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## CITY COMMISSION FINDINGS OF FACT AND CONCLUSION CONDITIONAL USE PERMIT

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**Date:** November 17, 2025  
**From:** Kevin Kuchenbecker  
Planning, Zoning & Historic Preservation Officer  
**To:** City Commission  
**RE:** Findings of Fact and Conclusion

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**APPLICANT(S):** Boot Hill Estates LLC

**PURPOSE:** Petition for Deannexation of Territory

**LEGAL DESCRIPTION:** Buena Vista Tract, being a portion of M.S. 343, M.S. 681, M.S. 685, M.S. 686, M.S. 788, M.S. 840, M.S. 920, M.S. 1208, and Lot R7 of M.S. 840, located in Sections 23 and 24, T5N, R3E, B.H.M., containing portions within and outside the City of Deadwood, Lawrence County, South Dakota.

**FILE STATUS:** Petition Denied

WHEREAS the above Petition for Deannexation of Territory came on review before the Deadwood Planning and Zoning Commission on Wednesday, September 3, 2025. The review resulted in a recommendation for denial by the Deadwood Planning and Zoning Commission. On Monday, September 15, 2025, the Deadwood City Commission also denied the Petition for Deannexation of Territory, as previously recommended by the Planning and Zoning Commission.

WHEREAS, all present members of the Deadwood Planning and Zoning Commission and the Deadwood City Commission having reviewed the Petition for Deannexation request and having considered all comments by the public, as well as comments made by counsel representing Boot Hill Estates LLC; and, after discussion and consideration of the Petition for Deannexation and being fully advised in the premises, the Deadwood Planning and Zoning Commission and Deadwood City Commission hereby enter their:

## **FINDINGS OF FACT AND CONCLUSION**

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Kellen Willert of Bennet Main Gubbrud & Willert, P.C. acted as counsel for Boot Hill Estates LLC. Willert provided public notice identifying the applicant, describing the Petition for Deannexation and the location pertaining to such Petition, and giving the scheduled date of the public hearing. The petitioner placed notice in the Black Hills Pioneer newspaper, pursuant to the provisions of South Dakota Codified Law 9-4-7.

On September 3, 2025, the Planning and Zoning Commission reviewed the Petition for Deannexation. The following is a recap of that review:

- Counsel for Boot Hill Estates LLC requested deannexation of the property from the city limits of Deadwood on the following grounds:
  - The property is zoned as PF - Park Forest.
  - The property does not contain infrastructure.
  - The property would not cause irregularities in the boundary line of the city.
  - The cost to develop the property while maintaining compliance with city ordinance was not feasible.
  - The city could reannex the land in the future if it was later deemed necessary.
- Planning and Zoning Commissioners addressed the following:
  - A contract the property owner entered into with the city in 2024 regarding water and sewer in which it was agreed the property owner would maintain the property and connect to utilities upon subdivision. Concern was expressed this request for deannexation was being used as a method to rebuke these requirements.
  - Future development could result in a financial loss to the city if the property was no longer within the boundaries. This would be through property tax revenues resulting in higher evaluation of property value as a result of the future development.
  - The National Landmark District designation from the Department of Interior's National Park Service could see an adverse affect by the deannexation resulting in either a loss of designation or a reduction of the district.

- The property is part of the original boundaries of Deadwood with early evidence by the P.L. Rogers map dating from 1890. This area is part of the National Landmark District, the National Register Historic District, and the State Register Historic District.
- The need for housing in the city could be partially remedied by development of the land. A development plan was submitted by the property owner in the past showing intent of building a significant number of dwellings. If deannexed, the city would not have input on future development.

The review by the Planning and Zoning Commission resulted in a unanimous recommendation to the City Commission to not permit the Petition of Deannexation to move forward.

On September 15, 2025, the Deadwood City Commission reviewed the Petition for Deannexation. The following is a recap of that review:

- Counsel for Boot Hill Estates LLC requested deannexation of the property from the city limits of Deadwood on the following grounds:
  - Future use of the land cannot be taken into consideration when reviewing the Petition for Deannexation.
  - If the land is not deannexed, the option for a TIF may be explored to aid in future development.
  - The value of the property is not made more valuable as city property than it would be if it was outside of city limits.
  - The property is subject to increased taxation by being within city limits.
  - The land in question is not available for public use.
  - The land in question is not suitable for urban use.
  - Deannexation will not threaten economic development.
  - Deannexation will not affect the character of the city.
  - Deannexation will not create an injustice.
- City Commissioners addressed the following.
  - The subject property is located within the Deadwood National

Historic District. Deannexation could compromise preservation initiatives aimed at maintaining Deadwood's historical character. The Department of Interior's National Park Service, under the Department of the Interior, would need to be notified and the district would need to be amended. The possibility exists that this could compromise the National Historic Landmark District status.

- The property lies within the original Townsite of Deadwood, dating back to 1881 and is evident in the 1890 P.L. Rogers map. Deannexation could diminish the city's heritage and set an undesirable precedent for future petitions seeking to separate historically relevant parcels.
- The property is currently within the city limits of Deadwood and public utilities are available within close proximity to the property desiring to be deannexed.
- Direct loss of property tax revenue would occur from a deannexation, placing greater strain on remaining taxpayers. It could also impact long-term planning and investment in community assets that benefit all residents.
- Deadwood's ongoing need for additional housing would be affected since retaining land within the city limits is crucial for the city's ability to guide development and incentivize residential development. The land in question is within proximity to municipal utilities allowing the city to expand services more efficiently in this area.
- Deannexation would eliminate the city's authority to enforce zoning standards on the property, potentially leading to incompatible development or uses that conflict with the community's vision and planning objectives.
- The property is part of the historic viewshed that plays an important role in the city's appeal to tourists and residents alike.

The review by the City Commission resulted in a unanimous vote to deny the Petition of Deannexation.

**ATTEST:**

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Jessicca McKeown, Finance Officer  
City of Deadwood  
November 17, 2025

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Charlie Struble-Mook, Mayor  
City of Deadwood  
November 17, 2025

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John Martinisko, Chairman  
Planning and Zoning Commission  
November 19, 2025

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Josh Keehn, Vice Chair  
Planning and Zoning Commission  
November 19, 2025