

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

August 19, 2009

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Marie Farrier on Wednesday August 19, 2009 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Marie Farrier, Sheree Green, Larry Ryan & Mel Allen.

ABSENT PLANNING & ZONING: Jim Shedd.

PRESENT BOARD OF ADJUSTMENT: Francis Toscana, Mike Klamm, Joe Peterson & Lenny Schroeder.

ABSENT BOARD OF ADJUSTMENT: Georgeann Silvernail.

APPROVAL OF MINUTES:

Mr. Ryan moved to approve the minutes of the August 5, 2009 Meeting, as mailed. Mr. Allen seconded and the motion carried.

All in favor	-	4
Opposed	-	0

NEW BUSINESS:

CONDITIONAL USE PERMIT REQUEST FOR BEAUTY SALON AT 158 CHARLES STREET - VICKY ANDERSON

Ms. Williams referred to the following staff report:

**DEADWOOD PLANNING AND ZONING COMMISSION
AUGUST 19, 2009 JOINT MEETING**

APPLICANT: Vicky Anderson

PROJECT NAME: Creekside Beauty Salon

ADDRESS: 158 Charles Street

LEGAL DESCRIPTION: Part of Lots 32, 34, 36 and 38, Block 76, O.T., Section 27, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

ZONE: R1 – Residential District

Project Description: The homeowner, Ms. Vicky Anderson is requesting a Conditional Use Permit to operate a small Beauty Salon Business. The business would be located in the home at 158 Charles. The (One) Station beauty salon equipment will include one chair and one sink. Ms. Anderson’s daughter will operate a massage business, one day a week. If this proves to be a successful business, she may increase the number of days for massages. Nail painting, tanning beds and massages are customary uses in beauty salons. Ms. Anderson has actively practiced cosmetology in the City of Deadwood for many years. The salon would be operated by appointment and there is more than adequate off-street parking on the land (See attached map). .

From time to time, Ms. Anderson and her daughter will stay at the subject residence, but not live in the house on a permanent basis. The request for Conditional Use Permit does not require an owner to live

onsite. One of the houses in this area had been projected for a daycare facility and it would have been operated only during the day as a daycare facility, but no one would live onsite.

The “Beauty Salon” is not directly listed under the Conditional Use Permit section of the R1 – Residential District; however, the Planning and Zoning Commission may consider comparable uses which are directly listed under the conditional use section. Some of the comparable uses are as follows: 1) Bed & Breakfast; 2) Day care large; 3) Dwelling unit – multiple family; 4) House Museums and Townhouses.

A. Comprehensive Plan:

The Comprehensive Plan states “Each neighborhood should be provided with a full range of services, from parks, trees and recreational centers to shops, good schools, well-kept streets and access to jobs.”

The Comprehensive Plan document reinforces non-residential uses within the primary residential areas. The plan notes that limited commercial or institutional activities providing desired goods or services to residential neighborhoods may be considered acceptable uses on the edge of established neighborhoods provided effective measures are taken to ensure compatibility and non-proliferation of such activities. The application is in conformance with the Comprehensive Plan’s recommendations for this area. The proposal is also compatible with the uses within the surrounding area. The City of Deadwood Comprehensive Plan also encourages a healthy mix of uses around the City. However, certain types of uses may not necessarily be compatible with surrounding properties or their neighborhood. The City uses the Conditional Use Permit to evaluate whether a proposed use is appropriate for a particular property; the approving body may impose conditions to assure compatibility with neighboring businesses or residences.

The Conditional Use Permit review determines whether the proposed use should be permitted by weighing public need for, and benefit to be derived from, and the use against the local impact which it may cause.

B. Existing Zoning:

The property is currently zoned R1 - Residential District.

C. Existing Land Use:

Vacant house.

D. Adjacent Land Use Information:

	<u>Land Use</u>	<u>Zoning</u>	<u>General Plan Designation</u>
North	City Trail	PU – Public Use	Low density residential
South	Hwy 85S/residential	R1 – Residential	Low density residential
West	Residential	R1 – Residential & CH – Commercial	Moderate density Claimjumper Mobile Home Park/low density
East	Residential	R1 – Residential	Low density

E. Surrounding Land Use

This area retains a mixture of uses. The site is located in the vicinity of Claimjumper Mobile Home Park, which is zoned CH – Commercial Highway District. To the rear of the property, there is a non-conforming bulk plant and the walking trail. As a result of its surroundings, it would not be considered a model residential area.

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. At this time, no one had contacted the zoning office.**

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.**

ANSWER: THE CURRENT ZONING ORDINANCE REQUIRES REVIEW UNDER THE CONDITIONAL USE PERMIT PROCESS. SECTION 17.76.010 STATES "CONDITIONAL USE PERMITS MAY BE ISSUED FOR ANY USES OR PURPOSES AS LISTED OR SUCH USES WHICH ARE COMPARABLE IN DEGREE AND IMPACT. A LOT OR LEGAL SUBDIVISION OF THE CITY SHALL BE ALLOWED ONLY ONE CONDITIONAL USE PERMIT."

This gives the Commission's and adjacent landowners a chance to address any impacts and concerns. The proposed use is in harmony with the comprehensive plan and zoning code.

- 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.**

ANSWER: The intended use in the subject location does not result in a detrimental over concentration of this particular use. There are other beauty salons within the city limits; however, not in the vicinity of this site. The statement of purpose for this district is as follows: "The R1 – Residential District is intended to provide locations for medium density, residential development commensurate with an urban area. The primary use is single-family detached residences."

- 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.**

ANSWER: That the uses, values and enjoyment of other property in the neighborhood for purposes already established shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

The area is surrounded by vacant land, Claimjumpers Mobile Home Park, a couple of vacant residences and a creek. There is an adequate means of ingress and egress so as to minimize traffic congestion in the public streets and the use will not cause any significant traffic problems. The site is located at the end of the road and there is not much traffic in that area.

- 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

ANSWER: Whenever an application is submitted for a Conditional Use Permit, and it has been approved, it increases the number of conditional use permits in the area; however, in this instance, there are no other Conditional Use Permits within the vicinity for this type of use. This site is unusual since 1) one of the adjacent zones is CH – Commercial Highway District; 2) There is a non-conforming bulk plant; and, 3) there are one or two vacant residences and a creek and trail system. This is not an average residential neighborhood.

- 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.**

ANSWER: The proposed use will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services. 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.

Ms. Williams stated she had not received any comments from adjacent landowners regarding the application. Ms. Williams noted that the applicant, Ms. Vicky Anderson was in the audience to answer any questions.

Mr. Allen stated he would abstain from voting on the Conditional Use Permit.

Ms. Green moved to approve the Conditional Use Permit for Vicky Anderson for a Beauty Salon at 158 Charles Street. Mr. Ryan seconded and the motion carried.

All in favor - 3
Opposed - 0
Abstain - 1 (Allen)

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

DEADWOOD BOARD OF ADJUSTMENT

Commissioner Toscana called the Board of Adjustment to order.

Mr. Klamm moved to approve the Conditional Use Permit for Vicky Anderson for a Beauty Salon at 158 Charles Street with a stipulation of a one year review. Mr. Peterson seconded and the motion carried.

All in favor - 4
Opposed - 0

Commissioner Toscana adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

OPEN:

Ms. Williams explained that the Qwest building located at Main Street was for sale and she was approached by a potential buyer who was questioning a possible use for the building. Ms. Williams explained that Dakota Lock + Load was a company that made retaining wall systems that were cast out of cement. Ms. Williams stated that in the Zoning Ordinance, the Commercial District does not have industrial or light industrial uses listed as a use by right. Ms. Williams explained that the potential buyer would have to apply for a Conditional Use Permit and asked of the Planning & Zoning Commission to find a comparable use within the guidelines.

Mayor Toscana stated that the building had a counter offer from an organization for a proposed daycare. Ms. Williams stated that was correct since she had been contacted about that use also; however a potential buyer had approached her to solicit the Planning and Zoning Commissions' consideration on whether a comparable use could be found and to find out if this type of business would be allowable at the subject site.

After discussion, the Commission agreed that many questions would need to be answered before approval of the Conditional Use Permit was issued; however, they agreed that a comparable use would be a Hardware Store. Ms. Williams noted that the building was a historic structure which set in Unit 4; therefore, no parking was required.

Mr. Ryan moved to consider an application for a Conditional Use Permit for the cement retaining wall business and that the use would be comparable to a Hardware Store. Any action taken on a Conditional Use Permit would be based on more information being presented at the public hearing and this action does not mean that the CUP is being approved; only that there is a comparable use. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

Mayor Toscana stated that he would update the Planning & Zoning Commission in an upcoming meeting regarding the potential of annexation down Boulder Canyon. He noted that Black Hills Council of Local Government had not conducted the study and he had Ms. Williams collect information on the potential annexation, as well as other department heads.

ADJOURNMENT:

Mr. Ryan moved to adjourn the Joint Meeting of the Planning and Zoning Commission. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

There being no further business, the Planning & Zoning Commission adjourned at 5:20 p.m.

ATTEST:

Ms. Marie Farrier
Chairman (Acting)
Planning and Zoning

Ms. Sheree Green
Secretary (Acting)
Planning and Zoning