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BOARD OF ADJUSTMENT STAFF REPORT CHANGE OF ZONING

Staff Report

Date: November 18, 2024
From: Kevin Kuchenbecker
Planning, Zoning & Historic Preservation Officer
To: Board of Adjustment
RE: Change of Zoning

APPLICANT(S): Deadwood Real Estate, LLC

PURPOSE: Change of Zoning

ADDRESS: 735 Main Street

LEGAL DESCRIPTION: Lot 3A, Block 2, Kennedy and Cameron addition, City of Deadwood, formerly Lot 3, Block 2, Kennedy and Cameron addition, all located in the SE ¼ of Section 22, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

FILE STATUS: All legal obligations have been completed.

CURRENT ZONING DISTRICT: PU – Public Use

REQUESTED ZONING DISTRICT: C1 - Commercial

STAFF FINDINGS:

Surrounding Zoning:

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

Surrounding Land Uses:

Parking Lot
Fire Department
Business
Business

SUMMARY OF REQUEST

The applicant has submitted a Petition for Zoning Amendment to Change the Zoning from PU- Public Use to C1 – Commercial as allowed under Chapter 17.100 – Amendments.

FACTUAL INFORMATION

1. The property is currently zoned PU – Public Use.
2. The property is not located within a flood zone.
3. The area is characterized by a mixture of businesses and public use facilities, including the Lead-Deadwood Elementary School and Deadwood Fire Hall.

STAFF DISCUSSION

The property was once a Public Use building housing the Chamber of Commerce and situated on the same lot as the Fire Hall. In 2004, the Chamber of Commerce moved from the building and the City of Deadwood subdivided the lot into two (2) lots, creating a separate lot for the building at 735 Main Street and a separate lot for the Fire Hall. The building at 735 Main Street was subsequently sold as commercial property, however, the zoning map was not amended at that time to reflect this change. For the last twenty (20) years, the building has been used for commercial purposes, despite the PU-Public Use zoning district designation. The building is currently for sale, however, and the current zoning of PU - Public Use may limit prospective buyers from the ability to utilize the property in its highest and best use as a commercial property.

Staff recognizes the change of zoning and its proximity to the Lead-Deadwood Elementary School and the Northern Hill Child Care facility will cause community concern within the C1 Zoned property which would allow gaming as a use by right. While future actions require Planning and Zoning to notify the school board of any building or permit for a gaming hall under DCO Chapter 5-52.030, there appears to be little action available to said party for preventing any use by right within the zoning district. The Zoning Office has discussed the possibility of CE – Commercial Enterprise as a zoning change option with legal counsel, however, additional research and discussions with the petitioner would need to be undertaken. Commercial Enterprise zoning prohibits gaming as a use for the property yet allows a variety of commercial uses like C1 zoning.

COMPLIANCE:

1. The Zoning Office provided notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accordance with Chapter 17.96.020.
2. A sign was posted on the property for which the requests were filed in accordance with SDCL 11-4-4.4.
3. Notice of the time and place was published in the designated newspaper of the City of Deadwood in accordance with SDCL 11-4-4.

GENERAL STANDARDS FOR ZONING AMENDMENTS:

In reviewing an amendment to the official zoning district map, the Board of Adjustment shall consider:

- A. Whether the proposed amendment conflicts with any applicable portions of this Ordinance.

There could be conflicts for the proposed zoning amendment depending on the ultimate use and the interpretation of DCO Chapter 5.52.030.

- B. Whether the proposed amendment is consistent with all elements of the Deadwood Comprehensive Plan.

The Comprehensive Plan Future Land Use Map depicts the area as Commercial and is defined as follows: Areas of general commercial development located along main transportation routes in Deadwood, but outside of the historic commercial core; uses within this district serve the commercial needs of local residents for retail, services, and office space, support Main Street businesses, and also include tourism-oriented businesses like visitor attractions and lodging, dining, and entertainment establishments; and, the density and scale within this district greatly varies, but is generally at a lower intensity than the historic commercial core. The sense of community and protecting the school system within Deadwood is an important component of any community's comprehensive plan.

- C. Whether the proposed amendment is compatible with surrounding Zone Districts and land uses, considering existing land use and neighborhood characteristics.

The subject property is surrounded by a mixed use of zoning districts and this request is compatible with the surrounding zoning districts.

- D. The effect of the proposed amendment on traffic generation and road safety.

During City wide events, the property will have a high volume of pedestrian traffic and vehicular traffic. Access to the property is off Main Street, which runs parallel to the building. The proposed amendment could have an effect on traffic generation or road safety depending on the ultimate use.

- E. Whether the extent to which the proposed amendment would result in demands on public facilities, and the extent to which the proposed amendment would exceed the capacity of such public facilities, including, but not limited to transportation facilities, sewage facilities, water supply, parks, drainage, schools, and emergency medical facilities.

The proposed project will not impact the demand for public facilities unless individuals would no longer register their children to attend the Lead-Deadwood School District due to a potential change of use to gaming.

- F. Whether the proposed amendment is consistent and compatible with the community character in the City of Deadwood.

The proposed amendment is in harmony with the overall character of existing development of Deadwood.

- G. Whether there have been changed conditions affecting the subject parcel or the surrounding neighborhood, which support the proposed amendment.

The proposed amendment could influence the surrounding neighborhood as this property is currently operating as a commercial business and has been for approximately twenty (20) years; however, the change of zoning would open the property to gaming as a use by right.

- H. Whether the proposed amendment would conflict with the public interest and is in harmony with the proposed amendment may or may not conflict with the public interest.

Currently, the school district has contacted our office with concerns of the amendment due to creating the ability to expand gaming as a use by right directly around the elementary school. There will be time for public comment prior to the discussion on this amendment.

ACTION REQUIRED:

1. Approval/Denial/Continuance by Deadwood Board of Adjustment

The Planning and Zoning Commission approved on November 6, 2024 with a vote of three (3) votes for the zoning change and two (2) votes against.