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**THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON**

IN RE:	HE-24-PL-004
MICHAEL and KRISTAN BRENNAN, Applicants	FINDINGS, CONCLUSIONS, AND DECISION
2530 Jaeger Street	
USE2024-0002 and ADU2024-0001 / Conditional Use Permit for an Over-sized Detached Accessory Dwelling Unit	SHARON RICE HEARING EXAMINER

SUMMARY OF DECISION

The request for a conditional use permit and accessory dwelling unit permit to allow a combined 1,264 square foot detached accessory dwelling unit and garage at 2530 Jaeger Street in Bellingham, Washington is **APPROVED** subject to conditions.

SUMMARY OF RECORD

Request:

Michael and Kristan Brennan (Applicants) requested a conditional use permit and accessory dwelling unit permit to construct a 640 square foot detached accessory dwelling unit (D-ADU) above an existing 624 square foot detached garage. The combined area of the D-ADU and garage space would be 1,264 square feet. The subject property is addressed as 2530 Jaeger Street in Bellingham, Washington.

Hearing Date:

The Bellingham Hearing Examiner conducted a hybrid open record hearing on the request on April 10, 2024. The record was held open two business days to allow for post-hearing written public comment from members of the public who technology problems participating in the virtual hearing and, if any, additional days for responses by the parties. No post-hearing comment was received, and the record closed on April 12, 2024.

Findings, Conclusions, and Decision

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**OFFICE OF THE HEARING EXAMINER
CITY OF BELLINGHAM
210 LOTTIE STREET
BELLINGHAM, WA 98225
(360) 778-8399**

1 **Testimony:**

2 At the hearing the following individuals presented testimony under oath:

3 Moshe Quinn, Planner II, City of Bellingham

4 Michael Brennan, Applicant

5 **Exhibits:**

6 At the open record hearing, the following exhibits were admitted in the record:

- 7 1. Planning and Community Development Department Staff Report to the
8 Examiner with the following attachments:
- 9 A. Application materials:
 - 10 1. Application for a Conditional Use Permit (USE2024-0002)
 - 11 2. Accessory Dwelling Unit Application (ADU2024-0001) and ADU
12 Occupancy Certification
 - 13 3. Site Plan, Floor Plans, Building Elevations
 - 14 B. Pre-application Neighborhood Meeting Waiver Request (PRE2023-0123)
 - 15 C. Notice of Complete Application (NOCA) and Notice of Application and
16 Public Hearing
 - 17 D. Certificate of Posting
 - 18 E. Public Comments and Aerial Photos:
 - 19 1. Email from Rhonda Younker, dated January 31, 2024
 - 20 2. Email from Annie Taylor, dated March 25, 2024
 - 21 3. Email from Andrew PK Bentley, dated March 28, 2024
 - 22 F. Zoning Table
 - 23 G. Comprehensive Plan Goals and Policies
 - 24 H. NW Geologic PLLC Coal Mine Hazard Report, dated March 27, 2024
 - 25 I. Public Hearing Notice Sign Posting

26 After considering the testimony and exhibits submitted, the Hearing Examiner enters
27 the following findings and conclusions:

28
29
30 *Findings, Conclusions, and Decision*

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OFFICE OF THE HEARING EXAMINER
CITY OF BELLINGHAM
210 LOTTIE STREET
BELLINGHAM, WA 98225
(360) 778-8399

FINDINGS

1. Michael and Kristan Brennan (Applicants) requested a conditional use permit (CUP) and accessory dwelling unit permit to construct a 640 square foot detached accessory dwelling unit (D-ADU) above an existing 624 square foot detached garage. The combined area of the D-ADU and garage space would be 1,264 square feet. The subject property is addressed as 2530 Jaeger Street in Bellingham, Washington.¹ *Exhibits 1 and 1.A.*
2. The subject property is in Area 3 of the Columbia Neighborhood. It is zoned Residential Single, Detached, 5,000 square foot minimum detached lot size. *Exhibits 1 and 1.F.* D-ADUs are allowed in the Residential Single zone subject to the requirements established in Bellingham Municipal Code (BMC) 20.10.036. *BMC 20.30.030.A.7.*
3. The subject property is approximately 10,000 square feet in area and is developed with a single-family residence and a detached garage built in 1904. The subject property is served by public facilities (i.e., fire and police services) and water, sewer, and stormwater utilities. *Exhibits 1 and 1.A3; Google Maps site view.*
4. The subject property abuts Jaeger Street to the west, W. North Street to the north, and an alley to the east. Vehicular access to the site is from W. North Street. Both Jaeger Street and W. North Street are classified as residential streets with right-of-way widths of 60 feet. *Exhibit 1; Google Maps site view.*
5. Surrounding properties are within the same zoning designation as the subject property and are developed with single-family residences. There are 44 ADUs in the neighborhood. The neighborhood is near public parks, a school, and the Fountain District Urban Village. *Exhibits 1 and 1.F; Moshe Quinn Testimony; Google Maps site view.*
6. The second floor D-ADU would be 640 square feet in area and include kitchen, bedroom, living, bathroom, and laundry spaces. Access to the D-ADU would be from an exterior staircase leading to a porch on the south side of the unit. A small balcony would project from the north side of the unit. The ground floor of the building would be used as parking for the primary dwelling unit. Consistent with BMC 20.10.036.B.8, which restricts D-ADU building height to 24 feet (per definition number one), the proposed building height would be approximately

¹ The legal description of the property is: Jefferson Street Add Lots 1-2 Blk N; also known as tax assessor parcel number is 3802242301260000. *Exhibit 1.*

- 1 20 feet, eight inches as measured to the average height of the highest gable. The
2 architectural style would be consistent with the existing residence. *Exhibits 1*
3 *and 1.A3.*
- 4 7. Consistent with BMC 20.10.036.B.6(c)(iii) and (a), the floor area of the D-ADU
5 excluding ancillary space (i.e., the garage) would not exceed 1,000 square feet.
6 *Exhibits 1 and 1.A3.*
- 7 8. The minimum building setbacks for a D-ADU when the vehicular entrance to an
8 attached garage faces a street are 25 feet from the front property line, 10 feet
9 from a side flanking property line, and five feet from the rear and side property
10 lines unless the property line abuts an alley; there is no required side or rear
11 setback from an alley. The minimum required distance between the primary
12 dwelling unit and a D-ADU is six feet. *BMC 20.10.036.B.7.* The proposed D-
13 ADU would satisfy all setback requirements. The garage entrance to the D-
14 ADU would face W. North Street (a side lot line), and the setback from the side
15 street would be 38 feet, six inches. The setback from the alley would be five
16 inches. The setback from the south property line would be 35 feet, six inches,
17 and the setback from Jaeger Street (on opposite side of primary dwelling unit)
18 would be approximately 75 feet. The distance between the primary residence
19 and the D-ADU would be 20 feet. *Exhibit 1.A3.*
- 20 9. The D-ADU is exempt from the parking requirement of BMC 20.10.036.B.9
21 (one on-site parking stall) because improved public street parking is available on
22 Jaeger Street and North Street. However, the driveway on site is large enough to
23 provide off-street parking. *Exhibits 1 and 1.A1; Moshe Quinn Testimony;*
24 *Michael Brennan Testimony.* Two garage parking spaces would be available for
25 the primary residence. *Exhibits 1 and 1.A3.*
- 26 10. One issue of concern raised in public comment related to parking is that visitors
27 to the property have been observed parking on the sidewalk on W. North Street.
28 There is no curb between the street and sidewalk along the property frontage,
29 and a gravel area had been created on the south side of the sidewalk, without
30 permits, on the side of the subject property. A street tree was removed from the
graveled area. Planning Staff submitted that the gravel area encourages
encroachment onto the sidewalk because visitors cross the sidewalk to park on
the gravel. Staff recommended as conditions of approval that the Applicant
restore the gravel area, plant a replacement street tree, and advise family,
visitors, and future tenants to not park on the sidewalk. The Applicant did not
object to these conditions. *Exhibits 1 and 1.E1; Testimony of Moshe Quinn and*
Michael Brennan.

- 1 11. The subject property is within a coal mine hazard area. The Applicant
 2 submitted a professionally prepared geologic assessment, which found that the
 3 proposed construction is feasible with no additional mitigation, and that the risk
 4 of ground subsidence from coal mine related hazards is low. *Exhibits 1 and*
 5 *1.H.* No other critical areas would be affected by the project, and no trees
 6 would need to be removed. *Exhibit 1.*
- 7 12. Owner-occupancy of either the primary residence or the ADU is required to
 8 obtain ADU approval. *BMC 20.10.036.B.4.* The Applicant submitted a
 9 notarized occupancy certification. *Exhibit 1.A2.*
- 10 13. Planning Staff reviewed the application and determined that, with approval of
 11 the CUP, the ADU development standards set forth in BMC 20.10.036 would be
 12 satisfied. Pursuant to BMC 20.10.036.B.6(c)(i), D-ADUs with ancillary space
 13 that exceed a combined total of 1,000 square feet in area require CUP approval.
 14 *Exhibit 1.*
- 15 14. The CUP and ADU applications were submitted on January 1, 2024. The City
 16 issued a notice of complete application and a notice of application & public
 17 hearing on January 26, 2024. The Applicants posted the notice on site on
 18 January 31, 2024. The City mailed notice of the hearing and re-posted the site
 19 on March 25, 2024. *Exhibits 1, 1.C, and 1.D.*
- 20 15. Planning Staff submitted that the proposal would be consistent with many goals
 21 and Policies of the Bellingham Comprehensive Plan, including but not limited to
 22 the following:
- 23 Land Use
- 24 Policy LU-1: The Single-Family Residential designation permit a
 25 range of housing densities to achieve the City’s housing
 26 diversity and affordability goals. In undeveloped or
 27 infill areas, new housing may include single-family
 28 detached, single-family attached, townhouses, cottage
 29 housing, accessory dwelling units, clustered housing,
 30 and other small-scale housing forms. Accessory,
 public, and semipublic uses are also allowed.
- Policy LU-4: Protect the unique character and qualities of existing
 neighborhoods, while identifying opportunities for
 improved livability, safety, and housing affordability
 and diversity.

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Policy LU-10: To achieve a healthy mix of housing that is affordable to a wide range of incomes, implement and seek new, innovative tools, including, but not limited to: ... accessory dwelling units

Community Design

Policy CD-33: Encourage the construction of innovative, small-scale housing types that fit the context of single-family neighborhoods such as accessory dwelling units, cottage housing, cohousing, townhomes, zero lot line homes, and small lot housing.

Housing

Goal H-1: Ensure that Bellingham has a sufficient quantity and variety of housing types and densities to accommodate projected growth and promote other community goals.

Policy H-16: Encourage the supply of affordable rental and ownership housing that is context sensitive throughout the city, especially in areas with good access to transit, employment, education, and services.

Exhibits 1 and 1.G.

- 16. Pursuant to BMC 16.20.090.A and Washington Administrative Code (WAC) 197-11-800(6)(a), the proposed minor “new” construction of fewer than nine dwelling units is exempt from State Environmental Policy Act (SEPA) review. *BMC 16.20.090.A; WAC 197-11-800(6)(a).*
- 17. Public comment was in favor of the project, other than the concern expressed regarding parking on the sidewalk, which would be addressed by Planning Staff’s recommended conditions of approval. *Exhibits 1 and 1.E.*
- 18. Planning Staff recommended approval of the CUP and ADU permit with the conditions set forth in the Staff Report. *Exhibit 1; Moshe Quinn Testimony.* The Applicants waived objection to the recommended conditions. *Michael Brennan Testimony.*

1 **CONCLUSIONS**

2 **Jurisdiction**

3 The Hearing Examiner is granted authority to hold hearings and make decisions on
4 conditional use permit applications pursuant to BMC 20.16.010.D and on accessory
dwelling unit permit applications pursuant to BMC 20.10.036.

5 **Criteria for Review**

6 Pursuant to BMC 20.16.010.B, conditional use permits for conditional uses allowed in
7 the general use type may be granted by the hearing examiner if the record demonstrates
the following:

- 8 1. The proposed use will promote the health, safety, and general welfare of the
9 community.
- 10 2. The proposed use will satisfy the purpose and intent of the general use type in
11 which it is located.
- 12 3. The proposed use will not be detrimental to the surrounding neighborhood.

13 Pursuant to BMC 20.16.010.C, in applying the standards set forth in subsection B
14 (above), the hearing examiner shall consider the following factors as to whether the
proposed use will:

- 15 1. Be harmonious with the general policies and specific objectives of the
16 comprehensive plan.
- 17 2. Enable the continued orderly and reasonable use of adjacent properties by
18 providing a means for expansion of public roads, utilities, and services.
- 19 3. Be designed to be compatible with the essential character of the neighborhood.
- 20 4. Be adequately served by public facilities and utilities including drainage
21 provisions.
- 22 5. Not create excessive vehicular congestion on neighborhood collector or
23 residential access streets.
- 24 6. Not create a hazard to life, limb, or property resulting from the proposed use, or
25 by the structures used therefore, or by the inaccessibility of the property or
26 structures thereon.
- 27 7. Not create influences substantially detrimental to neighboring uses. "Influences"
28 shall include, but not necessarily be limited to noise, odor, smoke, light,
29 electrical interference, and/or mechanical vibrations.
- 30 8. Not result in the destruction, loss, or damage to any natural, scenic, or historic
feature of major consequence.

1 Pursuant to BMC 20.10.036.B.6(c), the Hearing Examiner may approve a detached
2 accessory dwelling unit in a structure greater 1,000 square feet in area, provided the
3 floor area of the D-ADU does not exceed that specified in subsection B.6(c)(i), through
4 the conditional use permit process established in BMC Chapter 20.16 if the record
5 demonstrates that the D-ADU complies with the D-ADU standards established in BMC
6 20.10.036.B.

7 **Additional Applicable Code Provisions**

8 BMC 20.10.036

9 A. Purpose and Authority

- 10 1. It is the purpose of this legislation to implement policy provisions of the city's
11 comprehensive plan promoting increased housing options and innovation that
12 will help meet the needs of the many sectors of the community, including
13 smaller households, students, millennials, baby boomers, people with
14 disabilities, and low-income families; make more efficient use of public
15 infrastructure and services; are within walking distance to shops, jobs, and
16 amenities; encourage well-designed infill development; and improve the
17 economic and social well-being of the community.
- 18 2. The director shall have the authority to approve accessory dwelling units
19 (ADUs) which are consistent with single-family neighborhood character and the
20 regulations and provisions herein. It is not the intent of these regulations to
21 provide for ADUs on every residential property and they shall not be deemed to
22 create a right or privilege to establish or maintain an ADU which is not strictly
23 in compliance with these regulations.
- 24 3. *Enforcement.* The city retains the right (with reasonable notice) to inspect the
25 ADU for compliance with this section.

26 B. Standards and Criteria.

- 27 1. Accessory dwelling units (ADUs) may be allowed in general use types where
28 listed as a permitted use if they comply with the requirements listed in this
29 section, except on property regulated by Chapter 16.80 BMC, Lake Whatcom
30 Reservoir Regulatory Provisions.
1. An ADU shall comply with all zoning code provisions for the primary dwelling
unit, including height, setbacks, floor area, accessory buildings and open space,
except as provided in this section. This provision shall also apply to ancillary
structures attached to a D-ADU such as garages, carports, garden sheds and
workshops.
3. Applicants may request minor modifications to the development and design
standards for ADUs. A minor modification is a request by the applicant to meet

1 or exceed a particular ADU standard through the use of a technique or
2 alternative standard not otherwise listed under the applicable requirement. Minor
3 modifications are not variances and are not required to meet all of the criteria
4 typically associated with a variance application. The director may grant a minor
5 modification if the following criteria are met:

- 6 a. The site is physically constrained due to, but not limited to, unusual shape,
7 topography, easements, existing development on site, or critical areas; or
- 8 b. The granting of the modification will not result in a development that is less
9 compatible with adjacent neighborhood land uses; and
- 10 c. The granting of the modification will not be materially detrimental to the
11 public welfare or injurious to other land or improvements in the vicinity and
12 district in which the property is situated; and
- 13 d. The granting of the modification is consistent with the purpose and intent of
14 this section; and
- 15 e. All reasonable mitigation measures for the modification have been
16 implemented or assured.

17 4. *Ownership and Occupancy.*

- 18 a. The land on which the ADU is located shall not be subdivided from the land
19 on which the primary dwelling unit is located, but the ADU may be
20 segregated in ownership from the primary dwelling unit.
- 21 b. Owner occupancy is required for properties that include an ADU (or ADUs)
22 in areas zoned residential single until occupancy requirements are preempted
23 by the state law. Prior to implementation of state law, the following applies.
24 The property owner shall submit an affidavit, approved by the director,
25 acknowledging the owner occupancy requirement for as long as the ADU is
26 maintained on the property or until owner occupancy requirements are
27 preempted by the implementation of state law. The property owner shall
28 submit the affidavit to the city prior to issuance of the building permit. The
29 affidavit shall specify the requirements for owner occupancy and purchaser
30 registration as follows:
 - i. An owner of the subject property shall reside on the premises, whether in
the primary or accessory dwelling; provided, that:
 - (A) In the event of illness, death or other unforeseeable event which
prevents the owner's continued occupancy of the premises, the
director may, upon a finding that discontinuance of the ADU would
cause a hardship on the owner and/or tenants, grant a temporary
suspension of this owner-occupancy requirement for a period of one

1 year. The director may grant an extension of such suspension for one
2 additional year, upon a finding of continued hardship.

3 (B) In the case of bringing an unpermitted ADU into compliance with
4 this section, if the property on which the ADU is located complies
5 with all of the requirements of this section except owner-occupancy,
6 the property may continue without occupancy by the owner for the
7 remainder of the lease(s) on the property, not to exceed one year.
8 Thereafter, the property shall be occupied by the owner, or
9 transferred to a different owner who will reside on the premises.

10 ii. Purchasers of homes with an ADU shall register with the planning and
11 community development department within 30 days of purchase.

12 5. *Site Requirements.*

- 13 a. No more than two ADUs shall be permitted in conjunction with the primary
14 dwelling unit on a single lot of record. The lot may not contain more than
15 one primary dwelling unit. The ADUs are exempt from density limitations
16 and may be in any configuration of attached or detached units.
- 17 b. The ADU main entrance shall have direct access to a street via a lighted
18 pedestrian path, driveway or alley.

19 6. *ADU Size.*

- 20 a. *Attached and Detached ADUs.* An ADU shall not exceed 1,000 square feet.
- 21 b. *Attached ADUs (A-ADU).* The maximum floor area in subsection (B)(6)(a)
22 of this section does not apply when the basement of a primary dwelling unit
23 is converted to an A-ADU and the primary dwelling unit has been on the site
24 for at least five years.
- 25 c. *Detached ADUs (D-ADU).* The floor area for D-ADUs shall be calculated to
26 include all attached ancillary space (garage, workshop, garden shed, etc.).
27 Maximum allowed floor area limits are as follows:
- 28 i. A D-ADU with ancillary space may exceed 1,000 square feet when
29 approved by the hearing examiner by conditional use permit pursuant to
30 Chapter 20.16 BMC.
- ii. When an oversized detached accessory building approved by conditional
use permit has been on site for at least five years, conversion of said
building to a D-ADU may occur without subsequent conditional use
permit approval.

1 iii. For subsections (B)(6)(c)(i) and (ii) of this section, the floor area of the
2 D-ADU, sans ancillary space, shall not exceed that specified in
3 subsection (B)(6)(a) of this section.

4 7. *Minimum Yards for D-ADUs.*

5 a. Front and side-flanking yards shall comply with the zoning code provisions
6 for the primary dwelling unit except that when the vehicular entrance to an
7 attached garage or carport faces a street, the entrance shall be set back a
8 minimum of 25 feet from the front property line, and 10 feet from a side
9 flanking property line.

10 b. A five-foot side and rear yard setback shall be provided, measured from the
11 property line to the foundation of the structure, except as follows:

12 i. When abutting an alley, there is no required side or rear yard setback
13 from the alley.

14 ii. A D-ADU may be located in a rear yard and in the rear 22 feet of an
15 interior side yard, provided:

16 (A) If a D-ADU is to be located less than five feet from any common
17 property line, a joint agreement with the adjoining property owner(s)
18 must be executed and recorded with the Whatcom County auditor's
19 office and thereafter filed with the city prior to issuance of building
20 permit; or

21 (B) If site characteristics warrant such that, in the opinion of the director,
22 impacts to abutting property would be negligible due to, but not
23 limited to, one or more of the following:

24 (1) The existing use and development pattern on abutting property.

25 (2) Minimal disruption of solar access to outdoor recreation or
26 garden space on abutting property compared to what may
27 otherwise occur with the application of standard development
28 regulations.

29 (3) Site characteristics such as building a D-ADU downslope from
30 abutting property.

 (4) Conversion of a detached accessory building that is at least five
 years old and has had no additions within the required side or rear
 yard within that time period.

 (5) Any minor modification from standard development regulations
 requested pursuant to this subsection (B)(7)(b)(ii) shall be

1 processed as a request for minor modification pursuant to
2 subsection (B)(3) of this section.

3 c. A minimum six feet of separation is required between the primary dwelling
4 unit and a D-ADU.

5 8. *Building Height for D-ADUs.* A D-ADU shall be no higher than 24 feet under
6 BMC 20.08.020, height definition No. 1 or 12 feet under height definition No. 2.

7 9. *Parking.* Parking required for an ADU is in addition to that required for the
8 primary dwelling unit.

9 a. One on-site parking stall is required for an ADU, except as follows:

10 i. No parking is required when improved public street parking is available
11 on at least one side of the block face whereon the ADU is proposed, on-
12 street parking is constructed, or the ADU is within one-half mile walking
13 distance to a major transit route.

14 ii. The director may waive parking based on the applicant's demonstration
15 of site-specific factors that justify a lower standard. Any request for a
16 parking waiver shall be processed as a request for minor modification
17 pursuant to subsection (B)(3) of this section.

18 b. Parking stalls shall be at least nine feet by 18 feet.

19 c. Parking shall not be located in required front or side street setbacks. Parking
20 in the front portion of the lot shall be discouraged.

21 d. If the lot abuts an alley or private access easement, parking shall be accessed
22 from said facility except when the director determines that such access is
23 impractical or environmentally constrained. Any request to forgo alley
24 access shall be processed as a request for minor modification pursuant to
25 subsection (B)(3) of this section.

26 e. Parking accessed from a street or lane shall be limited to one driveway per
27 frontage with a maximum width of 20 feet.

28 10. *Privacy.* Where practical, locate and design the ADU to minimize disruption of
29 privacy and outdoor activities on adjacent properties. Strategies to accomplish
30 this include, but are not limited to:

a. Stagger windows and doors to not align with such features on abutting
properties.

b. Avoid upper level windows, entries and decks that face common property
lines to reduce overlook of a neighboring property.

1 c. Install landscaping as necessary to provide for the privacy and screening of
2 abutting property.

3 11. [Repealed by Ord. 2023-08-022]

4 12. *Utilities.*

5 a. *Water, Sewer, Storm.* A primary dwelling unit and ADU(s) may have a
6 shared water service to a water system, a shared sewer service to a sewer
7 system and a shared storm service to a stormwater management system, in
8 which case the primary dwelling unit will be responsible for all billing and
9 maintenance of the services. Separate and independent services from each
10 building may be required to meet the city's adopted plumbing code. In all
11 cases, the water service shutoff must be accessible to occupants of all units.

12 b. *Electrical.* A primary dwelling unit and ADU(s) are permitted to have one
13 shared electrical service if a single building or separate electrical services if
14 separate buildings. A separate meter is permitted to serve an ADU, subject to
15 compliance with the city's adopted electrical code. A single main service
16 panel may be allowed; provided, that occupants of all dwelling units have
17 access to the overcurrent devices supplying their occupancy.

18 c. *Gas.* A primary dwelling unit and ADU(s) may share natural gas services.
19 An accessible shut-off valve must be upstream of the gas meter, on the
20 exterior of the structure(s).

21 d. Any utility lines being installed or altered must have their connections
22 inspected as part of the building permit process.

23 13. *Compliance With Applicable Codes.* ADUs shall comply with all standards for
24 health and life safety as set forth in the International Building Code,
25 International Residential Code, Uniform Plumbing Code, National Electrical
26 Code, International Mechanical Code, International Fire Code, and Washington
27 State Energy Code as each code is adopted by the city; and any other applicable
28 codes or regulations, except as provided in this section.

29 14. *Accessibility.* To encourage the development of housing units for people with
30 disabilities, the director may allow reasonable deviation from the stated
requirements to install features that facilitate accessibility. Such facilities shall
be in conformance with the city adopted building code.

Conclusions Based on Findings

1. Addressing the CUP criteria established in BMC 20.16.010.B, the following
conclusions are entered.

- 1 a. As conditioned, the proposed D-ADU would promote the health, safety, and
2 general welfare of the community. The general welfare would be served by an
3 additional housing unit on a lot that is twice the minimum size required in a
4 neighborhood near parks, schools, and other amenities. A geologic assessment
5 was submitted demonstrating that the project would not pose safety risks.
6 *Findings 3, 5, 11, and 18.*
- 7 b. The D-ADU use is consistent with the purpose and intent of the Residential,
8 Single use type in that D-ADUs are allowed in the zone and applicable height
9 and setback standards would be satisfied. *Findings 2, 6, and 8.*
- 10 c. As conditioned, the use would not be detrimental to the surrounding
11 neighborhood. ADUs are common in the neighborhood and there is sufficient
12 parking on and off site to satisfy the applicable parking standards. The only
13 issue of concern identified during the review process was the potential for
14 parking on the sidewalk. The conditions of approval address this concern by
15 requiring restoration of the graveled area. *Findings 5, 9, 11, and 18.*
- 16 2. Addressing the CUP criteria established in BMC 20.16.010.C, the following
17 conclusions are entered.
 - 18 a. Development of the D-ADU would be harmonious with the Comprehensive
19 Plan. The D-ADU would not change the qualities or character of the
20 neighborhood and would be consistent with policies promoting small-scale
21 housing types. *Findings 5, 6, and 15.*
 - 22 b. Surrounding parcels are already developed and served by streets and utilities,
23 and the proposed D-ADU would not prevent continued use of surrounding
24 parcels. *Findings 3 and 5.*
 - 25 c. The proposal would be compatible with the essential character of the existing
26 neighborhood. The D-ADU would be a residential use. The lot, which is twice
27 the minimum required in the zone, is large enough to accommodate the D-ADU
28 while providing building setbacks that far exceed code minimums. The design
29 would be consistent with the existing structure on the site. *Findings 2, 3, 5, 6,
30 and 8.*
 - d. The project would be adequately served by public facilities and utilities.
Finding 3.
 - e. The project would not create excessive vehicular congestion. *Findings 9 and
10.*
 - f. As conditioned, the proposal would not create a hazard to life, limb, or property.
A geologic assessment was submitted demonstrating that the project would not
pose safety risks. The conditions of approval require the gravel area on North

1 Street to be restored to prevent parking on the sidewalk. Compliance with the
2 City's building, fire, and other codes would be determined during building
permit review. *Findings 10, 11, and 18.*

3 g. As conditioned, the use would not create influences substantially detrimental to
4 neighboring uses. The record contains no evidence suggesting that the proposed
D-ADU would generate impacts that are different from the existing residential
5 use. The conditions of approval limit construction hours. *Findings 6, 8, and 18.*

6 h. The use would not result in the destruction, loss, or damage to any natural,
7 scenic, or historic feature of major consequence. *Finding 11.*

8 3. As conditioned, the proposal is consistent with the applicable standards and criteria
9 for an ADU set forth in BMC 20.10.016.B. Specifically, the use is permitted by the
10 Residential Single use type, would comply with applicable zoning standards, would
11 have direct access to a street, would meet or exceed or all required yard/setback and
12 building separation standards, would comply with the 24-foot height limitation,
13 would have adequate parking, and with the porch and balcony facing relatively wide
14 yard setbacks, would be located to minimize disruption to privacy. The ownership
15 and occupancy standards would be addressed through conditions of approval. The
16 utility and building code requirements would be addressed during building permit
17 review. The overall D-ADU size, which exceeds 1,000 square feet including
18 ancillary space, has been addressed by the CUP. Consistent with BMC
19 20.10.016.B.6(c)(iii), the D-ADU portion of the combined structure would not
20 exceed 1,000 square feet. *Findings 2, 6, 7, 8, 9, 12, 13, and 18.*

21 DECISION

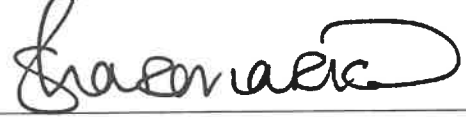
22 Based on the preceding findings and conclusions, the requested conditional use permit
23 and accessory dwelling permit to allow a combined 1,264 square foot detached
24 accessory dwelling unit and garage at 2530 Jaeger Street in Bellingham are
25 **APPROVED** subject to the following conditions.

- 26 1. The Owner shall reside in either the main residence or the D-ADU and is
27 required to submit an affidavit approved by the Planning Community
28 Development Department Director acknowledging the owner occupancy
29 requirement for as long as the ADU is maintained on the property or until owner
30 occupancy requirements are preempted by the implementation of state law.
1. If either the main residence or the ADU will be used as a rental unit, the subject
rental unit is required to be registered with the Rental Registration & Safety
Inspection Program per BMC 6.15.040.

- 1 3. Land on which the D-ADU is located shall not be subdivided from the primary
2 residence unless preempted by local or state law.
- 3 4. Purchasers of homes with an ADU shall register with the Planning and
4 Community Development Department within 30 days of purchase.
- 5 5. All necessary City permits shall be obtained prior to construction.
- 6 6. The design and size of the D-ADU shall be substantially as shown in Exhibit
7 1.A3.
- 8 7. No vehicle parking is permitted on a City sidewalk pursuant to BMC 11.33.060
9 (A)(22). The property owner is required to advise family members, future
10 tenants, and visitors to the property that vehicles are not permitted to park on the
11 sidewalk.
- 12 8. Construction noise is prohibited between the hours of 10:00 pm and 7:00 am
13 pursuant to BMC 10.24.120.
- 14 9. The gravel area west of the driveway shall be removed and converted back to
15 soil and vegetation (yard) from the existing fence to the back edge of the
16 sidewalk.
- 17 10. A street tree permit shall be submitted for review and approval by the City to
18 replant the street tree that was removed from the public right-of-way abutting W.
19 North Street.
- 20 11. In the event the Owner/Applicant fails to comply with the terms of the conditions
21 herein, the permit(s) may be rescinded.
- 22 12. Pursuant to BMC 20.16.010, the Planning and Community Development
23 Director may administratively consider and approve one-time noncumulative
24 additions, modifications, or changes in accordance with BMC 20.16.010.I.

25 DECIDED April 23, 2024.

26 **BELLINGHAM HEARING EXAMINER**

27 

28 Sharon A. Rice