

## LIST OF ATTACHMENTS

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

Attachment A1	Conditional Use Permit Application (USE2024-0010)
Attachment A2	Accessory Dwelling Unit Application (ADU2024-0041) and ADU Occupancy Certification
Attachment A3	Site Plan, Floor Plans, Building Elevations
Attachment B	Pre-application Neighborhood Meeting Waiver Request (PRE2024-0017)
Attachment C	Notice of Complete Application and Notice of Application & Public Hearing
Attachment D	Certificate of Posting
Attachment E	Area 14, Birchwood Neighborhood zoning table BMC 20.00.020
Attachment F	2016 Bellingham Comprehensive Plan goals and policies
Attachment G	Stratum Group, Coal Mine / Subsidence Assessment, dated April 12, 2024
Attachment H	Public Hearing Notice sign posting.

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

**HEARING EXAMINER**

**June 26, 2024**

**PROJECT NOS:** CONDITIONAL USE PERMIT (USE2024-0010) & ACCESSORY DWELLING UNIT (ADU2024-0041)

**APPLICANT:** Leilani Jambor, Falconworks Design, 119 Commercial Street, Suite 1506, Bellingham, WA 98225

**PROPERTY OWNER:** Jeff Brubaker, 2609 Patton Street, Bellingham, WA 98225

**I. OVERVIEW:**

**A. PROPOSAL:**

Request for a Conditional Use Permit (CUP) and Accessory Dwelling Unit (ADU) permit to convert and add on to an existing 720 square foot (sf) detached accessory building (garage). A second story will be added to the existing single-story garage creating a total building floor area of 1,445 sf. The building will include an 895 sf detached ADU (D-ADU) and 550 sf ancillary space. The ancillary space is preserved for off-street garage parking for the property owner. A D-ADU with ancillary space that exceeds 1,000 sf requires CUP approval by the Hearing Examiner.

**B. GENERAL INFORMATION:**

- i. Location:** 2609 Patton Street, Bellingham, WA 98225
- ii. Legal Description:** Eldridge's 2<sup>nd</sup> Add to Bellingham Lot 2, BLK 1
- iii. Tax Parcel Number:** 380224021143
- iv. Zoning:** Birchwood Neighborhood, Area 14, Residential Multi, Transition, Medium density

**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 5,600 sq. ft. (0.13 acres) in size and is currently developed with a single-family residence (SFR) and a detached accessory building, which were built under approved City permits CMB2013-00246 and BLD2013-00556. Both permits were finalized by the City in 2014. The subject property frontage is fifty (50) feet along Patton Street and a developed sixteen (16') foot wide alley abuts the rear property line. Vehicle access to the property is taken from the alley. Patton Street is a sixty (60') foot wide right-of-way and is classified as a collector arterial street, which contains areas for on-street vehicle parking. A sidewalk is located on the eastern side of the road and does not abut the project site.

On February 26, 2024, the applicant submitted a request (PRE2024-0017) to waive the pre-application neighborhood meeting requirement pursuant to BMC 21.10.120 (B) (**Attachment B**). The waiver request was approved by the City on March 13, 2024, based on the discretion the proposal did not involve significant land use issues, would not impact the surrounding residential area, and the proposal was associated with a single-family residence.

The applicant submitted a Conditional Use Permit application and an Accessory Dwelling Unit application on March 29, 2024 (**Attachment A1, A2, and A3**). On April 25, 2024, the applicant submitted a Coal Mine Hazard and Subsidence Assessment prepared by Stratum Group, dated April 12, 2024 (**Attachment G**).

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 April 25, 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 subject property on April 30, 2024 and submitted the Certificate of Posting (**Attachment D**).

On June 12, 2024, the Hearing Examiner's department staff issued and mailed a notice of the Public Hearing in accordance with BMC 21.10.200(D). On June 13, 2024, City staff posted a Public Hearing notice sign in the street right-of-way fronting the subject property (**Attachment H**).

#### **VI. PUBLIC COMMENT:**

In response to the April 25, 2024, Notice of Application & Public Hearing for the proposal and as of the printing date of this report (6/18/24), no public comment was submitted regarding the CUP and D-ADU proposal.

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

- Bellingham Municipal Codes:
- Chapter 16.55: Critical Area, Section 16.55.460 (C) Mine Hazard Areas
- Section 20.00.020: Table of Zoning Regulations – Birchwood Neighborhood, Area 14
- Chapter 20.10: General Provisions, Section 20.10.036 Accessory Dwelling Units
- Chapter 20.12: General Standards, Section 20.12.030 Landscaping (C)(1) and (D)(1)

Chapter 20.16: Conditional Use Requirements and Procedures  
Chapter 20.30: Single Family Residential Development  
Chapter 20.32: Residential Multi Development

### **VIII. LAND USE ANALYSIS:**

The subject property is located in Area 14 of the Birchwood Neighborhood, which is zoned Residential Multi, Transition, Medium density per BMC 20.00.020 Birchwood Neighborhood Table of Zoning Regulations. Under the zoning density category for Area 14, single-family development requires a minimum detached lot size of 4,000 sq. ft., which the property meets at approximately 5,600 sq. ft. in size (Patted 50' x112'). As previously mentioned, the existing single-family dwelling unit and detached accessory building were approved by the City in 2013 and the permits were finalized in 2014.

A detached single-family dwelling unit and an ADU are both listed as permitted uses pursuant to BMC 20.32 and subject to meeting the single-family development regulations in BMC 20.30 for residential single development and BMC 20.10.036 for an ADU.

For new and redeveloped properties regulated under BMC 20.30, one street tree is required per fifty (50) feet of street frontage if no tree exists, pursuant to BMC 20.30.040 H. Said street tree may be planted adjacent to the right-of-way within the property lines or within the public right-of-way subject to City approval. As this proposal is a form of redevelopment and no trees front the property, staff recommends one street tree be planted as a condition of the CUP permit to support the 2016 Bellingham Comprehensive Plan Policy EV-34 and meet the BMC street tree provision cited above. Surrounding properties near the site contain trees planted along their property frontage or within the right-of-way.

The existing accessory building meets all the regulatory standards pursuant to BMC 20.30.100 for setbacks, size, and height and the proposed D-ADU meets BMC 20.10.036 Accessory Dwelling Units, with the exception of 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. As the property is not located within a Residential Single zone, the owner is not required to reside in either the main residence or the D-ADU, pursuant to BMC 20.10.036 (B) (4) (b).

The subject property is located within a coal mine hazard area, which is a designated critical area pursuant to BMC 16.55.420(D), and classified as having a moderate potential for subsidence. Being advised by staff of the coal mine hazard area, the applicant had Stratum Group, prepare an assessment in accordance with BMC 16.55.410-16.55.460 (Chapter 16.55 Critical Areas), which identified that the proposal poses a low risk of subsidence and the proposed development would not increase the risk of geologic hazards on or off-site, therefore the development plans did not warrant any mitigation measures for the proposed D-ADU construction (**Attachment G**).

### **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:** *This project will add additional living space in the form of an ADU while preserving the use of the existing two car garage.*

**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 for the community (**Attachment F**). 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 and trails.*

*Additionally, as referenced in the Coal Mine Hazard and Subsidence Assessment, prepared by Stratum Group, the proposed development will not increase the risk of geologic hazards on or off-site (**Attachment G**).*

*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:** *Residential Multi zoning is already designed to densify the neighborhood. The addition of the new ADU will serve to create more housing density in this area.*

**Staff Response:** *The property is located within a Residential Multi, Transition zoning designation and pursuant to BMC 20.32.030 (A) (8) an D-ADU may be permitted within this zoning designation if the proposal complies with the procedures and requirements in BMC 20.10.36 Accessory Dwelling Units. With the exception of 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 895 sq. ft. D-ADU meets the regulatory performance standards in BMC 20.10.36, for ADU size, setbacks, height, parking, and lighted pedestrian path. As conditioned in Section XI of the staff report requiring a street tree be planted, the proposed D-ADU would comply with all the applicable zoning provisions for the primary dwelling in BMC 20.30.*

*Staff finds that the applicant's proposal satisfies the purpose and intent of the Residential Multi general use type designation as a D-ADU use is listed as a permitted use if the proposal meets the requirements in BMC 20.10.36.*

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

**Applicant Response:** *The existing garage is located on the alleyway and the new ADU will only be four inches (4") taller than the existing structure.*

**Staff Response:** *The proposal utilizes an existing single story accessory building that is approximately 21' 7" in height to roof peak. The proposed D-ADU keeps with the existing building footprint of the accessory building, with the exception of increased wall area for a second story for the main floor area for the D-ADU. Once completed, the over-all height of the D-ADU is approximately 21' 11", a slight height difference from the original accessory building height by four inches and under the D-ADU height limit of 24' under Height Definition 1. The building design and materials of the proposed D-ADU 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 D-ADU proposal complies with the 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.*

*Additionally, no public comments have been submitted of any possible detrimental effects created by the proposal.*

*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:** *The new ADU will increase housing opportunities while very minimally increasing impervious services. (There will only be 48 sf of new impervious surface created.)*

**Staff Response:**

*Staff finds that the proposal implements several goals and polies of the 2016 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 F**).*

*Additionally, with the recommended condition to plant a street tree pursuant to BMC 20.30.040 H, the proposal implements Policy EV-34 of the Bellingham Comprehensive Plan and contributes to Bellingham's urban forest canopy.*

*2016 Bellingham Comprehensive Plan, Environment Chapter:*

- Policy EV-34 Encourage the preservation and planting of street trees and trees on private property using the "right tree, right place" concept.*

**(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:** *The new ADU is contained within the required setbacks.*

**Staff Response:** *Staff finds this proposal will enable the orderly and reasonable use of adjacent properties as the proposed D-ADU keeps within the existing building footprint of the existing accessory building and is not expected to interfere with the future expansion of roads, utilities, or services.*

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

**Applicant Response:** *The design is in keeping with the architecture of the surrounding homes and is complementary to the existing home. Exterior materials will match existing home.*

**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 surrounding area.*

*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:** *Bus line located .1m from the property. Existing utilities for the SFR will serve the new ADU, Existing garage stormwater system will serve new ADU.*

**Staff Response:** *The subject property is currently served by public facilities (Fire and Police services) and abuts City water, sewer, and stormwater utilities. Pursuant to BMC 20.10.036 Utilities, a primary dwelling and an ADU may have shared water, sewer, and stormwater services.*

*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:** *Proposed ADU maintains existing 2 parking spaces in garage as well as a third parking space adjacent to the garage. Additional street parking on Patton St available.*

**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 Patton Street, however the applicant is providing an on-site parking stall for the D-ADU. The two parking spaces in the garage below the D-ADU will be for the primary single-family dwelling unit.*

*Staff finds that the proposal meets the D-ADU off-street parking requirement pursuant to BMC 20.10.036(B)(9)(a) and the primary residence meets BMC 20.30.060 requiring two on-site 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:** *ADU to have a lighted path to alley as well as directional sign from Patton St.*

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

*the lighted pedestrian path, downward shielded lighting is proposed adjacent to the D-ADU main entrance.*

*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 Multi and contains an existing single-family residence and accessory building. The proposal for a 1-bedroom, 895 SF D-ADU on top of a 2-car garage is consistent with the surrounding residential uses. Exterior lighting above the main D-ADU entrance is shielded downward to limit light spilling onto nearby properties. Influences regulated under BMC are required to be upheld/met, relating to construction hours, noise, and placement and sound created by mechanical equipment.*

*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:** *No expansion to footprint of existing garage. None of the above features are impacted.*

**Staff Response:** *As the D-ADU will be constructed over an existing accessory building, minimal site disturbance is anticipated and no significant trees 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 21’ to midpoint of highest gable and approximately 21’ 11’ to peak of the roof . No changes to the existing single family residential building are proposed. The proposal is not located within a view special condition area per BMC Section 20.00.020: Table of Zoning Regulations – Birchwood Neighborhood, Area 14*

*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 application materials, staff believes as conditioned the proposal will comply with the BMC provisions cited in Section VII, implements the goals and policies of 2016 Bellingham Comprehensive Plan (**Attachment F**), and meets the conditional use permit criteria as referenced in this staff report. Staff recommends approval of this CUP and ADU permit, subject to the conditions in Section XI.



**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. 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.
2. Land on which the D-ADU is located shall not be subdivided from the primary residence unless preempted by local or state law.
3. Purchasers of homes with an ADU shall register with the Planning and Community Development Department within 30 days of purchase.
4. All necessary City permits shall be obtained prior to construction.
5. The design and size of the D-ADU shall be substantially as shown in **(Attachment A3)**.
6. Construction noise is prohibited between the hours of 10 p.m. and 7 a.m., pursuant to BMC 10.24.120.
7. One street tree is required to be planted adjacent to the Patton Street right-of-way within the property lines or within the Patton Street right-of-way abutting the subject property. If the street tree is planted in the public right-of-way, a Street Tree permit is required to be submitted and approved by the City. Street trees shall meet the standards, pursuant to BMC 20.12.030 (D).
8. In the event the owner/applicant fails to comply with the terms of the conditions herein, the permit(s) may be rescinded.
9. 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**



---

**Kurt Nabbefeld, Development Service  
Manager, SEPA Responsible Official**  
*Planning and Community Development  
Department*