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## PLANNING AND ZONING COMMISSION CONDITIONAL USE PERMIT – ANNUAL REVIEW

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### Staff Report

**Date:** December 4, 2024  
**From:** Kevin Kuchenbecker  
Planning, Zoning & Historic Preservation Officer  
**To:** Planning and Zoning Commission  
**RE:** Annual Review - Conditional Use Permit – Bed and Breakfast

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**APPLICANT(S):** Miss Kahler's BNB  
**PURPOSE:** Annual Review – Conditional Use Permit – Bed and Breakfast Establishment  
**ADDRESS:** 54 Taylor Avenue  
Deadwood, Lawrence County, South Dakota  
**LEGAL DESCRIPTION:** Lots A-D-E S/D of Lots 66-67 & 68 Blk 35, Original Town, City of Deadwood, Lawrence County, South Dakota  
**FILE STATUS:** Legal obligations need to be met.  
**ZONE:** R1 - Residential  
**STAFF FINDINGS:**

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Surrounding Zoning:	Surrounding Land Uses:
North: R1 – Residential District	Residential
South: R1 – Residential District	Residential
East: R1 – Residential District	Residential
West: PU – Public Use	Recreation and Aquatic Center

### SUMMARY OF REQUEST

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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 applicant was issued a Conditional Use Permit on December 18, 2017, to operate a Bed and Breakfast Establishment at 54 Taylor Avenue.

The subject property is in a residential neighborhood and sits on a hill above the

City of Deadwood Recreation and Aquatic Center overlooking Sherman Street.

**FACTUAL INFORMATION**

1. The property is currently zoned R1 –Residential.
2. The subject property has access from Taylor Avenue.
3. The subject property is located within a medium density land use classification on the adopted Zoning Map.
4. The property is not in a Flood Zone.
5. Adequate public facilities are available to serve the property.
6. The area is characterized by single-family dwellings.

**STAFF DISCUSSION**

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The applicant was granted a Conditional Use Permit for a Bed and Breakfast Establishment and City regulations permit Bed and Breakfast Establishments in R1- Residential Districts with an approved Conditional Use Permit. The subject property is a two (2) bedroom, one (1) bath unit within a triplex. Guests can park off-street in the driveway.

**“Bed and Breakfast” is defined as:**

Any building run by an operator that is used to provide accommodations for a charge to the public, with at most five (5) rental units for up to an average of ten (10) guests per night and in which family style meals are provided as defined and permitted by the State of South Dakota and this Title.

**COMPLIANCE:**

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This Bed & Breakfast has been in continual use over the last 12 months.

No complaints are on record for this establishment.

A copy of the South Dakota Department of Health Lodging License is needed.

A South Dakota Department of Revenue sales tax number is needed.

According to Deckard – Rentalscape the property was booked 136 nights in the past 12 months and has received very good reviews.

**GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:**

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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 City Comprehensive Plan encourages a variety of uses and a mixture of housing types. Traffic and parking should not significantly affect the neighborhood if the applicant abides by the off-street parking requirements associated with Short-Term Rentals. This area is of residential use.*

- 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 R1– Multi-Family Residential District and is intended to provide locations for medium density, single family units. The current use has not resulted in an over-concentration of Bed and Breakfast Establishments within the immediate area.*

- C. The proposed use at this location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvement, public sites, or rights-of-way.

*The applicant only uses off-street parking and prevents any public nuisance issues that are often associated with Short-Term Rentals. The current use has not resulted in a substantial or undue adverse effect on adjacent property, or the character of the neighborhood and the use has not altered the character of the neighborhood.*

- D. Whether or not a previously approved Conditional Use Permit that is still in use increases the proliferation of nonconforming uses. 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 current use has not increased the proliferation of non-conforming uses. The subject residence is in an area that does not have additional Short-Term Rentals in the immediate vicinity. The appearance of the structure has not changed; therefore, the character and use of the buildings and structures adjoining the subject property have not been adversely affected.*

- E. Whether or not the current use in the proposed area will be adequately served by, and will not impose an undue burden on, any improvements, facilities, utilities, and services.

*The proposed use has not caused significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services. Existing services are available onsite. All utilities have been assigned commercial rates.*

**CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:**

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- A. Conditional Use Permits shall be temporary in nature. They are not transferable from person to person or from address to address.
- B. Following the issuance of a Conditional Use Permit, such permit may be amended, varied, or altered only pursuant to the standards and procedures established for its original approval.
- C. 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 Planning and 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.
- D. 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.
- E. Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.
- F. 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.
- G. 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.

If approved for continued use, staff recommends for stipulation(s):

1. Proof of a South Dakota Department of Revenue sales tax number must be provided to the Planning and Zoning Office for their files.
2. Provide a copy of the South Dakota Department of Health Lodging License to the Planning and Zoning Office for their files.
3. Maintain a City of Deadwood Business License.

4. Proper paperwork is filed with the City of Deadwood Finance Office for Business Improvement District (BID) taxes.
5. The Building Inspector has inspected the building, and it meets all relevant building codes.
6. City water and sewer to remain at commercial rates.
7. All parking shall be off street.

**ACTION REQUIRED FOR CONDITIONAL USE PERMIT:**

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1. Approval/Denial of continued use by Deadwood Planning and Zoning Commission