

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-14-12)
ERIC AND RITA BAHME
OCTOBER 21, 2014

This is a report to the Flathead County Board of Adjustment regarding a request for a conditional use permit to establish a ‘Bed and Breakfast establishment’ on the subject property from APEC Engineering on behalf of the owners, Freedom Bank, for the interested party, Eric and Rita Bahme. The subject property is located within the Spring Creek Zoning District and is zoned ‘R-1 Suburban Residential’ and ‘SC Scenic Corridor.’

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on November 5, 2014 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is not located within the advisory jurisdiction of a Land Use Advisory Committee.

B. Board of Adjustment

This space is reserved for an update regarding the November 5, 2014 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Landowner

Freedom Bank
530 9th St. West
Columbia Falls, MT 59912

ii. Applicant

Eric & Rita Bahme
PO Box 269
Somers, MT 59932

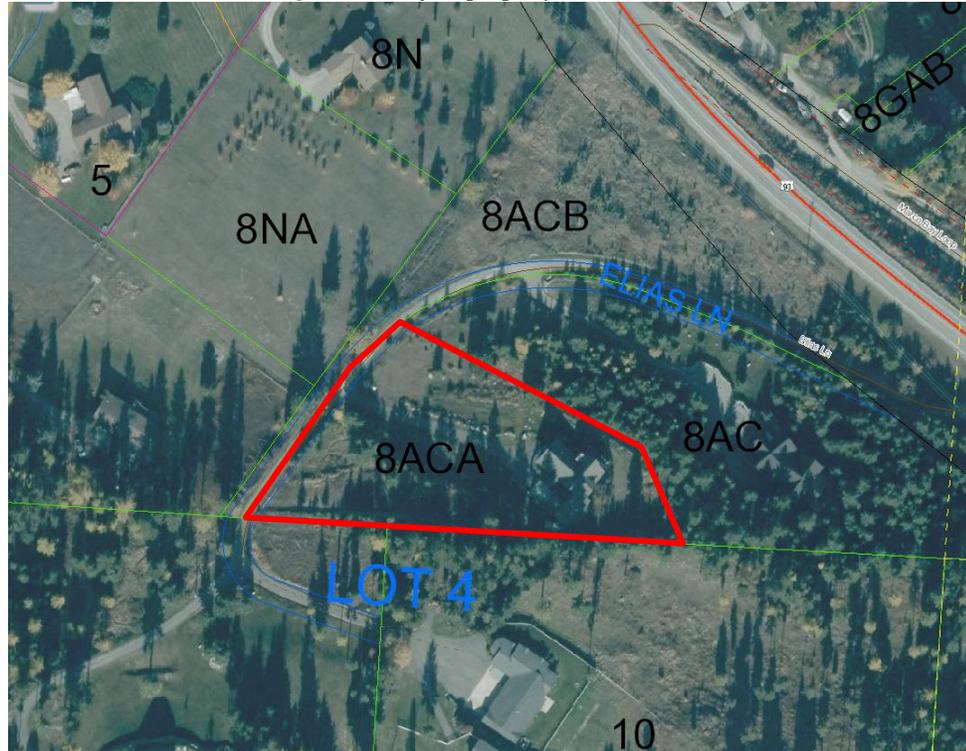
iii. Technical Representative

Joe Matulevich
APEC Engineering
111 Legend Trail
Kalispell, MT 59901

B. Property Location and Size

Sited west of US Highway 2, the subject property is located at 905 Elias Lane in the Somers area (see Figure 1 below). The property is approximately 1.6 acres in size and can be legally described as Tract 8ACA in Section 35, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property (outlined in red)



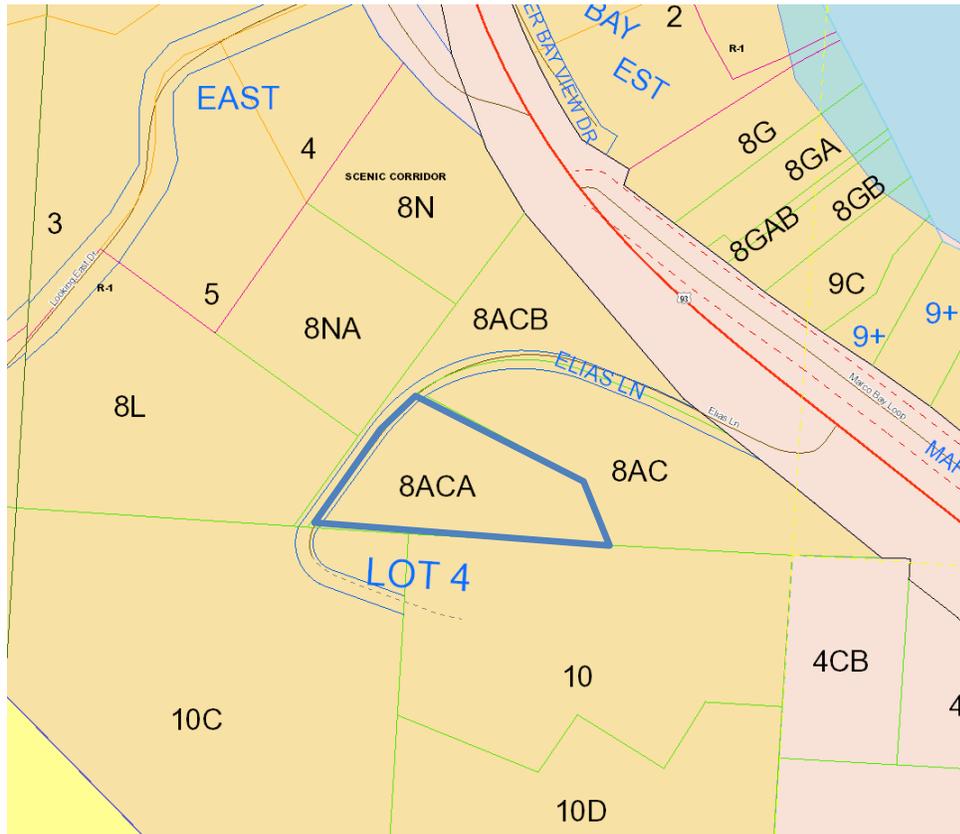
C. Existing Land Use(s) and Zoning

As shown in Figure 2 below, the property is located within the Spring Creek Zoning District and is zoned ‘R-1 Suburban Residential’ and ‘SC Scenic Corridor.’ R-1 is defined as, “A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g., extreme topography, areas adjacent to floodplains, airport runway alignment extensions).” Scenic Corridor is defined as, “An overlay or standing district intended to protect the scenic vistas and provide greater traffic safety along the highway corridors by restricting the number, size and location of outdoor advertising signs and billboards. This district can function as a standing district or can be applied to zoned areas. If zoned, this district will only regulate off-premise advertising signs.” The property is currently developed for residential use and a 7100 sq. ft. structure with 6 bedrooms and 8 bathrooms that was constructed in 2008.

D. Adjacent Land Use(s) and Zoning

Lands surrounding the subject property to the north, east and west are similarly zoned R-1 Suburban Residential and SC Scenic Corridor. The general character of the surrounding area is residential, with single family homes. Most of the properties in the immediate vicinity appear to be somewhat forested.

Figure 2: Zoning surrounding the subject property (outlined in blue)



E. Summary of Request

The applicant is proposing to utilize the existing residential structure to conduct a Bed and Breakfast establishment and is therefore requesting a conditional use permit to allow for a Bed and Breakfast on the subject property pursuant to Section 3.09.030(3) of the Flathead County Zoning Regulations (FCZR). A Bed and Breakfast establishment is defined under Section 7.03.020 FCZR as “A single-family detached dwelling containing, in addition to living accommodations for the resident manager, individual sleeping rooms without cooking facilities for the purpose of providing to the general public for compensation, lodging, bathroom facilities, and breakfast only to overnight patrons.” The placement of a Bed and Breakfast establishment in an R-1 zone requires the issuance of a Conditional Use Permit, the review of which is subject to specific guidelines set forth under Section 2.06.080 FCZR regarding criteria for the issuance of a Conditional Use Permit and conditional use standards for a Bed and Breakfast establishment found in Section 4.02 FCZR.

Staff notes that there is some ambiguity within the FCZR relating to structural requirements applicable to a Bed and Breakfast. In particular, the proposal submitted for the application includes 4 rooms to be rented to the public in addition to the manager’s quarters. As shown in application materials submitted by the applicant, the room on the base floor as well as the two rooms above the garage are not connected via a door to the rest of the house.

- According to the FCZR, the definition of Bed and Breakfast includes the terms “*single family detached dwelling.*” The definition of a dwelling is “*a building used for human residential purposes.*” The definition of a building is “*any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattel. When any portion thereof is completely separated from every other portion thereof by a division wall without openings, then each such portion shall be deemed to be a separate building.*” According to this chain of definitions, it would appear that the structure to be used might not comply with the definition of a Bed and Breakfast.
- However, it should be noted that the FCZR includes definitions that lead to differing views on this subject. For example, the definition of an accessory building/use is “*a use, building or structure, or part of a building or structure which is subordinate to and the use of which is incidental to that of the main building, building or use of the same lot. If an accessory building is attached to the main building or structure by a common wall or roof, such accessory building shall be considered as part of the main building.*”
- In comparison to the FCZR definition of Bed and Breakfast, Montana Code Annotated Section 50-51-102 that defines a Bed and Breakfast as a “*private, owner-or manager-occupied residence that is used as a private residence but in which: (a) breakfast is served and is included in the charge for a guest room; and (b) the number of daily guests served does not exceed 18.*” It is evident by this definition that state statute does not include reference to the same structural issues as presented in the FCZR. Therefore there is evidence that can be used in support and in opposition to the Bed and Breakfast proposed in this existing structure. While no inspection of the interior of the building was conducted during the site visit, the supplied floor plan and visual inspection from outside indicate that the base floor room as well as the rooms above the garage do not have cooking facilities beyond space for a mini-fridge and/or a microwave leading staff to conclude that these should not be considered separate residential buildings.

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on October 17, 2014, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application was published in the October 19, 2014 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on September 30, 2014:

- Montana Department of Transportation
 - Reason: Primary access to the property exists via Highway 93 and thus has potential to impact MDT facilities.
- Somers Fire Department
 - Reason: The property is located within the department’s jurisdiction and has the potential to impact Somers Fire Department response.
- Flathead County Solid Waste (FCSW)
 - Reason: The property is located within the department’s jurisdiction and has the potential to impact county facilities.

- Flathead County Sherriff's Office
 - Reason: The property is located within the department's jurisdiction and has the potential to impact county facilities.
- Montana Department of Labor and Industry- Building Codes Bureau
 - Reason: As a non-exempt building that will require a building permit by the state, there could be requirements pertinent to this review.
- Flathead City-County Environmental Health Department
 - Reason: The property is located within the department's jurisdiction.
- Flathead County Weeds and Parks Department
 - Reason: The property is located within the department's jurisdiction and on-site development could lead to the growth of weeds on the subject property.
- Bonneville Power Administration
 - Reason: The BPA has requested a copy of all agency referrals.

III. COMMENTS RECEIVED

A. Public Comments

A compiled packet of comments was received on October 16, 2014 from Robert King, Chuck Anderson, and Patrick Stricklin, surrounding property owners located on Elias Lane. The comments include the objections below:

- The subject property is a duplex and not historical.
- "Elias is certainly not a collector road as it is a single land and only 11.5 foot wide. Entering and exiting is already dangerous as the road is steep and there are several blind turns and drainage ditches on each side."
- The building "was intentionally build with efficiency apartments that have separate entrances and 2 RV pads with electric and septic."
- "This portion of US 93 is in the Scenic Corridor. A sign would not be permitted. Customers trying to locate this business would cause dangerous traffic conditions."
- "We fear that one of the RV pads may be used by a manager thus allowing additional room rentals and more demand on septic and water."
- "The apartments above the garage have cooking capabilities."
- "Considering the structure is actually a duplex, there will most likely be several semi-permanent residents."

Relevant comments will be discussed in the applicable sections of the review below. Additional agency comments received after the date of this report will be verbally summarized at the November 5, 2014 Planning Board hearings on this proposal.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: "The Bonneville Power Administration (BPA) has had the opportunity to review the above referenced request for a conditional use permit. In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time. Dated October 9, 2014

- Flathead City-County Environmental Health Department
 - Comment: “1) This property currently has a Certificate of Subdivision Approval (EQ# 99-2164) which approves use for one single family dwelling. The property must be re-reviewed under the Sanitation in Subdivisions Act in order to change the use to a Bed and Breakfast. At that time, water, wastewater, stormwater drainage, and solid waste disposal will be evaluated for the proposed change of use.
 - 2) Operation of a Bed and Breakfast requires a Public Accommodations license issued by Montana Department of Health and Human Services, Food and Consumer Safety Section. Environmental Health Services is contracted to license such establishments. The establishment must meet all licensure requirements and obtain a license before operation.” Letter dated October 10, 2014.

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate usable space

The subject property is approximately 1.62 acres in size and is currently developed with a residential structure. The applicant is not proposing to build any additional structures as part of this proposal but instead will utilize the existing structure for the Bed and Breakfast establishment. The existing dwelling consists of 6 bedrooms and 8 bathrooms and is 7100 square feet in size with an approximate 2186 square foot footprint. The permitted lot coverage in an R-1 zone is 40%. The total lot covered of the subject property is about 3.1 % of the 1.62 acre lot, well below the allowable lot coverage.

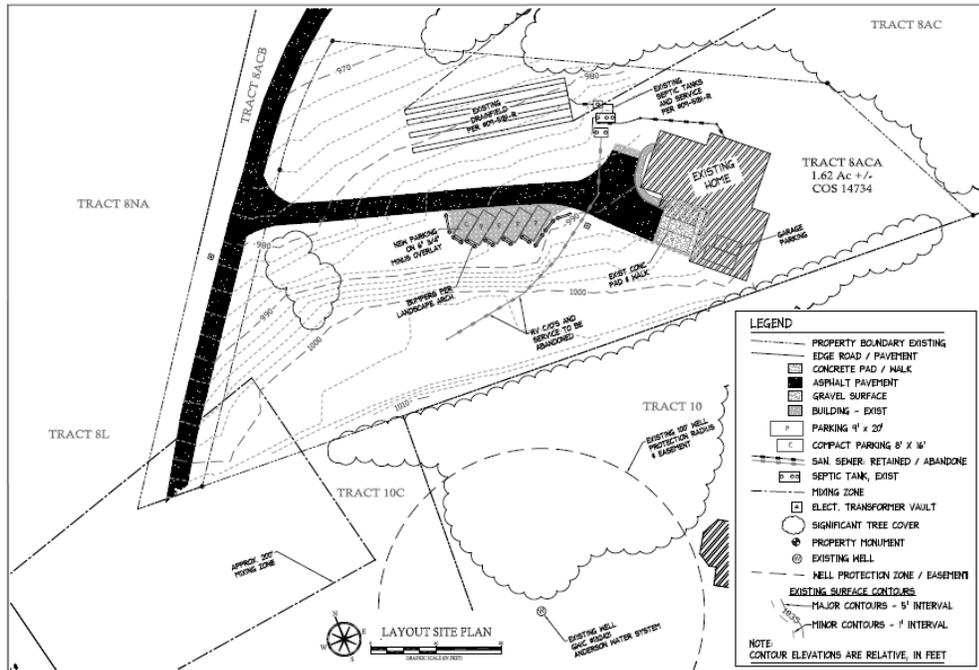
The proposed parking area (Figure 3) will consist of a 44’ x 20’ area for 5 vehicular parking spaces northwest of the building and 2 additional areas of 2 spaces approximately 17’x 18’ in size. While the area for designated parking space totals 1496 square feet, it should be noted that 308 square feet of this parking area is within the existing attached garage, most suitably utilized by the managers of the Bed and Breakfast.

The minimum yard requirements within the R-1 zoning are 20 feet for front, side, rear and side corner yards for the principal structure. The setbacks for accessory structures are 20 feet from front and side corner yards and 5 feet for side and rear yards. An additional 20 foot setback is required from streams, rivers and unprotected lakes. Based upon staff’s site visit and the submitted site plan, it appears the subject property has adequate useable space to accommodate the Bed and Breakfast establishment in compliance with the setback and lot coverage requirements of the R-1 zone.

Presently, the site contains a drainfield in conjunction with an approved on-site wastewater treatment system that complies with the appropriate sanitation regulations with regards to siting on the subject property. While the property is currently served by an off-site multi-user well, it is anticipated that there is sufficient room for an on-

site well if needed because the lot is well under the permitted lot coverage for an R-1 zone.

Figure 3: Site Plan



Finding #1 – There appears to be adequate usable space for the proposed use because the use will only cover 3.1% of the total lot area, has sufficient area for parking, a drainfield and potential well, and meets the applicable setback and lot coverage requirements.

ii. Adequate access

The property is currently accessed via Elias Lane, a paved private road of approximately 12 ft. in width with a 30’ easement that has an existing approach from Highway 93. According to FCZR Section 6.16.010, “access to business, service stations, roadside stands, public parking lots and all other business requiring motor vehicle access shall meet the requirements as hereinafter provided or as applicable of the Montana Department of Transportation or Flathead County Road and Bridge Department (whichever requirements are more stringent).” According to Table 1-New Roadway Design Standards outlined in Section 2-05 of the *Flathead County Minimum Standards for Design and Construction*, a 22’ road and 60’ easement is applicable for local roads. The road appears to have a grade of less than 10% per calculations based on 2’ contour data, which complies with the maximum grade for ordinary and mountainous local roads. As the existing road does not comply with the roadway standards for width and easement size as required by FCZR Section 6.16.010, it should be required that Elias Lane be upgraded to meet these standards. While no written comment was received from MDT regarding the approach as of the time this staff report was written, verbal confirmation on 10/20/2014 from Dave Rauser noted that no approach permit is on file with the Montana Department of Transportation but that he would not suggest the applicants be required to obtain an Approach Permit onto Highway 93 from Elias Lane if the physical approach existed

prior to 1991. As a revised easement was recorded in 1991 to realign the easement to follow the existing Elias Lane, it can reasonably be concluded that the physical approach existed at this time.

Figure 4: Area Topography



Question over the legal access for guests has been raised by Bob King, the neighbor to the east of the property who is also served by Elias Lane. Public comment submitted by Mr. King on October 16, 2014 includes a letter sent to Freedom Bank on August 10, 2009. The letter states “the easement for the properties using Elias Lane similarly restricts the use of the road and benefitting land to private use, not rentals or commercial ventures.” Staff has attempted to research this issue with assistance from the county attorney’s office in order to address this complaint.

As an easement may be created by reference in the documents of conveyance to a plat or Certificate of Survey, it can be concluded that legal access to the property for the owners exists as referenced in a Quitclaim Deed and Certificate of Survey No. 14734 appurtenant to the property. A Road Maintenance Agreement dated February 2, 2007 (Doc # 200703316290) provides a mechanism for equal share of roadway maintenance costs of Elias Lane. Since the applicant has noted that additional vehicle traffic is expected with the Bed and Breakfast during portions of the year, this Road Users Agreement should be revised to adequately distribute the maintenance burden.

According to MCA 70-17-106, “the extent of servitude is determined by the terms of the grant or the nature of the enjoyment by which it was acquired.” As an increase in traffic is reasonable to expect, and supported by data from the Institute of Transportation Engineers trip generation manual for motel uses, the owners will be required to provide proof to the Flathead County Planning and Zoning Office that legal access is provided for the commercial use.

Finding #2 – The access to the property is not currently suitable for the proposed use because Elias Lane is constructed as a 12’ wide private paved road and the Flathead County *Minimum Standards for Design and Construction* would require a local road utilized by businesses to be 22’ wide with a 60’ easement.

Finding #3 – The access to the property may not be suitable for the Bed and Breakfast because while the existing 30’ easement for Elias Lane does appear to provide legal access for the owners it is not clear whether legal access is provided for the proposed commercial use of the subject property.

iii. Absence of environmental constraints

The subject property is located on a hillside along Highway 93 and therefore is subject to areas of moderate slopes (15-30%) along the northernmost part of the site. Additionally, the soils on site have been identified as gravelly sandy silt over sandy clay with some gravel as noted on the Flathead City-County Health Department existing Septic Permit (#09-5181-R). Visual inspection upon a staff site visit on October 3, 2014 found that slopes appear well vegetated and stable. According to FIRM Panel 30029C2300G, the site is in Zone X and thus not in a “special flood hazard area.” The area does not display areas of shallow groundwater, streams, or wetlands.

Finding #4 – The site is suitable for the use of a Bed and Breakfast establishment within the existing structure as the property does not appear to have any environmental constraints such as floodplain, streams, lakes, areas of apparent shallow groundwater, wetlands, and the moderate slopes that exist on site are not unstable.

B. Appropriateness of design

i. Parking scheme

According to FCZR 6.03.010, Bed and Breakfast establishments require 2 spaces for the resident family or manager plus 1 space per room rented plus one space for every 2 outside employees of maximum shift. Based on floorplans submitted by the applicant, 4 bedrooms would be rented to the public. As no outside employees are anticipated, 6 parking spaces are required to be supplied that meet parking lot standards illustrated in FCZR 6.01.030. The applicant has supplied a layout with 6 standard and 3 compact vehicle spaces for a total of 9 parking spaces that meet the dimensions outlined in FCZR 6.01.010 (2). While FCZR 6.01.010 (6) states that “no more than 20 percent (20%) of the off-street parking requirements shall be met by the use of compact spaces and all such spaces shall be suitably marked on site”, more than required parking has been proposed with at least 6 standard spaces in addition to the 3 compact spaces. While the submitted parking schemes appears to accommodate the parking, the driveway currently does not meet the Minimum Parking Lot Requirements, 20’ aisle width, as outlined in Appendix A of the FCZR. The driveway should thus be widened to accommodate the two-way traffic.

Finding #5 – The proposed parking appears to be partially appropriate as the applicant is proposing 9 parking spaces, 3 more than required, however the aisle width does not meet the 20’ requirement outlined in Appendix A of the FCZR.

ii. Traffic circulation

Current ingress and egress to the subject property is via a 12' paved private road (Elias Lane) within a 30' private access and utility easement. While the general area is forested, sufficient clearing of vegetation around the driveway approach onto Elias Lane provides adequate site distance for traffic entering and exiting the property. Additionally, the slope of the Elias Lane adjacent to the property appears to be less than 10% slope complying with the requirements of the Flathead County Road and Bridge Department's *Minimum Standards of Design and Construction*.

As mentioned above, a 12' paved driveway does not appear to be sufficient for two-way aisle traffic or for emergency vehicles to access the structure. The driveway will need to be widened to 20' to accommodate two-way traffic. The addition of a modified T-turn appears to provide sufficient space for vehicles to maneuver within the site.

Finding #6 – The proposed traffic circulation on site does not appear to be completely appropriate because while sufficient slopes and clearance at the point of ingress and egress is appropriate for sight distance, the proposed driveway would not support two-way traffic per FCZR 6.01.030.

iii. Open space

The subject property is approximately 1.62 acres in size and currently developed with a single family dwelling. The applicant is not proposing to build any additional structures as part of this proposal but instead will utilize the existing structures. The existing dwelling consists of 6 bedrooms and 8 bathrooms and is 7100 square feet in size with an approximate 2186 square foot footprint. The permitted lot coverage in an R-1 zone is 40%. The total lot covered of the subject property is about 3.1% of the 1.62 acre lot, well below the allowable lot coverage, resulting in substantial open space preserved on the property.

iv. Fencing/screening

Currently there is no fencing on the subject property except for screening vegetation that lines the property and the applicant is not proposing any additional fencing or screening at this time. Neither the R-1 zoning designation or a Bed and Breakfast require fencing or screening. If the property owners decide to install additional fencing it shall conform to the applicable fencing regulations outlined in FCZR 3.09.040(6) and 5.04.

v. Landscaping

The property is surrounded by forested area, however open defensible space exists around the structure. The applicant is not proposing any additional landscaping with this proposal with the exception of "general improvement to quality, aesthetics and suitability of vegetation." No landscaping is required for the Bed and Breakfast establishment based on the applicable zoning regulations.

vi. Signage

While no specific signage has been proposed with the application, it has been noted that signage may be incorporated in the future. The applicants have stated that "signage shall be of absolutely minimal size and rustic character to accommodate guest needs and prohibitions." All signage shall be in compliance with standards established in FCZR 5.11 and shall thus not include off-site directional signs.

vii. Lighting

The structure currently has existing hooded porch and entrance lighting. The applicant has not proposed any additional lighting at this time but has noted that future lighting will be “screened exterior lighting” and “residential in character.” All future lighting shall be hooded, screened or directed in such a manner that the light source shall not be deleterious to the neighboring property owners in addition to other lighting regulations outlined in FCZR 5.12.

Finding #7 – The Bed and Breakfast establishment appears to be adequately designed in terms of open space, fencing, landscaping, signage and lighting because 97% of the property will be left as open space, the applicant is not proposing any landscaping beyond what is currently present, potential signage, fencing/screening, and lighting would be subject to applicable FCZR performance standards.

C. Availability of Public Services and Facilities

i. Sewer

The applicant is proposing to utilize the existing permitted on-site septic system. Comments received from the Flathead City-County Environmental Health Department state, “the property currently has a Certificate of Subdivision Approval (EQ#99-2164) which approves use for one single family dwelling. The property must be re-reviewed under the Sanitation in Subdivisions Act in order to change the use to a Bed and Breakfast. At that time, water, wastewater, stormwater drainage, and solid waste disposal will be evaluated for the proposed change of use.”

The applicant is not proposing to construct new buildings or a new drainfield but would be required to go through Department of Environmental Quality Subdivision review to allow for the proposed use on the property. Additionally, comment submitted by the Flathead County Environmental Health Department has noted that the operation of a Bed and Breakfast requires a Public Accommodation License issued by the Montana Department of Health and Human Services, Food and Consumer Safety section. The review requirements would be conditioned and verification may be requested by the Flathead County Planning and Zoning Office.

ii. Water

The property currently utilizes a multi-family well operated by the Anderson Water Association. A water well agreement (Rec. # 200125412530) dated August 24, 2000 states “it is understood and agreed that each membership thereto shall be used only for one (1) single family residence for each membership owned.” The applicant has noted that “modifications to Anderson Well Users Agreement and Declaration of Association shall be negotiated with parties to the Agreement reflecting the usage modifications to the satisfaction of all parties involved. Otherwise the subject parcel owners shall exit from the Anderson System and install their own groundwater source well and appurtenances.” The owners would be required to record a new Well Users Agreement that address the proposed Bed and Breakfast or will need to obtain a new, individual on-site well subject to applicable permitting by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality. This would be conditioned and verification by the Flathead County Planning and Zoning Office may be requested in the future.

Finding #8 – The requirements for waste water treatment for the Bed and Breakfast establishment appears to be acceptable because the existing individual waste water treatment system is in place but would need to be re-reviewed under the Sanitation in Subdivision Act and the operation reviewed for a Public Accommodation License to be issued by the Food and Consumer Safety section of the Montana Department of Health and Human Services.

Finding #9- The current water source may not be sufficient at present because the property is subject to the provisions of the Anderson Water Association and the existing Water Well Agreement which do not appear to facilitate the proposed use, however the issue could be mitigated if the Water Well Agreement is modified or a new on-site well is installed and permitted as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

iii. Storm Water Drainage

Currently storm water run-off is handled through on-site absorption and will continue to be handled through on-site absorption in the future. The applicant is has not proposed any new buildings on the property but roadway and driveway improvement will increase impervious surface and may increase storm water run-off. The proposed use will be required to be reviewed and approved for a Certificate of Subdivision Approval by the Flathead City-County Environmental Health Department. This will be conditioned and may be requested by the Flathead County Planning and Zoning Office.

Finding #10 – The Bed and Breakfast establishment appears to have minor impacts with regards to stormwater drainage because roadway and driveway improvements are expected to increase impervious cover, however the stormwater would be managed through on-site absorption and the use would need to be re-reviewed by the Flathead City-County Environmental Health Department under the Sanitation in Subdivisions Act for stormwater management.

iv. Fire Protection

The subject property is located in the Wildlife Urban Interface and County Wide Priority Area. The request is to allow for a Bed and Breakfast establishment on the subject property and would not be adding permanent residents to the WUI. The subject property is currently served by the Somers Fire Department, and is located approximately 2.5 miles south of the existing fire station. No comments have been received from the Somers Fire Department at the time this report was written. Because of the close proximity to the fire station long response times are not anticipated

v. Police Protection

The property would be served by the Flathead County Sheriff's Department. Due to the rural area of the property it is anticipated response times in the event of an emergency would be long and delays are possible.

vi. Streets

The property has one access via Elias Lane, a private paved road within a 30 foot easement. Staff confirmed that the private road is approximately 12 feet wide. Elias Lane appears to be maintained in an appropriate manner and in accordance to the

recorded Road Users Agreement. As noted above, the existing street does not provide adequate access as required in FCZR Section 6.16. FCZR Section 6.16.010 states that “access to business, service stations, roadside stands, public parking lots and all other business requiring motor vehicle access shall meet the requirements as hereinafter provided or as applicable of the Montana Department of Transportation or Flathead County Road and Bridge Department (whichever requirements are more stringent).” According to Table 1- New Roadway Design Standards outlined in Section 2-05 of the Flathead County *Minimum Standards for Design and Construction*, a 22’ road and 60’ easement is required for local roads. The road appears to have a grade of less than 10% per calculations based on 2’ contour data, which complies with the maximum grade for ordinary and mountainous local roads. As the existing road does not comply with the roadway standards for width and easement size as required by FCZR Section 6.16.010, it will be required that Elias Lane be upgraded to meet these standards.

Figure 5: Elias Lane west of Highway 93



Finding #11 – The proposed use appears to have acceptable impacts on public services and facilities because the Somers Fire Department and Flathead County Sheriff may provide services to the subject property.

Finding #12- The existing road, Elias Lane, does not meet roadway standards as required by the FCZR Section 6.16.010 and outlined in the Flathead County *Minimum Standards for Design and Construction* because the road is required to be 22’ wide and located within a 60’ access and utility easement.

D. Immediate Neighborhood Impact

i. Excessive traffic generation

The Bed and Breakfast establishment is anticipated to increase traffic along Elias Lane above the level expected of a single family residential use. The applicant has

stated that “additional vehicle trips/day may be expected in peak season due to guest traffic, however guest accommodations shall directly reduce the number of bedrooms available to the permanent resident family therefore some offset is to be expected.” According to the Institute of Traffic Engineers trip generation rates for motels during the weekday, 10 trips per room are expected. With a 4 unit Bed and Breakfast, the use may generate approximately 40 additional trips per day in addition to the 10 trips generated by a single family residence. The increase in traffic generation along with the slope and vegetation of the area as illustrated in Figure 5 further support the requirement of Elias Lane roadway improvements to meet Flathead County Road and Bridge Department Standards.

ii. Noise or vibration

While some noise and vibration will naturally result from a Bed and Breakfast establishment, these impacts aren’t expected to be more than those produced by a residential use of the same size. No sound beyond what is typical for a residential use is anticipated as a result of the proposed Bed and Breakfast establishment.

iii. Dust, glare or heat

Based on the submitted application the proposed use is not anticipated to create adverse impacts on the surrounding neighborhood as a result of dust, glare, or heat because the materials used on the structure consist of stone, wood, and earth-colored paint. Elias Lane is a paved private road and a Bed and Breakfast establishment does not typically produce more dust, glare, or heat than a single family residence.

iv. Smoke, fumes, gas, or odors

No fumes or gas are anticipated to be generated by the Bed and Breakfast establishment beyond what is typical for a residential area.

v. Inappropriate hours of operation

The applicant has stated that a Bed and Breakfast establishment has similar operation and timing as residential uses. Given the rural nature of the property and the fact that no other commercial uses are allowed per the standards of a Bed and Breakfast as outlined in FCZR 4.02, this appears to be appropriate.

Finding #13- The traffic generation is expected to impact the immediate neighborhood as the use could generate approximately 40 vehicle trips per day and Elias Lane does not currently meet the Flathead County Road and Bridge Department Standards.

Finding #14 – The proposed use is not anticipated to impact the surrounding neighborhood as the use is not anticipated to create noise, vibration, glare, heat, smoke, fumes, gas or odors, or hours of operation out of character with the rural residential setting.

V. SUMMARY OF FINDINGS

Finding #1 – There appears to be adequate usable space for the proposed use because the use will only cover 3.1% of the total lot area, has sufficient area for parking, a drainfield and potential well, and meets the applicable setback and lot coverage requirements.

Finding #2 – The access to the property is not currently suitable for the proposed use because Elias Lane is constructed as a 12’ wide private paved road and the Flathead County *Minimum Standards for Design and Construction* would require a local road utilized by businesses to be 22’ wide with a 60’ easement.

Finding #3 – The access to the property may not be suitable for the Bed and Breakfast because while the existing 30’ easement for Elias Lane does appear to provide legal access for the owners it is not clear whether legal access is provided for the proposed commercial use of the subject property.

Finding #4 – The site is suitable for the use of a Bed and Breakfast establishment within the existing structure as the property does not appear to have any environmental constraints such as floodplain, streams, lakes, areas of apparent shallow groundwater, wetlands, and the moderate slopes that exist on site are not unstable.

Finding #5 – The proposed parking appears to be partially appropriate as the applicant is proposing 9 parking spaces, 3 more than required, however the aisle width does not meet the 20’ requirement outlined in Appendix A of the FCZR.

Finding #6 – The proposed traffic circulation on site does not appear to be completely appropriate because while sufficient slopes and clearance at the point of ingress and egress is appropriate for sight distance, the proposed driveway would not support two-way traffic per FCZR 6.01.030.

Finding #7 – The Bed and Breakfast establishment appears to be adequately designed in terms of open space, fencing, landscaping, signage and lighting because 97% of the property will be left as open space, the applicant is not proposing any landscaping beyond what is currently present, potential signage, fencing/screening, and lighting would be subject to applicable FCZR performance standards.

Finding #8 – The requirements for waste water treatment for the Bed and Breakfast establishment appears to be acceptable as the existing individual waste water treatment system is in place but would need to be re-reviewed under the Sanitation in Subdivision Act and the operation reviewed for a Public Accommodation License to be issued by the Food and Consumer Safety section of the Montana Department of Health and Human Services.

Finding #9- The current water source may not be sufficient at present because the property is subject to the provisions of the Anderson Water Association and the existing Water Well Agreement which do not appear to facilitate the proposed use, however the issue could be mitigated if the Water Well Agreement is modified or a new on-site well is installed and permitted as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

Finding #10 – The Bed and Breakfast establishment appears to have minor impacts with regards to storm water drainage because roadway and driveway improvements are expected to increase impervious cover, however the storm water would be managed through on-site absorption and the use would need to be re-reviewed by the Flathead City-County Environmental Health Department under the Sanitation in Subdivisions Act for stormwater management.

Finding #11 – The proposed use appears to have acceptable impacts on public services and facilities because the Somers Fire Department and Flathead County Sheriff may provide services to the subject property.

Finding #12- The existing road, Elias Lane, does not meet roadway standards as required by the FCZR Section 6.16.010 and outlined in the Flathead County *Minimum Standards for Design and Construction* because the road is required to be 22’ wide and located within a 60’ access and utility easement.

Finding #13- The traffic generation is expected to impact the immediate neighborhood as the use could generate approximately 40 vehicle trips per day and Elias Lane does not currently meet the Flathead County Road and Bridge Department Standards.

Finding #14 – The proposed use is not anticipated to impact the surrounding neighborhood as the use is not anticipated to create noise, vibration, glare, heat, smoke, fumes, gas or odors, or hours of operation out of character with the rural residential setting.

VI. CONCLUSION

Upon review of this application, the request to allow for a Bed and Breakfast establishment on the subject property meets some but not all of the review criteria and the Findings of Fact listed above reflect this. After a public hearing and Board discussion, should the Flathead County Board of Adjustment choose to adopt staff report FCU-14-12 as Findings of Fact or amend based on additional evidence and approve the conditional use permit, the following conditions would improve compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS OF APPROVAL

1. The Bed and Breakfast establishment shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The Bed and Breakfast establishment shall be located in accordance with the minimum yard and maximum height requirements of the R-1 zoning district, pursuant to Section 3.09.040 of the Flathead County Zoning Regulations.
4. All required parking and driveways associated with the use shall meet the applicable design guidelines and special conditions set forth in the Flathead County Zoning Regulations, including widening the existing driveway to 20’ to allow for two-way traffic [FCZR Section 6.01].
5. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
6. Elias Lane shall be widened to 22’ with a 60’ easement as outlined in the Flathead County Road and Bridge Department’s *Minimum Standards for Design and Construction*. [FCZR Section 6.16]

7. Documentation demonstrating legal access is available for owners and patrons of the Bed and Breakfast must be provided to the Flathead County Planning and Zoning Office upon request.
8. The proposed water, wastewater treatment, and stormwater drainage systems for the Bed and Breakfast establishment shall be reviewed as applicable by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. A copy of the approved permit shall be available upon request by Flathead County Planning and Zoning.
9. The applicant shall obtain an approved applicable Public Accommodations License as from the Montana Department of Public Health and Human Services prior to commencing operation of the Bed and Breakfast establishment. The written approval must be available to the Flathead County Planning and Zoning Office upon request
10. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].
11. The applicant shall obtain a commercial building permit and a commercial electric permit, as applicable, from the Building Codes Bureau of the Montana Department of Labor and Industry Business Standards Division. The permits shall be available to the Flathead County Planning and Zoning Office upon request.
12. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].
13. Due to the nature of the conditions imposed to mitigate impacts to safety, public health and environment all applicable conditions regarding necessary permitting and/or site improvements must be met prior to operation of the Bed and Breakfast.

Planner: RE