



PLANNING AND ZONING COMMISSION CONDITIONAL USE PERMIT – ANNUAL REVIEW

Staff Report

Date: October 2, 2024
To: Planning and Zoning Commission
From: Kevin Kuchenbecker
Planning, Zoning & Historic Preservation Officer
RE: Annual Review - Conditional Use Permit – Bed and Breakfast

OWNER(S): Kenneth & Lee Steier
PURPOSE: Annual Review – 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 items have not been submitted.
ZONE: R2 – Multi-Family Residential
STAFF FINDINGS:

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

The Deadwood City Commission has directed the Planning and Zoning Commission to conduct annual reviews of all Conditional Use Permits in accordance with City of Deadwood Municipal Code 17.76.060. The owner was issued a Conditional Use Permit on June 8, 2003, to operate a Bed and Breakfast establishment at 7 Spring Street.

The Conditional Use Permit was reviewed by the Planning and Zoning

Commission on June 19, 2024, with a continued discussion on July 17, 2024. A deadline of September 16, 2024, was provided to the property owners to submit requested items (plan) dealing with two conditions set forth to the Planning and Zoning Commission. The deadline was missed except for an email stating the applicant is considering using the property as a long-term rental.

STAFF DISCUSSION

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

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, and responses of plan for two (2) items were to be submitted to the Planning and Zoning Department no later than Monday, September 16, 2024 by the applicant or agent. The two items requested were:

1. Obtain and maintain a Bed and Breakfast Lodging License from the South Dakota Department of Health (SDDOH) and surrender the SDDOH Vacation Home Establishment license and provide a copy to the Planning and Zoning Office for their files. Surrendering the Vacation Home Establishment license is a requirement.
2. The owner or 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 to submit the requested items by September 16, 2024, was missed by the property owners.

COMPLIANCE:

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.

To date, the property remains out of compliance with City Ordinances 17.24 and 17.53.030.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

- A. Following the review 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 Adjustments 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.

Staff recommendation(s) for formal action:

1. Surrender of the Conditional Use Permit for a Bed and Breakfast Establishment provided by the City of Deadwood.
2. Surrender of the Lodging License provided by the South Dakota Department of Health.
3. If the above listed requirements are not met by October 31, 2024, the City of Deadwood will revoke the Conditional Use Permit for a Bed and Breakfast Establishment and take all necessary and available actions to stop the use of the property as a Vacation Home Establishment.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

1. Approval/Denial by Deadwood Planning and Zoning Commission