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**BOARD OF ADJUSTMENT
STAFF REPORT
CONDITIONAL USE PERMIT**

Staff Report

Date: March 2, 2026
To: Board of Adjustment
From: Kevin Kuchenbecker
Planning, Zoning & Historic Preservation Officer
RE: Conditional Use Permit – Multiple Family Dwelling Unit

APPLICANT(S): HACA, LLC

PURPOSE: Application for CUP – Multiple Family Dwelling Unit

ADDRESS: Burnham Avenue

LEGAL DESCRIPTION: Lots 1, 2, 3, 4, 5, 6, and 7, Block 1 of Highland Park Addition to the City of Deadwood, Lawrence County, South Dakota, according to the Plat recorded in Book 1 Page 135.

FILE STATUS: All legal obligations have been completed.

ZONE: R1 - Residential

STAFF FINDINGS:

Surrounding Zoning:

North: PF – Park Forest
South: R1 – Residential
East: R1 – Residential
West: R1 – Residential

Surrounding Land Uses:

Undeveloped Land
Residences
Undeveloped Land
Undeveloped Land

SUMMARY OF REQUEST

The applicants have submitted a request for a Conditional Use Permit to develop the land and build a Multiple Family Dwelling Unit located at the top of Burnham Avenue along the east side of the street. The proposed development includes five (5) town homes within two separate structures with garage parking.

FACTUAL INFORMATION

1. The property is currently zoned R1 – Residential.
2. The property is currently undeveloped land.
3. The subject property, once developed, will have access from Burnham Avenue. Each one of the five (5) units will have garage parking for two (2) cars located on the first level for a total of ten (10) parking spaces. This project involves two separate structures.
4. The subject property is located within an R1 - Residential zoning on 3 sides, and PF – Park Forest on the north side.
5. The property is not located within a flood zone.
6. Public facilities are not available to serve the property and would need to be installed. This includes extending Burnham Avenue and the installation of public utilities. The developer is open to a partial assessment for the public infrastructure improvements.
7. The area is characterized by residences with undeveloped land surrounding the neighborhood.

STAFF DISCUSSION

The applicants have submitted a request for a Conditional Use Permit for a Multiple Family Dwelling Unit and City regulations permit Multiple Family Dwelling Units in R1 - Residential zoning districts with an approved Conditional Use Permit.

The Deadwood Zoning Code 17.08 and South Dakota Codified Law defines a Multiple Family Dwelling Unit as the following:

“Multiple Family Dwelling Unit” means:

A dwelling containing three (3) or more attached dwelling units, not including motels, boarding houses, tourist homes or mobile homes.

COMPLIANCE:

1. The Zoning Office provided notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accordance with Section 11-4-4.
2. A sign was posted on the property for which the request was filed.
3. Notice of the time and place of the public hearing was published in the designated newspaper of the City of Deadwood.

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 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. This area is an established residential neighborhood located within the historic district. The City of Deadwood will promote a land use pattern that takes advantage of the community's unique physical constraints by providing for growth in a way that preserves existing historic integrity.

- 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 – Residential and is intended to provide locations for medium density, residential development commensurate with an urban area. The primary use within this zone is single-family detached residences.

- 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 right-of-way.

If the applicant develops the property as intended, while keeping with historic guidelines as to design, the character of the neighborhood should not be adversely affected. Traffic conditions will increase along Burnham Avenue. Burnham Avenue will require expansion to the north to accommodate entry into the development. Municipal services will need to be installed to facilitate the development.

- D. Whether or not the proposed use increases the proliferation of non-conforming uses as well as previously approved 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 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 proposed use would not increase the proliferation of non-conforming uses. The appearance of the structure will require review and improvement by the Historic Preservation Commission; therefore, the character and use of the buildings and structures near the subject property will not be adversely affected.

Lot size requirements for a Multi-Family Dwelling Unit development are a lot area not less than three thousand five hundred (3,500) square feet for the first unit. For those structures which provide off-street parking within the main structure, the lot area requirement for each additional unit may be reduced to two hundred (200) square feet per dwelling unit; four hundred (400) square feet of open space shall be provided for each multi-family unit. A fifty (50) foot frontage on the lot is required for multi-family dwellings. If the development proceeds as proposed, the lot size requirements would be met.

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

As referenced in section C above, the proposed development would result in traffic conditions increasing along Burnham Avenue. Burnham Avenue will require expansion to the north to accommodate entry into the development. Municipal services will need to be installed to facilitate the development. The developer has conceptually agreed to a partial assessment for the public information improvements; however, a final proportionate has not been established at this time.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

- A. In the R1 Residential District, Conditional Use Permits granted by this chapter shall be temporary in nature, with the exception of townhouses, condominiums and multi-family dwellings.

- B. Following the issuance 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.
- C. 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.
- D. If the permitted use 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) or condition(s):

- 1. Any alterations, changes, or additions to the proposed development plan must be approved by the City of Deadwood and its appropriate departments prior to implementation.
- 2. The Conditional Use Permit shall be contingent upon project approval by the Deadwood Historic Preservation Commission.
- 3. The developer enters into a developer's agreement with the City of Deadwood which shall outline expectations, requirements and associated costs with regards to the necessary public infrastructure improvements.
- 4. All public infrastructure improvements meet the rules, regulations and guidelines adopted by the City of Deadwood rather than funded by private or public sector.

ACTION REQUIRED:

- 1. Approval/Denial by Deadwood Board of Adjustment (approved by Planning and Zoning Commission February 4, 2026 with four (4) conditions).