

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

November 21, 2007

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Marie Farrier on Wednesday November 21, 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, Mel Allen, & Larry Ryan. Mr. Jason Campbell, City Attorney was also present.

ABSENT PLANNING & ZONING: Sheree Green & Jim Shedd

PRESENT BOARD OF ADJUSTMENT: Georgeann Silvernail, Mike Klamm & Nyla Griffith.

ABSENT BOARD OF ADJUSTMENT: Francis Toscana & Mark Speirs.

APPROVAL OF MINUTES

Mr. Ryan moved to approve the minutes of the October 3, 2007 Regular Meeting, as mailed. Mr. Allen seconded and the motion carried.

<u>All in favor</u>	-	<u>3</u>
<u>Opposed</u>	-	<u>0</u>

NEW BUSINESS:

DAYS OF '76 - REQUEST FOR VARIANCE AND EXPANSION OF NON-CONFORMING USE

NONCONFORMING USE ACTION SUMMARY:

Staff Summary: The proposal is for consideration of expansion of a nonconforming use. Chapter 17.80 requires Board of Adjustment approval for an expansion of a nonconforming structure.. The storage shed and museum are nonconforming uses located in the PF - Park Forest District. In order to rebuild the workshop/storage shed, approval is required by the Board of Adjustment for an expansion of a nonconforming building. Taking into consideration the nature of the adjoining uses, five (5) Findings were listed on Page 3 of the staff report for approval of the expansion of the nonconforming use. No parking is required for this type of use. Action for expansion should be taken before the variance public hearing continues.

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

DEADWOOD BOARD OF ADJUSTMENT

Ms. Silvernail, acting Chairperson, called the Board of Adjustment to order. Ms. Silvernail stated the action would be on an expansion of a Non-Conforming Structure for the Days of '76. Ms. Williams stated the findings for the expansion were found on Page 3 of the staff report.

Ms. Griffith moved to approve the expansion of a Non-Conforming Structure for the Days of '76. Mr. Klamm seconded and the motion carried.

<u>All in favor</u>	-	<u>3</u>
<u>Opposed</u>	-	<u>0</u>

Ms. Silvernail, acting Chairperson, adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

PLANNING AND ZONING:

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

Ms. Williams summarized the information contained in the Variance Staff Report as sent to the commission members and included as part of the record.

She noted the request was for a 25' variance from the rear lot line requirements in the PF - Park Forest District. She pointed out that all other setbacks could be met; however, the rear lot line would have a zero setback. She noted that all notice requirements had been met and notice had been posted on the subject property as required by Section 17.80.010. She noted all eight variance standards had been met. She noted the hardship in this matter was that the site was difficult to build on since the majority of the property was located within the flood hazard area. She noted the proposed construction would be taking place in the flood plain and the building would set above the base flood elevation as stated by John Arleth, Arleth Surveying, elevation statement. Ms. Williams recommended that the Day's of '76 work closely with Jim Raysor, City Planner in regards to the requirements of the Flood Ordinance.

**STAFF REPORT (As sent)
REQUEST FOR VARIANCE
FROM CHAPTER 17.20
SECTION 17.20.040.D**

APPLICANTS: Days of '76 Committee

SIZE AND LOCATION:The site includes 5.1877 Acres, more or less.

ADDRESS: 17 Crescent Drive

LEGAL DESCRIPTION: Days of 76 Tract, being a portion of Mineral Survey No. 569, Located in the City of Deadwood, Lawrence County South Dakota.

EXISTING ZONING AND LAND USE: The property is currently zoned PF - Park Forest District and the land is currently used for an RV Campground and the Day's of '76 Museum, storage and assembly area for the Day's of '76 Parade and Rodeo.

ADJACENT ZONING AND LAND USES:

The property to the north is zoned C1 - Commercial District and First Gold is located in that area (across the 4-lane highway). The land to the west is zoned PU – Public Use District and the Rodeo Grounds and football field are located in this area. The land to the east is zoned PU - Public Use and the Sanitary District and State Highway lands are located in this area. Sampson Street and Buena Vista Tract are located to the southeast of the subject property and is zoned R1 - Residential District, PF - Park Forest District and PU - Public Use for the Deadwood City Shop.

ATTACHMENTS:

Attached for review is an aerial photo

BACKGROUND:

The Days of '76 are proposing to construct a shop/storage building to house artifacts and buggy's during the construction of the new Museum. This is the first phase of the development. The subject parcel has a large amount of acreage; however, a good portion of this land is located in the Flood Hazard Area and the proposed location is the most suitable location onsite although it is located in the 500 year flood zone. An existing storage structure set in the vicinity and it was recently demolished to make room for a larger storage area. The Museum and storage building are both nonconforming uses. There is a definite process for nonconforming uses.

The PF - Park Forest District does not include Museums under its uses by right or conditional uses and it would be considered a nonconforming use. Reviewing the nonconforming section of the ordinance, it does not exempt accessory structures from the enlargement limitations; therefore, it requires review by the Board of Adjustment.

Staff recognizes the reasons for the new expansion; however, it is not a guaranteed right. In the whole scheme of the plans, it is understandable why an expansion is being proposed and also that the structure will be conforming in the future, when deeded to the City of Deadwood.

House Museums were added under the Conditional Use sections in the residential districts and museums are listed in the commercial districts; however, no thought was given to the existing Days Museum and its zoning classification. The purpose of the PF - Park Forest designation was to accommodate the RV Camping Area in the early 1990's since this is the only district that allows Campgrounds. Staff has been informed the Museum will be deeded to the city in the future, and if and when that happens, the structures would become conforming since it would be placed in the PU - Public Use District. Therefore, this use would be considered a conforming use. Since the Museum is nonconforming, it makes the storage structure nonconforming. Section 17.56.010 - states "**Purpose**" **Adoption of land use controls and changes in zoning have created nonconforming uses, buildings and lots. The purpose of this Chapter is to allow these nonconforming uses, buildings and lots to be changed and upgraded without necessarily requiring**

their elimination, if the change would not substantially adversely affect the traffic, parking and environment of the surrounding area and if the change would reduce the degree of nonconformity of the use or improve the physical appearance of the structure or site." No application for a change to or expansion of a nonconforming use, building or lot . . . shall be granted unless all of the following criteria are met: **A. The applicant has undertaken all reasonable measures to reduce or alleviate the effects of the nonconformity upon the surrounding neighborhood, including without limitation, objectionable conditions, visual or noise pollution, vehicular traffic, storage of necessary equipment, materials and refuse, and on street parking, so the change will not adversely affect the surrounding neighborhood. B. The proposed change or expansion will either reduce the degree of nonconformity of the use, building or lot or improve the physical appearance of the structure or the site without increasing the degree of nonconformity. C. The proposed change or expansion in use complies with all of the requirements of this title: 1. Except for a change of a nonconforming use to another nonconforming use; 2) Unless a variance to the setback requirements has been granted pursuant to Chapters 17.16 through 17.48 of this title, or the setback has been varied through the application of the requirements of Chapter 17.80 of this title. D. The existing building or lot cannot reasonably be utilized or made to conform to the requirements of Chapters 17.16 through 17.48 of this title.**

FINDINGS FOR EXPANSION OF NON-CONFORMING STRUCTURE:

1. The storage building would not present objectionable conditions, visual or noise pollution, vehicular traffic, storage of materials and refuse, and the use does not require parking and the use is not changing.
2. The nonconforming structure will not adversely affect the health or safety of persons in the neighborhood.
3. The benefit to the public health, safety or welfare that will result from the change of nonconforming use exceeds any detriment which may result from such change.
4. The location of the structure is acceptable for this type of use since it is tied to the Day's of '76 Museum which is used for the Days of '76 parade and rodeo and has been used as such for 70 plus years.
5. It makes sense for both the nonconforming structures to be located within this area as they have historically existed for many years. It is anticipated that the Museum and workshop/storage unit will be deeded to the City of Deadwood.

VARIANCE:

The proposed storage structure will set approximately 6' above the base flood elevation. Section 17.20.D. - PF - Park Forest District - Rear Yard Requirements specify a 25' setback for principal and accessory buildings. The applicants are requesting approval of a 25' variance from the rear yard setback requirements which is a significant variation. The purpose of the request is to break away from the Floodway Hazard Area and to line up with the proposed museum so as to move historic buggies and artifacts without difficulty to and from the future museum. City of Deadwood land adjoins the Days of 76 land in the area of the request. This area includes the bleachers and football field; however, they are located quite a distance from the area being requested for variation.

The Comprehensive Plan designates this land as park area which is intended to accommodate areas of land designated and used by the public for active and passive recreation.

Environmental Corridor Status: The property is located within Other Flood Area - Zone X – Areas 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.

VARIANCE:

COMPLIANCE:

1. **The Zoning Officer provided notice identifying the applicant, describing the project and its location and giving the scheduled date and time of the public hearing in accordance with Section 17.80.010.B. This notice was mailed to property owners within 300 feet of the subject property.**
2. **A sign was posted on the property for which the request was filed as required by Section 17.80.010.B.**
3. **Notice of the time and place for the public hearing was published ten (10) days in advance of the hearing in the designated newspaper of the City of Deadwood as required by Section 17.80.010.B.**

VARIANCE:

The purpose of a variance is to modify the strict application of the specific requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional (Amended 99-952) conditions, whereby, such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his or her land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his or her lot as the Zoning Ordinance intended.

The Board shall consider and decide all applications for variances within 30 days of such public hearing and in accordance with the standards provided below.

STANDARDS FOR VARIANCES:

In granting a variance, the Board shall ascertain that the following criteria are met, and presented at the public hearing or otherwise included in the record.

1. A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar, exceptional, and undue hardship on the owner of the property. The previously mentioned circumstances or conditions shall be set forth in the Findings of the Board.

The Special Circumstance in this case is the fact that the Subject Property is located near the floodway as depicted on the Flood Insurance Rate Map, distributed by FEMA, which limits the building site on the property. The proposed variance allows the applicants to construct a workshop/storage structure to meet the needs of a future museum. Construction is limited on the property due to the physical constraint which is unique to this site. Surrounding properties are mostly located in the floodplain and are not limited by a flood hazard area. Special circumstances are not interpreted to be something intangible, such as lack of knowledge of the Code or misinformation given at the time that the land was purchased. The term undue hardship encompasses virtually any problem and the hardship only need to be practical. Because of the particular physical constraints of the specific property involved, a particular hardship to the owners would result, as distinguished from a mere inconvenience, if the strict letter of regulations were carried out. Strict compliance with the specific regulations would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations. Approving the variance request would enable the reasonable use of the property and improve operational efficiency and appearance.

2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.

The subject use is nonconforming and it is being enlarged. The Board of Adjustment can approve building modification after review of the Sections 17.56.030 and 17.56.070.

3. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land.

That within the intent and purposes of this application for variance, if granted, is the minimum adjustment necessary to afford relief or the reasonable use of the land without disturbing the rear hillside. The remaining bulk and height regulations are all met (i.e. side and front setback requirements and height).

4. The granting of any variance is in harmony with the general purposes and intent of this Ordinance and will not be injurious to the neighborhood, and/or detrimental to the public welfare, or in conflict with the established policies of the City of Deadwood.

The proposed project is compatible with the present and future logical development of the area. The property is surrounded by PU - Public Use District. The Lead/Deadwood Sanitary District, State of South Dakota DOT, and the City of Deadwood Rodeo Grounds surround the subject site. The granting of the variance would not be detrimental to public health, safety or general welfare if construction takes into account the flood ordinance requirements. A variance cannot be granted if it would pose any threat to the public health or safety including concerns such as fire safety, structural stability, clearance, preservation of light and open space, and visual and aesthetic concerns.

The granting of the variances in the subject area would not be injurious to the area in general. Again, the subject site abuts land owned by the city and utilized for football games and it is an open area. The variance would not alter the essential character of the surrounding area in which the property is located; substantially or permanently impair the appropriate use or development of adjacent property.

5. There must be proof of practical difficulty, which may be based upon sufficiently documented economic factors but such proof shall not be based solely upon or limited to such economic factors. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without the knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.

Due to the constrains associated with the presence of the flood area on the Subject Property, it is not felt that special circumstances in this case are a result from actions of the Applicant. The variance would not constitute a grant of special privilege inconsistent with limitations imposed on similarly situated properties or inconsistent with the purposes of the zoning regulations.

Strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; and strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.

6. That the proposed variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

The use and value of the area adjacent to the property included in the variance request will not be affected in a substantially adverse manner. There will be no significant adverse impacts on water supply, fire protection, schools, or other services. The granting of the variance would not be detrimental to public health, safety or general welfare. A variance cannot be granted if it would pose any threat to the public health or safety. This finding includes concerns such as fire safety, structural stability, and visual and aesthetic concerns. Granting this variance will not be injurious to the public health, safety, and general welfare of the community. It would allow the protections the ordinance requires for this type of use, to be placed when and where needed to protect adjacent properties.

7. The fee, as adopted by resolution, was paid to the Zoning Administrator as agent for the Board to cover the costs of notices and other expenses incidental to the hearing.
8. The applicant has proven that he or she is the owner of the property, or is his or her officially designated agent and has presented proof thereof.

Requirements for the Granting of a Variance:

Before the Board shall have the authority to grant a variance, the person claiming the variances has the burden of showing:

1. That the granting of the permit will not be contrary to the public interest;
2. That the literal enforcement of the Ordinance will result in unnecessary hardship; and,
3. That by granting the permit, substantial justice will be done.

A variance shall be null and void two (2) years from the date it is granted unless completion or substantial construction has taken place. The Board of Adjustment may extend the variance for an additional period not to exceed one (1) year upon the receipt of a written request from the applicant demonstrating good cause for the delay.

If upon review by the Zoning Administrator, a violation of any condition, imposed in approval of a variance is found, the Administrator shall inform the applicant by registered mail of the violation and shall require compliance within sixty (60) days, or the Administrator will take action to revoke the permit. The Administrator's letter, constituting Notice of Intent to Revoke Variance may be appealed to the Board of Adjustment within thirty (30) days of its mailing. The Board of Adjustment shall consider the appeal and may affirm, reverse, or modify the Administrator's Notice of Intent to Revoke. The applicant must comply with the Board of Adjustment's Order on Appeal of Notice of Intent to Revoke Variance within thirty (30) days of the Board's decision.

PLANNING AND ZONING

Mr. Ryan moved to approve the 25' variance from rear yard setback requirements for the Days of '76.

Mr. Allen requested to review the map before seconding the motion. Ms. Williams pointed out the building sites were limited due to the majority of the land being located in the Flood Hazard area. After reviewing the map, **Mr. Allen seconded and the motion carried.**

All in favor - 3
Opposed - 0

Chairperson Farrier turned the meeting over to the Board of Adjustment.

DEADWOOD BOARD OF ADJUSTMENT

Ms. Silvernail, acting Chairperson, called the Board of Adjustment to order.

Ms. Griffith moved to approve the recommendation of the Planning & Zoning to approve the 25' variance from rear yard setback requirements. Mr. Klamm seconded and the motion carried.

All in favor - 3
Opposed - 0

Ms. Silvernail turned the meeting back over to the Planning and Zoning Commission.

PLANNING AND ZONING

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

REQUEST FOR CONDITIONAL USE PERMIT FOR TOWNHOUSE/CONDOMINIUMS - 3 CEMETERY

Ms. Williams summarized the report and requested the staff report, as sent, become part of the record. She noted request for Conditional Use Permit was for three (3) condominiums with two (2) stories. She noted the Keenes had the same request in 2005; however, the time limit had run out on the first request. She noted the property was located within the C1 - Commercial District and the Comprehensive Plan encourages a mixture of residential and commercial uses in this classification. She pointed out the site was located in the AE flood classification which requires an engineer's seal and FEMA approval. She noted the owners were aware that the land was located within a flood hazard area. Ms. Williams noted a sign was posted on the property and notices were sent to landowners within 300' and official notice was posted in the designated newspaper of the City of Deadwood. She noted all criteria had been met for the Conditional Use Permit. She noted that parking requirements were met.

**STAFF REPORT
PLANNING AND ZONING**

APPLICANT: John and Terri Keene

PURPOSE: Request for Conditional Use Permit for Condominiums

GENERAL LOCATION: Off of Sherman and Cemetery Streets

LEGAL DESCRIPTION: Lots 1, 3, 5 and 7, Block 38, O.T., AND an area containing 835 square feet, more or less, along Lot 1, Block 38 (Metes and Bounds description available at the Zoning Office), City of Deadwood, Lawrence County, South Dakota, also known as 3 Cemetery

FILE STATUS: All legal obligations have been completed.

PUBLIC HEARING DATE: November 21, 2007

CITIZENS RESPONSE: FOR: AGAINST:

STAFF FINDINGS:

<u>Surrounding Zoning:</u>	<u>Surrounding Land Uses</u>
North: C1 – Commercial District PU - Public Use District	Blondies IGA, City Hall, Lawrence County Courthouse
South: PU – Public Use District	Sherman Street Parking Lot
East: C1 - Commercial District	Beauty Shop, Video Rental
West: R1 – Residential District	Water Street and Creek, Single-family Residential

SUMMARY OF REQUEST

The petitioners have submitted a request for a Conditional Use Permit for a three (3) unit Townhouse/Condominium use on the properties described above. The subject property is located on the west side of Sherman Street and Cemetery Street is located on the southern edge of the property. The subject property is located at 3 Cemetery Street.

FACTUAL INFORMATION

1. The property is currently zoned C1 – Commercial District.
2. The total site includes approximately 8,700 square feet.
3. The site has an existing garage and Burleys' Auto Repair was lost in a fire a few years ago.
4. The property maintains access from Cemetery and Water Streets.

5. The property is located within the Community Commercial District classification on the adopted Land Use Map in the Comprehensive Plan. This type of use is allowed under the Conditional Use Permit section.
6. The property is located in Flood Zone AE. Zone AE is the flood insurance rate zone that corresponds to the 100-year floodplains that are determined in the Flood Insurance Study by detailed methods. Whole-foot base flood elevations derived from the detailed hydraulic analyses are shown at selected intervals within this zone. An encroachment on floodplains, such as structures and fill, reduces flood-carrying capacity, increases flood heights and velocities, and increases flood hazards in areas beyond the encroachment itself. For purposes of the National Flood Plain Program, a floodway is used as a tool to assist local communities in floodplain management. Under this concept, the area of the 100-year floodplain is divided into a floodway and a floodway fringe. The floodway is the channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment so that the 100-year flood can be carried without substantial increases in flood heights. Minimum Federal standards limit such increases to 1.0 foot, provided that hazardous velocities are not produced. Floodplain management will need to be addressed by a registered certified engineer.
7. The area is characterized by a mixture of government offices, private and public parking lots, public park, grocery store and other commercial uses.

STAFF DISCUSSION

The majority of the property is vacant with a private storage garage. The petitioners indicate they intend to build three (3) housing units with two (2) stories. The plan designates two (2) off-street parking spaces for each unit and meets the Deadwood Zoning Code.

The Zoning Code requires the use to be in harmony with the general purposes, goals, objectives, and standards of the Comprehensive Plan. A mixture of residential uses is recommended in the C1 – Commercial District/Unit 4 Planning District since many of the downtown businesses have second floors and it is in the best interest of preservation to use the upper floors. There are several single-family residences on Water Street, which is located to the rear of the proposed site.

The petitioners will require approval from the Deadwood Historic Preservation District Commission for the design and materials proposed for the condominiums. The C1 – Commercial District has zero setback requirements; therefore, setbacks are not addressed in this matter. The building code will address safety and fire issues.

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.

Given the scope of the project, the housing project would comply with all relevant sections of the zoning ordinance, and is consistent with the general purposes, goals and objectives of the Comprehensive Plan. Again, the project, as proposed, will need to meet the Flood Ordinance and meet FEMA criteria.

- 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 use in the specified location does not result in a detrimental over concentration of this particular use. There is a need for this type of housing for retirees that want to continue to live in our community and for vacation homes.

- C. The projected 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 planned use would 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. The complex is located in an area that is screened from Sherman Street.

Off-street parking will be provided onsite and the site is located next to Water and Cemetery Streets; therefore, appropriate access is available to the site. The site is also located next to a municipal parking lot.

- D. Whether or not the 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 housing project will not increase the proliferation of non-conforming uses. There are no other Conditional Use Permits in the immediate area. The character and use of the buildings and structures adjacent to the subject property will not be adversely affected. Lot and performance standards will meet the C1 - Commercial District and parking standards.

- 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.

Adequate provisions are available for sewage disposal, and the handling of solid waste. There is an adequate supply of water for use and fire protection. The use will not cause significant adverse impacts 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.

The Conditional Use Permit will run with the property in this instance and the Zoning Code was amended to reflect that townhouses and condominium were exempt from the regulation stating the CUP ran with the applicant in the R1 – Residential District.

Ms. Donna Karatoko, 3 Water Street, questioned if there were any plans for them to look over. Ms. Williams stated design and material needed approval from Historic Preservation and building plans were checked by the Deadwood Building Inspector. Ms. Williams questioned if Ms. Karatoko would like to be notified when such plans came forward. She stated yes. Ms. Williams

stated she would inform Kevin Kuchenbecker, Historic Preservation Officer; that she wished to be notified when plans came before the Historic District Preservation Commission.

Mr. Allen moved to approve the Conditional Use Permit for townhouses/condominium for John & Terri Keene at 3 Cemetery Street. Mr. Ryan seconded.

Ms. Farrier recommended the motion note that the property is in the AE Flood Zone and such needed an Engineer.

Mr. Allen rescinded his first motion.

Mr. Allen then moved to approve the Conditional Use Permit for townhouses/condominium for John & Terri Keene at 3 Cemetery Street, located in the AE Flood Zone which must be addressed by a Registered Engineer. Mr. Ryan seconded and the motion carried.

All in favor - 4
Opposed - 0

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

DEADWOOD BOARD OF ADJUSTMENT

Ms. Silvernail, acting Chairperson called the Board of Adjustment to order.

Mr. Klamm moved to approve the recommendation from Planning & Zoning for the Conditional Use Permit for townhouses/condominium for John & Terri Keene at 3 Cemetery Street, located in the AE Flood Zone which must be addressed by a Registered Engineer. Ms. Griffith seconded and the motion carried.

All in favor - 3
Opposed - 0

Ms. Silvernail adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

PLANNING AND ZONING

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

FINAL PLAT - US Forest Service - PLAT OF LOTS A AND B, BLOCK 44, FORMERLY LOTS 12-16, BLOCK 44 O.T., LOCATED IN THE SW 1/4 SW 1/4, SECTION 23, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA

Ms. Williams referred to the following staff report:

Re: Approval of Final Plat

General Information:

Applicant: US Forest Service Houses

Requested Action: Approval of Final Plat for US Forest Houses

Legal Description: Plat of Lots A and B, Block 44, Formerly Lots 12-16, Block 44 O.T., Located in the SW 1/4 SW 1/4, Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

Locations: 33 and 33 1/2 Jackson Street

Site Sizes: Lot A - 0.14 Acres -- Lot B - 0.17 Acres

Existing Land Uses: The Forest Service Houses and garages set on this property.

Zone: R1 - Residential District

Number of Lots: Two (2)

Background:

The purpose of the plat is to obtain a loan for the purchase of the Forest Service Houses locate at 33 and 33 1/2 Jackson Street. The property was recently sold and the new buyer is required to split the lots in order to obtain a residential loan.

Water and Sewer Facilities:

There are existing water and sewer facilities.

Street Facilities:

The properties gain access from Jackson Street.

All legal obligations have been met and the plat meets the subdivision ordinance regulations.

Mr. Allen moved to approve the Final Plat for Lots A and B, Block 44, formerly Lots 12-16, Block 44 O.T., located in the SW 1/4 SW 1/4, Section 23, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota, also known as 33 and 33 1/2 Jackson Street. Mr. Ryan seconded and the motion carried.

<u>All in favor</u>	-	<u>3</u>
<u>Opposed</u>	-	<u>0</u>

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

DEADWOOD BOARD OF ADJUSTMENT

Ms. Silvernail, acting Chairperson, called the Board of Adjustment to order.

Ms. Griffith moved to approve the recommendation from Planning & Zoning for the Final Plat for the 33 and 33 1/2 Jackson Street. Mr. Klamm seconded and the motion carried.

<u>All in favor</u>	-	<u>3</u>
<u>Opposed</u>	-	<u>0</u>

Ms. Silvernail adjourned the Board of Adjustment and turned the meeting back over to the Planning and Zoning Commission.

PLANNING AND ZONING:

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

FINDINGS OF FACT: FRANK PAVICH - CONDITIONAL USE PERMIT - OFFICE - 789 MAIN

Ms. Williams stated this was the last step in closing the file and the findings demonstrate the action taken by the commissions.

Mr. Ryan moved to approve the Findings of Fact for Frank Pavich for a Insurance Office at 789 Main Street. Mr. Allen seconded and the motion carried.

<u>All in favor</u>	-	<u>3</u>
<u>Opposed</u>	-	<u>0</u>

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

DEADWOOD BOARD OF ADJUSTMENT

Ms. Silvernail, acting Chairperson, called the Board of Adjustment to order.

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

All in favor	-	3
Opposed	-	0

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

PLANNING AND ZONING:

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

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	-	3
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