



# Planning and Zoning Commission Regular Meeting Minutes

Wednesday, November 06, 2024 at 4:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

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## 1. Call to Order

The meeting of the Planning and Zoning Commission was called to order by Chairman Martinisko on Wednesday, November 6, 2024 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  
Commissioner Ken Owens  
City Commissioner Blake Joseph

### STAFF PRESENT

Kevin Kuchenbecker – Planning, Zoning and Historic Preservation Officer  
Trent Mohr – Building Official  
Leah Blue-Jones – Zoning Coordinator  
Justin Lux – Parking and Transportation Director

## 3. Approval of Minutes

- a. Approve the minutes from the October 16, 2024 Planning and Zoning Commission Meeting.

***It was moved by Commissioner Keehn and seconded by Commissioner Owens to approve the minutes from the October 16, 2024 Planning and Zoning Commission Meeting. Voting yea: Martinisko, Keehn, Bruce, Owen, Eagleson.***

## 4. Sign Review Commission

## 5. Planning and Zoning Commission

- a. Change of Zoning - 735 Main Street (Deadwood RE, LLC) legally described as Lot 3A, Block 2, Kennedy and Cameron addition, City of Deadwood, formerly Lot 3, Block 2, Kennedy and Cameron addition, all located in the SE 1/4 of Section 22, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

### Actions:

1. Public discussion

## 2. Approve/Deny/Continue Change of Zoning

Mr. Kuchenbecker introduced Change of Zoning - 735 Main Street (Deadwood RE, LLC) legally described as Lot 3A, Block 2, Kennedy and Cameron addition, City of Deadwood, formerly Lot 3, Block 2, Kennedy and Cameron addition, all located in the SE 1/4 of Section 22, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota, reviewed the Staff Report and explained the property once belonged to the City of Deadwood. In 2004, the City sold the property to a commercial entity but did not rezone the property at the time. As a result, the property is currently zoned PU – Public Use. The current owner would like to sell the property, but the PU – Public Use zoning is limiting prospective buyers. As such, the current owner is seeking a change of zoning to C1 – Commercial. A suggestion was made by city staff to the property owner to consider a change of zoning to CE – Commercial Enterprise, which would allow commercial use of the property, but would prevent gaming from being allowed. The suggestion was made because the Lead-Deadwood Elementary School sits across the street from the building.

Commissioner Martinisko opened the meeting for public discussion. The owner of 735 Main Street, Lee Thompson, introduced himself to the Commission. Mr. Thompson explained when the city sold the building to him twenty (20) years ago, he was told the building was zoned for commercial use. Subsequently he has spent the last twenty (20) years utilizing the building for commercial purposes. Mr. Thompson would prefer the zoning on the building to be changed to C1 - Commercial as opposed to CE - Commercial Enterprise due to his belief the building has more monetary value as part of the C1 - Commercial zoning district. Mr. Thompson suggested if a future owner of the property wishes to engage in gaming, curtains could be kept closed in the front windows during school hours to appease any community concerns.

Commissioner Eagleson inquired as to the difference between C1 - Commercial and CE - Commercial Enterprise. Mr. Kuchenbecker responded the two zoning districts are very similar with a few differences, the main difference being that C1 - Commercial allows gaming as a use by right, while CE - Commercial Enterprise prohibits gaming as a use. Mr. Thompson could agree to a CE - Commercial Enterprise zoning designation if he so chooses, and a CE - Commercial designation would alleviate concerns from the community. Mr. Kuchenbecker drew the attention of the Commission to a letter received by the Lead-Deadwood School District which expressed their concerns of the proximity of the elementary school to the building, and the possibility of a gaming establishment being able to utilize that space in the future.

Commissioner Eagleson asked if any of the other buildings along the section of Main Street near Mr. Thompson's building were zoned CE - Commercial Enterprise. Mr. Kuchenbecker stated there were not any buildings with a CE zoning classification in that area.

Dr. Erik Person, Superintendent of the Lead-Deadwood School District introduced himself to the Commission. Dr. Person explained patrons of the elementary school were upset when the tobacco shop went in across the street. Unfortunately, because that building was already zoned C1 - Commercial, the school district did not have an opportunity to push back against it. In this instance, there is an opportunity for the

school district to voice their discontent with the possibility a gaming establishment could open at 735 Main Street in the future. He would prefer a CE - Commercial Enterprise zoning designation which would still allow a business to operate while preserving the goodwill of the community and maintaining a buffer around the school to prevent additional gaming coming within such close proximity. Dr. Person added he did not believe the building to be well suited for gaming and does not agree a C1 - Commercial designation would add significantly more value to the location than a CE - Commercial Enterprise designation would.

Robin Lucero introduced herself to the Commission. Ms. Lucero stated she is a member of the Lead-Deadwood School Board as well as the AAU Wrestling and Youth Football boards; however, she speaks solely as a parent and a concerned citizen. Ms. Lucero referred to City Ordinance 5.52.030, which specifically refers to the area in which 735 Main Street is located. The ordinance states the School Board would need to be notified if gaming was considered within that area and the Standards of Review would need to be met. This ordinance means the area is of special significance and that significance should be taken into consideration. In addition, the elementary school is used by the community after hours and she does not think Mr. Thompson's suggestion about curtains will be enough. She would like the Commission to consider not allowing a C-1 Commercial designation so future gaming does not occur across the street from the school. Mr. Kuchenbecker clarified that the Standards of Review referred to by Ms. Lucero are explained in City Ordinance 17.100.030 and can be reviewed within the Staff Report.

Commissioner Bruce asked city staff for clarification; if the location obtains a C1 - Commercial designation, would a second approval process be required to allow a gaming establishment to operate in the location? Mr. Kuchenbecker explained a gaming establishment would be a use by right in that instance and while the city would be required to notify the school district, there would not be action the school board could take to prevent the gaming establishment from operating in his opinion.

Local resident Steve Wells introduced himself to the Commission. Mr. Wells stated he believes 735 Main Street should be allowed to be rezoned C1 - Commercial. Mr. Wells pointed out this was a clerical error by the city years ago and it seems unfair that the Silverado can have gaming across the street from the school, but others cannot.

Local resident James Campiglia introduced himself to the Commission. Mr. Campiglia inquired about the zoning designation for the neighboring business. Mr. Kuchenbecker responded the neighboring business, a former bank, is zoned C1 - Commercial.

Mr. Campiglia stated there is nothing stopping further casinos from going into the area in question and therefore another location zoned C1 - Commercial should not make a difference. In addition, he feels the larger casinos are worse for the town than smaller casinos, and a small casino should therefore be allowed at the location. Commissioner Martinisko responded we are unable to go back in time and change the decision that was made allowing other buildings within that area to be given a C1 - Commercial zoning designation, but we can try to protect what we have left. What he believes would truly be appropriate for that area would be CE - Commercial Enterprise zoning as that would allow for compromise.

Mr. Campiglia inquired if a marijuana retailer or liquor store could be opened at the location. Commissioner Martinisko responded the location is too close to the school to allow for a marijuana retailer.

Commissioner Eagleson asked about the parking at the location. Mr. Thompson responded there is one (1) parking spot located on the street in front of the building.

Commissioner Keehn asked if a CE - Commercial Enterprise zoning would be considered spot zoning. Mr. Kuchenbecker confirmed it would not be considered spot zoning since both options are of a commercial nature.

Further discussion regarding gaming, zoning, objections and the process involved in approving a Change of Zoning request occurred.

***It was moved by Commissioner Keehn and seconded by Commissioner Owens to approve Change of Zoning - 735 Main Street (Deadwood RE, LLC). Voting yea: Keehn, Bruce, Owens. Voting nay: Martinisko, Eagleson.***

**6. Items from Citizens not on Agenda**

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

**7. Items from Staff**

Mr. Kuchenbecker discussed the South Dakota Planning Association conference that occurred in October. There are two retaining walls under construction located on Van Buren Avenue and Harrison Street. The utility poles along Water Street have been removed and the remaining sidewalk is being poured. The Water Street project should be completed by mid-December.

Mr. Mohr shared the Lawrence County Public Safety and Service Center has relocated to the hill on Highway 85.

**8. Adjournment**

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

There being no further business, the Planning and Zoning Commission adjourned at 4:41 p.m.

ATTEST:

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Chairman, Planning & Zoning Commission

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Secretary, Planning & Zoning Commission

***Minutes by Leah Blue-Jones, Zoning Coordinator***