



PLANNING BOARD AGENDA

November 15, 2021 – 10AM | Council Chambers, City Hall

1. **Call meeting to order** | Pledge of Allegiance.
2. **Approval of Minutes:**
 - a. Regular Meeting: October 18, 2021
3. **Public Comment Non-Agenda Items** – Members of the audience may comment on any non-agenda item. State Statute prohibits the City Council from discussing any introduced item. The Council limits each person to three minutes to ensure there is sufficient time for all comments. The Council respects all comments and will have staff follow up any questions.
4. **Public Hearing:(s)**
 - a. Cutler Bro BNB Conditional Use Permit Application – CAO Green
Action Item: Vote on recommendation to City Council.
5. **Reports:**
 - a. Economic Growth and Development:
 - b. Downtown Historic Preservation:
 - c. Chamber of Commerce:
6. **New Business:** - The Board accepts public comment at the end of each item.
 - a. None
7. **Continued Business:**
 - a. None
8. **Staff or Committee Comments:**
9. **Announcement of the next meeting:**
 - a. December 20, 2021, at 10AM. (if needed)
10. **Adjournment**

Planning Board for the City of Deer Lodge meets in the Council Chambers.
300 Main Street, Deer Lodge, MT 59722

For Further Information Contact
CAO | Jordan Green
jgreen@cityofdeerlodgemt.gov | 406.846.2238

CITY OF DEER LODGE

PLANNING BOARD MINUTES

Monday, October 18, 2021 – 10:00 AM | Council Chambers, City Hall.

Members Present:	Amber Brown, Rand Dickson, Dan Sager, Kathy Bair, Dick Bauman, Rick Buck
Member Absent:	None
Mayor:	Diana Solle
CAO:	Jordan Green
Council Member:	Dick Bauman
Staff:	Cyndi Thompson
Guests:	See Sign in Sheet

1. Call Meeting to Order | Pledge of Allegiance

Chairperson Brown called the meeting to order at 10:00AM, all present recited the Pledge of Allegiance.

2. Approval of Minutes

a. Regular Meeting – September 20, 2021

Member Dickson motioned to approve the minutes as presented. Member Bauman seconded the motion. 6 Ayes, 0 No's. Motion passed.

3. Public Comment Non-Agenda Items:

a. None

4. Public Hearings:

a. Hershaw Conditional Use Permit – CAO Green-Action Item: Vote on Recommendation of CUP to City Council

CAO Green stated Jacob Hershaw, of the business "HACRS" Automotive Repair Shop, and of 215 Kentucky Street, submitted a Conditional Use Permit application on September 23, 2021. The petitioner is seeking permission to have a Major Home Occupation operate out of the garage at the 215 Kentucky St property to house his auto shop business, HACRS. The

parcel is in Deer Lodge in the Kading Subdivision, Section 33, Township 08N, Range 09W, Lot 2, 130 X 100 & an irregular tract. The parcel is located in the R-2, Single Family and Manufactured Home District of the City of Deer Lodge Zoning Ordinance. This Occupation would be a temporary solution while the petitioner searches for another location to house his business. The City of Deer Lodge Zoning Ordinance requires the issuance of a Conditional Use Permit for all Major Home Occupations in residential districts. The City Administrator sent out 9 letters to adjacent property owners for to ask for comments for the Conditional Use public hearing. There have been no responses at the time of this staff report to the Conditional Use application letters. The Silver State Post ran the required public hearing notice in their October 6th and October 13th editions. There has been no remonstrance to this petition since the public notices have been legally given. A public hearing for the Conditional Use Permit Application will be held for the Planning Board on October 18, 2021. The second public hearing for City Council will be held November 1, 2021, should the Planning Board give a favorable recommendation to City Council. Based on the information, the City Administration recommends the Planning Board send a favorable recommendation of the CUP application subject to the following considerations:

- The property remains adherent to the provisions of the City of Deer Lodge Zoning Ordinance requirements for a Major Home Occupation.
- The applicant makes all efforts to restrict noise, dirt, dust, and automotive contaminants from leaving the property boundary.
- The applicant alerts the City of Deer Lodge of any changes to the use of the parcel and get the City's written permission that the changes remain adherent to the provisions of the City of Deer Lodge Zoning Ordinance

Committee members questioned the applicant making all efforts to restrict noise, dirt, dust, and automotive contaminants from leaving the property boundary. And discussed any abandoned vehicles that are left at the property.

Public Hearing opened at 10:11am.

Member of the public stated he was in support of the CUP request for Mr. Hershaw.

Public Hearing closed at 10:13am.

Member Bauman motioned to approve the Hershaw CUP with recommendations to council. Member Dickson seconded the motion 6 Ayes, 0 No's. Motion passed.

- b. Dispensary Zoning – CAO Green - Action Item: Vote on Recommendation of Zoning Amendment to City Council.

CAO Green stated On September 20, 2021, The City of Deer Lodge Planning Board voted to hold a public hearing to obtain comments regarding a proposed amendment to the City of Deer Lodge Zoning Ordinance to add adult-use providers of marijuana and marijuana-infused products (hereby referred to as dispensaries) as a conditional use in the B-2, Highway Business District. The Planning Board also voted to hold a public hearing regarding adoptions of requirements referenced in 16-12-101 through 16-12-533 of the Montana Code Annotated (MCA). These requirements, which include restrictions on locations in town for dispensaries and a local government's authority to regulate, would be

adopted in place of the City of Deer Lodge's existing and outdated Ordinance #144. Lastly, the Planning Board voted to hold public hearing on the requirement of the issuance of a local Zoning Permit for a dispensary to operate as a conditional use in the B-2 District. City Administration: The B-2 District is currently the only district in town where casinos are allowed to operate as conditional uses, where liquor stores are permitted, and other uses that generally are not desired near residential districts are allowed. Therefore, this district has the peculiar suitability of being the best location for uses that may not be desired in or adjacent to other districts in Deer Lodge.

Based on the requirements, City Staff recommends that the Planning Board recommend the following provisions to the City Council regarding the regulation of dispensaries in the city limits of Deer Lodge:

- Place dispensaries and adult-use marijuana providers as a conditional use in the B-2, Highway Business District.
- Pass an ordinance that:
 - Replaces and repeals the provisions of Ordinances #130,136,140, and 144 with new and updated language that more holistically regulates marijuana in Deer Lodge.
 - Requires the issuance of a zoning permit for the issuance of a state dispensary license and the approval of a conditional use permit, pursuant to MCA 16-12-207(ii).
 - Adopts the provisions of MCA 16-12-101 through 16-12-533 as requirements for the issuance of the above for dispensaries in the jurisdictional limits of Deer Lodge.

Member Dickson asked about the 500 feet distance. CAO Green stated he was complying with State Regulations of 500 feet. 1000 feet vs 500 feet was discussed.

Member Dickson asked about how many dispensaries can be allowed in town. CAO Green stated this can be examined on a case-by-case basis and a conditional use permit will be presented to the planning board and city council.

Public Hearing opened at 10:36am.

Members of the public discussed the 500 feet distance vs 1000 feet distance, location of a dispensary, the safety of our youth and the smell of marijuana a dispensary radiates.

Public Hearing closed at 11:05am.

Member Dickson motioned for city council to adopt MCA 16-12-207, subsection (iii), change it from 500 feet to 1000 feet and strike "and on the same street as". Allowing dispensaries in the B-2 district by using a Conditional Use Permit. Member Bauman seconded the motion. 4 Ayes, 2 No's. Motion passed.

5. Reports:

a. Economic Growth & Development – CAO Green

We discussed Chart Government, Discussed updates on kiosk signs and CDBG Grant update.

b. Downtown Historic Preservation – Kathy Bair

No quorum, meeting was rescheduled to November 16th.

c. Chamber of Commerce –

No Report.

6. New Business | The Board accepts public comment at the end of each item.

a. CDBG Application Discussion – CAO Green Discussion only, no motion.

CAO Green updated the Planning Committee on the CDBG Grant Application.

7. Continued Business:

a. JC Park Land East of Ballfields – CAO Green

CAO Green discussed the site visit with a few of the Planning Board Members at the 5.7 acres east of the ballfields at JC Park. The few that did attend the site visit did agree that the city should hold onto that piece of land for the time being.

Member of the public stated that the city should hold onto that property. And continued to discuss the water table at the property.

CAO Green stated we currently have an active lease on the land as a pasture lease.

Member Sager motioned to keep the land in current condition and use. Member Bauman seconded the motion. 6 Ayes, 0 No's. Motion passed.

8. Committee Comments or Concerns:

a. Member Buck discussed the right turn lanes off Milwaukee and how there should be right turn lane lines to help direct traffic.

b. Mayor Solle stated the land over by the city shop should be discussed along with the 5.7 acres at JC Park. Member Bauman stated we need to have a map specific to that area so we can see it.

9. Announcement of the next meeting:

a. November 15, 2021, at 10:00 AM

10. Adjournment:

a. The meeting was adjourned, by consensus at 12:04PM.

Prepared by Cyndi Thompson, City Clerk

Amber Brown, Chairperson

Date

CONDITIONAL USE PERMIT STAFF REPORT

Jordan Green – November 15, 2021

Introduction –

Dean Kippenhan of Fine Line Construction, representing Cutler Bros. Productions, submitted a Conditional Use Permit application on October 29, 2021. The petitioner is seeking permission to convert the Cutler Bros. theater at 301 Main Street into a Bed and Breakfast style business that would house 4 lodging units.

The parcel is in Deer Lodge in the Original Addition, Section 33, Township 08N, Range 09W, Block 11, Lots 1-2. The parcel is located in the B-1, Central Business District of the City of Deer Lodge Zoning Ordinance. The location of the parcel is identified on the attached map.

According to the City of Deer Lodge Zoning Ordinance Chapter 19, Section E(3), residential and lodging uses within the B-1, Central Business District must be permitted as a conditional use.

Analysis of Application –

The analysis of this application followed the requirements specified in Chapter 12 of the City of Deer Lodge Zoning Ordinance. The requirements and staff comments used in this analysis follow.

Chapter 12, Section 2-1: The use conforms with the objectives of the Growth Policy and the intent of this Code

This use conforms with the objectives of the Growth Policy by supporting an existing small business in Deer Lodge. Also, downtown revitalization is considered a key aspect of the Growth Policy. Renovating the building for lodging will fix current wear and tear and keep the structure attractive and useful for longer.

Chapter 12, Section 2-2: Such use will not adversely affect nearby properties or their occupants

There will be no impact on nearby businesses from the renovation of the theater into lodging. The proposed use is quieter and generates less traffic than the current use.

Chapter 12, Section 2-3: Such use meets density, coverage, yard, height and all other regulations of the district in which it is to be located, unless otherwise provided for in this Code

The proposed use meets all other regulations of the district in which it is to be located. There are no parking requirements, setback requirements for structures on Main Street, or any other regulations which are affected by this proposed change in use. However, the applicants need to be aware that there are state regulations for this use that may be required for the issuance of a building permit. These requirements should be followed as closely as possible for the conditional use permit to remain valid.

Chapter 12, Section 2-4: Public hearings have been held, after the required legal notices have been given and the public has been given a chance to be heard upon the matter

The City Administrator sent out 24 letters to adjacent property owners for to ask for comments for the Conditional Use public hearing. There have been no responses at the time of this staff report to the Conditional Use application letters. The Silver State Post ran the required public hearing notice in their


November 3rd and November 10th editions. There has been no remonstrance to this petition since the public notices have been legally given.

A public hearing for the Conditional Use Permit Application will be held for the Planning Board on November 15, 2021. The second public hearing for City Council will be held December 6, 2021, should the Planning Board give a favorable recommendation to City Council.

Recommendation –

Based on the above information as well as the provided preliminary plan documents, the City Administration recommends the Planning Board send a favorable recommendation of the CUP application subject to the following considerations:

- The property remains adherent to the provisions of the City of Deer Lodge Zoning Ordinance requirements, including but not limited to the chapters on Conditional Use Permitting and the B-1 Zoning District.
- The applicant alerts the City of Deer Lodge of any changes to the use of the structure and get the City's written permission that the changes remain adherent to the provisions of the City of Deer Lodge Zoning Ordinance.
- The applicants secure all required state building permits for renovating the structure to lodging. All building code requirements provided during the permitted process will be followed in order to maintain local conditional use approval.

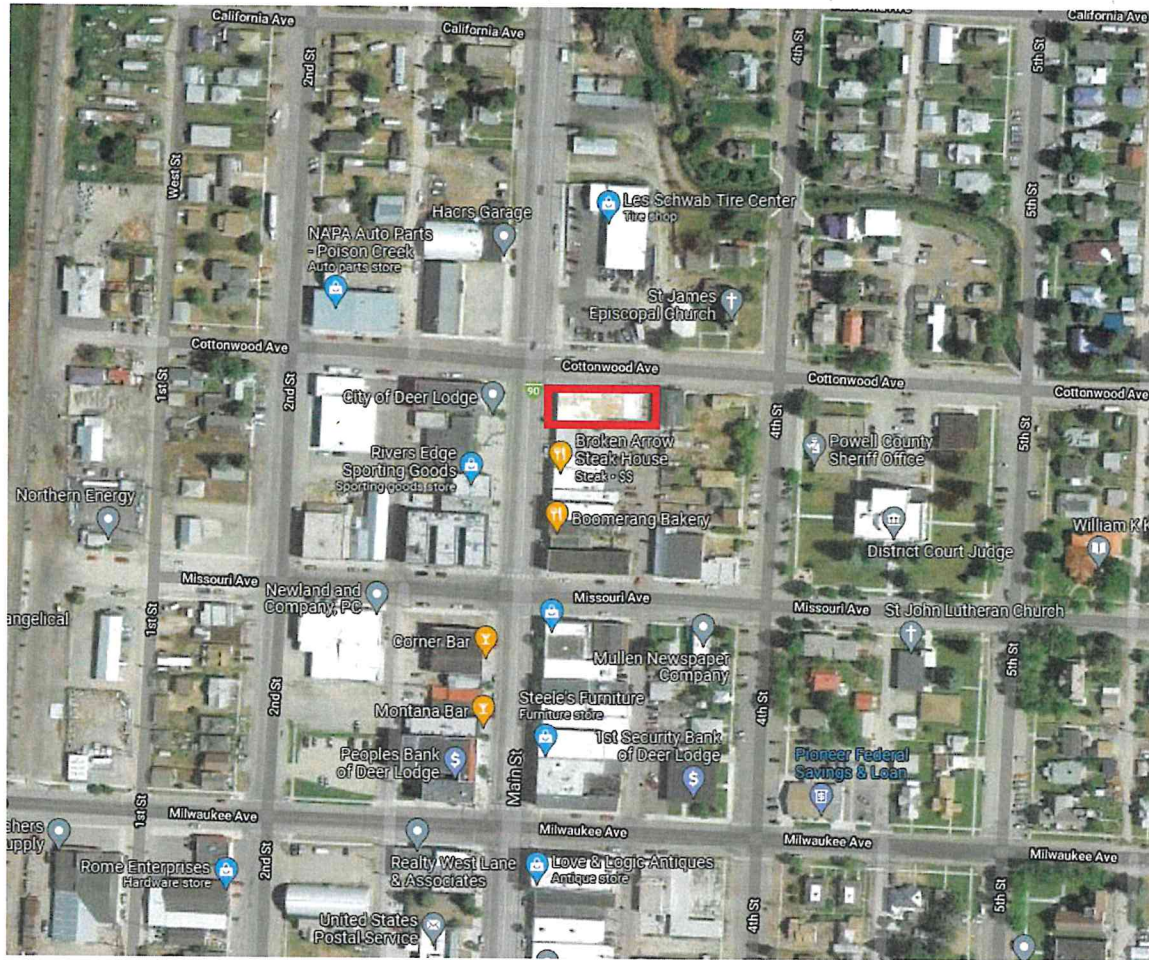


Chief Administrator/ City Planner

11-15-21

Date

Attachment: Parcel Location



City of Deer Lodge

300 Main Street | Deer Lodge, MT | 59722 | 406.846.2238 | 406.846.3925 (f) | cityofdeerlodge.org

CONDITIONAL USE PERMIT

APPLICATION

The submission of this application acknowledges that all information is true and correct including all supporting documents and plans.

Site Plan - The plan must show parcel boundaries, existing and proposed structures, access from public road, parking areas, waterways & drainage structures, landscaping, and public infrastructure.

Please submit the completed Application and all supporting documents & scaled plans, and the appropriate fee to the Deer Lodge City Hall - 300 Main Street, Deer Lodge, MT 59722.

Applicant(s): Fire Line Construction

Address: 301 Main

Email: CKippenker6@gmail.com Telephone #: 406-594-3871

Property Address: 301 Main

Assessor Code(s): _____ Geocode(s): _____

Authorized Agent Information: _____

Address: _____

Email: _____ Telephone #: _____

Property Owner / Authorized Agent Signature: [Signature] Date: Oct. 29th 2021

Legal Description of Property (Subdivision / Addition and Blocks & Lots): _____

Zoning District: _____ Overlay District: _____

Use of Structure or Property? _____

Describe the Request (Submit additional pages if necessary & all supporting documentation): _____

TRANSFER current theatre into 4 AIR BNB

Owner / Agent Initial: [Signature]

Date: Oct 29-21