

**CITY OF DEADWOOD**

**PLANNING AND ZONING COMMISSION**

March 21, 2007

JOINT MEETING

The Joint Meeting of the Deadwood Planning and Zoning Commission was called to order by Chairperson Marie Farrier on Wednesday March 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, Larry Ryan, Sheree Green & Mel Allen.

ABSENT PLANNING & ZONING: Jim Shedd

ABSENT BOARD OF ADJUSTMENT: Francis Toscana, Mark Speirs, Georgeann Silvernail, and Mike Klamm & Nyla Griffith.

Due to scheduling conflicts Board of Adjustment was not able to attend the Public Hearing.

**APPROVAL OF MINUTES**

**Mr. Ryan moved to approve the minutes of the February 7, 2007, Regular Meeting and February 21, 2007, Joint Meeting, as mailed. Mr. Allen seconded and the motion carried.**

**All in favor - 4**  
**Opposed - 0**

**REQUEST FOR CONDITIONAL USE PERMIT FOR VALET PARKING**

**NAME:** GR Deadwood, LLC

**LEGAL DESCRIPTIONS:** 601 Main Street - Lots 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39 AND Tract A-1, Formerly Lots 41, 43, 45 and part of Lot 47, All located in Block 14, City of Deadwood, Lawrence County, South Dakota  
424 Main Street - Lots 6-12, Block C, Fargo Addition and Lots 1-5, Block 3 of Fountain City Addition, Cit of Deadwood, Lawrence County, South Dakota

**ADDRESS FROM:** 601 Main Street  
**ADDRESS TO:** 424 Main Street  
**ZONES:** From C1 - Commercial District  
**TO:** CH - Commercial Highway District

Ms. Williams referred to the following staff report:

**STAFF REPORT**  
**PLANNING AND ZONING**

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**APPLICANT:** GR Deadwood

**PURPOSE:** Request for Valet Parking

**GENERAL LOCATION:** 424 Main Street

**LEGAL DESCRIPTION:** Lots 6-12, Block C, Fargo Addition and Lots 1-5, Block 3 of Fountain City Addition, City of Deadwood, Lawrence County, South Dakota

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

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**CITIZENS RESPONSE:** FOR: AGAINST:

**STAFF FINDINGS:**

Surrounding Zoning:

North: CH – Commercial Highway District  
South: CH – Commercial Highway District  
East: R1 - Residential District  
West: CH – Commercial Highway District

Surrounding Land Uses

Big D Gas Station  
Union Palace  
Single-family residences  
Trail System

**SUMMARY OF REQUEST**

The petitioners have submitted a request for a Conditional Use Permit to Valet Park on properties, owned by GR Deadwood. The subject property is located on Lower Main Street, adjacent to Big “D” gas station. The parking lot has been under utilized for many years; however, it has been committed for off-site parking for the Mineral Palace.

**FACTUAL INFORMATION**

1. The property is currently zoned CH – Commercial Highway District.
2. The proposed property used for valet parking is comprised of 0.54 Acres or 23,937 square feet.
3. The subject property has access from the 4-lane state highway.
4. The properties are located within a tourist service classification on the adopted Land Use Map.
5. The property is located in Flood Zone X – Area’s determined to be outside of the 500 year flood areas.
6. Adequate public facilities are available to serve the property.
7. The area is characterized by a mixture of commercial and residential uses.

**STAFF DISCUSSION**

The petitioners have submitted a request for Valet Parking from 601 Main Street to 424 Main Street. The Mineral Palace is located at 601 Main Street. The petitioners are proposing to valet park to the vacant parking lot which GR Deadwood owns. The Zoning Code requires a Conditional Use Permit for valet parking. This is to ensure that parking requirements are met and to review the surroundings and condition of the parking lot. In this instance, the parking lot has been improved to meet the design guidelines of the zoning code.

**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.**

**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.

*ANSWER: The use, as proposed, provides a service to customers of the Mineral Palace and Gem Theatre. “Valet Parking” is defined as: means a parking arrangement where an employee of a hotel/motel or public facility performs a service for the customers in which such employee parks the vehicle and returns it from a designated area. Parking is one of the most critical elements for residents and visitors to our community. Traffic will not significantly affect the area.*

- 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.

*ANSWER: The subject parking lot is zoned CH – Commercial Highway District and the valet parking will help to meet the Gem’s parking requirements.*

- C. The proposed 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.

*ANSWER: The proposed use would not result in a substantial or undue adverse effect on adjacent property or the character of the neighborhood and the use will not alter the character of the neighborhood. 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.**

*ANSWER: The proposed use will not increase the proliferation of non-conforming uses. The use is meant to be a service to an existing business.*

- 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.

*ANSWER: 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. This type of use does not place any demand 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.

Ms. Williams pointed out that the new construction of the Gem Theater addition to the Mineral Palace had taken away a parking area and parking spaces were lost; therefore, they are requesting a Conditional Use Permit for valet parking to an area that is also owned by them on Lower Main Street.

Mr. Allen stated he did not see any problem with the use. Ms. Green questioned if the CUP would be reviewed in a year. Ms. Williams stated it could be stipulated in the motion. Ms. Green questioned if complaints were made, such as the large diesel tour buses left running, would it trigger a review by P&Z. Ms. Williams stated yes, it would. The Planning & Zoning Commission questioned if the buses would fit in the parking lot in question. Mr. Jim Raysor, City Planner/Public Works Director noted that a bus could fit in the lot in question.

**Ms. Green moved to approve the Conditional Use Permit for Valet Parking at the Mineral Palace with the condition of review by Planning & Zoning Commission in one year. Mr. Allen seconded and the motion carried.**

**All in favor - 4**  
**Opposed - 0**

**REQUEST FOR CONDITIONAL USE PERMIT FOR LARGE DAYCARE**

**NAME:** Tracie Johnson

**LEGAL DESCRIPTION:** Lot W-1, Being a replat of Metes and Bounds descriptions, of a portion of Lot 50, Block 76, O.T., and M.S. 207, located in the NE ¼ of Section 27, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota

**ADDRESS:** 168 Charles Street

**ZONE:** R1 - Residential District

Ms. Williams referred to the following staff report:

STAFF REPORT  
PLANNING AND ZONING  
REQUEST FOR CONDITIONAL USE PERMIT  
FOR A LARGE DAYCARE USE

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**APPLICANT:** Tracie Johnson

**PURPOSE:** Request for Large Day Care for 12 children.

**GENERAL LOCATION:** 168 Charles Street

**GENERAL PLAN DESIGNATION:** Very Low - density residential

**LEGAL DESCRIPTION:** Lot W-1, Being a replat of Metes and Bounds descriptions, of a portion of Lot 50, Block 76, O.T. and M.S. 207, located in the NE ¼ of Section 27, T5N, R3E, B.H.M., City of Deadwood, Lawrence County, South Dakota.

**ADDRESS:** 168 Charles Street

**ZONE:** R1 -Residential District

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

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**CITIZENS RESPONSE:** FOR: AGAINST:

**STAFF FINDINGS:**

Surrounding Zoning:  
North:

Surrounding Land Uses  
Deadwood Trail -  
Residential/Commercial

South:	Charles Street/Walnut Bridge
East:	Single-family, residences
West:	Claimjumpers Mobile Home Park/Storage Units

#### SUMMARY OF REQUEST

The petitioner has submitted a request for a Conditional Use Permit to allow a Large Day Care Use. Large Day Care uses are defined as **“Day care, large” means a facility that provides care for six or more children that are primarily present during daytime hours, and do not regularly stay overnight. Basic requirements for a large day care facility are: 1) Operator must comply with the standards of the state Fire Marshal relating to the subject of fire and life safety in large day care facilities; 2) The applicant shall be licensed by the State of South Dakota as a day care facility; 3) Applicant shall develop and distribute information to the day care clients stating the need not to disrupt the neighborhood when dropping off and picking up children; 4) Off-street parking shall be provided for employees of the day care facility; 5) Drop-off and pick-up areas are designated for clients.** Ms. Johnson has a state day care license which allows for 12 children.

#### FACTUAL INFORMATION

1. The property is currently zoned R1 – Residential District.
2. The property used for the day care is comprised of 3,299 square feet, more or less.
3. The residence has two off-street parking spaces in front of the garage.
4. The subject property has access from Walnut Street Bridge and Charles Street.
5. The properties are located within an area that has limited residences; however, Claimjumpers Mobile Home Park is located on the western edge of the property. The land is classified as very-low residential on the adopted Land Use Map in the Deadwood Comprehensive Plan.
6. The property is located in Flood Zone AE – Floodway Areas.
7. Adequate public facilities are available to serve the property.
8. The area is characterized by residential uses.

#### STAFF DISCUSSION

The petitioner has submitted an application for Conditional Use for a Large Day Care facility at 168 Charles Street. Ms. Johnson currently has a licensed state daycare license in Lead. She is applying for a Conditional Use Permit in order to come into compliance with the Deadwood’s Zoning Ordinance.

#### COMPLIANCE:

4. **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.**
5. **A sign was posted on the property for which the request was filed in accordance with Chapter 17.76.**
6. **Notice of the time and place was published in the designated newspaper of the City of Deadwood in accordance with Chapter 17.76.**

#### 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.

*ANSWER: The use, as proposed, provides a daycare service that is a needed service in the Deadwood area. The proposed use is listed under Conditional Uses in the R1 – Residential District. 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.

*ANSWER: Ms. Johnson currently operates a daycare for 10 children in Lead; however, due to her daycare needs changing she has found a location within Deadwood. A review of the location, configuration and impact has been conducted and compared to uses by right. Day Care services are needed in Deadwood and the proposed use will not result in an over concentration of such use within the city or the immediate area. 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.*

*The subject area is zoned R1 Residential District. The R1 – Residential District is intended to provide locations for medium density, residential development commensurate with an urban area. The primary use is single-family detached residences.*

- C. The proposed 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.

*ANSWER: The proposed use would not result in a substantial or undue adverse effect on adjacent property or the character of the neighborhood and the use will not alter the character of the neighborhood. 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. The property is located in an area where Charles Street is no longer a through street and the Charles Street Bridge is used as a walking bridge only. The structure will remain the same size and the appearance of the structure will not change.*

- 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.**

*ANSWER: The proposed use will not increase the proliferation of non-conforming uses. The use is intended to be a service to the community. The subject area is comprised of single-family dwellings, a mobile home park and a bulk plant. Adjacent lands are zoned CH – Commercial Highway District and R1 – Residential District. There is no other Conditional Use Permit in this area nor are there any legal non-conforming uses.*

- 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.

*ANSWER: 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. Drop-off and pick-up is designated in the garage driveway. Our current ordinance does not delineate a number of parking spaces for daycare services; therefore, staff treated it as a business where 1 parking space is required for every 500 feet of gross floor area. The residence has 800 square feet of floor area. There are approximately eight (8) residences total in this area and also the mobile home park, which is residential in nature.*

#### 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.

Ms. Williams noted the CUP runs with the applicant not the property. Ms. Williams stated Ms. Tracie Johnson was in the audience if there were any questions for her.

Ms. Johnson stated she had outgrown her current location in Lead and she would be renting this location from Mr. Jim Antrim. Ms. Johnson stated there would not be an increase in traffic in the area; she would be open from 7:30a.m. – 5:30p.m.

Mr. Allen questioned if the area was fenced. Ms. Johnson stated it was currently fenced however the owner and herself would be extending the fenced area to make it bigger and to comply with State Law. She noted the State Inspector would be visiting in early April.

Ms. Green questioned if this was an overnight facility. Ms. Johnson reiterated she was only open until 5:30 p.m.

Ms. Farrier pointed out that the City Building Inspector would also need to inspect the facility. Ms. Johnson stated she was aware of the fact.

**Mr. Ryan moved to approve the Conditional Use Permit for a Large Daycare located at 168 Charles Street for Ms. Tracie Johnson with the understanding that the City Building Inspector will inspect the facility. Ms. Green second and the motion carried.**

<u>All in Favor</u>	-	<u>4</u>
<u>Opposed</u>	-	<u>0</u>

#### **FINDINGS OF FACT**

##### **1. Christine Job - Conditional Use Permit for Large Day Care Service at 2 Pluma Hill Road**

Ms. Williams stated this was the last step in closing the file and basically it was a conclusion reached after the examination of a request.

**Ms. Green moved to approve the Findings of Fact for Conditional Use Permit for Large Day Care Service at 2 Pluma Hill Road. Mr. Ryan seconded and the motion carried.**

<u>All in Favor</u>	-	<u>4</u>
<u>Opposed</u>	-	<u>0</u>

#### **FINDINGS OF FACT**

##### **2. Ten Textota - Change of Zoning Request - 12 Pine Street/Slime Plant**

Ms. Williams reiterated this was the last step in closing the file.

**Mr. Allen moved to approve the Findings of Fact for Ten Textota - Change of Zoning Request - 12 Pine Street/Slime Plant. Ms. Green seconded and the motion carried.**

All in Favor - 4  
Opposed - 0

OPEN

PROPOSED TOPIC AT NEXT MEETING:

Ms. Williams stated that at the next Planning & Zoning Commission meeting on April 4, 2007, a Committee for the change of zoning for the hospital area would be present for a discussion. Ms. Williams stated they would like to change the zoning to a non-gaming zone.

ANNEXATION DISCUSSION:

Mr. Ryan stated that in a discussion with Mr. Raysor, City Planner, they felt the City of Deadwood should re-explore the option of possible annexation to Boulder Canyon. Mr. Ryan stated he would like to make a recommendation to the City Commission to contract with the Black Hills Council for Local Government to do a cost benefit analysis for possible annexation through Boulder Canyon(to Crystal Meadows or Boulder Canyon Country Club). Mr. Ryan questioned the P&Z members if they would like to entertain a motion regarding the study.

Ms. Green questioned the cost of the study. Ms. Williams stated it may not cost anything due to the fact that the City pays an annual fee to Black Hills Council of Local Governments. Mr. Raysor stated a minimal cost may be included. Mr. Raysor explained that they would study the area including the tax valuation and cost to the City. The Commission discussed the current situation in the Canyon regarding sewage and water quality.

Ms. Deb Figueroa stated there were many subdivisions with problems regarding sewage and water quality.

Mr. Raysor stated the study would give the City a good idea on if the annexation would be feasible for the City. Mr. Raysor stated that the current water treatment plant may not be able to support the entire Boulder Canyon area. Ms. Williams noted that septic tanks would be grandfathered in until they were unsafe then the party would need to be connected to the City sewage system.

Mayor Francis Toscana and Ms. Georgeann Silvernail entered at 5:35 p.m.

Ms. Williams noted that in the last survey, 36% returned favorable comments to the annexation and stated water and sewer were the biggest issues.

**Mr. Ryan moved to recommend to the City Commission to contact the Black Hills Council of Local Government to do a cost benefit analysis of annexation through Boulder Canyon(to Crystal Meadows or Boulder Canyon Country Club).**

Mr. Allen questioned the cost of the study and stated he felt the study should not cost the city a large amount of money for something that may not happen and would like it included in the motion.

**Mr. Ryan restated his motion to recommend to the City Commission to contact the Black Hills Council of Local Government to get a price from them to conduct a cost benefit analysis of possible annexation through Boulder Canyon(to Crystal Meadows or Boulder Canyon Country Club). Ms. Green seconded and the motion carried.**

All in Favor - 4  
Opposed - 0

ADJOURNMENT

**Mr. Allen moved to adjourn the Joint Meeting of the Planning and Zoning Commission. Mr. Ryan seconded and the motion carried.**

Joint Meeting  
March 21, 2007

All in favor - 4  
Opposed - 0

There being no further business, Planning & Zoning Commission adjourned at 5:50p.m.

ATTEST:

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Ms. Marie Farrier  
Chairman (Acting)  
Planning and Zoning

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Ms. Sheree Green  
Secretary (Acting)  
Planning and Zoning