

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

October 3, 2007

JOINT MEETING

The Regular Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Marie Farrier on Wednesday October 3, 2007 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, Mel Allen & Jim Shedd. Larry Ryan arrived at 5:05. Mr. Jason Campbell, City Attorney was also present.

PRESENT BOARD OF ADJUSTMENT: Mike Klamm, Nyla Griffith & Mark Speirs.

ABSENT BOARD OF ADJUSTMENT: Francis Toscana & Georgeann Silvernail.

APPROVAL OF MINUTES

Mr. Ryan moved to approve the minutes of the August 15, 2007 Regular Meeting, as mailed. Mr. Allen seconded and the motion carried.

All in favor - 4
Opposed - 0

NEW BUSINESS:

CONDITIONAL USE PERMIT FOR INSURANCE OFFICE

NAME: Frank Pavich
LEGAL DESCRIPTION: Lot 4 of the Grantz Addition except right-of-way,
City of Deadwood, Lawrence County, South Dakota
GENERAL LOCATION: 789 Main Street

Ms. William referred to the following Staff Report:

STAFF REPORT
PLANNING AND ZONING

APPLICANT: Frank Pavich

PROJECT PROPOSAL: Conditional Use Permit application for an Insurance Office.

GENERAL LOCATION: 789 Main Street

LEGAL DESCRIPTION: Lot 4 of the Grantz Addition except right-of-way, City of Deadwood, Lawrence County, South Dakota

FILE STATUS: All legal obligations have been met.

CITIZENS REPOSE:	FOR	AGAINST
	0	0

STAFF FINDINGS:

Surrounding Zoning:

Surrounding land uses:

North: R2 – Multi-family Residential District
South: PU – Public Use District

Single-family dwelling/B&B
State Highway

East: R2 – Multi-family Residential District
West: R2 – Multi-family Residential District
And C1 – Commercial District

Single-family/B&B
Dry Cleaners/Motel/single-
family dwelling

SUMMARY OF REQUEST

The applicant, Frank Pavich, is requesting a Conditional Use Permit for an Insurance Office. The subject dwelling was previously used as a law office. No complaints have been lodged in regards to the previous use.

HISTORY OF RESIDENCE

The dwelling is a contributing resource in the Deadwood National Historic Landmark District. A building permit will be required for the remodel and any exterior work will need to be approved by the Deadwood Historic District Commission.

FACTUAL INFORMATION

1. The property is currently zoned R2 – Multi-family Residential District. The property is comprised of approximately 0.09 acres, more or less.
2. The subject property has access from Main Street.
3. The property is located within a high density residential land use classification on the adopted Land Use Map.
4. The property is located in Zone X, areas determined to be area of 500 year flood; areas of 100 year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100 year flood. In this instance, the land is located in a 100 year flood, contained in a culvert.
5. Adequate public facilities are available to serve the property.
6. The area is characterized by single-family residences/Bed and Breakfasts and a Dry Cleaners building that will soon become offices under the C1 – Commercial District classification. This area has a mixture of uses and zoning classifications.

STAFF DISCUSSION

Office use is not one of the uses listed under Conditional Use Permit; however, it has been allowed in the past for Neighborhood Housing and also for Reed Richards Law Office. Property in the R2 – Multi-family Residential District allows the Planning and Zoning Commission to consider comparable uses to the uses listed under the Conditional Use Permit section. The following uses are listed:

1. Accessory housing;
2. Condominium;
3. Day care, small;
4. Duplexes;
5. Dwelling unit, single-family;
6. Dwelling unit, multi-family;
7. Efficiency living unit;
8. Parks, recreation land;
9. Townhouses; and
10. Wildlife preserves.

The majority of the residences in the immediate vicinity are owner occupied. The subject site is bounded by Main Street in the front and the 4-lane state highway in the rear.

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 Comprehensive 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 subject dwelling has been used as an office for many years. There is off-street parking and no complaints have ever been lodged against the previous office owner(s). The Deadwood Comprehensive Plan states the high density residential category provides for apartment and condominium complexes ranging from 13 or higher net dwelling units per acre. This category may also include such supporting land uses as parks and recreation areas, religious institutions, and schools. A full range of urban services and infrastructure is required. All activities will be held between the hours of 8:00 a.m. and 5:00 p.m. – Monday through Friday. The proposed use will not adversely affect the adjacent or surrounding area.

- 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 proposed use in the subject location does not result in a detrimental over concentration of this particular use since it is a business office that sells insurance. These types of uses are needed within the City of Deadwood in order to provide for a mixture of uses. Mr. Pavich's office was previously located on Lower Main Street.

The purpose of the ordinance is to encourage the development of similar and compatible uses in the same area. There are some uses, because of their potential influences upon neighboring uses, which need to be carefully regulated with respect to location or operation for the protection of the community. In this instance, the use will have regular day-time hours and it will not damage or influence the neighborhood. The use will conform to and preserve the essential character of the district in which it is located. There is no evidence that the proposed use will impede the normal or orderly development of the surrounding property.

- B. The proposed use at the projected 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: The subject property is located within a mixed use district. In this instance, the adjoining land, to the west, is zoned C1 – Commercial District and it was previously used as a Dry Cleaners and Laundromat. It was recently purchased by Neighborhood Housing and is planned to be used for office space.

The subject dwelling's appearance is of a residence and it is suitable for the neighborhood.

The anticipated use would not result in a substantial or undue adverse effect on adjacent property or the character of the neighborhood and the use will not alter the character of the neighborhood. There will be no change in the size of the dwelling. All activities will be held indoors; therefore, the anticipated use would not adversely affect the surrounding area.

- C. 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, it has the potential to increase the number of conditional use permits; however, in this instance, the law office use will cease and it is replaced with another office; therefore, it does not increase the number of conditional uses in the area. This is a general office use and the activity has a limited walk-in clientele. Again, the appearance of the residence will not change; only a sign will be placed to inform the guests of their location.

- D. Whether or not the proposed use in the intended 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 intended 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 applicants in the residential areas of Deadwood; therefore, should the office be resold, the Conditional Use Permit will be voided or a new application can be filed for another use.

Ms. Williams explained that the R-1 Residential and R-2 Residential Districts did not list offices under Conditional Use Permit; therefore, the Planning and Zoning Commission would need to identify a use comparable to an office. She noted that two (2) offices had been allowed in the past under comparable use in the vicinity. Ms. Williams suggested that possibly "General Office" should be added under the Conditional Use Section in the R1 - Residential District and R2 - Multi-family Residential District. She noted a motion was required, from Planning and Zoning, for a comparable use under the existing list of conditional uses in the R2 - Multi-family Residential District. She noted similarities in character and intensity, traffic and parking, should be considered for impacts to the public health, safety and welfare of the area.

The districts are established as set out in this title. Therefore two motions would need to be made in order to allow the CUP; a motion to direct Ms. Williams to add General Office for Comparable Use in R-1 and R-2 Zoning Districts and a motion to allow the CUP to fall under current Comparable Use of Daycare.

Ms. Green moved to direct Ms. Williams to add General Office as a use under the Conditional Use Permit sections in the R-1 and R-2 Zoning Districts in the Zoning Ordinance. Mr. Allen seconded and the motion carried.

All in favor - 5
Opposed - 0

Mr. Allen moved that a Daycare was comparable in intensity and character for office use as a Conditional Use 789 Main Street. Ms. Green seconded and the motion carried.

All in favor - 5
Opposed - 0

Mr. Ryan moved to recommend approval of the Conditional Use Permit at 789 Main Street for use as Insurance Office. Mr. Shedd seconded and the motion carried.

All in favor - 5
Opposed - 0

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

DEADWOOD BOARD OF ADJUSTMENT

Mr. Speirs called the Board of Adjustment to order.

Ms. Griffith moved to approve the recommendation from Planning & Zoning for the Conditional Use Permit for Frank Pavich for a Insurance Office at 789 Main Street. Mr. Klamm seconded and the motion carried.

All in favor - 3
Opposed - 0

Mr. Speirs adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

Chairperson Farrier called the Planning and Zoning meeting back to order.

ONE YEAR REVIEW OF CONDITIONAL USE PERMIT FOR BED AND BREAKFAST - Robert Thorp - 20 Pleasant Street, Deadwood, SD

Ms. Williams stated she spoke with Mr. Thorp regarding the CUP and he had updated her on the utilization of their home as a Bed and Breakfast. Ms. Williams stated Mr. Thorp has had 18-20 guests in the summer months with no complaints lodged against the B&B. She stated this was the one (1) year review and from now on, the use would only be reviewed if a complaint has been lodged against the Thorps'.

ADJOURNMENT:

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

All in favor - 5
Opposed - 0

There being no further business, 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