

## LIST OF ATTACHMENTS

Exhibit 1: Planning and Community Development Department Staff Report including the following Attachments:

- Attachment A1     Application for a Conditional Use Permit (CUP) and Applicant Responses to CUP Criteria (USE2024-0002)
- Attachment A2     Accessory Dwelling Unit Application (ADU2024-0001)
- Attachment A3     Site Plan, Floor Plans, Building Elevations
- Attachment B     Pre-application Neighborhood Meeting Waiver Request (PRE2023-0123)
- Attachment C     Notice of Complete Application and Notice of Application & Public Hearing
- Attachment D     Certificate of Posting
- Attachment E     Public Comments and Aerial Photos 2016, 2019, and 2022
- Attachment F     Area 3, Columbia Neighborhood zoning table BMC20.00.040
- Attachment G     2016 Bellingham Comprehensive Plan goals and policies
- Attachment H     NW Geologic PLLC Coal Mine Hazard report, dated March 27, 2024

**CITY OF BELLINGHAM PLANNING AND COMMUNITY DEVELOPMENT  
STAFF REPORT**

**HEARING EXAMINER**

**April 10, 2024**

**PROJECT NOS:** CONDITIONAL USE PERMIT (USE2024-0002) & ACCESSORY DWELLING UNIT (ADU2024-0001)

**APPLICANT:** Jonathan Wilgress, Raven Design, 2326 Utter Street, Bellingham, WA 98225

**OWNER:** Michael and Kristan Brennan, 2530 Jaeger Street, Bellingham, WA 98225

**I. OVERVIEW:**

**A. PROPOSAL:**

Request for a Conditional Use Permit (CUP) and Accessory Dwelling Unit (ADU) permit to construct a 640 square foot detached ADU (D-ADU) over an existing 624 sf detached accessory building (ancillary space). The total combined floor area of the D-ADU and ancillary space is 1,264 square feet (sq. ft.) within a proposed two-story building. The ancillary space is preserved for off-street garage parking for the primary dwelling unit. A D-ADU with ancillary space that exceeds 1,000 sq. ft. requires CUP approval by the Hearing Examiner.

**B. GENERAL INFORMATION:**

- |                                |  |
|--------------------------------|--|
| <b>i. Location:</b>            | 2530 Jaeger Street, Bellingham, WA 98225   |
| <b>ii. Legal Description:</b>  | Jefferson Street Add Lots 1-2 Blk N  |
| <b>iii. Tax Parcel Number:</b> | 380224 230126 0000   |
| <b>iv. Zoning:</b>             | Columbia Neighborhood, Area 3, Residential Single, Detached, 5,000 sq. ft. detached lot size |

**II. STAFF RECOMMENDATION:**

Approve the CUP and ADU applications (**Attachments A1-A3**) with the recommended conditions in Section XI of this report.

**III. JURISDICTION:**

The Hearing Examiner is granted authority to hold hearings and make decisions on accessory dwelling units that exceed 1,000 sq. ft. through issuance of a CUP, pursuant to Bellingham Municipal Code (BMC) 20.10.036(B)(6)(c)(i).

**IV. BACKGROUND:**

The subject property is approximately 10,000 sq. ft. (0.23 acres) in size and is currently developed with a single-family residence (SFR) with a detached accessory building, which were built in 1904 according to the Whatcom County Assessor's Office. The site is double the

minimum density of 5,000 sq. ft. minimum single family lot size within Area 3 of the Columbia Neighborhood. The property is a corner lot and abuts an alley, Jaeger Street and W. North Street, with vehicle access taken from W. North Street. Both streets are classified as residential streets with a right-of-way width of 60 feet each.

On December 14, 2023, the applicant submitted a waiver for a pre-application neighborhood meeting (PRE2023-0123)(**Attachment B**). The waiver request was approved by the Planning and Community Development Department on December 15, 2023.

The applicant submitted a Conditional Use Permit application and an Accessory Dwelling Unit application on January 1, 2024 (**Attachment A1, A2, and A3**).

Per BMC 16.20.090(A) and Washington Administrative Code (WAC) 197-11-800(6)(a), the subject project is categorically exempt from State Environmental Policy Act (SEPA) review.

## V. NOTIFICATIONS:

On January 26, 2024, the City issued a Notice of Complete Application and Notice of Application & Public Hearing (**Attachment C**).

The applicant posted the Notice of Application and Public Hearing Notice on the property and submitted the Certificate of Posting on January 31, 2024 (**Attachment D**).

On March 25, 2024, the Hearing Examiner's department staff issued and mailed a notice of the Public Hearing in accordance with BMC 21.10.200(D). Additionally, staff posted the hearing notice on March 25, 2024.

## VI. PUBLIC COMMENT:

Staff received three public comments regarding the proposal. The first comment expressed concerns relating to vehicles parking on the sidewalk abutting W. North Street. The second and third comment provided a statement in support of the proposal (**Attachment E**).

### Staff Response:

Pursuant BMC 11.33.060(A)(22) vehicles are not permitted to park on a public sidewalk. Conducting a site visit and researching City aerial photos, staff confirmed that a gravel area had been created in the W. North Street public right-of-way adjacent to the applicant's property and a street tree had also been removed from this right-of-way area. No permits are on record for the creation of this gravel area and no street tree permit has been approved by the City for the tree removal (**Attachment E, Aerial Photos**). Upon contacting the Public Works Department regarding this situation, Public Works staff provided the above mentioned BMC section and stated there are no current plans to add a curb to the sidewalk along the south portion of W. North Street adjacent to the subject property.

Based on the location of this gravel area in the W. North Street right-of-way, a person may assume this is a parking area and encroach into the sidewalk as there is no curb between the sidewalk and street.

In order to mitigate this occurrence of vehicle(s) parking over the sidewalk abutting the subject property, staff is recommending the following CUP conditions:

- The property owner is required to advise family members, future tenants, and visitors to the property that vehicles are not permitted to park on the sidewalk.
- The gravel area west of the driveway shall be removed and converted back to soil and vegetation (yard) from the existing fence to the back edge of the sidewalk.
- A street tree permit shall be submitted for review and approval by the City to replant the street tree that was removed from the public right-of-way abutting W. North Street.

**VII. APPLICABLE REGULATORY SECTIONS OF THE BELLINGHAM MUNICIPAL CODE AND PLANS**

- Bellingham Municipal Codes:
  - Section 20.00.040: Table of Zoning Regulations – Columbia Neighborhood, Area 3
  - Chapter 20.10.036: Accessory Dwelling Units
  - Chapter 20.16: Conditional Use Requirements and Procedures
  - Chapter 20.30: Single Family Residential Development Standards

**VIII LAND USE ANALYSIS:**

The existing single family residence is considered a nonconforming building as the structure does not meet the minimum flanking side yard setback of 40’ from the centerline of W. North Street (10’ from flanking side property line). Besides the flanking side yard setback, the property meets all the other applicable standard development regulations in BMC 20.30.040 and BMC 20.30.060 Parking, relating to building setbacks (front, interior side, and rear yard setbacks), 30% open space, and two off-street parking spaces. Additionally, the existing accessory building meets all regulatory standards pursuant to BMC 20.30.100 for setbacks, size, and height.

The subject property is located within a coal mine hazard area, which is a designated critical area pursuant BMC 16.55.420(D), and classified as having a low potential for subsidence. Being advised of the coal mine hazard area, the applicant had NW Geologic PLLC, prepare an assessment in accordance with BMC 16.55.410-16.55.460, which identified that the proposal poses a low risk of ground subsidence and did not recommend any changes to the design and construction of the proposed D-ADU (**Attachment H**).

**IX. CONDITIONAL USE PERMIT REVIEW CRITERIA:**

A CUP request requires the applicant to provide a response to the following questions, in **bold** below. The applicant’s responses are also provided in **Attachment A1**.

The Hearing Examiner may grant a CUP provided the proposal clearly meets **the following criteria:**

**BMC 20.16.010 B.** Certain uses may be allowed in certain General Use Types by a CUP granted by the Hearing Examiner provided such use is specified under the Conditional Use subsection of the appropriate General Use Type Handbook and it is clearly shown that:

- 1) The proposed use will promote the health, safety, and general welfare of the community.**

**Applicant Response:** By providing an affordable, beautiful living space that is well-designed using infill development practices.

**Staff Response:** *The proposed D-ADU will not be a detriment to the health, safety, and general welfare of the community. The ADU regulations were developed and adopted to implement the 2016 Bellingham Comprehensive Plan that speaks to the efficient use of land, infill housing, and to support a variety of housing options (Attachment G). The applicant's proposal would create an additional housing unit over an existing garage within an existing walkable residential neighborhood that is near several amenities, such as public parks, a school, and the Fountain District Urban Village.*

*Staff finds the applicant's proposal will promote the health, safety, and general welfare of the community.*

**2) The proposed use will satisfy the purpose and intent of the general use type in which it is located.**

**Applicant Response:** .....And will provide a quality and affordable dwelling space for family member a growing community.

**Staff Response:** *The property is located within a Residential Single land use designation and an ADU may be permitted within this zoning designation if the proposal complies with the requirements in BMC 20.10.36 Accessory Dwelling Units. With the exception BMC 20.10.036(B)(6)(c)(i) requiring CUP approval by the Hearing Examiner for a D-ADU with ancillary space that exceeds 1,000 sq. ft., the proposed 640 sq. ft. D-ADU meets the regulatory performance standards in BMC 20.10.36, for ADU size, setbacks, height, parking, lighted pedestrian path, and owner occupancy (-until preempted by state law in 2026). Additionally, the proposed D-ADU complies with all applicable zoning code provisions for the primary dwelling in BMC 20.30.*

*Staff finds that the applicant's proposal satisfies the purpose and intent of the Residential Single general use type designation.*

**3) The proposed use will not be detrimental to the surrounding neighborhood.**

**Applicant Response:** Because this will be a smaller footprint than if we were to take up more yard.

**Staff Response:** *The building design and materials of the proposed D-ADU building are compatible with the character of the primary single family dwelling unit and other nearby residential buildings. The proposal utilizes a similar style gable roof and vertical siding. The proposal complies with the open space, height limit, setbacks, parking, and other development regulations specified in BMC 20.10.036, with the exception of size of a D-ADU with ancillary space that exceeds 1,000 sq. ft. The property's large size is such that it could be subdivided into two (2) lots with each having a single-family home and one or two ADUs each. The proposal is well under what the property would otherwise outright allow, but otherwise makes more efficient use of the property.*

*Staff finds the proposal will not be detrimental to the surrounding neighborhood.*

In addition to the criteria above, the Hearing Examiner shall also consider the following factors in granting a conditional use permit:

- (1) Be harmonious with the general policies and specific objectives of the Comprehensive Plan.

**Applicant Response:** Be agreeable to changes to help fit and solve any project changes needed during the build and permit process.

**Staff Response:**

*Staff finds that the proposal implements several goals and polies of the Bellingham Comprehensive plan to ensure Bellingham has sufficient quantity and variety of housing for all economic segments of the population and the efficient use of land (Attachment G).*

- (2) Enable the continued orderly and reasonable use of adjacent properties by providing a means for expansion of public roads, utilities, and services.

**Applicant Response:** Existing footprint will not change from current building. Will not add windows adjacent facing to abutting properties,

**Staff Response:** *Staff finds this proposal will enable the orderly and reasonable use of adjacent properties and not interfere with the expansion of roads, utilities, or services.*

- (3) Be designed so as to be compatible with the essential character of the neighborhood.

**Applicant Response:** Yes, it is important that this upgrade looks beautiful and connects with the current design look and is consistent with the property and the neighborhood.

**Staff Response:** *BMC 20.10.036 does not regulate architectural design review for the development of an ADU. However, the architectural design of the proposed D-ADU is consistent with the existing residence and proposes a similar style gable roof and vertical siding, which is also similar to other nearby homes in the neighborhood.*

*Staff finds that the proposed design of the D-ADU is compatible with the character of the general vicinity.*

- (4) Be adequately served by public facilities and utilities including drainage provisions.

**Applicant Response:** Footprint is located next to all public facilities and utilities, very easily connected.

**Staff Response:** *The subject property is currently served by public facilities (Fire and Police services) and abuts City water, sewer, and stormwater utilities.*

*Staff finds that the proposal will be adequately served by public facilities and utilities.*

- (5) Not create excessive vehicular congestion on neighborhood collector or residential access streets.

**Applicant Response:** This property is large enough to support 6-8 cars already, so this will be a low impact.

**Staff Response:** *Per BMC 20.10.036(B)(9)(a), one on-site parking space is required for an ADU, except when improved public street parking is available on at least one side of the block face whereon the ADU is proposed, on-street parking is constructed, or the ADU is within one-*

half mile walking distance to a major transit route. Improved public street parking is available on Jaeger Street, and therefore the applicant is not providing on-site parking for the D-ADU. The parking in the garage below the D-ADU will be for the primary single-family dwelling unit. And there is ample room in the driveway for tandem parking.

Staff finds that the proposal meets the D-ADU off-street parking requirement pursuant to BMC 20.10.036(B)(9)(a)(i) and the primary residence meets BMC 20.30.060 requiring two parking spaces.

- (6) Not create a hazard to life, limb, or property resulting from the proposed use, or by the structures used therefore, or by the inaccessibility of the property or structures thereon.

**Applicant Response:** Using new and quality construction to build a beautiful, new living space.

**Staff Response:** This proposal will be required to meet all applicable code requirements for residential development, including Planning, Building, Public Works, and Fire codes.

Staff finds that this proposal will not create a hazard to life, limb, or property resulting from the proposed use, or by the structures used thereon, or by the inaccessibility of the property or the structures thereon.

- (7) Not create influences substantially detrimental to neighboring uses. "Influences" shall include, but not necessarily be limited to: noise, odor, smoke, light, electrical interference, and/or mechanical vibrations.

**Applicant Response:** None of these are anticipated.

**Staff Response:** The subject property is zoned Residential-Single and contains an existing single-family residence. The proposal for a 1-bedroom, 640 SF D-ADU on top of a 2-car garage is consistent with residential zoning designation and the surrounding residential uses in the neighborhood.

Staff finds that the proposal will not substantially create detrimental effects to neighboring uses.

- (8) Not result in the destruction, loss, or damage to any natural, scenic, or historic feature of major consequence.

**Applicant Response:** New building will not interfere with nature or the natural beauty of the area.

**Staff Response:** As the D-ADU will be constructed over an existing accessory building, minimal site disturbance is anticipated and no significant tree will be removed to establish the use. Additionally, the proposed D-ADU building will not exceed the maximum building height of 24' under height definition No. 1 and is proposed at a height of 20' 8". No changes to the existing single family residential building are proposed.

Staff finds that this proposal will not result in the destruction, loss, or damage to any natural, scenic, or historic feature of major consequence.

**X. CONCLUSION:**

Following a review of the applicant's application materials and consideration of public comments, staff believes as conditioned will comply with the applicable goals, policies, and regulations - including but not limited to BMC 20 and 21 - and therefore recommends approval of this CUP, subject to the conditions below.

**XI. DEPARTMENT RECOMMENDATION:**

Should the Hearing Examiner find that the proposal described herein and as provided meets the criteria, staff recommends the following conditions:

1. The owner shall reside in either the main residence or the D-ADU and is required to submit an affidavit approved by the PCDD Director acknowledging the owner occupancy requirement for as long as the ADU is maintained on the property or until owner occupancy requirements are preempted by the implementation of state law.
2. 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.
3. Land on which the D-ADU is located shall not be subdivided from the primary residence unless preempted by local or state law.
4. Purchasers of homes with an ADU shall register with the Planning and Community Development Department within 30 days of purchase.
5. All necessary City permits shall be obtained prior to construction.
6. The design and size of the D-ADU shall be substantially as shown in **Attachment A3**.
7. No vehicle parking is permitted on a City sidewalk pursuant to BMC 11.33.060 (A)(22). The property owner is required to advise family members, future tenants, and visitors to the property that vehicles are not permitted to park on the sidewalk.
8. Construction noise is prohibited between the hours of 10 p.m. and 7 a.m., pursuant to BMC 10.24.120.
9. The gravel area west of the driveway shall be removed and converted back to soil and vegetation (yard) from the existing fence to the back edge of the sidewalk.
10. A street tree permit shall be submitted for review and approval by the City to replant the street tree that was removed from the public right-of-way abutting W. North Street.
11. In the event the owner/applicant fails to comply with the terms of the conditions herein, the permit(s) may be rescinded.
12. Pursuant to BMC 20.16.010, the Planning and Community Development Director may administratively consider and approve one-time nonaccumulative additions, modifications or changes in accordance with BMC 20.16.010(I).

**Prepared By**



---

**Moshe Quinn, Planner II**  
Planning and Community Development  
Department

**Approved for Submittal By**



---

**Steve Sundin, Senior Planner**  
Planning and Community Development  
Department