



Spearfish Planning Commission Agenda

November 16, 2021 at 3:00 p.m.

**Meeting Location: City Council Chamber, 625 Fifth Street, Spearfish, SD
And Zoom Online Meeting**

Join Zoom Meeting

<https://us02web.zoom.us/j/87902108144>

Meeting ID: 879 0210 8144

Or Dial in:

1 346 248 7799 and enter Meeting ID

A. Call To Order

B. Roll Call

C. Approve the Minutes from November 2, 2021

D. Declaration of Conflicts of Interest or Disclosures on Item 1

E. Items for Action

1. **Request:** Approve a conditional use permit for a two family dwelling with a shared wall on a common lot line
Location: 314 and 315 Peoria Street
Applicant: Mark Schwartz
Action: Hold a public hearing and render a decision on the request

F. City Council Update

G. Public Comment - Public comments are welcome at this time, however, no action will be taken

H. Adjournment



Spearfish Planning Commission
Regular Session Minutes
November 2, 2021 at 3:00 p.m.

The Spearfish Planning Commission met in regular session on Tuesday, November 2, 2021 at 3:00 p.m. in the council chamber of city hall and via Zoom video conference. Chairman Bordewyk called the meeting to order at 3:00 p.m. Roll call was taken with the following members present: Toby Bordewyk, Meghan Byrum, Abe Kean, Greg Kruskamp, Bob Meyer, Larry Vavruska, and Barbara Zwetzig. Also present: City Planner Jayna Watson.

APPROVAL OF MINUTES:

Vavruska moved, Byrum seconded and all voted to approve the minutes of the October 5, 2021 Planning Commission meeting.

DECLARATIONS OF CONFLICTS OF INTEREST:

Bordewyk called for any potential conflicts of interest to be identified. No conflicts were expressed.

- Request:** Approve a conditional use permit for a two family dwelling with a shared wall on a common lot line
Location: 314 and 315 Peoria Street
Applicant: Mark Schwartz

Action: Set a public hearing for November 16, 2021

Ron Bengs, Interstate Engineering, provided a summary of the request to plat the existing property into two lots. Watson reviewed ordinance requirements and explained the purpose for processing this as a conditional use permit instead of a variance. **Vavruska moved, Kean seconded, and all voted to set public hearing for November 16, 2021.**

- Request:** Approve an exception to landscape points
Location: 3935 E Colorado Boulevard
Applicant: Shawn Darling
Action: Make a recommendation to City Council

Shawn Darling presented a request to reduce the landscape points, referring to the issues he addressed in his letter attached to the staff report. Watson presented staff's recommendation and noted key ordinance provisions. Discussion took place concerning regarding the site soils, use of the property, conflicts with utility easements, adding a landscape watering system, use of a landscape contractor to guide a solution, and the need for the applicant to identify a specific rationale for the exception. **Kean moved, Zwetzig seconded, and all voted to table the request pending additional information to be submitted by Mr. Darlin to justify the exception.**

- City Council Update** – Watson noted the revision approved to the home prices for Sky Ridge, and that the bridge over the creek at Jorgensen Park was repaired.
- Public Comment** – No comments were provided.
- Adjournment** - Bordewyk adjourned the meeting at 3:50 p.m.



Spearfish Planning Commission Staff Report
Meeting Location: City Council Chamber, 625 Fifth Street, Spearfish SD 57783
and by Zoom Teleconference, see page 3 for instructions to join.

Meeting Date and Time:

November 16, 2021 at 3:00 p.m.

Applicant:

Mark Schwartz

Request:

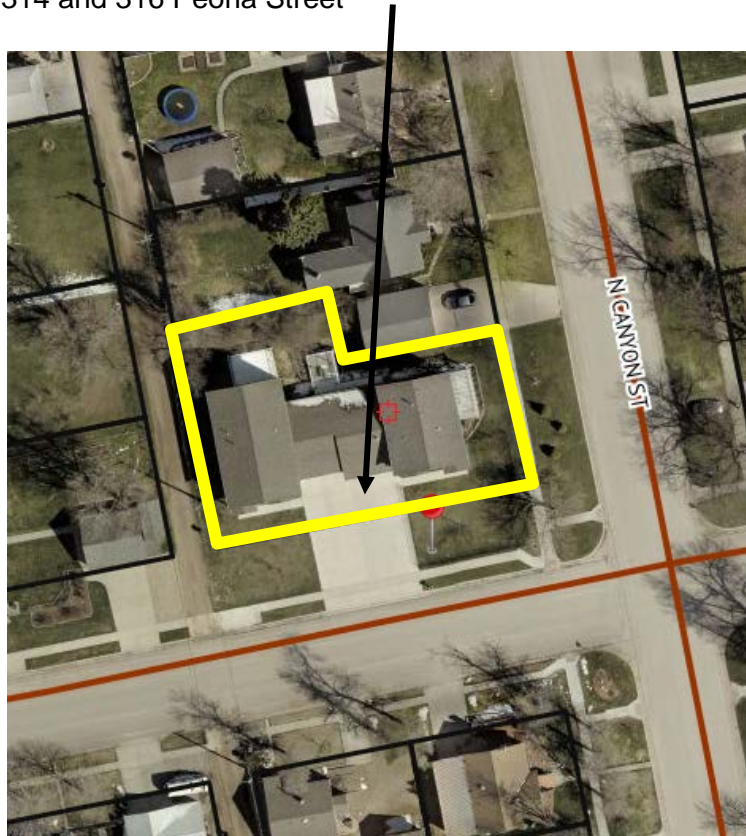
Approve a conditional use permit for a two family dwelling with a shared wall on a common lot line

Action:

Hold a public hearing and render a decision on the request

Location:

314 and 316 Peoria Street



Proposal Summary: This will enable the property owner to divide this single lot along a shared common wall so that each dwelling unit may be sold separately.

BACKGROUND AND HISTORY:

- Zoned R-2, one and two family residential
- Property is a duplex on one lot and was built in this configuration in 2016 after the existing structure was demolished

Because conditional use permits are considered as administrative decisions in state planning and zoning law, the Planning Commission is the final decision maker on these requests. These requests do not go on to City Council. This also requires that any contact from the applicant or any information obtained from other than the public record must be disclosed at the public hearing.

The reason this request requires a conditional use permit is so that each lot can be restricted to one dwelling per lot once a final plat for each lot has been recorded. Without a CUP imposed restriction, each dwelling could be further remodeled to provide one additional unit on each lot, possibly resulting in 4 connected dwellings. While this satisfies the maximum number of units allowed on each lot, it would violate the total number of units allowed to be connected to each other in the R2 which is only a maximum of 2. This would also violate the building code since multi-family construction requirements are different than two family townhouse or duplex. To track this, the conditional use permit tool was created several years ago to limit the overall density on each lot to one dwelling.

PROJECT DATA:

The R2 standards governing this request are attached to the staff report with pertinent data highlighted.

Setbacks required/provided:

Lot 6A – Front 25 feet from both streets (corner lot); side 8 feet/8.3 feet and 0 where attached to lot 6B

Lot 6B – Front and rear 25 feet, side 8 feet/11 feet and 0 where attached to lot 6A

Lot size:

No minimum lot size is required since if a duplex is permitted on a standard lot, the placement of a lot line between the units makes lot size a moot point.

Lot 6A – 6003 square feet

Lot 6B – 5908 square feet

The R2 standards permit lot sizes for two attached dwellings to be less than 8,000 square feet.

Individual home square footage:

Lot 6A – 1810 square feet

Lot 6B – 2080 square feet

Parking required/provided: 2 off street parking stalls are required/provided for each dwelling.

Lot coverage maximum/provided:

Lot 6A – 40%/30%

Lot 6B - 40%/35%

Lot width required/provided:

No minimum since a duplex is permitted on a standard lot, the placement of a lot line between the units makes minimum lot width a moot point

REVIEW CRITERIA AND STAFF ANALYSIS:

This request is guided by the Conditional Use Permit criteria. A complete analysis of the criteria and findings/conditions of approval is provided starting on page 8 of this staff report.

PUBLIC COMMENTS:

No comments have been received as of this writing. Notice of the public hearing was provided to vicinity property owners by first class mail, a sign posted on the site, and a legal notice in the Black Hills Pioneer.

STAFF RECOMMENDATION:

Approve per the Conditional Use Permit findings and condition 13 a., b., and c.

ATTACHMENTS:

Page 4 – Aerial Map

Page 5 – Site Plan/sketch plat

Page 6 – R2 Zoning Standards

Page 8 - Conditional Use Permit Findings

Staff Contact:

Jayna Watson, City Planner, 605-717-1122; jayna.watson@cityofspearfish.com

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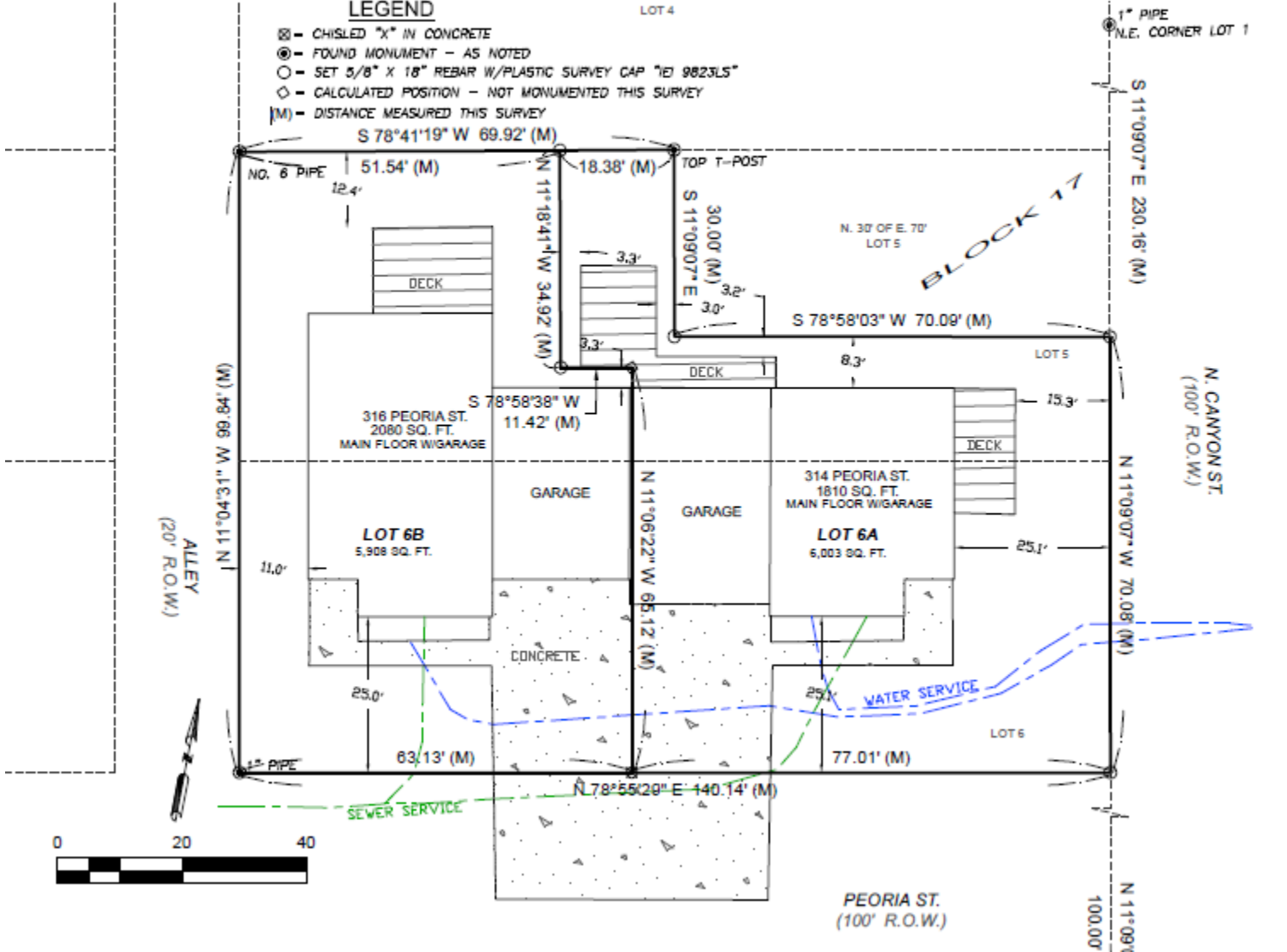
314 and 316 Peoria

Existing duplex proposed to be platted into two lots to enable a defined lot and legal description for each dwelling.

SKETCH PLAT

PLAT OF LOT 6A & LOT 6B, BLOCK 17 OF RAMSDSELL'S ADDITION TO THE CITY OF SPEARFISH, LAWRENCE COUNTY, SOUTH DAKOTA

BEING LOT 5, EXCEPT THE NORTH 30' FEET OF THE EAST 70' OF LOT 5 AND ALL OF LOT 6, BLOCK 17 OF RAMSDSELL'S ADDITION TO THE CITY OF SPEARFISH, LAWRENCE COUNTY, SOUTH DAKOTA



Surveyed By: ACT	Date: OCT. 2021	<p>INTERSTATE ENGINEERING Professionals you need, people you trust</p>
Drawn By: ACT	Date: 10.22.2021	
Checked By: ACT	Date: 10.22.2021	
Project Number: L21-16-139		
		P.O. Box 228 120 Industrial Drive, Suite 2 Spearfish, SD 57783 Office: (605) 842-4772 Fax: (605) 842-4773 www.interstateeng.com

Section 3. R2 one- and two-family residential district.

Bold text = applicable code provisions to 314/316 Peoria Street C.U.P. request

A. *General description.* This is a residential district to provide for medium population density. The principal uses of land are for single-family detached and two-family attached dwellings.

B. *Primary uses permitted.* Property and structures in an R2 residential district shall be used for the following purposes:

1. Any use permitted in an R1 district. Maximum of two (2) detached dwellings per lot.
2. Two-family dwelling on one common lot.
3. Accessory structures and uses customarily incidental to a primary use when located on the same lot, after the primary use has been established.
4. Home Occupation Type 1 where fifteen percent (15%) or less of the floor area of the structure is dedicated to the home occupation.

5. Photovoltaic (PV) systems.

C. *Uses eligible for a conditional use permit.* Conditional use permits may be granted to properties for the following land uses:

1. Bed and breakfast.
2. Cemetery.
3. Child care center.
4. Church or place of worship.
5. Group home.
6. Historic monument/place.
7. Home Occupation Type 2 with greater than fifteen percent (15%) of the floor area of the structure dedicated to the home occupation.
8. Personal services.
9. Publicly owned structure/facility/park.
10. Office.
11. Privately owned recreational use.
12. Private school or educational service.
13. Public utility substation.
14. Retail.

15. Two-family dwellings having a shared wall at a common lot line, according to the criteria in paragraph D.

16. Telecommunications facilities.

D. *Area regulations.* All setbacks shall be measured from the property line.

1. Front setback.

a. Twenty-five (25) feet.

b. If a lot abuts a one-hundred (100) foot wide public right-of-way, the front setback may be a minimum of twelve (12) feet and provided that a garage door facing the street is a minimum of twenty (20) feet from the public sidewalk.

2. Side setback.

a. Primary uses, eight (8) feet; five (5) feet if platted prior to April of 1980.

b. Unattached structures of accessory use, five (5) feet.

c. Two-family dwelling per paragraph C.15, zero (0) feet at property line where dwellings attach, eight (8) feet from outside lot lines which may be approved at five (5) feet if applicant can demonstrate that adequate provisions are made for drainage and maintenance.

3. Rear setback.

- a. **Twenty-five (25) feet;**
 - b. Unattached structures of accessory use, five (5) feet.
- 4. Minimum lot width.
 - a. Seventy-five (75) feet at the front setback line. Lots platted before April 1980 are not subject to this requirement.
 - b. **Two-family dwelling per paragraph C.15. No minimum.**
- 5. Maximum number of dwellings per lot.
 - a. Primary uses - two (2).
 - b. **Conditional use permit uses - one (1).**
- 6. Minimum lot size.
 - a. Eight-thousand (8,000) square feet.
 - b. **Two-family dwelling per paragraph C.15, no minimum lot size.**
- 7. **Maximum number of attached dwellings - two (2).**
- 8. **Maximum lot coverage - Forty percent (40%).**
- 9. Maximum structure height:
 - a. **Thirty-five (35) feet.**
 - b. Accessory structures shall not exceed fifteen (15) feet.
- 10. **Off-street parking and loading requirements. As regulated in Article V, Sections 3, 4 and 5 (2 stalls per dwelling required)**

City of Spearfish Planning Commission
November 16, 2021
Conditional Use Permit Findings

Applicant: Mark Schwartz

Location: 314 and 316 Peoria Street

Zoning: Single- and Two-Family Residential – R2

C.U.P. Request: Two family dwelling with a shared wall on a common lot line

Date of Planning Commission Public Hearing: November 16, 2021

The Planning Commission of the City of Spearfish has reviewed and submits these findings, noted in italics, as well as the conditions of approval concerning the above noted Conditional Use Permit request.

Evaluation criteria. In either making a recommendation to approve or deny, or acting to approve or deny an application for a CUP, the following criteria shall be considered:

1. The proposed use shall comply with other Ordinances. A CUP may not be issued to allow a use otherwise prohibited; *The existing dwellings are in compliance with the building code and fire code.*
2. The proposed use shall be eligible for a CUP based on the zoning district; *The proposal is for a two family dwelling with a shared wall on a common lot line and it is eligible for a conditional use permit in the R-2 district.*
3. The proposed use shall comply with the setback, lot coverage, height, and other requirements of the zoning district, unless the subject property is currently legally nonconforming or a request for a variance is simultaneously submitted with the application for a CUP:
The following are the standards of the R2 single-and two-family zoning district as applied to this request:

Setbacks required/provided:

Lot 6A – Front 12 feet/25 feet from both streets (corner lot); side 8 feet/8.3 feet and 0 where attached to lot 6B

Lot 6B – Front 12/25 feet, side 8 feet/11 feet and 0 where attached to lot 6A, rear 25 feet/25 feet.

Lot size:

No minimum lot size is required since if a duplex is permitted on a standard lot, the placement of a lot line between the units makes lot size a moot point.

Lot 6A – 6003 square feet

Lot 6B – 5908 square feet

The R2 standards permit lot sizes for two attached dwellings to be less than 8,000 square feet.

Individual home square footage:

Lot 6A – 1810 square feet

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Parking required/provided: 2 off street parking stalls are required/provided for each dwelling.

Lot coverage maximum/provided:

Lot 6A – 40%/30%

Lot 6B - 40%/35%

Lot width required/provided:

No minimum required. Since a duplex is permitted on a standard lot, the placement of a lot line between the units makes minimum lot width a moot point.

4. The proposed use shall be compatible with the location, physical character, and topographic features of the property; There will be no changes to add any additional dwelling units to the existing duplex.
5. Buffering measures along parcel boundaries shall exist or be incorporated to mitigate any visual impact of outdoor use areas onto adjacent property; Not applicable; no changes are proposed to the physical improvements on the property nor to its use as two residences
6. If applicable, lighting from all sources shall be designed so that it does not unreasonably affect adjacent property; No new exterior lighting is proposed.
7. The proposed use shall not create an unreasonable public safety issue relating to the property or its surroundings, nor increase the risks of an existing public safety issue; Not applicable. No changes to existing use of property is proposed.
8. The proposed use shall have adequate pedestrian and vehicular access, circulation, and parking, including those related to bicycle transportation and transportation by persons with physical disabilities; Not applicable. All public sidewalks and individual driveways exist.
9. The proposed use shall not result in any unusual or unreasonable parking impacts; Not applicable. No change to land use and corresponding parking requirements.
10. The proposed use shall not result in an unusual or unreasonable number of vehicle trips per day as measured against the character of the neighborhood of the subject property and the street network serving it; Not applicable. No change to land use and corresponding vehicle trips to/from the property.
11. The proposed use shall not result in an unusual or unreasonable level of noise; Not applicable. No change to land use is proposed.

12. Adequate public services and utilities shall be available to accommodate the proposed use; Public services and utilities currently exist on this lot.
13. Additional imposed conditions, if any, will mitigate any probable adverse impacts of the proposed use.
 - a. Lot 6A and 6B are permitted a maximum of one residential dwelling on each lot.
 - b. Easements will be shown on the final plat for where individual water and sewer service lines cross between Lots 6A and 6B.
 - c. A maintenance agreement is required to specify ownership and maintenance responsibilities of the individual water and sewer service lines that cross between Lots 6A and 6B.

I verify that the above findings and conditions of approval by the Spearfish Planning Commission were made in a public hearing on November 16, 2021, and that the Two family dwelling with a shared wall on a common lot line is hereby approved.

Toby Bordewyk, Planning Commission Chair