

MEMORANDUM

DATE: November 18, 2010

TO: County Development Review Committee

FROM: Jose E. Larrañaga, Commercial Development Case Manager

VIA: Jack Kolkmeier, Land Use Administrator
Shelley Cobau, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

FILE REF: CDRC CASE # MP/PDP/DP 10-5400 Mine Shaft Tavern

ISSUE:

Mine Shaft Properties, LLC, Applicant, Santa Fe Planning Group (Scott Hoeft), Agent, request Master Plan Zoning for an existing non-conforming use, Preliminary and Final Development Plan approval of Phase I for an expansion of a non-conforming structure and outdoor entertainment.

The property is located at 2840 Hwy. 14, within the Traditional Community of Madrid, within Section 36, Township 14 North, Range 7 East, (Commission District 3).

SUMMARY:

On May 27, 2010, Mine Shaft Properties LLC was granted an extension of the submittal deadline requirement for Master Plan application by the County Development Review Committee. The Applicant submitted the application for Master Plan on July 30, 2010. Staff has deemed the submittal, for Master Plan of the non-conforming property and Development Plan for Phase I, administratively complete (Exhibit "J").

Currently there are thirteen structures on the 4.84 acre site. Twelve of the structures were constructed prior to 1981, therefore, the Code acknowledges the structures and the current use of the structures as non-conforming (Exhibit "C").

Article II, Section 4.5 (Non-Conformities) states: “existing uses of land and structures including signs constructed prior to the adoption of the Code, as amended, but which may not be in conformance with the Code, as amended, or are prohibited or restricted under the current provisions of the Code, including the provisions of any amendments thereto, are considered to be non-conforming uses” (Exhibit “F”).

The Applicants intent is to maintain the historical use of the property. The Applicant requests Master Plan Commercial Zoning as a Neighborhood or Small Scale Commercial District. The purpose of the Master Plan is to record the existing structures and existing use as they are currently and historically been utilized. The Mine Shaft Property has been in continuous operation as a non-conforming commercial property for over 100 years. The Master Plan will document the significant attributes of the property while allowing the expansion or re-use of the property through the Development Plan process (Exhibit “A”).

The Mine Shaft Property has attracted tourists and locals for food, beverage, and entertainment for the past 50 years. The Tavern has been in continuous use since 1947, the Engine House Theater has been active since 1985, and the Old Coal Mine Museum has been open to the public for tours since 1960.

Article II, Section 4.5.2 (Re-use or Expansion of Non-conforming Use) states: “except as otherwise provided in this Section, any non-conforming use of land or structure may be continued so long as it remains otherwise lawful” (Exhibit “G”).

Article II, Section 4.5.3 (Submittals and Reviews) states: “re-use or expansion of non-conforming uses are subject to the submittals and review requirements set forth in the Code for the category of use which is proposed” (Exhibit “G”).

Ordinance No. 2002-1 (Madrid Community Planning District), Section 4.7 (Commercial Uses) states: “mixed use businesses and commercial uses within the planning area shall be permitted only on property that is directly adjacent to New Mexico State Highway 14 and within the Planning Area” (Exhibit “H”).

Section 4.11 (Legal Non-conforming Uses) of Ordinance No. 2002-1 (Madrid Community Planning District) states: “non-conforming, legal commercial establishments (Grandfathered Uses) and mix use establishments in operation at the date of adoption of this ordinance shall be allowed to continue operations with both existing and or new owners so long as the establishment maintains a similar intensity of use” (Exhibit “I”).

Article III, Section 4.2.1 (Types and Locations of Commercial or Industrial Districts) states: “neighborhood or small scale center districts, which are or may be located at intersections of local roads or in traditional community areas. Uses similar to those which may be established in local or village center districts may be established. A non-residential use district may be established within a traditional community at a qualifying intersection or at an area which is pursuant to the criteria set forth in Sub-section 4.2.2” (Exhibit “K”).

Sub-section 4.2.2 (Traditional Community Districts) states: “traditional Community districts established by the Code are intended to accommodate a mixture of uses such as agriculture,

residential, large scale residential, community service, institutional, non-residential or recreational uses anywhere inclusive of the boundaries of the village, provided the performance standards and criteria set forth by the Code are met” (Exhibit “L”).

Article V, Section 5.2.1.b states: “A master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the sub-divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval” (Exhibit “M”)

The Applicant is also requesting Preliminary and Final Development Plan approval for Phase I. The Development of Phase I includes the deck attached to the Old West Saloon, the use of the deck for outdoor entertainment, outdoor amphitheater grounds and outdoor entertainment within the amphitheater. The area defined as the amphitheater is approximately 5,000 square feet and the deck is approximately 550 square feet.

The deck was expanded upon and the amphitheater was created by terracing an area with railroad ties. These improvements constitute an expansion of the non-conforming property. The improvements enabled the Applicant to use these areas for outdoor entertainment and extend the area where liquor could be served, therefore expanding on the non-conforming use of the site. The alteration of these specific areas on the site constitutes a Master Plan for the non conforming property and Development Plan for the intensification of use and modification of the deck and amphitheater area.

Article V, Section 7.1 (Development Plan Requirements) states: “A preliminary development plan may be only a phase or portion of the area covered by an approved master plan, so long as the preliminary development plan substantially conforms to the approved master plan” (Exhibit “N”).

Article V, Section 7.2. (Final Development Plan) states: “The final development plan shall be submitted to the County Development Review Committee accompanied by a staff report. The County Development Review Committee shall review the plan and make a determination as to its compliance with the County General Plan and Code. The County Development Review Committee may recommend changes or additions to the plan as conditions of its approval. The final development plan as approved by the County Development Review Committee shall be filed with the County Clerk. The approved final development plan becomes the basis of development permits and for acceptance of public dedications. Any changes in the plan must be approved by the County Development Review Committee” (Exhibit “O”).

The Applicant has addressed the following criteria in the Development Report:

EXISTING CONDITIONS:

Existing uses include: Mine Shaft Tavern; Old West Saloon and deck; Engine House Theater; Retail Space; Outdoor Entertainment Area; Museum Building No. 1; Museum Building No. 2; Museum Building No. 3; Museum Building No. 4; Museum Building No. 5&6; Miscellaneous out-buildings; A Mobile Home; Wireless network for Town of Madrid; Parking; Open Space.

ADJACENT PROPERTIES;

The site is adjacent to a diversity of uses. The site is fronted to the west by New Mexico State Highway 14, retail shops and a small eatery, the site is bordered by residential property to the east and a mixture of residential, galleries and retail shops to the north and south of the site.

PARKING;

The Applicant's proposal shows a total of 104 parking spaces. This total includes 76 automobile spaces, 24 motorcycle spaces and 4 handicap spaces. The Applicant has provided parking for dining, retail, employees, office, residential, and theater use as set forth in the Code. All parking spaces shall be defined with striping, wheel stops, parking bumpers, or railroad ties.

ACCESS;

Three access points: one fronts the property directly on Highway 14, which provides immediate access to the property via perpendicular street parking; one is in the center of the property, is 20 feet in width, is gated, provides egress/ingress for equipment and vehicles during events and to all the museum buildings; the south access is 20 feet in width, provides access to the mobile home, rear of the Mine Shaft,, employee parking and a private residence located to the east of the property.

OUTDOOR LIGHTING;

The Applicant proposes to utilize the existing outdoor lighting on the property. Any new outdoor lighting shall be shielded so not to be visible from adjacent properties or roadways.

SIGNAGE;

The Applicant proposes to utilize existing signage on the property. New signage is not proposed with this application.

WATER;

The site is served by an onsite metered well. The water use established by meter readings for a 40 month time period has established a water use for the property of 1.00-1.10-afy. In contrast to similar uses, the water use is below the standard.

FIRE PROTECTION;

A hammer head turn-around has been provided and is located between Museum Building No.1 and No.2. A hydrant is located directly in front of the Mine Shaft Tavern on the west side of Hwy. 14 and is fed by a 30,000 gallon storage tank.

LIQUID WASTE:

The site features two existing septic tanks. The system is pumped on a quarterly basis. There are no proposed changes to the existing liquid waste treatment system as part of this application.

TOPOGRAPHY:

The site is an old mining site which was disturbed by historical mining operations. There are pockets of 30% slopes throughout the property. All slopes adjacent to existing improvements are man-made. The site improvements and structures are located in areas of moderate slope.

LANDSCAPING:

The property features several mature trees in and around the various structures. No additional landscaping is proposed to the property and all efforts will be made to protect and retain significant native trees on the property.

NOISE MITIGATION:

The Applicant will comply with Santa Fe County Ordinance 2009-11, an Ordinance to prohibit excessive, unnecessary and unreasonable noise and public nuisance. The Applicant will self monitor sound emitting from property by using an approved noise meter as specified in Section 5 of Ordinance 2009-11. The Applicant consulted a noise expert in the mitigation process.

REQUIRED ACTION:

The CDRC should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions, or table for further analysis of this request.

RECOMMENDATION:

Staff has reviewed this application and has found the following facts to support this submittal: the existing structures were constructed prior to the adoption of the Code; the Code acknowledges the structures and the current use of the structures as non-conforming; the submittal complies with the commercial criteria set forth in the Madrid Ordinance; the purpose of the Master Plan is to record the existing structures and existing use as they are currently and historically been utilized; a Small Scale Commercial District is allowed within a Traditional Community; the proposed Master Plan is comprehensive in establishing the scope of the project; the Preliminary Development Plan conforms to the proposed Master Plan; the proposed Final Development Plan complies with Code requirements.

Building and Development Services and Reviewing Agencies have reviewed this application and have made comments in accordance to the Code. The non-conformities of the structures and use on the site were not taken into consideration when accessing code compliance (Exhibit "E"). Staffs interpretation of Article II, Section 4.5 (Non-Conformities), Article II, Section 4.5.2 (Re-use or Expansion of Non-conforming Use) and Article II, Section 4.5.3 (Submittals and

Reviews) has established findings that this Application is in compliance with Ordinance No. 2002-1, Section 4.7 (Commercial Uses), Ordinance No. 2002-1, Section 4.11 (Legal Non-conforming Uses), Article V, Section 5.2 (Master Plan Procedures), Article V, Section 7.1 (Development Plan Requirements) and Article V, Section 7.2. (Final Development Plan) of the Land Development Code. Staff recommends **approval** of Master Plan Zoning, as a Small Scale Commercial District, to allow the existing structures and existing use, on the property, as they are currently and historically been utilized. Staff also recommends **approval** of Phase I Preliminary and Final Development Plan to allow for the intensification of use and modification of the deck and amphitheater area, subject to the following conditions:

1. All Staff redlines shall be addressed, original redlines will be returned with final plans for Master Plan and Final Development Plan.
2. Master Plan with appropriate signatures shall be recorded with the County Clerk.
3. Final Development Plan with appropriate signatures shall be recorded with the County Clerk.

ATTACHMENTS:

Exhibit "A" – Letter of Intent and MP & DP Report
Exhibit "B" – Vicinity Map
Exhibit "C" – MP & DP Drawings
Exhibit "D" - Aerial Photo
Exhibit "E" – Reviewing Agencies Comments
Exhibit "F" – Article II, Section 4.5 (Non-Conformities)
Exhibit "G" – Article II, Sections 4.5.2 & 4.5.3
Exhibit "H" – Section 4.7, Ordinance 2002-1
Exhibit "I" – Section 4.11, Ordinance 2002-1
Exhibit "J" – CDRC Final Order & Minutes
Exhibit "K" – Article III, Section 4.2.1
Exhibit "L" - Article III, Section 4.2.2
Exhibit "M" - Article V, Section 5.2 (Master Plan Procedures)
Exhibit "N" - Article V, Section 7.1
Exhibit "O" - Article V, Section 7.2
Exhibit "P" – Photos of Deck
Exhibit "Q" – Letter of concern