

Blaine County Hearing Examiner
Public Hearing Date: October 24, 2019 at 6:30pm

REGARDING THE APPLICATION OF: Mike and Jayne Flinn for a Conditional Use Permit for an Accessory Dwelling Unit at 40 Lower Broadford Road, Bellevue, ID.	Staff Report by Allison Marks Dated: October 9, 2019
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Requested Action: A public hearing and consideration of an application by Mike and Jayne Flinn for a Conditional Use Permit (CUP) for an 697 square foot Accessory Dwelling Unit (ADU). The property is 6.68 acres located at 40 Lower Broadford Road, Red Cat Subdivision, Lot 1, in the Residential/Agricultural District (R-5) and Floodplain (FP) and Wetland Overlay District (WO).

Owners: Jayne and Mike Flinn, Trustees of the 7 Dog Trust
Representative: Michael Chase

Applicable Regulations: Blaine County Zoning Regulations Title 9: Chapters 1, 2, 3, 7, 17, 19, 25,33 and Blaine County Comprehensive Plan.

Summary: The applicant has moved a 697 square foot cabin from Bellevue and are applying for an ADU CUP to rebuild the cabin as an ADU, on their property. It will have a full bath, a sink, and a bunk/living space. (See Exhibit A-5 Building Permit).

I. Application, Notice, Exhibits & General Facts

1. Application: A Conditional Use Permit application was received by the Administrator on May 24, 2018. After reviewing the application, the Administrator certified the applications as being generally complete on June 12, 2018.

2. Notice: Public notice for this application was as follows:

- A. Legal notice was published in the Idaho Mountain Express on June 13, 2018.
- B. Notice was mailed on June 11, 2018 to all Blaine County political subdivisions
- C. Notice was mailed on June 11, 2018 to surrounding landowners within 300' of the exterior boundaries of the property.
- D. An on-site notice was posted by June 21, 2018, at least 7 days prior to the hearing. Affidavit of posting was received on June 18, 2018.

3. Exhibits: The following Exhibits are attached hereto as referenced. All application documents were received at the Blaine County Planning office on May 24, 2018 unless otherwise noted.

“A” Exhibits- Application:

- A-1: Condition Use ADU Permit Application
- A-2: Adjoiners Map and List

- A-3: Blaine County Assessors Sketch
- A-4: Proposed and Existing Floor Plan-May 30, 2018
- A-5: Photographs of Existing Structure-May 30-2018
- A-6: Warranty Deed
- A-7: Sunset Meadow Estate Subdivision

“B” Exhibits- Agency Comments:

- B-1: South Central Health District Proposal Review

4. Property and project descriptions:

- The underlying zoning district is Residential/Agricultural District (R-5), Riparian Setback District (R),
- The lot is 5 acres in size.
- The existing structures on the lot include a primary residence with an attached accessory dwelling unit and an unattached 2,368 square foot accessory dwelling unit that includes: 2 bedrooms, kitchen, bathroom, living room, and a garage.

II. 9-25-3: CONDITIONAL USE PERMIT STANDARDS FOR EVALUATION:

A. Review: The commission or the board (or hearing examiner) shall review the particular facts and circumstances of each proposed conditional use in the terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. *Will, in fact, constitute a conditional use as established for the zoning district involved;*

▶ **Staff comment:** Accessory Dwelling Unit is listed as a conditional use within the R-5 zoning district. Title 9, Chapter 7: Residential/Agricultural District (R-5), Section 9-7-5: Conditional Uses: H. Accessory dwelling unit

2. *Will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and/or this title;*

▶ **Staff comment:** The purpose of the R-5 district is to ensure that residential uses are located in an optimally compatible manner with respect to agricultural uses, to preserve the County’s rural character and to protect the scenic value of open space. The creation of a tack room for equestrian use is consistent with the rural character of this subdivision. In addition, the large setbacks of the ADU maintain the rural character of this subdivision and district.

3. *Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;*

▶ **Staff comment:** The structure’s outside appearance will not change except for the addition of a roll up door to replace a window on the west side of the structure. Use will be expanded to include a tack room, which is consistent with the rural character of the neighborhood. (Exhibit A-5)

4. ***Will not be hazardous or disturbing to existing or future neighboring uses;***

► **Staff comment:** To date it has not disturbed existing or neighboring uses.

5. ***Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;***

► **Staff comment:** The pre-existing structure has been adequately served by public facilities and service. South Central Public Health District has reviewed the application and approved the use. (Exhibit: B-1)

6. ***Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;***

► **Staff comment:** The existing ADU is not detrimental to the economic welfare of the community and will not require additional public cost.

7. ***Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water pollution or safety hazards. Water pollution includes impact to surface and ground water and potable water sources. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area, the commission shall consider the impact of the project on potable water sources and determine whether there is sufficient information in the record to demonstrate that the project has been designed to mitigate adverse impact to potable water source(s);***

► **Staff comment:** This is not a wellhead protection site. The anticipated residential use is not anticipated to be detrimental to any persons, property, or the general welfare. (Please refer to Exhibit B-1.)

8. ***Will have vehicular approaches to the property which shall be designed as not to create an interference with traffic on surrounding public thoroughfares;***

► **Staff comment:** The driveway is existing and shared with the primary residence.

9. ***Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance; and***

► **Staff comment:** No disturbance of major importance will occur as this is a pre-existing structure.

10. ***If the applicant or landowner with respect to an application for a conditional use permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, . . .***

► **Staff comment:** Not applicable.

III. 9-3-11: ACCESSORY DWELLING UNIT(S)

The purpose of the accessory dwelling unit regulations is to define what an accessory dwelling unit is; address under what circumstances it is appropriate to allow increased density on a lot; and address the impacts an accessory dwelling unit may have on the surrounding area such as the need for potable water and sanitation, increased traffic and compatibility with the neighborhood.

A. Standards: One accessory dwelling unit may be constructed on a lot provided the following

standards are met prior to issuance of a building permit: ...

3. On lots of five (5) acres or greater in size:

a. One accessory dwelling unit which is either attached to or detached from the principal residential dwelling unit shall be a permitted use.

b. A second accessory dwelling unit may be allowed under a conditional use permit obtained from the commission. Notice and hearing procedures contained in chapter 25 of this title shall be followed. The application shall be subject to the provisions contained herein and the standards of evaluation contained in subsections [9-25-3 A3 and A4](#) of this title.

► **Comment:** This conditional use permit application is for a second accessory dwelling unit.

B. Restrictions: All accessory dwelling unit(s):

1. Shall be limited to a maximum one thousand two hundred (1,200) square foot floor area with a maximum of two (2) bedrooms. Said floor area shall be the total of all floor areas as measured from the exterior face of the exterior walls. Garage space up to an additional one thousand two hundred (1,200) square feet is allowed.

a. The area encompassing the mechanical system shall be included in the square footage calculation based upon the location of the mechanical system. If the mechanical equipment is located in the crawl space, it shall be exempt from the square footage calculation.

b. Exterior stairs...

c. When an attic roof truss system creates an unusable and inaccessible space...

► **Comment:** The subject building is 1,423 square feet of livable area, including two bedrooms. The garage is 945 square feet. The re-design of the ADU would create 1,143 square feet of living space including one bedroom. The garage is 945 square feet. The second existing 282 square foot bedroom is proposed to be converted to a tack room. The tack room is designed to be accessed by a separate outside entrance, making it inaccessible from inside the living area.

2. Shall be allowed in the A-20, A-40, R-10, RR-40, R-5, R-2^{1/2}, R-2, R-1, R-.4, R-1/4, and RD zoning districts and shall not be allowed in any designated overlay district; except where an accessory dwelling unit is proposed on property located within the CH overlay district that is not part of a CH-PUD; or within the MOD and within a platted building envelope or categorically excluded pursuant to section [9-21-4](#) of this title;

► **Comment:** The lot is zoned R-5 and the building site is free of overlay districts.

3. May be allowed in the FP zoning district . . . The building site is more than 200' from the creek, outside the Riparian setback district.

4. Shall meet setbacks for the zoning district in which it is located;

► **Comment:** The required setbacks are 25' from the front, side, and rear yard property lines. Actual setbacks as measured by County GIS are: 120' front, 110' side and 430' from rear. The structure is roughly 200' from the creek. The riparian setback is 25'.

5. Shall require a building permit;

► **Comment:** The subject structure is existing but a building permit is required for the alteration.

6. Shall be located on the same lot as the principal residential dwelling unit;

► **Comment:** Both dwellings are on the same lot.

7. Shall provide for one parking space in addition to the minimum required for the principal residential dwelling unit;

► **Comment:** The requirement for a dwelling is: **9-28-2(B)(1) a. Single-family or two-family dwellings: Two (2).** There is more than adequate parking per the standard.

8. Shall meet requirements of the South Central Public Health District evidenced by approval therefrom upon application for building permit;

► **Comment:** Please refer to Southern Idaho Public Health District letter. (Exhibit: B-1)

9. Shall be prohibited on any lot less than one acre in size, regardless of the applicable zoning district;

► **Comment:** The lot is over one acre in size.

10. May be part of an accessory building containing other accessory uses, as allowed in the zoning district provided that: a) the gross floor area of the accessory building does not exceed seventy five percent (75%) of the gross floor area of the primary residence; b) the accessory dwelling unit portion of the building satisfies all applicable regulations; c) the floor area of the accessory dwelling unit and garage associated therewith is separate and distinct from other accessory uses contained within the same building.

► **Comment:** a) Meets requirement: The gross floor area of the accessory building or tack room, is 282 square feet. There is no access from inside the ADU. Access is proposed to be separate and distinct by outside of the building through roll-up door. (See Exhibits: A-4, A-5)

IV. Decision and Conditions

Pursuant to Zoning Ordinance §9-33-8, the Hearing Examiner shall enter an order approving, conditionally approving, or disapproving an application within fourteen (14) days after conclusion of the public hearing together with the reasons therefore. The public hearing on this application is set for Thursday, June 28, 2018.

Any approval or denial of this application will be based upon the information provided as part of this application and upon any additional information which may be provided before or during the scheduled public hearing.

The Hearing Examiner shall also, pursuant to Zoning Ordinance §9-33-8, attach conditions to the approval as deemed necessary to protect the rights and the general welfare of all affected property owners.

Approval or denial of this application may be conditioned upon the following conditions, among others:

1. Any modifications to the plans shall require further zoning review, and may be subject to additional regulations pursuant to the Blaine County Zoning Ordinance.
2. Any future modifications to the structure shall require further zoning review, and may be subject to additional regulations pursuant to the Blaine County Zoning Ordinance.

The final Findings of Fact, Decision, and Conditions of the Hearing Examiner may be appealed to the Board of County Commissioners in the manner prescribed by Chapter 32 of the Blaine County Zoning Ordinance, specifically within twenty (20) days of the issuance of the Findings of Fact, Decision, and Conditions.

Notice pursuant to I.C. 67-6535(c): The owner of the property subject to this application and decision may request regulatory taking analysis pursuant to I.C. 67-8003.