

**DEADWOOD PLANNING AND ZONING COMMISSION**

**Wednesday, September 5, 2018 – 5:00 p.m.**

City Hall, 102 Sherman Street, Deadwood, SD

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**AGENDA**

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1. Call Meeting to Order
2. Approval of August 15, 2018 Minutes
3. Planning and Zoning Commission and Board of Adjustments  
**Request for a Conditional Use Permit – 79 Sherman Street – Rellik Tattoo/Dustin Flynn**  
Lot 21 and 23 Block 34 Original Town of Deadwood, Lawrence County, South Dakota  
Action Required:
  - a. Approval/Approval with conditions/Denial by Planning and Zoning
  - b. Approval/Approval with conditions/Denial by Board of Adjustments
4. Items from Staff
  - a. Comprehensive Plan
5. Adjourn

CITY OF DEADWOOD  
PLANNING AND ZONING COMMISSION  
Wednesday, August 15, 2018

The meeting of the Deadwood Planning and Zoning was called to order by Chairman Biesiot on Wednesday, August 15, 2018, at 5:00 p.m. in the Deadwood City Hall Meeting Room, located at 102 Sherman Street, Deadwood, SD 57732.

**Planning and Zoning Commission Present:** Tony Biesiot, Jim Shedd, Bill Rich and John Martinisko

**Absent:** Brett Runge

**Board of Adjustments Present:**

**Staff Present:**

Bob Nelson Jr., Trent Mohr and Bonny Anfinson

**Approval of July 18, 2018 Minutes:**

*It was moved by Mr. Shedd and seconded by Mr. Rich to approve the July 18, 2018 meeting minutes as presented. Aye – All. Motion carried.*

**Sign Review Commission:**

**760 Main Street – St. Ambrose Catholic Church – Install New Wall Sign**

Mr. Mohr stated the applicant is requesting permission to install a new wall sign. The sign will not be displayed year round. The sign as presented has been tailored to comply with City Ordinances. The proposed sign and its location are compliant with the sign ordinance and requires no variances. *It was moved by Mr. Shedd and seconded by Mr. Rich to approve the sign permit for a new wall sign at 760 Main Street for the St. Ambrose Catholic Church. Aye-All. Motion Carried.*

**Planning and Zoning Commission and Board of Adjustments:**

**Transfer of Property – 160 Timm Lane – Mike Bjerga**

Mr. Nelson Jr. stated this is a transfer of property. Legally described as Lot 5A of Arnio Subdivision to the City of Deadwood, Lawrence County, South Dakota. Being a Portion of Placer Claim No. 107 Located in the SE¼ of Section 27, T5N, R3E, B.H.M. Formerly Lot 5 of Arnio Subdivision and portion of Tract C-1 of Deadwood Gulch Addition II. This is all zoned Commercial Highway. The Final Plat of Lot 5A of Arnio Subdivision has been submitted to facilitate the transfer of land. The property is located on Cliff Street adjacent to Mickelson Trail. *It was moved by Mr. Shedd and seconded by Mr. Martinisko to approve the transfer of property legally described as Lot 5A of Arnio Subdivision to the City of Deadwood, Lawrence County, South Dakota. Being a Portion of Placer Claim No. 107 Located in the SE¼ of Section 27, T5N, R3E, B.H.M. Formerly Lot 5 of Arnio Subdivision and portion of Tract C-1 of Deadwood Gulch Addition II. Aye-All. Motion Carried.*

**Transfer of Property – 703 Main Street – Hotel Franklin Inc.**

Mr. Nelson Jr. stated this is a transfer of Lot 4A2. Legally described as Lots 4A1 and 4A2, Block 20, Original Townsite of Deadwood, Formerly Lot 4A and A Portion of Lot A, Block 20; City of Deadwood, Lawrence County, South Dakota. The Final Plat of Lot 4A1 and 4A2 has been submitted to facilitate the transfer of Lot 4A2. *It was moved by Mr. Rich and seconded by Mr. Martinisko to approve the transfer of property legally described as Lots 4A1 and 4A2, Block 20, Original Townsite of Deadwood, Formerly Lot 4A and A Portion of Lot A, Block 20; City of Deadwood, Lawrence County, South Dakota. Aye-All. Motion Carried.*

**Items From Staff** (no action taken)

- Sign Ordinance Revisions: Mr. Nelson Jr. stated plans are to present the sign ordinance changes after legal is finished reviewing.

**Adjournment:**

*It was moved by Mr. Shedd and seconded by Mr. Rich to adjourn the Regular Meeting of the Planning and Zoning Commission. Aye – All. Motion carried.*

There being no further business, the Planning and Zoning Commission adjourned at 5:07 p.m.

ATTEST:

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Chairman, Planning & Zoning Commission

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Secretary, Planning & Zoning Commission

Bonny Anfinson, Planning & Zoning Office/Recording Secretary

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

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**APPLICANT:** Rellik Tattoo/ Dustin Flynn

**PURPOSE:** Request for Conditional Use Permit for a Tattoo Business

**LEGAL DESCRIPTION:** Lot 21 and 23 Block 34 Original Town Deadwood, Lawrence County, South Dakota

**ADDRESS:** 79 Sherman Street

**ZONE:** C1 – Commercial District

**FILE STATUS:** All legal obligations have been completed.

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**STAFF FINDINGS:**

Surrounding Zoning:

North: C1 - Commercial District  
South: C1 - Commercial District  
East: PU – Public Use District  
West: PU – Public Use

Surrounding Land Uses

Mix of Businesses  
Mix of Businesses  
Miller St. Parking  
County Courthouse

**SUMMARY OF REQUEST**

The petitioner has submitted a request for a Conditional Use Permit for a Tattoo Business. The property at 79 Sherman Street is known as the APEX building and the former location of ABC Business Supply. The tattoo studio will be using the first floor of the building at 79 Sherman Street.

**FACTUAL INFORMATION**

1. The property is currently zoned C1 – Commercial District.
  2. The retail space is comprised of 2,100, plus or minus, square feet.
  3. The property does have dedicated off-street parking adjacent the structure along with municipal parking directly behind the proposed business.
  4. The property has access from Sherman Street.
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5. The property is located within an area close to parking lots and commercial businesses. 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 currently is a vacant. The ground floor of the building would be utilized by the tattoo business. The applicant currently operates a tattoo business in Montana and plans to relocate his family to Deadwood. 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.*

*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 and in use at 652 Main Street.*

- 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 on Sherman 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.





# Deadwood Comprehensive Plan

**A draft of the Deadwood Comprehensive Plan  
is ready for you to review!**

*Please plan to attend one of the upcoming open house meetings to learn more  
about the comprehensive plan and provide your feedback on the draft.*

## **COMMUNITY OPEN HOUSES**

Thursday, September 27th

1:00 - 3:00 pm

or

5:00 - 7:00 pm

Location: Mary Adams Room @ Days of '76 Museum (50 Crescent Drive)

*The meetings will be "open house" style so drop in anytime to either of the  
meetings. All meetings are open to the public.*

## **DRAFT COMPREHENSIVE PLAN**

Available for review online at:

[www.deadwoodplan.com/documents](http://www.deadwoodplan.com/documents)

A paper copy is also available for review at Deadwood City Hall.

**FOR MORE INFORMATION:**  
[www.deadwoodplan.com](http://www.deadwoodplan.com)