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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

APPLICANT(S): Tucker Inn (Shirlene Joseph)

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

ADDRESS: 771 Main Street
Deadwood, Lawrence County, South Dakota

LEGAL DESCRIPTION: Lots 7 and 8, block 24, Original Town, City of Deadwood, Lawrence County, South Dakota.

FILE STATUS: Compliant with all legal requirements.

ZONE: R2 – Multi-Family Residential

STAFF FINDINGS:

Surrounding Zoning:		Surrounding Land Uses:
North:	C1 – Commercial	Parking Lot
South:	R2 – Multi-Family Residential	Residential
East:	C1 – Commercial	Parking Lot
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 applicant was issued a Conditional Use Permit on May 19, 2004, to operate a Bed and Breakfast Establishment at 771 Main Street.

The subject property is located on upper Main Street and is surrounded by several zoning classifications, including Residential, Commercial and Park

Forest. The Bed and Breakfast is located within a duplex style home. The property owner resides on the lower floor and rents the second floor. There is a total of three (3) bedrooms for rent, with a single bathroom.

FACTUAL INFORMATION

1. The property is currently zoned R2 – Multi-Family Residential District.
2. The subject property has access from Main Street.
3. The subject property is located within a medium-density land use classification on the adopted Zoning Map.
4. The property is not located within the 500-year floodplain.
5. Adequate public facilities are available to serve the property.
6. The area is characterized by a mixture of single-family and multi-family dwellings, commercial and public use areas.

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 R2- Multi-Family Residential Districts with an approved Conditional Use Permit. The subject property is a three (3) bedroom, one (1) bath duplex. Renters can park tandemly in the driveway.

"Bed and Breakfast" 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 94 nights in the past 12 months and has received very good reviews.

No complaints are on record for this establishment.

GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:

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 conditional 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 have not significantly affected the neighborhood since the applicant continues to abide by the parking requirements associated with Short-Term Rentals. This area is of mixed use.

B. Whether or not a community need exists for the conditional use at the subject 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 conditional use: (a) the conditional use in the subject 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 R2– Multi-Family Residential District and is intended to provide locations for medium density, multiple family units such as duplexes, townhouses, condominiums, and apartment developments. There are currently seven (7) total Short-Term Rentals within the immediate vicinity.

C. The conditional 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 improvement, public sites, or rights-of-way.

The applicant only uses off street parking and lives onsite, preventing any public nuisance issues that are often associated with Short-Term Rentals. The 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. There has been no change in the size of the dwelling.

D. The previously approved Conditional Use Permit is still in use, and 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 of 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 property 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 have not been adversely affected.

E. Whether or not the current use in the subject area has been adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this section.

The current 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. 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 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.

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.

If approved, staff recommendations for stipulation(s):

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. Proof of a state sales tax number 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 have changed from residential to commercial.
5. Proper paperwork is filed with the City of Deadwood Finance Office for Business Improvement District (BID) taxes.
6. City of Deadwood Business and Short-Term Rental Licenses are in good standing.
7. A Lodging License from the South Dakota Department of Health and is in good standing.
8. All parking shall be off street.

ACTION REQUIRED FOR CONDITIONAL USE PERMIT:

1. Approval/Denial by Deadwood Planning and Zoning Commission