

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-16-13)
STEVEN AND JULIE KRUGER
AUGUST 23, 2016

This is a report to the Flathead County Board of Adjustment regarding a request from Steven and Julie Kruger for a conditional use permit to allow for a *'Bed and Breakfast Establishment'*. The subject property is located within the Rural Whitefish Zoning District and is zoned *'R-1 Suburban Residential.'*

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on August 2, 2016 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 August 2, 2016 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant

Steven and Julie Kruger
2620 Big Mountain Road
Whitefish, MT 59937

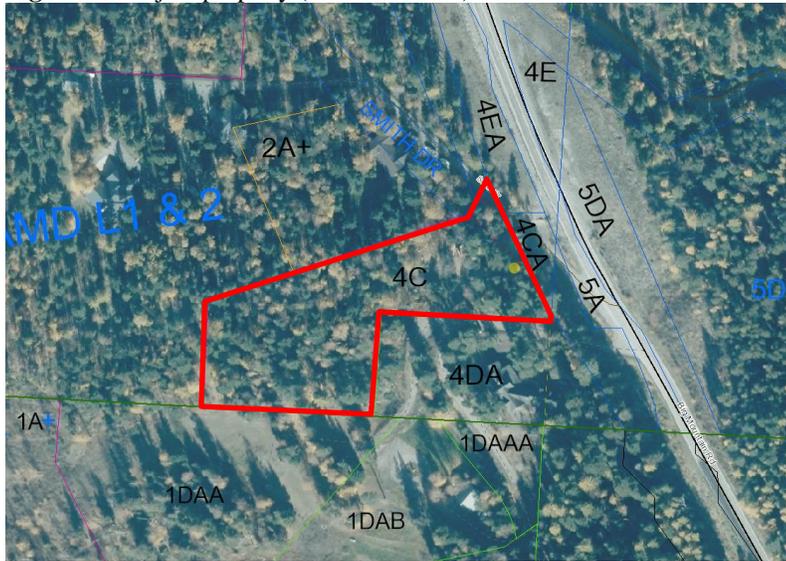
ii. Landowner

Steven and Julie Kruger
2620 Big Mountain Road
Whitefish, MT 59937

B. Property Location and Size

The property is located at 2620 Big Mountain Road, northwest of Whitefish, MT (see Figure 1 below). The property can be legally described as Tract 4C in Section 11, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana

Figure 1: Subject property (outlined in red)



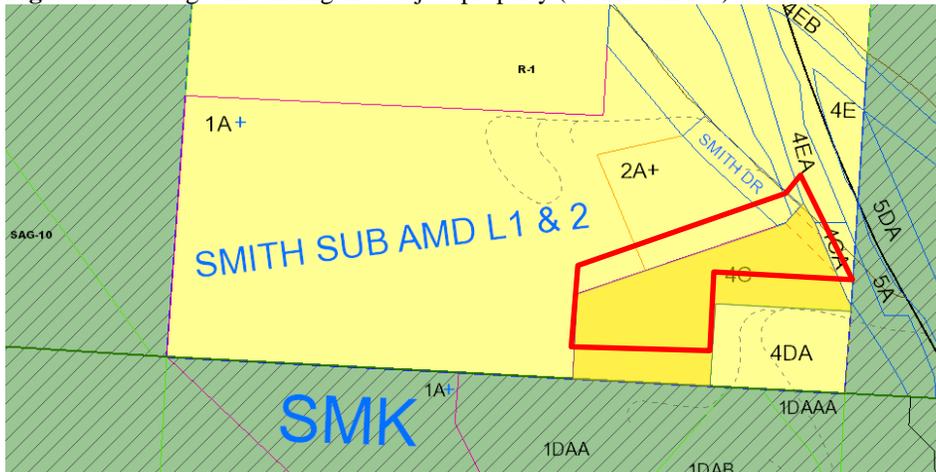
C. Existing Land Use(s) and Zoning

The property is located within the Rural Whitefish Zoning District and is zoned ‘R-1, Suburban Residential.’ a designation intended 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)’ [Section 3.09.010 FCZR]. The property is currently developed with a single family residence.

D. Adjacent Land Use(s) and Zoning

Property in the surrounding vicinity includes ‘SAG-10, Suburban Agricultural’ and ‘R-1, Suburban Residential’ zoning (see Figure 2 below). The primary uses in the area are generally low density residential, recreation, and open space.

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



E. Summary of Request

The applicant is proposing a ‘Bed and Breakfast Establishment’ on a lot zoned ‘R-1, Suburban Residential’ at 2620 Big Mountain Road in the Rural Whitefish Zoning District. The bed and breakfast establishment will consist of ONE bedroom and a bathroom that will be used by guests. The bedroom is located in a residential dwelling located on 2.1 acres. The bed and breakfast is anticipated to be operational year round.

The applicant is requesting a conditional use permit to allow for a Bed and Breakfast Establishment to be placed on the subject property pursuant to Section 7.03.020 and Section 4.02 of the Flathead County Zoning Regulations (FCZR). A Bed and Breakfast establishment is listed as a conditional use and requires a conditional use permit under R-1 zoning [Section 3.09.030(19)], and is defined 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*’ [Section 7.03.020 FCZR]. The review of the conditional use permit 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.

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on July 13, 2016, 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 July 16, 2016 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on June 21, 2016:

- Flathead County Road and Bridge Department
- Whitefish Fire Department
- State Building Department
- Jim Chilton, Flathead County Solid Waste
- Wendee Jacobs, Flathead City-County Health Department
- Joe Russell, Flathead City-County Health Department
- Jed Fisher, Flathead County Weeds & Parks Department
- Julie Weber, Bonneville Power Administration

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the conditional use permit request. Two verbal comments were received and generally concerned with allowing the use in the area. Bob Smith, an adjoining land owner spoke at the August 2nd Board of Adjustment meeting and is particularly concerned with parking and the intention of the Bed and Breakfast Establishment to park within the 30 foot easement that runs through the property. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

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

- Flathead County Road and Bridge Department
 - Comment ‘At this point the County Road Department does not have any comments on this request’
- State Building Department
 - Comment ‘it is determined that the project as presented at the location identified at the address 2620 Big Mountain Road, Whitefish, MT is within the jurisdiction of the Building Codes Bureau at the Department of Labor and Industry. As such, applicable building codes related permits are required.’
- Wendee Jacobs, Flathead City-County Health Department
 - Comment ‘This existing parcel is developed with one single family dwelling. A septic permit was issued September 23, 1980, sized for a maximum of three (3) bedrooms. Due to the limited size of the septic system, the dwelling is limited to three bedrooms. The owner identifies them self and daughter live in the residence (Part C (1) of the application). Therefore, one rental unit/room could be utilized for the bed and breakfast. Operation of a bed and breakfast requires a Public Accommodations license issued by the State of Montana (MCA 50-51-201). Application for this license can be initiated with Environmental Health Services. Operation of the Bed and Breakfast must be in conformance with ARM 37.111.3 and FCS Circular 1-2012 Standards for Nonpublic Water Supplies Serving Licensed Establishments.’
- Julie Weber, Bonneville Power Administration
 - Comment ‘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.’

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

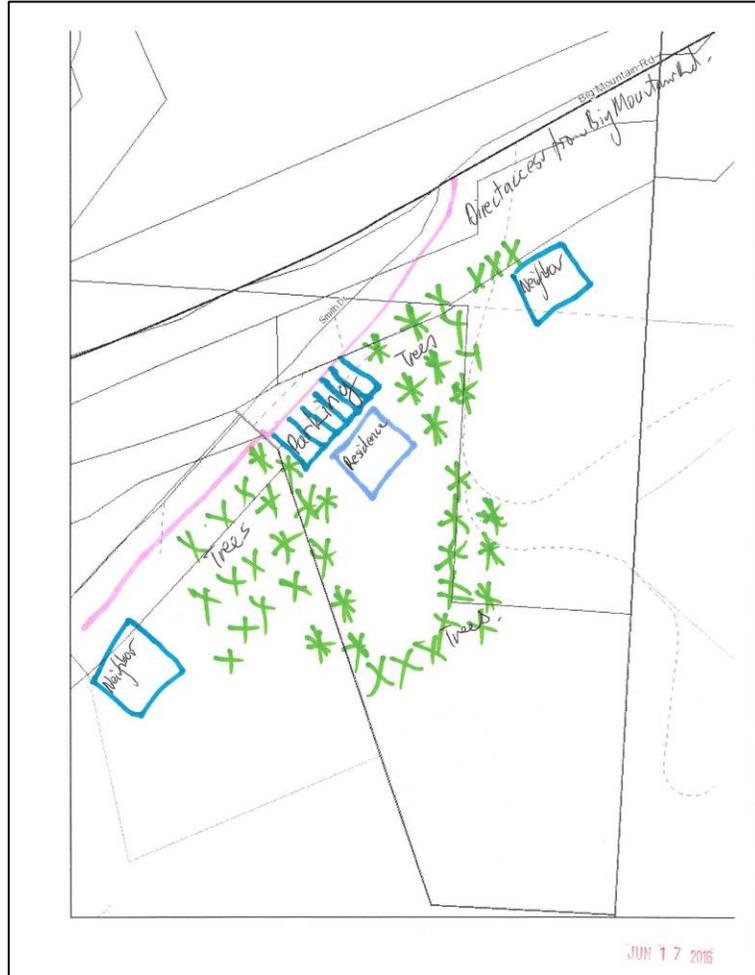
i. Adequate usable space

The proposed bed and breakfast establishment will be located on 2.1 acres (see Figure 3). The lot is currently developed with a single family residence and is located on a hill. The total lot coverage for the proposed bed and breakfast establishment would be less than the permitted lot coverage in the R-1 zoning designation of 40%.

The minimum yard requirements within the R-1 zoning designation 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 but none of these features exist on site. 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 zoning designation.

Figure 3: Site map



Finding #1 – There appears to be adequate usable space for the proposed use because the use will only cover 250 square feet of the 2200 square foot house located on a 2.1 acre lot and the proposal appears to meet the applicable setback and lot coverage requirements.

ii. Adequate access

The bed and breakfast establishment will be accessed via Smith Drive, with an existing approach from Big Mountain Road, a public road maintained by the Montana Department of Transportation within a 60' easement. Smith Drive is a gravel local road, approximately 20 feet in width within a 30 foot easement (See Figure 4). Maintenance of the shoulders of Smith Drive will be needed to ensure the entire 21 feet of the road is usable by 2 vehicles simultaneously.

There is a road user's agreement in place regarding the maintenance and snow removal between the property owners who use Smith Drive to access their property.

Figure 4: Access from Big Mountain Road



Finding #2 – Access to the property is currently suitable for the proposed use because the bed and breakfast establishment will be access off Smith Road, a gravel two-lane local private road, approximately 20 feet wide with an existing approach from Big Mountain Road.

iii. Absence of environmental constraints

According to FEMA FIRM panel 1080G the subject property is situated in an un-shaded Zone X, which is classified as an area outside the 500-year floodplain. Additionally, there appears to be no wetlands, streams, or creeks located on the subject property.

Finding #3 – The subject property appears suitable for the bed and breakfast establishment because the site is not within a Special Flood Hazard Area and does not contain wetlands, streams, or creeks.

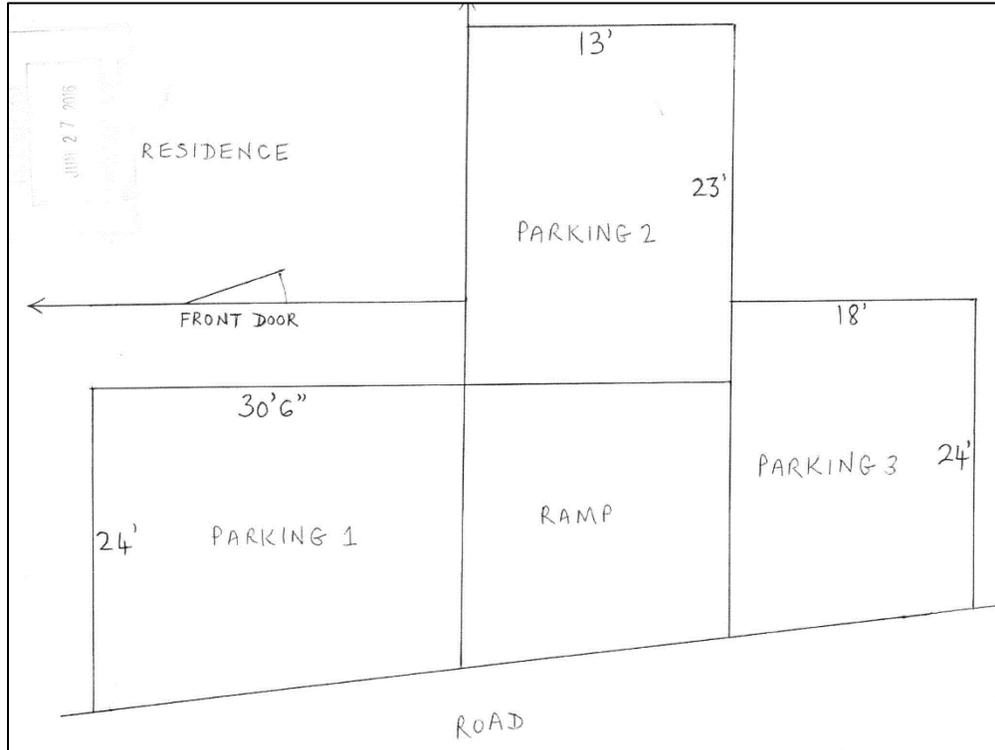
B. Appropriateness of design

i. Parking scheme

FCZR Section 6.03.010 states that for Bed and Breakfast there is a requirement of, ‘2 spaces for the resident family or manager plus 1 space per room rented plus 1 space for every 2 outside employees of maximum shift.’ The parking space dimensions for a standard vehicle are 9 by 20 feet. [FCZR Section 6.01.010(2)(A)] There will be no employees for the bed and breakfast, just the on-site manager. The application indicates a 24 foot by 30.5 foot parking area is available for bed and breakfast establishment and a 13 foot by 23 foot and an 18 foot by 24 foot parking area available for the residence. This parking area along with the carport will accommodate the 2 spaces for the resident family and 1 space for the room since there is one room available for rent. The

proposed parking plan is situated within a 30 foot easement for Smith Drive. No parking is allowed within road easements. It appears the proposed parking scheme is not appropriately designed because the parking area is located within a private road easement but could be mitigated by moving the parking area to a location behind the house and out of the easement

Figure 5: Parking site plan



Finding #4 – The proposed parking scheme does not appear to be appropriately designed because the applicant has a parking area that is located within a private road easement but could be mitigated by moving the parking area to a location behind the house and out of the easement.

ii. Traffic circulation

Ingress and egress to the bed and breakfast establishment proposed on the subject property will be via a private road off of Big Mountain Road. FCZR Section 6.16.020(3) requires a minimum road width of 20’ for two-way traffic accessing a business which the proposal appears to meet with annual maintenance.

Smith Road is gravel, two-lane private road within a 30’ easement. Smith Drive is approximately 20’ wide and given the low speeds on the road there appears to be adequate site distances for traffic entering and exiting the property.

Finding #5 – The proposed traffic circulation appears to be appropriately designed because Smith Drive would support two-way traffic for the proposed bed and breakfast establishment with annual maintenance.

iii. Open space

The subject property is 2.13 acres in size and the applicant is proposing to utilize 2 existing bedrooms and 1 bathroom for a bed and breakfast establishment. The applicant states no additional structures will be built in addition to the existing residence. The total lot coverage for the proposed bed and breakfast establishment would be well below the permitted lot coverage in the R-1 zone of 40%.

iv. Fencing/screening

The applicant states that there is ‘adequate existing vegetative screening exists and will provide privacy for neighboring properties.’ The zoning designation and bed and breakfast establishment standards do not require any fencing or screening.

v. Landscaping

The applicant states ‘Existing landscaping will remain. No changes will occur.’ No landscaping is required for the bed and breakfast establishment based on the applicable zoning regulations.

vi. Signage

The applicant states ‘One small, compliant sign will be used to direct guests.’ There is no current signage on the property. All signage shall meet the standards outlined in FCZR Section 5.11.

vii. Lighting

According to the application concerning lighting, ‘Current dark sky lighting exists. No additional lighting will be required.’ The applicant shall be required to conform to the lighting standards set forth in Section 5.12 FCZR.

Finding #6 – The bed and breakfast establishment appears to be adequately designed because the subject property meets all standards for design outlined in the Flathead County Zoning regulations and any new fencing/screening, landscaping, signage, and/or lighting shall meet the design standards outlined in the zoning regulations.

C. Availability of Public Services and Facilities

i. Sewer

The proposed bed and breakfast establishment will be served by an existing single septic system approved for a three bedroom house. The proposed use would utilize a third bedroom. Flathead City-County Environmental Health noted that ‘this existing parcel is developed with one single family dwelling. A septic permit was issued September 23, 1980, sized for a maximum of three (3) bedrooms. Due to the limited size of the septic system, the dwelling is limited to three bedrooms. The owner identifies them self and daughter live in the residence (Part C (1) of the application). Therefore, one rental unit/room could be utilized for the bed and breakfast.’ Mr. Kruger has amended his application to only list one room for rent for the Bed and Breakfast Establishment.

ii. Water

The application states that the bed and breakfast establishment will use the 'existing well.' The water system must be approved by the Flathead City-County Environmental Health.

Comment from Flathead City-County Environmental Health Department also states 'The proposed bed and breakfast requires a Public Accommodations License issued by the State of Montana (MCA 50-51-201).' The applicant must obtain the appropriate accommodations license from the Flathead City-County Environmental Health Department for operation of a bed and breakfast establishment.

Finding #7 – The requirements sewer, water, and accommodations license for the bed and breakfast establishment will meet the standards for the proposed use because the Bed and Breakfast establishment will use the existing well, the sewer is approved for a three bedroom house, only one bedroom will be available for rent, and the applicant will be required to obtain a Public Accommodations License.

iii. Storm Water Drainage

The application materials indicate storm water run-off will be handled through on-site absorption. The proposed use does not appear to affect the existing storm water drainage because the existing structures and impervious surfaces will not be altered. The Flathead City-County Department of Environmental Health did not indicate any additional requirements were needed to address storm water drainage.

Finding #8 – The bed and breakfast establishment appears to have acceptable impacts on storm water drainage because no new impervious cover will be created and the storm water will be managed through on-site absorption.

iv. Fire Protection

The subject property is located in the Whitefish Rural Fire District. The request to operate a bed and breakfast establishment would not alter the number of structures on the property. The subject property is located approximately 4 miles from the nearest fire station. The bed and breakfast establishment would be used year round and is not likely to hinder the availability of fire protection. No comments have been received from the Whitefish Rural Fire Department at this time.

v. Police Protection

The property would be served by the Flathead County Sheriff's Department. Due to the proximity of the property to Kalispell, long response times should be anticipated. The bed and breakfast establishment would be used year round and is not likely to hinder the availability of police protection.

vi. Streets

The bed and breakfast establishment will be accessed via Smith Drive, a gravel two-lane local private road within a 30' easement with an existing approach from Big Mountain Road. Big Mountain Road is a paved local road with a 60' easement.

Finding #9 – The proposed use appears to have acceptable impacts on public services and facilities because the bed and breakfast establishment will be used year round, the Whitefish Rural Fire Department and Flathead County Sheriff provide services to the subject property and the property is accessed off of an adequate roadway for the proposed use.

D. Immediate Neighborhood Impact

i. Excessive traffic generation

The proposed bed and breakfast establishment is not anticipated to increase traffic along Big Mountain Road and Smith Drive above the level expected of a single family residential use. The applicant states ‘No traffic will pass any neighboring homes. Maximum of two additional vehicles in peak time.’ There is no comparable use listed in the 5th edition of the Institute of Transportation Engineers Trip Generation book.

The most recent traffic count by the Montana Department of Transportation for Big Mountain Road, conducted in 2015 indicated two average daily traffic (ADT) counts, 2340 trips at the bottom of Big Mountain Road, and 1870 trips at the top of Big Mountain Road. Because the subject property is located almost exactly half way between the two traffic count locations, an average of 2105 trips will be used. It does not appear the proposed bed and breakfast establishment would generate excessive traffic.

ii. Noise or vibration

The applicant states, ‘No additional noise or vibration will occur. Visitors to the Bed and Breakfast will not be allowed to use any outdoor facilities including the yard, deck and porch. This will nullify the chance of excessive noise.’ Given these conditions, it appears the Bed and Breakfast Establishment will have minimal impacts to the surrounding area and neighborhood.

iii. Dust, glare or heat

The proposed use is not anticipated to generate glare or heat that would adversely impact the neighborhood. There are no proposed changes to the current buildings which would alter the current effect on dust, glare or heat.

iv. Smoke, fumes, gas, or odors

No fumes or gas are anticipated to be generated by the bed and breakfast establishment.

v. Inappropriate hours of operation

The applicant states ‘Check in and check out will occur during business hours’ Because the Bed and Breakfast Establishment is part of the residence, hours of operation will be in accordance with residential use.

Finding #10 – The proposed use is not anticipated to impact the surrounding neighborhood because the traffic generated by the proposal is anticipated to only slightly increase traffic on Big Mountain Road/Smith Drive, the use is not anticipated to create noise, vibration, glare, heat, smoke, fumes, gas or odors or have of operation out of character with the residential setting or produce unacceptable impacts to the neighborhood.

V. SUMMARY OF FINDINGS

1. There appears to be adequate usable space for the proposed use because the use will only cover 544 square feet of the 2200 square foot house located on a 2.1 acre lot and the proposal appears to meet the applicable setback and lot coverage requirements.
2. Access to the property is currently suitable for the proposed use because the bed and breakfast establishment will be access off Smith Road, a gravel two-lane local private road, approximately 20 feet wide with an existing approach from Big Mountain Road.
3. The subject property appears suitable for the bed and breakfast establishment because the site is not within a Special Flood Hazard Area and does not contain wetlands, streams, or creeks.
4. The proposed parking scheme does not appear to be appropriately designed because the applicant has a parking area that is located within a private road easement but could be mitigated by moving the parking area to a location behind the house and out of the easement.
5. The proposed traffic circulation appears to be appropriately designed because Smith Drive would support two-way traffic to the parking area for the proposed bed and breakfast establishment with annual maintenance.
6. The bed and breakfast establishment appears to be adequately designed because the subject property meets all standards for design outlined in the Flathead County Zoning regulations and any new fencing/screening, landscaping, signage, and/or lighting shall meet the design standards outlined in the zoning regulations.
7. The requirements sewer, water, and accommodations license for the bed and breakfast establishment will meet the standards for the proposed use because the Bed and Breakfast establishment will use the existing well, the sewer is approved for a three bedroom house, only one bedroom will be available for rent, and the applicant will be required to obtain a Public Accommodations License.
8. The bed and breakfast establishment appears to have acceptable impacts on storm water drainage because no new impervious cover will be created and the storm water will be managed through on-site absorption.
9. The proposed use appears to have acceptable impacts on public services and facilities because the bed and breakfast establishment will be used year round, the Whitefish Rural Fire Department and Flathead County Sheriff provide services to the subject property and the property is accessed off of an adequate roadway for the proposed use.
10. The proposed use is not anticipated to impact the surrounding neighborhood because the traffic generated by the proposal is anticipated to only slightly increase traffic on Big Mountain Road/Smith Drive, the use is not anticipated to create noise, vibration, glare, heat, smoke, fumes, gas or odors or have of operation out of character with the residential setting or produce unacceptable impacts to the neighborhood.

VI. CONCLUSION

Upon review of this application, the request to allow for a Bed and Breakfast Establishment is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-16-13 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS

1. The operation of the 'Bed and Breakfast Establishment' on the subject property 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 for this permit to be valid [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 approved use shall conform to the applicable standards of the R-1 Suburban Residential zoning designation [FCZR Section 3.09] and Bed and Breakfast Establishment conditional use standards [FCZR Section 4.02].
4. A minimum of 3 standard vehicle parking spaces shall be clearly established on the subject property in accordance with applicable zoning regulations [FCZR Sections 6.03.010] and located off of any private road easements.
5. The property owner shall determine the edges of the road easement on the subject property and submit a Certificate of Survey and updated parking plan to the Flathead County Planning and Zoning Office.
6. The applicant shall ensure the shoulders of Smith Drive between the parking area on the subject property and Big Mountain Road are free of weeds and grasses to ensure the road width continues to meet the standards for two way traffic (20 feet in width) [FCZR Section 6.16.020(3)] as well as all other standards outlined in FCZR Section 6.16.
7. The bed and breakfast establishment shall contact the state building department to acquire necessary permits. A copy of the approved permits shall be available upon request by Flathead County Planning and Zoning.
8. Only one bedroom shall be available for rent to be in conformance with the septic permit issued for the subject property.
9. The applicant shall obtain a Public Accommodations license issued by Montana Department of Health and Human Services, Food and Consumer Safety Section (MCA 50-51-201) and submit to the Flathead County Planning and Zoning Office.
10. All signage on the subject property shall comply with all applicable standards and guidelines set forth under Section 5.11 of the Flathead County Zoning Regulations
11. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations.
12. The operation of the bed and breakfast establishment shall commence within one year from the date of issuance of the conditional use permit. The permit may be extended for one additional year if the permittee requests additional time prior to expiration date.
13. At the end of twelve (12) months from the date of authorization of this permit staff will inspect to verify compliance [FZCR Section 2.06.060].

Planner: KN