaning of any kind (and all costs associated therefor) of the private roadways known as "ASPEN ROAD and STAGE RUN LOOP".

V. COSTS

Costs shall be born as stated above, under this Agreement. This Agreement contemplates no transfer of funds between the Parties.

VI. PERIOD OF AGREEMENT AND MODIFICATION/TERMINATION

This Agreement will become effective when signed by all parties. The Agreement shall remain in perpetuity, but may be amended at any time by mutual agreement of the parties.

Dated this ____ day of _____, 20__.

CITY OF DEADWOOD

David Ruth Jr., Mayor

ATTEST:

Jessica McKeown
Finance Officer

Dated this ____ day of _____, 20__.

SECOND STAGE LLC

By: _____
Scott Munro, President

State of South Dakota)
) SS
County of _____)

On this ____ day of _____, 20__, before me, the undersigned officer, personally appeared Scott Munro, known to me or satisfactorily proven to be the President of SECOND STAGE LLC, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and official seal.

(SEAL)

Notary Public
My Commission Expires: _____