

Planning and Zoning Commission Regular Meeting Agenda

Wednesday, October 05, 2022 at 5:00 PM

City Hall, 102 Sherman Street, Deadwood, SD 57732

- 1. Call to Order
- 2. Roll Call
- 3. **Approval of Minutes**
 - a. Approval of September 21, 2022 Minutes
- 4. Sign Review Commission
 - a. 753 Main Street Kaylee Linn-Wellford Replace Existing Wall Sign with Redesigned Wall Sign

Action Required:

a. Approval/Denial by Sign Review Commission

- 5. **Planning and Zoning Commission**
 - a. Request for Variance Street Grades Stage Run Subdivision Dana Foreman (KLJ Engineering) and Bill Pearson (The Summit at Deadwood Stage Run)

Action Required:

- a. Approval/Denial by Planning and Zoning Commission
- b. Approval/Denial by Board of Adjustment
- 6. Items from Citizens not on Agenda

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

- 7. **Items from Staff**
- 8. Adjournment

Planning and Zoning Commission meetings are not available by Zoom unless requested.



Planning and Zoning Commission Regular Meeting Minutes

Wednesday, September 21, 2022 at 5:00 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, September 21, 2022 at 5:00 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 Charles Eagleson

Charlie Struble, City Commissioner

ABSENT

Commissioner (Secretary) Dave Bruce Commissioner Kevin Wagner

STAFF PRESENT

Jeramy Russell, Planning and Zoning Administrator Trent Mohr, Building Inspector Cindy Schneringer, Administrative Assistant

3. Approval of Minutes

a. Approval of September 7, 2022 Minutes

It was moved by Commissioner Keehn and seconded by Commissioner Eagleson to approve the September 7, 2022 minutes. Voting Yea: Martinisko, Keehn, Eagleson

4. Sign Review Commission

a. 130 Sherman Street - Eric Farrar (Rosenbaum Signs) - Reface Freestanding Sign and Install New Wall Sign in Place of Existing Sign

Mr. Mohr stated there is one permit application for your consideration tonight to replace the existing wall sign and to reface the existing freestanding sign at 130 Sherman Street. This location was recently remodeled into a Dollar Tree Family Dollar store. Previously was just a Family Dollar. Kind of a corporate realignment. Dollar Tree bought Family Dollar not so long ago. This store has been updated to the current configuration. The proposed signs are to reflect the changes at this site. One thing to note on the wall sign as noted in my staff report is back in 2013 the sign being replaced was granted a variance for the height of the overall size of the sign. We did work with the applicants to get the new sign very close to the existing

sign. This would carry on that variance if you approve this tonight. Other than that notation, the sizes and their locations are compliant with the ordinance.

It was moved by Commissioner Keehn and seconded by Commissioner Eagleson to approve the sign permit for 130 Sherman Street to reface the existing freestanding sign and to install a new wall sign in place of existing sign. Voting Yea: Martinisko, Keehn, Eagleson

5. Planning and Zoning Commission

 Conditional Use Permit - Condominiums - 51, 53, 55 Sherman Street - Keating Resources

THE NORTHERN ONE FOOT SIX INCHES (1'6") OF LOT 17, ALL OF LOTS 19, 21, 23, 25 AND VACATED ALLEY BETWEEN LOT 23 AND LOT 25, AND ALL OF LOT 26, AND LOT 27, ALL IN BLOCK 30 OF THE CITY OF DEADWOOD ACCORDING TO THE P.L. ROGERS MAP OF THE CITY OF DEADWOOD. LESS AND EXCEPT TRACT 1 OF MILLER STREET SUBDIVISION ACCORDING TO PLAT DOCUMENT #2012-05646, AND LESS AND EXCEPT WILD BILL LOT ACCORDING TO PLAT DOCUMENT #2012-03484, ALL LOCATED IN THE SW1/4 OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 3 EAST OF THE BLACK HILLS MERIDIAN, CITY OF DEADWOOD, SOUTH DAKOTA.

Mr. Russell stated before you this evening is a Conditional Use Permit. The purpose is condominiums at 51, 53, 55 Sherman Street. This is, as you know, the old Deadwood Dicks building. Legally described as THE NORTHERN ONE FOOT SIX INCHES (1'6") OF LOT 17, ALL OF LOTS 19, 21, 23, 25 AND VACATED ALLEY BETWEEN LOT 23 AND LOT 25, AND ALL OF LOT 26, AND LOT 27, ALL IN BLOCK 30 OF THE CITY OF DEADWOOD ACCORDING TO THE P.L. ROGERS MAP OF THE CITY OF DEADWOOD. LESS AND EXCEPT TRACT 1 OF MILLER STREET SUBDIVISION ACCORDING TO PLAT DOCUMENT #2012-05646, AND LESS AND EXCEPT WILD BILL LOT ACCORDING TO PLAT DOCUMENT #2012-03484, ALL LOCATED IN THE SW1/4 OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 3 EAST OF THE BLACK HILLS MERIDIAN, CITY OF DEADWOOD, SOUTH DAKOTA. It was my understanding a representative from Keating Resources would be here tonight to answer any questions. What I know is Keating Resources has put a request into the City to start the operation of condominiums on floors 2, 3, and 4 of this building. During my research, I did not necessarily find anything that I felt I should notify you that maybe we should prevent this from happening other than the parking requirements. Having further looked into that you will notice on my staff report that I do discuss that. The Deadwood City Ordinance 17.64.060 Off Street Parking does state existing and new uses in buildings built pre-1941 in planning unit 4, which this building does reside, in the historic overlay zone, uses existing as of the date of the ordinance codified in this title and any new uses in building built prior to January 1, 1941, shall not be required to provide off-street parking facilities. That does cover this. One thing to note about that is there has been a history of a few apartments in that building so there has been parking for the residents of these buildings using the public spaces in the Miller Street parking lot. I don't know exactly how many units this is going to turn out to be. This is preliminary conversations so the only thing you would or wouldn't be recommending approval tonight would be the

approval for the conditional use permit. The applicant will still need to go through the formal process through the City with building permits, platting which is going to be really interesting for us as we have never had condos in Deadwood and have never done anything like that. I believe last week we got an email from Gerard, who is the principal owner, stating they just received their gaming license so they are going to have some type of casino or gaming operation in this building. I don't know if this affects this conditional use permit or not. I don't have any other information than what I provided.

It was moved by Commissioner Keehn and seconded by Commissioner Eagleson to approve the Conditional Use Permit for condominiums legally described as THE NORTHERN ONE FOOT SIX INCHES (1'6") OF LOT 17, ALL OF LOTS 19, 21, 23, 25 AND VACATED ALLEY BETWEEN LOT 23 AND LOT 25, AND ALL OF LOT 26, AND LOT 27, ALL IN BLOCK 30 OF THE CITY OF DEADWOOD ACCORDING TO THE P.L. ROGERS MAP OF THE CITY OF DEADWOOD. LESS AND EXCEPT TRACT 1 OF MILLER STREET SUBDIVISION ACCORDING TO PLAT DOCUMENT #2012-05646, AND LESS AND EXCEPT WILD BILL LOT ACCORDING TO PLAT DOCUMENT #2012-03484, ALL LOCATED IN THE SW1/4 OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 3 EAST OF THE BLACK HILLS MERIDIAN, CITY OF DEADWOOD, SOUTH DAKOTA. After some discussion voting was: Voting Yea: Martinisko, Keehn Voting Nay: Eagleson

6. Items from Citizens not on Agenda

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

7. Items from Staff

Mr. Mohr stated just an information update. At the last meeting you approved the sign at 32 Charles Street for Trailshead Cannabis condition upon research being done that there was no prohibition at the state level for using the word cannabis. The City attorney, Jeramy and I found no prohibition so that sign was approved.

Mr. Russell provided an update on the representatives from The Ridge development attending the City Commission to update them on their upcoming PUD.

8. Adjournment

ATTECT.

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

There being no further business, the Planning and Zoning Commission adjourned at 5:38 p.m.

ATTEST.	
Chairman, Planning & Zoning Commission	Secretary, Planning & Zoning Commission

Cindy Schneringer, Planning & Zoning Office/Recording Secretary

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

SIGN PERMIT STAFF REPORT

Sign Review Commission October 5, 2022

Applicant: Kaylee Linn-Wellford

Address: 753 Main Street, Deadwood, SD 57732

Site Address of Proposed Signage: 753 Main Street (First Steps Child Care)

Computation of Sign Area

Building Frontage: 80 Feet

Total Available Signage: 160 Square Feet **Existing Signage:** One wall sign (to be replaced) **Remaining Available Signage Area:** 160 Square Feet

Proposed Sign Project: Replace existing wall sign with redesigned wall sign (28 Square Feet)

Proposed Building Materials: Metal (see attached rendering)

Proposed Lighting of the Signs: None

Location of Proposed Sign: Same location as the existing sign (see attached photograph)

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 building is undergoing exterior maintenance and repairs such as caulking and painting. The applicant wishes to update the sign with a different design in conjunction with this project.

The proposed sign does require a variance of two feet for the vertical dimension. This sign is four feet tall and the ordinance limits signs to two feet. The sign being replaced is also four feet tall and was granted a variance when approved in 2011. All other aspects of the proposed sign are complaint with the ordinance.

Section 4 Item a.

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Variances

The sign permit application in review as proposed requires a variance 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 wall sign at 753 Main Street as proposed OR

Motion to deny proposed sign permit application as submitted



Sign will be place in the same place of old signt affached to the building the same way, as the existing sign; flat against the building bolted on.



Existing Sign

OFFICE OF
PLANNING, ZONING AND
HISTORIC PRESERVATION

108 Sherman Street Deadwood, SD 57732



Jeramy Russell

Planning and Zoning Administrator Telephone (605) 578-2082

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STAFF REPORT REQUEST FOR VARIANCE PLANNING AND ZONING COMMISSION

October 5, 2022

APPLICANT: Dana Foreman – KLJ Engineering on behalf of The Summit at Deadwood Stage Run (Bill Pearson)

PURPOSE: Request for Variance – 16.04.020 K Street Grades and Alleys. Maximum street grades R1 (Residential) District 9%.

GENERAL LOCATION: Stage Run Subdivision

LEGAL DESCRIPTION: Palisades Tract of Deadwood Stage Run Addition, formerly Tracts E, F, G, H, I, J, K and L and the remaining portion of MS 696 Palisades Stone Placer, all located in the SW1/4, Section 14, the SE1/4 of Section 15, the NE1/4NE1/4 of Section 22 and the N1/2NW1/4 of Section 23, T5N, R3E, BHM, City of Deadwood, Lawrence County, South Dakota

FILE STATUS: All legal obligations have been completed

ZONE: Park Forest

STAFF FINDINGS:

<u>Surrounding Zoning:</u> <u>Surrounding Land Uses:</u> North: Planned Unit Development (R1) Residential Housing

South: Planned Unit Development (PF) Vacant Land East: Planned Unit Development (PF) Vacant Land

West: Planned Unit Development (PF) Residential Housing

SUMMARY OF REQUEST

The applicant has submitted a request for a variance to the design standards for streets and alleys required by Deadwood City Ordinance 16.04.020 Streets and Alley, K. Street Grades. The ordinance allows for the grade of streets in a residential zoning district to be a maximum grade of 9%. The application states they are proposing street longitudinal slopes in four areas that will be greater than the maximum allowed. These grades area: 9.98 %, 10%, 11.42%, and 12%. The application states the design engineer lowered the slopes as much as possible, but existing terrain

The Summit at Deadwood Stage Run Request for Variance – Street Grades October 5, 2022

and bedrock prevent further lowering of the slopes to maintain buildable lots on both sides of the road.

EXISTING ZONING AND LAND USES

The property is currently zoned PF – Park Forest and is located within the Planned Unit Development Boundary of the Stage Run Development. Soon, the developer will be requesting a zoning amendment for this area to be changed to R1 Residential. The area is surrounded by vacant land but has been planned for residential development since 2006.

Environmental Corridor Status: The property is located outside of the Flood Area.

COMPLIANCE:

- 1. The Zoning Officer provided notice identifying the applicant, describing the project and its location and giving the scheduled date and time of the public hearing in accordance with Section 17.80.010.B. This notice was mailed to property owners within 300 feet of the subject property.
- 2. A sign was posted on the property for which the request was filed as required by Section 17.80.010.B.
- 3. Notice of the time and place for the public hearing was published ten (10) days in advance of the hearing in the designated newspaper of the City of Deadwood as required by section 17.80.010.B.

VARIANCE

The purpose of a variance is to modify the strict application of the specific requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional (Amended 99-952) conditions, whereby, such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his or her land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his or her lot as the Zoning Ordinance intended.

The Board shall consider and decide all applications for variances within 30 days of such public hearing and in accordance with the standards provided below.

STANDARDS FOR VARIANCES:

In granting a variance, the Board shall ascertain that the following criteria are met, and presented at the public hearing or otherwise included in the record.

1. A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary

The Summit at Deadwood Stage Run Request for Variance – Street Grades October 5, 2022

conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar, exceptional, and undue hardship on the owner of the property. The previously mentioned circumstances or conditions shall be set forth in the Findings of the Board.

According to the application, existing terrain and bedrock prevent further lowering of the slopes to maintain buildable lots on both sides of the road.

2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.

The subject use is a use by right in the PF and R1 Zoning District.

3. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.

The developer has stated that they have reduced as much as possible while still allowing for buildable lots.

4. The granting of any variance is in harmony with the general purposes and intent of this Ordinance and will not be injurious to the neighborhood, and/or detrimental to the public welfare, or in conflict with the established policies of the City of Deadwood.

This area is currently occupied by vacant land but is part of the overall masterplan that was approved by the City of Deadwood in 2006. Approval of this variance will allow for new residential structures to be built. In that sense, the proposed project is compatible with the area. The granting of the proposed variance will not be detrimental to fire safety, clearance, preservation of light and open space and/or visual and aesthetic concerns.

5. There must be proof of practical difficulty, which may be based upon sufficiently documented economic factors but such proof shall not be based solely upon or limited to such economic factors. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without the knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.

According to the application, existing terrain and bedrock prevent further lowering of the slopes to maintain buildable lots on both sides of the road.

6. That the proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

The use and value of the area adjacent to the property included in the variance request will not be affected in an adverse manner. At this time, we are still determining the impact on our water supply but there will be no significant adverse impacts on the schools, or other services.

The Summit at Deadwood Stage Run Request for Variance – Street Grades October 5, 2022

A variance cannot be granted if it would pose any threat to the public health or safety. This finding includes concerns such as fire safety, and visual and aesthetic concerns.

- 7. The fee, as adopted by resolution, was paid to the Zoning Administrator as agent for the Board to cover the costs of notices and other expenses incidental to the hearing.
 - *The applicant has paid the \$200.00 fee to process the variance.*
- 8. The applicant has proven that he or she is the owner of the property, or is his or her officially designated agent and has presented proof thereof.

The applicant has proven to the City of Deadwood Planning and Zoning office that they are the current owner of the subject property.

Requirements for the Granting of a Variance:

Before the Board shall have the authority to grant a variance, the person claiming the variances has the burden of showing:

- 1. That the granting of the permit will not be contrary to the public interest;
- 2. That the literal enforcement of the Ordinance will result in unnecessary hardship; and,
- 3. That by granting the permit, substantial justice will be done.

A variance shall be null and void two (2) years from the date it is granted unless completion or substantial construction has taken place. The Board of Adjustment may extend the variance for an additional period not to exceed one (1) year upon the receipt of a written request from the applicant demonstrating good cause for the delay.

If upon review by the Zoning Administrator, a violation of any condition, imposed in approval of a variance is found, the Administrator shall inform the applicant by registered mail of the violation and shall require compliance within sixty (60) days, or the Administrator will take action to revoke the permit. The Administrator's letter, constituting Notice of Intent to Revoke Variance may be appealed to the Board of Adjustment within thirty (30) days of its mailing. The Board of Adjustment shall consider the appeal and may affirm, reverse, or modify the Administrators Notice of Intent to Revoke. The applicant must comply with the Board of Adjustment's Order on Appeal of Notice of Intent to Revoke Variance within thirty (30) days of the Boards decision.

ACTION REQUIRED:

- 1. Recommendation by Planning and Zoning to Approve/Deny/Approve with conditions for Request for Variance 16.04.020 K. Street Grades and Alleys. Maximum street grades R1 (Residential) District 9%.
- 2. Approve/ Deny/ Approve with Conditions by City of Deadwood Board of Adjustment.

























































































