



Planning and Zoning Commission Regular Meeting Minutes

Wednesday, June 21, 2023 at 4:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

1. Call to Order

The meeting of the Deadwood Planning and Zoning Commission was called to order by Chairman Martinisko on Wednesday, June 21, 2023, at 4:00 p.m. in the Deadwood City Hall Meeting Room, located at 102 Sherman Street, Deadwood, SD 57732.

2. Roll Call

PRESENT

Commissioner (Chair) John Martinisko
Commissioner (Vice-Chair) Josh Keehn
Commissioner (Secretary) Dave Bruce
Commissioner Charles Eagleson

Michael Johnson, City Commissioner

ABSENT

Commissioner Ken Owens

STAFF PRESENT

Kevin Kuchenbecker, Planning, Zoning and Historic Preservation Officer
Trent Mohr, Building Inspector
Cindy Schneringer, Administrative Assistant/Zoning Coordinator

3. Approval of Minutes

a. Approval of June 7, 2023 Minutes

It was moved by Commissioner Keehn and seconded by Commissioner Bruce to approve the June 7, 2023 minutes. Voting Yea: Martinisko, Keehn, Bruce, Eagleson

4. Sign Review Commission

5. Planning and Zoning Commission

a. Final Plat of Consolidating Parcels - 58 Pleasant - Donna Keller

PLAT OF LOT D-1 BEING A SUBDIVISION OF A PORTION OF SCHOOL LOT 70 AND LOTS D AND E OF THE SUBDIVISION OF PROBATE LOT 439 LOCATED IN THE NW1/4 OF SECTION 23, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA

Mr. Kuchenbecker stated this for consolidating parcels. You have in front of you the final plat. The address is 58 Pleasant. Legally described as PLAT OF LOT D-1 BEING A SUBDIVISION OF A PORTION OF SCHOOL LOT 70 AND LOTS D AND E OF THE SUBDIVISION OF PROBATE LOT 439 LOCATED IN THE NW1/4 OF SECTION 23,

T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA. All legal obligations have been completed. This is R1 zoning. Surrounding uses is a cemetery and vacant land. The final plat of Lot D-1 of the subdivision of Probate Lot 439 has been submitted to consolidate parcels of common ownership. The property is located off Pleasant Street. It consists of 0.425 Acres±. It will remain R1 zoning - residential. Public facilities are available to serve the property. It is a historic home. The applicants are here if you have any questions.

Commissioner Bruce asked what the benefit of combining those?

Sandy Donahue, realtor with Re/Max, stated she actually has the listing for Donna. The reason, the banks do not like to loan on three parcels. The buyer is looking at getting a loan and they told him that they could not do it on the three lots. It should all be one.

Donna Keller asked Kevin if the one lot down below (Lot 70) is it a buildable lot?

Mr. Kuchenbecker state I think we talked at one point at possibly an out building like a garage or something. I think it would be a challenge for a residential home but maybe for a garage. Obviously in the plat it does show the easements in there for access utility easement. It is adjacent to Pleasant Street which is a twenty foot right-of-way along side the cemetery which is unimproved. It would remain right-of-way but it is only for access for maintenance on the fence along the lower side of the cemetery.

It was moved by Commissioner Bruce and seconded by Commissioner Keehn to approve the final plat of consolidating parcels legally described as PLAT OF LOT D-1 BEING A SUBDIVISION OF A PORTION OF SCHOOL LOT 70 AND LOTS D AND E OF THE SUBDIVISION OF PROBATE LOT 439 LOCATED IN THE NW1/4 OF SECTION 23, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA. Voting Yea: Martinisko, Keehn, Bruce, Eagleson

b. Final Plat for Dividing Lot X of Riverside Addition - Hole in the Sky Holdings, LLC

PLAT OF LOTS X1 AND X2 OF RIVERSIDE ADDITION CITY OF DEADWOOD, LAWRENCE COUNTY SOUTH DAKOTA FORMERLY LOT X OF RIVERSIDE ADDITION LOCATED IN THE NE1/4 OF SECTION 27, T5N, R3E, B.H.M.

Mr. Kuchenbecker stated this is the final plat for dividing Lot X of the Riverside Addition for Hole in the Sky Holdings LLC. The legal description is PLAT OF LOTS X1 AND X2 OF RIVERSIDE ADDITION CITY OF DEADWOOD, LAWRENCE COUNTY SOUTH DAKOTA FORMERLY LOT X OF RIVERSIDE ADDITION LOCATED IN THE NE1/4 OF SECTION 27, T5N, R3E, B.H.M. It is zoned commercial highway. Surrounding land use is Commercial Highway to the North. It has a commercial structure. To the south is Commercial Highway with a single family residential unit. To the east is R2 multi-family zoning district with vacant land. To the West is Commercial Highway where Claim Jumpers Mobile Home Court is. The purpose of the plat is to facilitate the transfer of property by dividing the lot and establishing property lines. The plat describes the areas located at 64 Cliff Street. The applicant

would like to divide the lot into two parcels to separate the house from their business parking lot for the purpose of selling the house in the future. This plat will create Lots X1 and X2, formerly Lot X. Once again it is commercial highway. Lot X1 will be comprised of 0.181 Acres±. Lot X2 will be comprised of 0.144 Acres±. It will remain commercial highway zoning. The property is located in the flood zone or flood hazard zone. Public facilities are available. The area is characterized as a mixture of commercial and residential uses along US Highway 85 known as Cliff Street.

It was moved by Commissioner Keehn and seconded by Commissioner Eagleson to approve the final plat for dividing Lot X of Riverside Addition legally described as PLAT OF LOTS X1 AND X2 OF RIVERSIDE ADDITION CITY OF DEADWOOD, LAWRENCE COUNTY SOUTH DAKOTA FORMERLY LOT X OF RIVERSIDE ADDITION LOCATED IN THE NE1/4 OF SECTION 27, T5N, R3E, B.H.M. Voting Yea: Martinisko, Keehn, Bruce, Eagleson

- c. Discussion and recommendation for setback variance request for construction of new single-family home on corner of Washington and Monroe Street - Jackie Fisher
- Mr. Kuchenbecker stated this is a setback variance for a proposed new residential structure in the Presidential district. The address would be 22 Washington Street. The applicants are Jackie Diana Fisher and Bryan James Duffy Revocable Trust. This will be for a single family home. located at TRACT C, BLOCK 53, A SUBDIVISION OF PART OF LOTS 1 AND 2, BLOCK 53, ORIGINAL TOWN, CITY OF DEADWOOD, LOCATED IN THE NW1/4 OF SECTION 26, T5N, R3E, BHM, LAWRENCE COUNTY, SOUTH DAKOTA, according to Plat recorded as Document No. 2001-01165, subject to easements, reservations, and restrictions of record. It is R1 residential zoning. Surrounded by residential zoning. The applicant has submitted a request for a variance to the required 20' front yard setback according to Deadwood City 17.24.040 (Area and Bulk Requirements). The applicant is requesting a variance (11'-4"+ to building plane and 15'-4"+ to the covered porch) on Washington Street and a variance (7'-10"+ to building plane or 11'-10"+ to the covered porch) along the Monroe Street. Zoned residential as required. Surrounded by historic resources and single family residential. It is outside the flood zone. We have public services available to the property and there is a mixture of single family dwellings in this area. The sign has been posted. The notice of public hearing has been put in the paper for the Board of Adjustment based on the ordinance. This body would be providing a recommendation to the Board of Adjustment and they will make the final decision. In your packet there is a preliminary sight plan that shows how the house will lay out with the adjacent properties. What is not shown in the grays is the porches of those additional resources. You kind of see how that sits in there. It has gone through Historic Preservation Commission. They approved it contingent upon Planning and Zoning Commission and Board of Adjustment approving setbacks. Here you can see how it would sit in adjacent to the historic properties. One of our concerns was height. It does meet the criteria for height both through the Code of Ordinances as well as SD Administrative Rules dealing with historic preservation. You have the floor plans and the site plans. They also provided a 3D modeling. I will play this so you can see how it sits in there with the

adjacent properties. Most of the properties have a small setback and would not meet today's required setbacks. It is a vacant lot now. What is interesting is on the historical research of that lot, we have Sanborn Fire Insurance Maps going back to 1885, there are five sets of them. From 1885 forward, we show no structure on that lot. From 1876 to 1885, we are unaware of any structures but we would be able to determine that through the archaeological requirements of new construction. The original jail was on the lot across the street from there. The vacant lot has been fenced for a number of years. It was previously owned by the Tautkus. They have sold it to this couple. Their desire is to put a residential house on that lot.

It was moved by Commissioner Keehn and seconded by Commissioner Bruce to recommend approval of the setback variance to the Board of Adjustment legally described as TRACT C, BLOCK 53, A SUBDIVISION OF PART OF LOTS 1 AND 2, BLOCK 53, ORIGINAL TOWN, CITY OF DEADWOOD, LOCATED IN THE NW1/4 OF SECTION 26, T5N, R3E, BHM, LAWRENCE COUNTY, SOUTH DAKOTA, according to Plat recorded as Document No. 2001-01165, subject to easements, reservations, and restrictions of record. Voting Yea: Martinisko, Keehn, Bruce, Eagleson

6. Items from Citizens not on Agenda

(Items considered but no action will be taken at this time.)

Donna Keller asked if 58 Pleasant house is in a flood zone

Mr. Kuchenbecker stated part of Lot 70 does touch the flood plain. I met with the potential buyer and my suggestion is to work with a civil engineer to give him a base flood elevation and a floor elevation. Technically the property touches the flood plain but your seventy feet above it.

Mr. Mohr stated the challenge is lenders are looking at a two dimensional map and you have to illustrate to them that the topography is such. Basically a surveyor would do that. They would indicate the base flood elevation and then show the elevation of the lowest grade adjacent to the structure. Then it will be clearly obvious to anyone that it is well above the base flood elevation.

7. Items from Staff

Cindy with her dual responsibilities has been a tremendous help. We have six applicants for our administrative assistant position. Four of them have been through Indeed which I am getting a little frustrated with because they are not providing cover letters and a formal application. I think they are using it for compliance for their unemployment. We have reached out to the four that haven't provided that and no response. Technically, we have two complete applications. That ends on the 26th so we will start interviewing the end of next week and hopefully get that position filled. In the meantime, we've got an office to build, desk to get, computer to get.

- a. Discussion on amendment of Zoning Code under Chapter 17.60.100 - Fire and Safety.

Mr. Mohr stated you will see Kevin's memo in the packet. This is one of those things as we look at the ordinances we come upon these rarely viewed sections of the

ordinance that haven't been updated in quite some time. 17.60.100 is such an ordinance. You can see the proposed change. This probably won't be the final but you will get the jest of it. The original text of the ordinance is all developments shall meet the applicable requirements of UBC, NFPA 101, UFC. What those mean is UBC is United Building Code. NFPA is National Fire Protection Association, the Standard 101. UFC is Uniform Fire Code. Both the UBC and UFC are very outdated codes. The current building code is the 2021 Editions of I Codes published by the ICC. Obviously, these are outdated references in our ordinance. The proposed change to the ordinance that is read is the Building Code of the City of Deadwood as adopted and amended. This will just reference back to those sections of the ordinance that we adopted and amend those I codes so whenever we update those sections this will automatically reference back and we won't have to continue updating this.

Mr. Kuchenbecker stated no action is needed. I felt that anytime we start dealing with Title 17, which is the zoning code, I want to make sure this body is aware if there is any concerns. I guess you could make a motion to recommend to the City Commission but I just want to keep this body in the loop as we do anything with Title 17.

- b. Discussion and recommendation on the development of a grading ordinance for the City of Deadwood.

Mr. Kuchenbecker stated we have been directed by the City Commission to develop a grading ordinance for the City of Deadwood. This comes out of continued protection of our hillsides. What has happened on lower main with some of the larger casinos where remove mountains for additional space and even up in Stage Run where they are moving part of a mountain to flatten it off for additional flat lands development. Right now our grading permit is no different than our building permit. Our fee is \$50.00 and they can take as much as they want away. We have found some good models. We are working on it. I was hoping to have a draft for you at this meeting. My goal was to have it at the City Commission meeting on July 3rd. I think I am going to push that out to the next City Commission meeting on July 17th as we only have three of the five City Commissioners scheduled for July 3rd and I would like to have a full body discussion on that. Hopefully, at your next meeting we can discuss it. Wanted to make you aware that staff is working on a grading ordinance. The ordinance I found is pretty comprehensive. Not only will it deal with grading but it will be cuts and fills, where it is taken, and how it impacts our public infrastructure. Right now, up at Stage Run, that excavation has been running numerous trucks up and down Stage Run, which is a residential road, down to this location which is zoned commercial highway. It has caused lots of phone calls to the city with regards to traffic, with regards to concerns with the impact it has on roads and the public infrastructure, as well as the track out. We have been up there continually working with that developer to ensure the roads are clear. If we cut down the load limit then there is twice as many trucks. I think if we take a comprehensive look at that grading and in some ways discourage the removal of the hillsides.

Mr. Mohr stated to further expand Kevin's very good description of the challenges in our approach to addressing the is our current grading permit requirements are

really geared towards smaller projects. For example, the grading permit issued to The Ridge. We know how much dirt they moved up there. They only paid a hundred bucks for that. The ruler we hold up to all these projects is Appendix J of the building code and it is like two pages more geared toward grading for an individual building project not a development or something like that. It is a very simple fee schedule, but I will probably misquote it. I think zero to ten yards is free. Ten to fifty yards is fifty bucks. Anything over fifty yards is a hundred bucks.

c. Update on Short-Term Rental compliance and enforcement activities

Mr. Kuchenbecker stated just a quick update on the short-term rental compliance and enforcement activities. We have been checking Harmari on a weekly basis. We know we have two or three that are in violation. I reached out to Harmari. Cindy and I have been doing our due diligence. There were letters sent out with a first warning and a second warning. The last letter was in November of 2021. We are working with legal counsel. We are trying to get a comprehensive list together of those that are in direct violation of our ordinance and we will be sending out those letters, hopefully, by the end of the month is our goal. We are giving them fourteen days to come into compliance. If they are not in compliance, we will sight them into court.

8. Adjournment

It was moved by Commissioner Eagleson and seconded by Commissioner Keehn to adjourn the Planning and Zoning Commission meeting. Voting Yea: Martinisko, Keehn, Bruce, Eagleson

There being no further business, the Planning and Zoning Commission adjourned at 4:37 p.m.

ATTEST:

Chairman, Planning & Zoning Commission

Cindy Schneringer, Planning & Zoning Office/Recording Secretary

Secretary, Planning & Zoning Commission