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PLANNING AND ZONING COMMISSION
CONDITIONAL USE PERMIT – ANNUAL REVIEW

Staff Report

Date: May 20, 2026

From: Kevin Kuchenbecker
Planning, Zoning & Historic Preservation Officer

To: Planning and Zoning Commission

RE: Annual Review - Conditional Use Permit – Bed and Breakfast Establishment

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APPLICANT(S): 1899 Inn Cottages – Wardman Home LLC

PURPOSE: Annual Review – Conditional Use Permit – Bed and Breakfast Establishment

ADDRESS: 25 Lincoln Avenue
Deadwood, Lawrence County, South Dakota

LEGAL DESCRIPTION: Lots 12, 13 and 14, Block 42 in the City of Deadwood, Lawrence County, South Dakota, except the southeasterly 10 feet of Lots 12, 13 and 14 and one-half of the vacated alley, Block 42, previously conveyed to Dennis L. McKay and Linda M. McKay. Also that portion of Lots E, F and G, Block 35 of Probate Lot 226 and sometimes referred to as Child's Addition to the City of Deadwood, quit claimed by Francis Caneva to Lawrence C. McKay, all according to the P.L. Rogers Map of the City of Deadwood, Lawrence County, South Dakota.

FILE STATUS: Legal obligations remain in compliance.

ZONE: R1 - Residential

STAFF FINDINGS:

Surrounding Zoning:		Surrounding Land Uses:
North:	R1 – Residential District	Residential
South:	R1 – Residential District	Residential
East:	R1 – Residential District	Residential
West:	R1 – Residential District	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 applicant was issued a Conditional Use Permit on February 5, 2020, to operate a Bed and Breakfast Establishment at 25 Lincoln Avenue.

The subject property is located within the Presidential Neighborhood and is surrounded by single and multi-family properties.

FACTUAL INFORMATION

1. The property is currently zoned R1 – Residential District.
2. The subject property has access from Lincoln 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 and multi-family dwellings.

STAFF DISCUSSION

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 duplex with two (2) bedrooms and one (1) bathroom on each side, for a total of four (4) bedrooms and two (2) baths. Renters can park in a parking lot located in front of the duplex.

"Bed and Breakfast Establishment" means:

> Any building run by an operator that is used to provide accommodation 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:

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

According to Deckard – Rentalscape the property was booked 239 nights in the past 12 months and is listed as a guest favorite on AirBnB.

No complaints are on record for this establishment.

GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:

In reviewing any case under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission shall consider, among other things, the following facts:

A. The Conditional Use is 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 continues to abide by the parking requirements associated with Short-Term Rentals.

B. Whether or not a community need exists for the Conditional Use at the 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 use: (a) the use in the current location has not resulted in either a detrimental over concentration of a particular use from previously permitted uses within the city or within the immediate area of the use.

   The subject area is zoned R1– Residential District and is intended to provide locations for medium density, residential development commensurate with an urban area. The use as a Bed and Breakfast Establishment has not resulted in an over-concentration of Short-Term Rentals in this area.

C. The Conditional Use at this location has not resulted 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 proposed use should not result in a substantial or undue adverse effect on adjacent property, or the character of the neighborhood and the use would not alter the character of the neighborhood.

D. Whether or not the Conditional Use increases the proliferation of nonconforming uses as well as previously 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 types 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 have additional Short-Term Rentals in the immediate area. The appearance of the structure has not changed; therefore, the character and use of the buildings and structures adjoining the subject property has not been adversely affected.

E. Whether or not the Conditional Use in the proposed area has been adequately served by and has not imposed an undue burden on any of the improvements, facilities, utilities, and services specified in the ordinance.

The Conditional 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:

A. In the R-1 Residential District, Conditional Use Permits granted shall be temporary in nature and shall be granted to a designated person who resides at the residential address. 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 by ordinance for its original approval.

C. Conditional Use Permits, once granted, can be revoked by the Board of Adjustment for cause after a hearing is held before them. Complaints seeking the revocation of such a 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.

D. The Planning and Zoning Commission shall have the authority to review Conditional Use Permits at any time and 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 a permit and of any conditions designated in connection herewith.

F. If the use permitted under the terms of a Conditional Use Permit ceases,

for whatever reason, for a period of twelve (12) months, the 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 continuation of the Conditional Use Permit is approved, staff will continue to recommend the following conditions:

1. The Conditional Use Permit runs with the applicant and not the land; therefore, should the property be sold, the Conditional Use Permit is null and void.
2. A state sales tax number from the South Dakota Department of Revenue has been provided to the Planning and Zoning Office for their files.
3. The Building Inspector has inspected the building, and it meets applicable building codes.
4. City water and sewer rates are to remain at commercial rates.
5. Proper paperwork has been filed with the City of Deadwood Finance Office for Business Improvement District (BID) taxes.
6. City of Deadwood Business and Short-Term Rental Licenses have been maintained and are active.
7. A Lodging License from the South Dakota Department of Health has been maintained and is active.
8. All parking shall remain off street.

ACTION REQUIRED FOR CONTINUED USE OF CONDITIONAL USE PERMIT:

1. Approval/Denial by Deadwood Planning and Zoning Commission