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## BOARD OF ADJUSTMENT CONDITIONAL USE PERMIT – SURRENDER

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### Staff Report

**Date:** October 21, 2024  
**To:** Board of Adjustment  
**From:** Kevin Kuchenbecker  
Planning, Zoning & Historic Preservation Officer  
**RE:** Surrender of Conditional Use Permit – Bed and Breakfast

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**OWNER(S):** Kenneth & Lee Steier  
**PURPOSE:** Surrender of Conditional Use Permit – Bed and Breakfast Establishment  
**ADDRESS:** 7 Spring Street  
Deadwood, Lawrence County, South Dakota  
**LEGAL DESCRIPTION:** Lots X, a replat of Lots 1, 2, and 3, Block 1, Miricks Addition and a portion of MS 735, located in the City of Deadwood, Lawrence County, South Dakota.  
**FILE STATUS:** Requested item(s) have been submitted.  
**ZONE:** R2 – Multi-Family Residential  
**STAFF FINDINGS:**

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Surrounding Zoning:	Surrounding Land Uses:
North: R2 – Multi-Family Residential	Residential
South: R2 – Multi-Family Residential	Residential
East: R2 – Multi-Family Residential	Residential
West: R2 – Multi-Family Residential	Residential

### SUMMARY OF REQUEST

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The owner was issued a Conditional Use Permit on June 8, 2003, to operate a Bed and Breakfast establishment at 7 Spring Street.

An annual review of the Conditional Use Permit was conducted by the Planning and Zoning Commission on June 19, 2024, with three (3) continued discussions on July 17, October 2, and October 16, 2024.

## **STAFF DISCUSSION**

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The Conditional Use Permit was reviewed by the Planning and Zoning Commission on June 19, 2024. During that meeting, discussion with the Property Manager centered around a lack of compliance with both City Ordinance and the Conditional Use Permit that was issued for a Bed and Breakfast Establishment on June 8, 2003. Both ordinance and permit requirements state the property is to be operated as a Bed and Breakfast Establishment, however it has continually operated in the manner of a Vacation Home Establishment since its opening in 2003. During the meeting, twelve (12) conditions were recommended by the Planning and Zoning Commission to bring the establishment into compliance and to allow for the continued use of the Conditional Use Permit as a Bed and Breakfast Establishment. A continuance of the discussion was given to allow the property owners time to consider their options to come into future compliance.

On July 17, 2024, a continuance of the discussion by the Planning and Zoning Commission occurred with the owners present. It was recommended by the Planning and Zoning Commission that ten (10) conditions continue to be met to remain in compliance, and a plan for two (2) additional items were to be submitted to the Planning and Zoning Department no later than Monday, September 16, 2024, by the applicant or owner's agent. The two (2) items requested were as follows:

1. Obtain and maintain a Bed & Breakfast Lodging License from the South Dakota Department of Health (SDDOH) and provide a copy to the Planning and Zoning Office for their files. Surrendering the SDDOH Vacation Home Establishment license is a requirement.
2. The owner or the owner's agent is required to reside in the Bed and Breakfast Establishment or on contiguous property when guests are present. Submit a detailed plan showing how you intend to meet this requirement.

On September 12, 2024, an email was sent by the Property Manager (owner's agent) of 7 Spring Street to the Planning and Zoning Department notifying them that the owners intend to convert the property from a Short-Term to a Long-Term Rental property. Subsequently, the deadline of September 16, 2024, previously given to submit requested items to the Planning and Zoning Commission was missed.

On October 2, 2024, the discussion was continued by the Planning and Zoning Commission. It was determined the Conditional Use Permit for a Bed and Breakfast Establishment would be surrendered by the property owners with the intent of converting the property into a Long-Term Rental. A continuance of the discussion was given until October 16, 2024; the continuance being contingent

upon submission of a request to surrender the Conditional Use Permit by the property owners.

On October 10, 2024, an email was received by the property owners expressing their intent to surrender their Conditional Use Permit. On October 16, 2024, the Planning and Zoning Commission approved the surrender of the Conditional Use Permit.

**COMPLIANCE:**

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This Short-Term Rental has been in continual use over the last twenty-one (21) years. The original Conditional Use Permit was under the auspices of a Bed & Breakfast Establishment; however, they are currently licensed with the South Dakota Department of Health as a Vacation Home Establishment which is prohibited in R2 – Multi Family Residential zoning districts within the city limits. Additionally, the property has continued to be operated in the fashion of a Vacation Home Establishment despite repeated requests in the past from Planning and Zoning officials to come into compliance.

The conversion into a Long-Term Rental will bring the property into compliance with City Ordinances 17.28 and 17.53.030.

**CONDITIONS AND PROVISIONS:**

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**Staff recommendation(s) for formal action:**

1. Termination of the Conditional Use Permit effective October 31, 2024. The property will be utilized as a Long-Term Rental beginning November 1, 2024.
2. City of Deadwood Business License to be cancelled effective October 31, 2024.
3. City water and sewer rates to be changed from commercial to residential effective November 1, 2024.

**ACTION REQUIRED FOR SURRENDER OF CONDITIONAL USE PERMIT:**

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1. Approval/Denial by Deadwood Board of Adjustment (approved by the Planning and Zoning Commission on October 16, 2024).