



**STAFF REPORT
PLANNING & ZONING
BOARD OF ADJUSTMENT
REQUEST FOR A CONDITIONAL USE PERMIT**
September 21, 2022

APPLICANT: Keating Resources

PURPOSE: Application for CUP - Condominiums

GENERAL LOCATION: 51, 55, 53 Sherman Street

LEGAL DESCRIPTION: 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.

FILE STATUS: All legal obligations have been completed

ZONE: C1 – Commercial

STAFF FINDINGS:

Surrounding Zoning:

North: C1 – Commercial
South: C1 – Commercial
East: PU – Public Use
West: PU – Public Use

Surrounding Land Uses:

Commercial Businesses
Commercial Businesses
Museum/Post Office
Public Parking Lot

SUMMARY OF REQUEST

The applicant has submitted a request for a Conditional Use Permit to operate condominiums at 51, 53, 55 Sherman Street. The subject property is located at the intersection of Deadwood Street and Sherman Street. This area is surrounded by commercial businesses and public use spaces.

FACTUAL INFORMATION

1. The property is currently zoned C1 – Commercial
2. The site was originally built in the late 1890's and is on the National Historic Registry.
3. The subject property has access from Sherman Street and Miller Street.
4. The property is located in Flood Zone X – Areas of 500-year flood.
5. Adequate public facilities are available to serve the property.
6. The area is characterized by a mixture of commercial businesses and public space.

STAFF DISCUSSION

Condominiums are a conditional use within the Commercial District ordinance 17.32. Adequate parking for this use would be a discussion topic for this location as the property lacks sufficient parking spaces, however; according to Deadwood City Ordinance 17.64.060 Off-street parking:

Existing and new uses in buildings built pre-1941:

1. In planning unit 4, in the historic overlay zone, uses existing as of the date of the ordinance codified in this title and any new uses in buildings built prior to January 1, 1941, shall not be required to provide off-street parking facilities.
2. In all other planning units, the requirements of subsection A of this section shall apply. in planning unit 4, in the historic overlay zone, uses existing as of the date.

The Deadwood Zoning Code 17.08 defines a Condominium as the following:

Real property having more than one dwelling unit and the ownership of which consists of separate, divided, fee simple estates in individual air space units, together with an undivided fee simple interest in the common elements appurtenant to such units.

Keating Resources intends to have condominiums on floors 2 – 4, while the first floor will become retail space.

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.

- 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 C1 – Commercial District and is intended to provide locations coinciding with the downtown core commercial zone where certain commercial uses and gaming are permitted. One of the most important “needs” for the city currently is housing.

- C. The proposed use at this location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvement, 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. 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 location is surrounded by a variety of commercial uses. 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 Adjustments 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 filled 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.

If approved, staff recommends the following stipulation(s):

1. The Conditional Use Permit runs with the applicant and not the land; therefore, should the property be sold, the Conditional Use Permit is null and void.
2. Proof that the Building Inspector has inspected the building and it meets all the building codes.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

1. Approve / Deny by the Planning and Zoning Commission.
2. Approve / Deny by the Board of Adjustment.