



**Spearfish Planning Commission  
Agenda**

**Tuesday, October 20, 2020 - 3:00 PM**

**Meeting Location: City Hall City Council Chambers, 625 N Fifth Street, Spearfish SD 57783**

- A. Call To Order**
- B. Roll Call**
- C. Approve the Minutes from October 6, 2020**
- D. Declaration of Conflicts of Interest**
- E. Items for Action**

1.	<b>Request:</b>	<b>Amend Appendix A. Zoning, Article V. Supplementary Regulations, Section 7. Nonconforming uses.</b>
	<b>Location:</b>	<b>R1, R2, and R3 zoning districts</b>
	<b>Applicant:</b>	<b>City of Spearfish</b>
	<b>Action:</b>	<b>Hold a public hearing and make a recommendation to the City Council</b>
2.	<b>Request:</b>	<b>Approve a conditional use permit (CUP) to allow a publicly owned facility in an R2 district</b>
	<b>Location:</b>	<b>Original Town Lots 9, 10, 11 &amp; 12 Blk 65</b>
	<b>Applicant:</b>	<b>City of Spearfish</b>
	<b>Action:</b>	<b>Postpone taking action, and set a new public hearing date for November 3, 2020</b>
3.	<b>Request:</b>	<b>Review and approve changes (if needed) to the 2021 Planning Commission public meeting schedule</b>

**F. City Council Update**

**G. Public Comment**

Public comments are welcome at this time, however, no action will be taken.

**H. Adjournment**



**Spearfish Planning Commission**  
Regular Session Minutes  
October 6, 2020

The Spearfish Planning Commission met in regular session on Tuesday, October 6th, 2020 at 3:00 p.m. Chairman Kruskamp called the meeting to order at 3:00 pm. Roll call was taken with the following members present: Larry Vavruska, Barbara Zwetzig, Greg Kruskamp, Meghan Byrum, and Bob Meyer. Absent: Toby Bordewyk and Drew Skjoldal. Also present: City Planner Jayna Watson, City Attorney Ashley McDonald, and Assistant City Planner Daniel Van Holland.

**APPROVAL OF MINUTES:**

**Vavruska moved, Byrum seconded and all voted to approve the minutes of the September 15, 2020 Planning Commission meeting.**

**DECLARATIONS OF CONFLICTS OF INTEREST:**

Kruskamp called for any potential conflicts of interest to be identified. No conflicts were expressed.

- 1. Request: Amend Appendix A. Zoning, Article V. Supplementary Regulations, Section 7. Nonconforming uses.**  
**Location: R1, R2, and R3 zoning districts**  
**Applicant: City of Spearfish**  
**Action: Set a public hearing for October 20, 2020**

Van Holland explained the proposed amendment. **Byrum moved, Vavruska seconded and all voted to set the public hearing for October 20, 2020.**

- 2. Request: Amend Appendix A. Zoning, Article II. Definitions and Article V. Supplementary Regulations, Section 3. Minimum off-street parking requirements**  
**Location: C1 and CC zoning districts**  
**Applicant: City of Spearfish**  
**Action: Hold a public hearing and make a recommendation to the City Council**

Van Holland explained the proposed amendment. Chairman Kruskamp opened the public hearing. No comments were received. Chairman Kruskamp closed the public hearing. **Vavruska moved, Byrum seconded and all voted to recommend approval to the City Council.**

- 3. Request: Approve a conditional use permit (CUP) to allow a publicly owned facility in an R2 district**  
**Location: Original Town Lots 9, 10, 11 & 12 Blk 65**  
**Applicant: City of Spearfish**  
**Action: Set a public hearing for October 20, 2020**

Watson explained the proposal and corresponding site plan. Commissioners discussed if the use of the property will ever be relocated elsewhere and if the trees could be placed on the south side of the fence line along the southern property boundary, instead of north of said line. **Vavruska moved, Zwetzig seconded and all voted to set a public hearing for October 20, 2020.**



**4. Discussion    Discuss whether to require inspections for septic systems within city limits  
Item:**

Watson reintroduced the subject and explained the memo. Clarification was made by McDonald for if the Commission can discuss and recommend investigating an inspection program to the City Council rather than the way the agenda describes this topic. Commissioners discussed the lack of information regarding failure rates of septic systems, past experiences with existing septic systems, Pennington County's septic system requirements, the sufficiency of data regarding failures and their environmental impact, the State's current regulations, concerns with the density of septic systems within city limits, and if an investigation into the risks should be conducted by the City Council or the Planning Commission. **Meyer moved to recommend to the City Council to investigate requirements for septic system inspections. The motion died due to a lack of a second.** Watson stated she would convey the Commission's concerns to the City Council before the second reading of Ordinance 1334.

**CITY COUNCIL UPDATE:**

Watson updated the Commission on previous City Council business, including the first reading of Ordinance 1334 – an ordinance amending the subdivision code do add the septic tank option to the AG zoning district

**PUBLIC COMMENT**

No public comment received.

**ADJOURNMENT:**

Chairman Kruskamp adjourned the meeting of the Planning Commission at 4:14 PM.



**Spearfish Planning Commission Staff Report**  
**Meeting Location: City Council Chamber, 625 Fifth Street, Spearfish SD 57783**

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<b>Meeting time and date:</b>	October 20, 2020 3pm
<b>Applicant:</b>	City of Spearfish
<b>Request:</b>	Amend Appendix A. Zoning, Article V. Supplementary Regulations, Section 7. Nonconforming uses
<b>Action:</b>	Hold a public hearing and make a recommendation to the City Council
<b>Location:</b>	R1, R2, and R3 zoning district
<b>Proposal Summary:</b>	This change will allow for accessory structures to be converted into second dwelling units without having to meet the primary structure setback requirements. <b>This only will apply to buildings that exist as of the date this new regulation goes into effect.</b>

**BACKGROUND AND HISTORY:**

- Several residents have expressed interest in converting existing garages into dwellings they can rent or occupy.
- The city does allow this, so long as all zoning regulations, including setback requirements, and building code requirements are met. Most detached garages in the older neighborhoods , however, do not meet primary structure setbacks and many garages have legal nonconforming setbacks.
- Staff and Planning Commission have researched and discussed possible options and regulations to allow for these conversions.
- This change will allow for accessory structures to be converted into second dwellings so long as they meet accessory structure zoning requirements, all building code requirements for dwellings, AND encompass the same building footprint of the original structure
- This change will also allow accessory structures with legal nonconforming setbacks, existing on or before the date this ordinance vests, to be converted into second dwellings, so long as they meet other zoning requirements and all building code requirements.

Previous conversations on this topic have included possible standards for maximum footprint and maximum square footage related to the primary structure. These standards are no longer recommended because the focus of this change relates to **existing** structures that are converted to a dwelling. Because the structure exists, it is irrelevant to add another standard to regulate its maximum size. Adding a second story to an existing structure would not be permitted.

**REVIEW CRITERIA AND STAFF ANALYSIS:**

This ordinance revision is guided by the City of Spearfish Revised Code of Ordinances, Appendix A-Zoning, Article VI. Administration and Enforcement, Section 5 Amendments. Staff’s analysis follows each statement in *italic text*.

A. *Standards for amendments.* A proposed amendment shall be considered on its own merits using the following criteria as a guide.

1. Text or map amendments. Proposed amendments shall:
  - a) Be necessary because of substantially changed or changing conditions of the area and district affected, or in the ordinance generally. *Staff has received several inquiries into whether converting garages into dwellings is something that the City allows. Technically, it is but City requirements make it difficult in practice. This change makes such a conversion more plausible in practice.*
  - b) Be consistent with the intent and purposes of the ordinance. *Second dwellings are already permitted in R2 and R3 districts and are conditional in R1 districts. Conversions are technically allowed per the code, but other regulations make it difficult to build them. This change explicitly states when and how these conversions can be allowed and what standards they must meet for approval.*
  - c) Not directly or indirectly adversely affect any other part of the ordinance. *All zoning and building code standards remain the same. The only part of the code impacted by this change is the setback requirements within the district regulations. The proposed new rules would not allow these converted structures to expand beyond existing building footprints. Standard accessory structure setbacks do not interfere with utility easements or public rights-of-way. Structures with legal nonconforming setbacks may interfere with easements and rights-of-way, any conflicts with utilities will be resolved at the time a permit is requested.*
  - d) Be consistent with and not in conflict with the Spearfish comprehensive plan. *Strategy 3 for the Contiguous City states the City will “encourage the adaptive re-use of existing structures and under-utilized lands to raise the visual quality and vitality in the community, reduce sprawl, and make efficient use of existing community infrastructure.” This change allows for adaptive re-use of existing structures by converting accessory structures into homes. By providing additional housing within areas already in city limits, sprawl can be reduced and there is no need for additional roads or utility mains, making efficient use of existing infrastructure. Implementation point 1 for Land Use and City Form states that the City will “adopt creative zoning, subdivision and development tools and standards to allow for the introduction of dis-similar, but compatible land uses into the existing fabric of the community, while also promoting smarter, more sustainable growth within city limits and extra territorial locations.” This change sets standards for a creative zoning/development tool that introduces a dissimilar but compatible use, an accessory dwelling in residential zones. Existing assets and structures are re-used and can help meet the demand for affordable housing without the City acquiring more land or constructing new infrastructure, thereby promoting smarter, more sustainable growth.*

**SUMMARY OF PROPOSED CHANGES:**

Proposed Text changes shown in <b>RED</b>
Article V. Supplementary Regulations, Section 7. Nonconforming uses
A. <i>General provisions.</i> A nonconforming use of a building and land at the time of the adoption of this ordinance is deemed to be "grandfathered" and may be continued although the use does not conform

with district regulations. Such use may be extended throughout the building, provided no structural alterations, except those required by law or ordinance, are made.

**B. Continued use.**

1. Whenever a district is changed, any existing nonconforming use in the changed district may be continued, provided all other regulations governing the use are complied with;
  2. A nonconforming use, if converted to a conforming use, shall not be changed back to a nonconforming use;
  3. Where a building or signs located in a district restricted against its use has been wholly or partially destroyed by fire or other calamity, a permit shall be granted for its reconstruction within a period not to exceed twelve (12) months from the date of its destruction;
  4. Where a nonconforming use has existed and it is not exercised or continued for a period of one hundred eighty (180) days, the use shall cease to exist. Thereafter, uses shall conform to the district in which such premises or building is located.
  5. Where a nonconforming use exists, it cannot change to another nonconforming use of different quality and characteristics unless the use is more compatible with the characteristics of the neighborhood in which it is located. Where a nonconforming use has changed to a more compatible use, it shall not be changed back to a less compatible use.
- (Ord. No. 969, 8-18-03)

**C. Conversion of an Existing Accessory Structure to a Dwelling Unit in R1, R2, and R3:**

1. The structure to be converted to a dwelling must exist as of (effective date of the ordinance).
2. The conversion of the structure cannot increase the square footage of the existing structure's building footprint. Non-conforming setbacks that exist are permitted to remain but shall not be reduced.
3. The structure must meet all building and fire code requirements.
4. The structure cannot be located within any public street or alley right of way.

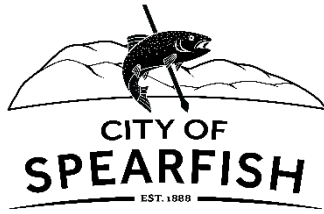
**STAFF RECOMMENDATION:** Approve

**PUBLIC COMMENTS:**

Notice of a public hearing was published on October 10, 2020.

**STAFF CONTACTS:**

Jayna Watson, City Planner, 605-717-1122; [jayna.watson@cityofspearfish.com](mailto:jayna.watson@cityofspearfish.com)  
Daniel Van Holland, Assistant City Planner, 605-717-1126; [daniel.vanholland@cityofspearfish.com](mailto:daniel.vanholland@cityofspearfish.com)



## PLANNING COMMISSION UPDATE MEMORANDUM

Date: 10/20/2020

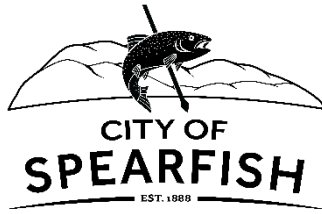
TO: Planning Commission

FROM: Jayna Watson, City Planner  
Daniel Van Holland, Assistant City Planner

RE: Postponement of Public Hearing

The City has received numerous public comments regarding the proposed conditional use permit (CUP) for the Canyon Administration building expansion. More time is needed for the Public Works department to review these comments and determine how it affects the proposed site design.

Staff recommends the Planning Commission postpone action and set a new public hearing date for November 3, 2020. Notice has been sent to the neighbors regarding this change and will be sent to the official newspaper after the 10/20/2020 meeting of the Planning Commission.



## PLANNING COMMISSION UPDATE MEMORANDUM

DATE: 10/20/2020

TO: Planning Commission

FROM: Jayna Watson, City Planner  
Daniel Van Holland, Assistant City Planner

RE: 2021 Planning Commission Meeting Dates

In 2021, there are some potential conflicts with the Planning Commission (PC) meeting and meetings of the City Council or the Council subcommittees.

January, February, July, and September each have a holiday Monday. When this occurs, the Council meets the next day, which is the same day as PC. Council's meetings do not begin until 5:30pm. Typically, the PC's meeting is done not later than 5pm.

The following are options:

- 1) wait until the dates get closer to make any adjustments.
- 2) change the calendar now and set the meetings to take place at the normal time 3pm, but on a Wednesday: January 20, February 17, July 7, and September 8.
- 3) keep the normal Tuesday dates but move the meeting start time up to 2pm.

In June, the Council sub-committees meet at 4:15pm on both the Tuesday and Wednesday of a PC meeting week. The following are options:

- 1) meet on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday.
- 2) keep the meeting on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday but move the start of the meeting up to an earlier time such as 2pm.

A final decision is requested concerning the meeting schedule.





# 2021



5:30 PM	Council Meetings	4:15PM	PW Committee	4:15PM	LFPS Committee	Closed	Holiday
						3:00PM	P&Z Commission

JANUARY						
S	M	T	W	Th	F	S
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17	18	19	20	21	22	23
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31						

FEBRUARY						
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JUNE						
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August						
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DECEMBER						
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