

CITY OF DEADWOOD

PLANNING AND ZONING COMMISSION

April 27, 2006

JOINT MEETING

The Joint Meeting of the Deadwood Board of Adjustment and Deadwood Planning and Zoning Commission was called to order by Chairman Larry Ryan on Thursday, April 27, 2006 at 5:00 p.m. in the Deadwood City Hall Meeting Room located at 102 Sherman Street, Deadwood, SD 57732.

PRESENT PLANNING & ZONING: Larry Ryan, Marie Farrier, Sheree Green entering at 5:05, Robert Thorp and Mel Allen.

ABSENT: None

PRESENT BOARD OF ADJUSTMENT: Francis Toscana, Nyla Griffith, Ronda Feterl.

ABSENT: Georgeann Silvernail, Mark Speirs

APPROVAL OF MINUTES

Mr. Thorp moved approve the minutes of the April 5, 2006 Joint meeting. Ms. Farrier seconded and the motion carried.

All in favor - 4
Opposed - 0

REQUEST FOR A CONDITIONAL USE PERMIT FOR VALET PARKING

Name: First Gold
Legal: Parts of M.S.'s 242, 335 and 569, City of Deadwood, Lawrence County, South Dakota (Deadwood Rodeo Grounds area)
Address: Crescent Street
Zone: PU - Public Use District

Ms. Williams referred to the following staff report:

STAFF REPORT
PLANNING AND ZONING

APPLICANT: First Gold

PURPOSE: Request for Valet Parking

GENERAL LOCATION: 270 Main Street

LEGAL DESCRIPTION: Parts of M.S.'s 242, 335 and 569, City of Deadwood, Lawrence County, South Dakota

FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE: FOR: AGAINST:

STAFF FINDINGS:

Surrounding Zoning:

North: PF – Park Forest District
South: PU – Public Use District
East: PU – Public Use District
West: CH – Commercial Highway District

Surrounding Land Uses

Days of '76 Museum
Rodeo Grounds
Football Field
First Gold

SUMMARY OF REQUEST

The petitioners have submitted a request for a Conditional Use Permit to Valet Park on properties, owned by the City of Deadwood. The subject property is located at the entrance of the rodeo grounds on Crescent Street. A portion of that area is currently being used for employee parking. The tract was paved a year ago and overflow parking also is directed to this area during events.

FACTUAL INFORMATION

1. The property is currently zoned PU – Public Use District.
2. The property used to valet vehicles is comprised of twenty (20) spaces.
3. The subject property has access from Crescent Street.
4. The properties are located within a park use classification on the adopted Land Use Map.
5. The property is located in Flood Zone X – Area's 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.
6. Adequate public facilities are available to serve the property.
7. The area is characterized by a museum and rodeo and football field.

STAFF DISCUSSION

The petitioners have submitted a request for Valet Parking. The business is located at 250-270 Main Street. They are proposing to valet park to the rodeo grounds area since they are currently under construction and need parking. 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, all the parking lots have been improved to meet the design guidelines of the zoning code. Their request to lease parking spaces from the city has been approved.

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.

The use, as proposed, provides a service to areas with off-street parking, for First Gold's customers. "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.

The subject area is zoned PU – Public Use District since the City of Deadwood owns the land. Leasing the spaces will alleviate the parking crunch during First Gold's new construction..

- 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.

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.

- C. 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 use is meant to be a service to an existing business and to an area that is near to the business.

- D. 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. This type of use does 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 noted that the approval of the Conditional Use Permit is a formality and is required so that the valet parking could be controlled. Ms. Farrier questioned if the First Gold would be paying the City for the spaces that they are using for their valet parking. Ms. Williams responded that they are leasing the parking spaces and that their fee was slightly lower than the fee charged to the Four Aces. Mayor Toscana explained that the reason the fee was lower was because First Gold will not be allowed to use the spaces during football games or during special events held in Deadwood.

Ms. Farrier moved to approve the Conditional Use Permit for the First Gold to allow valet parking with the condition that the permit be reviewed in one year. Mr. Allen seconded and the motion carried.

All in favor - 5
Opposed - 0

Chairman Ryan adjourned the Planning and Zoning meeting and turned the meeting over to the Board of Adjustments.

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order.

Mayor Toscana stated that he had one comment on the process that was utilized to obtain this CUP. He stated that the City had already signed a lease contract with the First Gold to allow them to lease the spaces from them. Mayor Toscana stated First Gold should have been approved by Planning and Zoning for their conditional use permit before the City signed the contract. Ms. Williams agreed. Mayor Toscana stated that if this issue ever arose again they would be sure to follow appropriate procedures.

Ms. Griffith moved to approve the CUP as recommended by the Planning and Zoning Commission. Ms. Feterl seconded and the motion carried.

All in Favor - 3
Opposed - 0

REQUEST FOR A CONDITIONAL USE PERMIT FOR VALET PARKING

Name: Cadillac Jack's
Legal Description: Bradsky Tract of Mineral Survey 308 and Lots 15, 16, 17 and 18, Block 3, Fountain City Addition and part of M.S.'s 308 and 335, City of Deadwood, Lawrence County, South Dakota
Address: 360 Main Street
Zone: CH - Commercial Highway District

Ms. Williams referred to the following staff report:

**STAFF REPORT
PLANNING AND ZONING**

APPLICANT: Cadillac Jack's

PURPOSE: Request for Valet Parking

GENERAL LOCATION: 360 Main Street

LEGAL DESCRIPTION: Bradsky Tract of M.S. 308 and Lots 15, 16, 17 and 18, Block 3, Fountain City Addition to the City of Deadwood, Lawrence County, South Dakota; Lots

FILE STATUS: All legal obligations have been completed.

CITIZENS RESPONSE: FOR: AGAINST:

STAFF FINDINGS:

<u>Surrounding Zoning:</u>	<u>Surrounding Land Uses</u>
CH - Commercial Highway	Mixed Uses
North:	Undeveloped
South:	Commercial/residential
East:	Single-family, developed
West:	Trail System

SUMMARY OF REQUEST

The petitioners have submitted a request for a Conditional Use Permit to Valet Park on properties, owned by the BY Development (Bradskys'). The subject properties are located on the west side of Lower Main Street and the addresses are 322, 360 - 382-384-386 Main Street. A fraction of the valet parking goes to the underground garage

at Cadillac Jack's. They provide valet parking to the garage because of a design flaw with the columns and for safety purposes.

FACTUAL INFORMATION

8. The property is currently zoned CH – Commercial Highway District.
9. The property used to valet vehicles comprises of approximately 17,500 square feet.
10. The parking lots were developed in recent years.
11. The subject property has access from Main Street.
12. The properties are located within a mixed use classification on the adopted Land Use Map.
13. The property is located in Flood Zone X – Area's determined to be outside the 500 year flood.
14. Adequate public facilities are available to serve the property.
15. The area is characterized by a mixture of commercial and residential uses.

STAFF DISCUSSION

The petitioners have submitted a request for Valet Parking. The business is located at 360 Main Street. They are proposing to valet park to the underground garage as well as four (4) vacant lots, located in the surrounding area of the business. Temporary parking will also take place at 322 Main Street (Ridgestone Apartments). 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, all the parking lots have been improved to meet the design guidelines of the zoning code.

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:

- E. 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 service to areas with off-street parking, for Cadillac Jack's customers. "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 neighborhood.

- F. 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 subject area is zoned CH – Commercial Highway District. The CH – Commercial Highway District is intended to provide locations for commercial uses which require access to roads and highways and substantial amounts of parking.

- 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.

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. In this particular case, additional traffic is not generated by the use since the parking lots are an existing use.

- G. 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 use is meant to be a service to an existing business and to land that the business owns.

- H. 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. This type of use does place any demand for services.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

- F. 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.
- G. 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.
- H. 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.
- I. 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.
- J. 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 again stated the purpose of the Conditional Use Permit presented to the Planning and Zoning Commission was only a formality to allow valet parking. There were no comments received from the surrounding property owners.

Mr. Allen moved to approve the Conditional Use Permit to allow valet parking for Cadillac Jack's. Mr. Thorp seconded and the motion carried.

All in favor - 5
Opposed - 0

Chairman Ryan adjourned the Planning and Zoning Commission and turned the meeting over to the Board of Adjustment.

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order.

Ms. Feterl questioned if the parking lot where the old Ridgestone building was located will be paved or asphalted. Ms. Williams stated that she was unsure if the area would be paved. Ms. Feterl questioned if the city ordinances required parking lots to be paved. Ms. Williams replied that it did require them to be paved but that parking at the Ridgestone site was temporary parking because they were going to be building on the site soon. Ms. Feterl stated that she would still like to see the area improved. Mayor Toscana questioned if it would be fair to require Cadillac Jack's to pave the lot when Mr. Kellar had been allowed to have an unpaved parking lot due to the anticipation of building something in the future. Ms. Griffith stated that the difference could be that Cadillac Jack's is requesting a conditional use permit and Mr. Kellar had not. Mayor Toscana agreed. Mayor Toscana recommended approving all the other sites for valet parking and request a representative from Cadillac Jack's come before the Board of Adjustment at the City Commission meeting on Monday, May 1, 2006 to discuss the Ridgestone lot and their intentions.

Ms. Griffith moved to approve a conditional use permit for valet parking for Cadillac Jack's at all requested locations with the exception of 322 Main Street. Ms. Feterl seconded and the motion carried.

All in Favor - 3
Opposed - 0

Mayor Toscana adjourned the Board of Adjustments and turned the meeting over to the Planning and Zoning Commission.

Chairman Ryan called the Planning and Zoning meeting back to order.

FINAL PLAT - PLAT OF DEADWOOD RESORT LOTS 1 AND 2, FORMERLY LOT 849A1 AND 849A2, WATERWORLD LOT 1, A PORTION OF GOV. LOT 15, IN THE N 1/2 OF THE SE 1/4; AND THE VACATED PORTION OF US HWY 85 R.O.W.; LOCATED IN THE NE 1/4 AND SE 1/4; ALL LOCATED IN SECTION 14, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA

ADDRESS: Highway 85 North
ZONE: CH - Commercial Highway

Ms. Williams referred to the following staff report:

PLAT OF DEADWOOD RESORT LOTS 1 AND 2, FORMERLY LOT 849A1 and 849A2, SUBDIVISION OF CIMBRIA PLACER MINERAL SURVEY NO. 849; AND, WATERWORLD LOT 1, A PORTION OF GOVERNMENT. LOT 15, IN THE N 1/2 OF THE SE 1/4; AND THE VACATED PORTION OF U.S. HIGHWAY 85 R-O-W, LOCATED IN THE NE 1/4 AND SE 1/4 OF SECTION 14, T5N, R3E, B.H.M., CITY OF DEADWOOD, LAWRENCE COUNTY, SOUTH DAKOTA

The property is zoned CH – Commercial Highway District. The purpose of the plat is to divide the convention center from the remainder of the property since the city will own the convention center.

1. The North Arrow is shown on the plat with a direct reference to the coordinate mapping system.
2. Land is identified according to the legal description of the deed.
3. Surveyor's Certificate is shown with the name of the surveyor and his registered land surveyor number.
4. A date is shown on the plat and serves to "fix in time" the data represented on the plat.
5. The street bounding the lot lots is shown and named.
6. All certifications are indicated and correct on the plat.
7. Dimensions, angles and bearings are shown along the lot lines.
8. Scale of the plat is shown and accompanied with a bar scale.
9. Lot area of each lot is shown.

Ms. Green moved to approve the plat contingent upon Arleth and Associates identify Highway 85 in the heading of the plat. Ms. Farrier seconded and the motion carried.

All in Favor - 5
Opposed - 0

Chairman Ryan adjourned the Planning and Zoning Commission and turned the meeting over to the Board of Adjustment.

DEADWOOD BOARD OF ADJUSTMENT

Mayor Toscana called the Board of Adjustment to order.

Ms. Feterl moved to approve the final plat as recommended by the Planning and Zoning Commission contingent upon Hwy 85 being identified in the heading of the plat. Ms. Griffith seconded and the motion carried.

All in Favor - 3
Opposed - 0

Mayor Toscana adjourned the Board of Adjustments and turned the meeting over to the Planning and Zoning Commission.

Chairman Ryan called the Planning and Zoning meeting back to order.

OPEN

Ms. Williams stated that the only other item she would like to discuss was eliminating "time share units" from the zoning ordinance. Ms. Williams explained that in the current ordinance "time share units" were allowed in zone R2 - Residential District. She noted that "time shares" were just a way around the ordinance outlawing nightly rentals and she felt they could cause problems in Deadwood. The Commission agreed and recommended "time share units" be removed from the zoning ordinance.

Mr. Thorp moved to direct Ms. Williams to draft the 1st reading of removing "time share units" from the zoning ordinance for the City Commission meeting on Monday, May 1, 2006. Mr. Allen seconded and the motion carried.

All in Favor - 5
Opposed - 0

ADJOURNMENT

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

All in favor - 5
Opposed - 0

There being no further business, Planning & Zoning Commission adjourned at 5:30 p.m.

ATTEST:

Larry Ryan
Chairman (Acting)
Planning and Zoning

Marie Farrier
Secretary (Acting)
Planning and Zoning