

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

October 3, 2012

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission and Board of Adjustment was called to order by Chairperson Jim Shedd on Wednesday October 3, 2012 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Jim Shedd, Marie Farrier, Sheree Green and Mark Speirs.

ABSENT PLANNING & ZONING: Mel Allen.

PRESENT BOARD OF ADJUSTMENT: Joe Peterson, Gary Todd and Jim Van Den Eykel. Mr. Jason Campbell, City Attorney, was also present.

ABSENT BOARD OF ADJUSTMENT: Francis Toscana and Georgeann Silvernail.

APPROVAL OF MINUTES:

It was moved by Mr. Speirs and seconded by Ms. Farrier to approve the minutes of the September 19, 2012 Meeting. Aye - All. Motion carried.

SIGNS:

Continued: Cadillac Jacks/Springhill Suites (Optima LLC.) - 322 Main Street - Request for a free standing sign.

Mr. Keith Umenthum stated that the applicant requested permission to install a freestanding monument sign. He noted that it would be placed in front of the building and that the sign would be 10' x 17' or 170 square feet. Mr. Umenthum explained that due to the recent changes in the Deadwood Sign Ordinance, the sign is in compliance.

Mr. Speirs questioned why the sign application was being brought forth when the applicants are still building the Springhill Suites. Mr. Umenthum stated that they are being proactive. Mr. Speirs stated that he would like to know when the sign would be installed. Mr. Campbell stated that due to construction the sign would not be able to be placed until the project was finished and that the Staff Report suggested the sign application be approved contingent upon completion of the Springhill Suites.

It was moved by Mr. Speirs and seconded by Ms. Green to approve the application for a free standing sign, CONTINGENT upon removal of the two existing free standing signs and the completion of the Springhill Suites, for Cadillac Jacks/Springhill Suites (Optima LLC.) at 322 Main Street.

Mr. Campbell asked if the applicant was planning on removing the two existing signs. Mr. Nelson explained to the Commission that the applicant would still be in compliance with the Sign Ordinance with the approval of the freestanding monument sign and keeping the two existing freestanding signs up. Ms. Green asked if the applicant would be in compliance with the existing signage and the proposed signage if they did not build the parking ramp. Mr. Nelson stated that they would be in compliance with the Sign Ordinance. Mr. Speirs stated that he was not comfortable with the applicant having three freestanding signs and said he felt it would set precedence, even though the organization is outside the core district. Mr. Umenthum stated it was his understanding that the two existing freestanding signs would be taken down to accommodate the construction of the parking ramp, however, he noted they would still be in compliance if they choose to use the proposed and existing signage.

Aye - All. Motion carried.

Continued: Cadillac Jacks/Springhill Suites (Optima LLC.) - 322 Main Street - Request for a wall sign.

Mr. Umenthum stated that the applicant requested permission to install a painted aluminum channel letter wall sign with backlit white LEDs. He noted that it would be placed on the east side of the building and that the sign would be 28.25' x 5' or 141.25 square feet. Mr. Umenthum explained that the sign is in compliance with the Deadwood Sign Ordinance.

It was moved by Mr. Speirs and seconded by Ms. Farrier to approve the application for a wall sign, CONTINGENT upon the completion of the Springhill Suites, for Cadillac Jacks/Springhill Suites (Optima LLC.) at 322 Main Street. Aye - All. Motion carried.

Continued: Cadillac Jacks/Springhill Suites (Optima LLC.) - 322 Main Street - Request for a wall sign.

Mr. Umenthum stated that the applicant requested permission to install a painted aluminum channel letter wall sign with backlit white LEDs. He noted that it would be placed on the north side of the building and that the sign would be 22' x 7' or 154 square feet. Mr. Umenthum explained that the sign is in compliance with the Deadwood Sign Ordinance.

It was moved by Ms. Green and seconded by Ms. Farrier to approve the application for a wall sign, CONTINGENT upon the completion of the Springhill Suites, for Cadillac Jacks/Springhill Suites (Optima LLC.) at 322 Main Street. Aye - All. Motion carried.

PUBLIC HEARING - REQUEST FOR A FOR A CONDITIONAL USE PERMIT FOR A TATTOO STUDIO FOR DEADWOOD INK/ JODY M. NEUY AT 652 MAIN STREET

Mr. Nelson reviewed the following Staff Report:

**STAFF REPORT
PLANNING AND ZONING
REQUEST FOR TATTOO BUSINESS**

APPLICANT: Deadwood Ink / Jody M. Neuy
PURPOSE: Request for Conditional Use Permit for a Tattoo Business
LEGAL DESCRIPTION: Lot 14 Block 19 Original Town Deadwood, Lawrence County, South Dakota
ADDRESS: 652 Main Street
ZONE: C1 - Commercial District
FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE:	FOR:	AGAINST:
STAFF FINDINGS:		
	<u>Surrounding Zoning:</u>	<u>Surrounding Land Uses</u>
	North: C1 - Commercial District	Mixture of Businesses
	South: C1 - Commercial District	Mixture of Businesses
	East: C1 - Commercial District	Mixture of Businesses
	West: PU - Public Use	Broadway Parking Ramp

SUMMARY OF REQUEST

The petitioner has submitted a request for a Conditional Use Permit for a Tattoo Business. The property at 652 Main Street is the location of the Big Dipper Ice Cream Shop of Deadwood and the former location of the Dakota Territory Saloon. The tattoo studio will be using the rear portion of the building at 652 Main Street.

FACTUAL INFORMATION

1. The property is currently zoned C1 - Commercial District.
2. The property is comprised of 1,000, plus or minus, square feet. (Rented Space)
3. The property does not have dedicated off-street parking but the Broadway parking structure is directly behind the proposed business location along with trolley service to the property.
4. The property has access from Main Street.
5. The property is located within an area close to parking lots, commercial businesses, and hotels. There is a variety of commercial use in the vicinity. The land is located in a mixed use commercial district and is classified as high density residential on the adopted Land Use Map in the Deadwood Comprehensive Plan.
6. The land is not located in Flood Zone X - Area's of 500 year flood or areas of 100-year flood.
7. Adequate public facilities are available to serve the property.
8. The area is characterized by mixed commercial uses.

STAFF DISCUSSION

The petitioner has submitted a request for a Conditional Use Permit for a Tattoo business. The subject property presently is the location of "The Big Dipper Ice Cream and Coffee Shop" in the front portion of the property. The rear of the building would be utilized by the tattoo business. The applicant has been an artist working for the approved temporary vendor "TATS" over the last few years and the temporary establishment had been inspected and certified safe by the department of health during their time of business during the Sturgis Rally 2012. The proposed space for the tattoo business had been previously been occupied in 2008-2009 by a massage therapy office

which was an approved conditional use permit and is now void. A property is allowed only one conditional use and currently there are no conditional uses at the subject property.

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 Chapter 17.76.**
2. **A sign was posted on the property for which the request was filed in accordance with Chapter 17.76.**
3. **Notice of the time and place was published in the designated newspaper of the City of Deadwood in accordance with Chapter 17.76.**

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 use, as proposed, provides a commercial business for the Deadwood area. The use is listed under Conditional Uses in the C1 – Commercial District. This use is in harmony with the general purpose of the Comprehensive Plan and Zoning Ordinance. Conditional uses are those uses which have some special impact or uniqueness since their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.
- 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.
A review of the location, configuration and impact has been conducted and compared to uses by right. A variety of commercial businesses and a parking lot are all located in the vicinity, as well as hotels. The review determines whether the proposed use should be permitted by weighing public need for and benefits to be derived from the use, against the local impact which it may cause. A previously approved conditional use permit for a tattoo studio is still current but not in use at this time.
- C. The proposed use at the subject site 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 would not result in a substantial or undue adverse effect on adjacent property nor will it alter the character of the neighborhood. The structure will remain the same size and the appearance will not change. The establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. To support a denial of a conditional use permit on the grounds that it will cause increased traffic problems, there must be a high degree of probability that the increase would pose a substantial threat to the health and safety of the community.
- 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 use will not increase the proliferation of non-conforming uses. The subject area is comprised of commercial uses. The structure is part of a series of buildings sandwiched together in the core of Deadwood Main Street. The appearance of the building will not change; therefore, the character and use of the buildings and structures adjoining the subject property will not be adversely affected.
- 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.
There will be no significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services. Existing services are available onsite.

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.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

1. Recommendation by Planning and Zoning Commission for approval/approval with conditions/denial.
2. Approval/approval with conditions/denial by Board of Adjustment.

It was moved by Ms. Farrier and seconded by Ms. Green to approve the Conditional Use Permit for Tattoo Business for Deadwood Ink/Jody M. Neuy at 652 Main Street. Aye - All. Motion carried.

Mr. Shedd closed the Planning & Zoning Meeting.

Mr. Peterson opened the Board of Adjustment.

It was moved by Mr. Todd and seconded by Mr. Van Den Eykel to approve the Conditional Use Permit for Tattoo Business for Deadwood Ink/Jody M. Neuy at 652 Main Street, as recommended by Planning & Zoning. Aye - All. Motion carried.

Mr. Peterson closed the Board of Adjustment and turned the meeting over to the Planning and Zoning Commission.

OPEN

Mr. Nelson stated that the Planning & Zoning Commission was invited to attend the South Dakota Planners Association Conference to be held in Lead on October 23-25, 2012.

Mr. Campbell stated that Mr. Robert Nelson, Sr. had been awarded the 2012 Jim Fjerestad Memorial Award for Safety and Loss Control at the South Dakota Public Assurance Alliance Luncheon in Pierre.

ADJOURNMENT:

It was moved by Mr. Speirs and seconded by Ms. Farrier to adjourn the Joint Meeting of the Planning and Zoning Commission. Aye - All. Motion carried.

There being no further business, the Planning & Zoning Commission adjourned at 5:22 p.m.

ATTEST:

Mr. Jim Shedd
Chairman
Planning and Zoning

Ms. Sheree Green
Secretary
Planning and Zoning