

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

May 18, 2005

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairman Larry Ryan on Wednesday, May 18, 2005, at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Sheree Green, Mel Allen, Marie Farrier, Robert Thorp, and Larry Ryan

ABSENT PLANNING & ZONING: None

PRESENT BOARD OF ADJUSTMENT: Nyla Griffith, Francis Toscana, Ronda Feterl, Georgeann Silvernail

ABSENT BOARD OF ADJUSTMENT: Mark Speirs

APPROVAL OF May 4, 2005 MINUTES

Ms. Green moved to approve the minutes of May 4, 2005 as mailed. Mr. Allen seconded and the motion carried.

All in Favor - 5
Opposed - 0

JOHN MAMOLA - REQUEST FOR A CONDITIONAL USE PERMIT FOR A "USED CAR LOT"

LEGAL DESCRIPTION: LOTS 5 AND 6, EXCEPT RIGHT-OF-WAY, GRANTZ ADDITION, LOCATED IN THE CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA
LOCATION: 795 MAIN STREET
ZONE: C1-COMMERCIAL DISTRICT

Ms. Williams referred to the following staff report:

STAFF REPORT
PLANNING AND ZONING
May 2005

APPLICANT: John Mamola

PURPOSE: Request for Used Car Lot at 795 Main Street

GENERAL LOCATION: Upper Main Street

LEGAL DESCRIPTION: Lots 5 and 6, except Right-Of-Way, Grantz Addition, located in the City of Deadwood, Lawrence County, South Dakota

FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE: FOR: AGAINST:

STAFF FINDINGS:

Surrounding Zoning:

North:
South:
East:
West:

Surrounding Land Uses

Mixed commercial & residential use
Mixed commercial & residential use
State 4-lane highway
Residential (single-family)

SUMMARY OF REQUEST

The petitioner has submitted a request for a Conditional Use Permit to operate a Used Car Lot at 795 Main Street. The subject property is located on the east side of Main Street and the address is 795 Main Street.

FACTUAL INFORMATION

1. The property is currently zoned C1 – Commercial District.
2. The property comprises approximately .196 acres.
3. The subject property has access from Main Street.
4. The subject property is located within a High-density Residential use classification on the adopted Land Use Map.
5. The property is located in flood zone _X_, and is located in a 100 year flood area contained in a culvert.
6. Adequate public facilities are available to serve the property.
7. The area is characterized by a mixture of uses.

STAFF DISCUSSION

The petitioner has submitted a request for a Conditional Use Permit for a Used Car Lot. The property is owned by Barb Flinders, and she operates the dry cleaner business. City regulations did not permit “Used Car Lots” in any commercial district; therefore, the Planning and Zoning Commission determined the use should be placed under the Conditional Use Permit sections of commercial districts. The subject property is currently utilized as a dry cleaner business. Previously there had been a real estate office located at one end of the building; however, the office is now empty. Mr. Mamola would make use of the office for business purposes. The frontage on the property provides approximately 8 off-street parking spaces. The spaces would accommodate off-street parking for both businesses.

City code requires the use to be in harmony with the general purposes, goals, objectives, and standards of the Comprehensive Plan.

The Zoning Code requires the following:

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 17.96.020.D.2.**
2. **A sign was posted on the property for which the requests were filed as required by Section 17.76.060.J.**
3. **Notice of the time and place was published in the designated newspaper of the City of Deadwood as required by Section 17.76.060.J.**

CONDITIONAL USE PERMIT

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 proposed use is located within the C1 – Commercial District; however, this neighborhood has islands of C1 – Commercial District zoning surrounded by R2 – Multi-family Residential District.

There are several permitted uses in the C1 - Commercial District that would have a greater impact than a small used car lot. An example of a use permitted by right is a service station and that type of business would definitely create a greater impact. At the last meeting, the Planning and Zoning Commission determined the "Used Car Lot" should be designated under Conditional Use Permit in order to retain additional control over the use. One of stipulations would be to limit the number of vehicles allowed on the subject lot. If the use was permitted by right, any number of vehicles could be placed within that space.

- 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 proposed use in the proposed location does not result in a detrimental over concentration of this particular use since there are no used car lots within the city limits of Deadwood. There could very well be a community need for such use.

- C. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites, or rights-of-way.

The proposed use should 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. Customers would normally arrive at intervals.

Again, there will be off-street parking provided in front of the dry cleaners.

- 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 used car lot would not increase the proliferation of non-conforming uses since the use is not non-conforming. Enclosed is a color coded map. The permit area is colored yellow. There are two (2) Bed & Breakfast (dark purple) establishments located at 786 and 788 Main Street. The green color structure is 802 Main Street, Lana Stearnhagen's Massage business. Vicky also has a Beauty Shop at 788 Main Street. The businesses owned by Vicky Anderson are located approximately 75 feet away. Lana Stearnhagen is located approximately 110 feet away. Accordingly, there are 3 Conditional Use Permits in the vicinity. , Also, 801-815 is the Gold Country Inn and that parcel is zoned C1 – Commercial District also. Shirleen Joseph was also granted a Conditional Use Permit for a Bed and Breakfast at 771 Main Street. The subject area has always been referred to as our transition district.

- 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. This type of use does not demand a high level for services.

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 Adjustment 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 filed 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.

The Conditional Use Permit runs with the land in commercial districts.

If approved, staff recommendations for stipulation(s):

1. The Used Car Lot shall be limited to 15 vehicles, due to the size of the lot.

Mr. Thorp questioned if the dry cleaner business would remain open or if it would be closed. Mr. Mamola noted the dry cleaner business would continue. Ms. Farrier questioned if the car lot would be open for business on Sundays. Mr. Mamola responded they would not normally be open for business on Sunday's; however, if a customer called and wanted to look at a car they would go in on a Sunday.

Mr. Allen noted he had made an onsite of the property on Saturday afternoon and there were five cars parked in front of the dry cleaners and when one vehicle left, another would take its place. Mr. Allen felt there could be a potential parking hazard unless the parking was monitored. Mr. Mamola stated that they would monitor the parking and encourage their customers to park in the rear of the building.

Ms. Green questioned if the members felt that a limit should be imposed in order to control the number of vehicles in the used car lot at any one time. Ms. Williams noted that the conditional use permit allows for no more than (15) fifteen cars.

Mr. Ryan moved to approve the conditional use permit request for a "Use Car Lot at 795 Main Street with the stipulation that the permit be reviewed in one year and that there are no more than (15) fifteen cars in the car lot at one time. Mr. Thorp seconded and the motion carried.

All in Favor - 5
Opposed - 0

Chairman Ryan adjourned the Planning and Zoning Commission and turned the meeting over to the Board of Adjustment.

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order.

Mayor Toscana noted he had a few questions. He wanted to be assured that the parking would be monitored to ensure that residential parking in the area would not be impacted. Mr. Toscana questioned if (15) fifteen cars in the lot was easily attainable. Mr. Mamola noted there was probably room for (20) twenty or (25) twenty-five cars but they did not want to pack that many in there and he felt that (15) fifteen was a good number. Mr. Toscana noted that Mr. Mamola would have to get permission from Historic Preservation for any signage he would like to put up. Mr. Mamola noted that his current plan was to repaint the existing sign.

Ms. Feterl questioned if the conditional use permit would run with the land or with the owner. Ms. Williams noted that because the property was zoned commercial the permit would run with the land. Ms. Williams explained that residential conditional use permits run with the owner not the land in hopes that over a period of time, the use would be terminated. Ms. Feterl noted she also had parking concerns and would like assurance that there would not be customers parking in front of the houses. Again, Mr. Mamola noted that the parking would be monitored.

Ms. Silvernail questioned if the permit could be revoked if a number of complaints were lodged against the use. Ms. Williams noted that if complaints were lodged, the procedure was to try and mitigate the problem and if they could not be resolved the permit could be revoked after a public hearing was held and it was determined the use was objectionable in the subject area.

Ms. Feterl moved to approve the recommendation to approve the “used car lot” at 795 Main Street as stated by the Planning and Zoning Commission. Ms. Silvernail seconded and the motion carried.

All in Favor - 4
Opposed - 0

Mayor Toscana adjourned the Board of Adjustments and turned the meeting over to the Planning and Zoning Commission.

Mr. Ryan called the Planning and Zoning meeting back to order.

OPEN

Ms. Williams informed the commission that Ms. Vicky Anderson of 786 Main Street brought in an agreement stating that she is a co-owner of Mr. Toews’ property at 788 Main Street. Ms. Williams noted that Tessa Zupet, Ms. Anderson’s daughter, was living at the property full-time therefore the conditional use permit for the Bed and Breakfast was legal if the premise was owner occupied. Ms. Green disagreed and pointed out that a person could only obtain ownership to a property by being legally deeded the property and such deed being filed in the Lawrence County Register of Deeds Office. After further discussion, the members directed Ms. Williams to contact Ms. Anderson and inform her that a legal deed would be required in order to obtain part ownership of the subject property.

ADJOURNMENT:

Mr. Allen moved to adjourn the regular meeting of the Planning and Zoning Commission. Mr. Thorp seconded and the motion carried.

All in favor - 5
Opposed - 0

There being no further business, Planning & Zoning Commission adjourned at 5:30 p.m.

ATTEST:

Larry Ryan
Chairman (Acting)
Planning and Zoning

Marie Farrier
Secretary (Acting)
Planning and Zoning