

**BLAINE COUNTY PLANNING AND ZONING COMMISSION**  
**PUBLIC HEARING DATE: MAY 11, 2023**

<p><b>REGARDING THE APPLICATION OF:</b> A Mountain Overlay District (MOD) Site Alteration (site alt) permit application by Bruce Thompson Macveagh Family Limited Partnership, to construct a primary single family residence.</p>	<p><b>STAFF REPORT</b> Rachel Martin May 1,2023</p>
--	---

**REQUESTED ACTION:** Public Hearing and consideration of a MOD Site Alteration Permit application by Bruce Thompson, to construct an approximately 6,138 square foot, 32’ 3” tall, primary single-family residence on the 16.79 acre parcel located at Defiance 77, SEC 15 4N 18E, also known as 112 Keystone Street. The proposed residence is accessed via Keystone Street in the City of Sun Valley and through Forest Service property on a private section of Keystone Street. The driveway is proposed to meet fire district standards. It is zoned Rural Residential District (R-10), Mountain Overlay District, Riparian Setback, Wetland Overlay, Avalanche Overlay and Wildlife Overlay Districts.

**APPLICABLE REGULATIONS:**

- Title 10 (Subdivision Regulations): Chapters 1-5
- Title 9 (Zoning Regulations): Chapters 2, 6, 17, 19, 20, 21, 22, 29A
- Title 8 (Comprehensive Plan): Chapters 2, 3, 5, 8

**REPRESENTATIVES:** Craig Lawrence, AIA

**HISTORY:**

Defiance 77 is a single tax parcel, a patented mining claim in Blaine County. A Parcel Determination in 2021 (exhibitC-1) found the parcel to be a lot of record and has a residential building right. The subject property is an unplatted, vacant parcel outside of the City of Sun Valley neighborhood of Elkhorn. The Lot is entirely within the Mountain Overlay District. A wetland area exists on the property across the road from the proposed residence. A class four intermittent stream runs through the wetland.

The property is accessed from the City of Sun Valley, through June Day Subdivision, onto Forest Service land leading to 112 Keystone Street. The applicant obtained a Right of Way Encroachment Permit from the City of Sun Valley to widen and improve the access road to Fire Department standards. The applicant has entered into a maintenance agreement with the June Day Subdivision for improvements to the road through June Day Subdivision Common Area, Lot KK. The applicant has also obtained a letter of authorization from USFS for necessary improvements to the access road through federal property. Exhibits A-4 – A-6 show the above approvals. The road is a popular walking path in the summer and winter and was packed by foot traffic during a staff site visit in February 2023.

**SITE VISITS:** Site visits have been scheduled for Thursday, May 4 and Tuesday, May 9<sup>th</sup>.

## Section I. General Facts

### Disclosures: Site Visits? Ex. Parte Communications? Economic Conflicts? Other Conflicts?

*Ex parte* contacts involve a decision-maker's receipt of any information pertaining to an open application on a quasi-judicial matter. (ie: emails, phone calls, conversations) The undisclosed receipt and consideration of *ex parte* information denies interested persons their right to review and respond to this off the record information, resulting in a due process violation and more generally, an unfair process.

1. The Land Use office received the Mountain Overlay District Site Alteration Permit application on January 26, 2023. The application was certified as being generally complete on 4- 1-2023.
2. Public notice for the 5-11-2023 public hearing for this application was provided as follows:
  - a) Legal notice was sent to the Idaho Mountain Express for publication on 4-26-2023;
  - b) Notification was sent to surrounding property owners within three hundred (300) feet of the subject property on 4-26-2023 and to all county political subdivisions on 4-25-2023.
  - c) An on-site notice was posted on 5-2-2023, at least 7 days prior to hearing as evidenced by the affidavit in file;
  - d) The application materials were posted on the website on April 27, 2023.

► **Motion:** Upon motion by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_, and by a vote of \_\_\_\_to \_\_\_\_\_, the Commission finds notice to be adequate for the \_\_\_\_\_ hearing and in compliance with I.C. § 67-6512 and § 9-25-4 of the Zoning Ordinance.

3. The following information and exhibits are attached hereto by reference and were received at the Land Use office on 1-26-2023, unless otherwise indicated:

#### A Exhibits- Application

- A-1: Completed application
- A-2: Drawings
- A-3: Response to Standards
- A-4: US Forest Service Letter of initial Road Approval
- A-5: City of Sun Valley Finding of Fact and Right of Way Encroachment Permit for Access Road
- A-6: June Day Subdivision Maintenance Agreement and Approval Letter for Road Improvements
- A-7: Geotechnical Report, Butler and Associates
- A-8: Wetland Delineation, Sawtooth Environmental Consulting
- A-9: Avalanche Study Cover Letter, Alpine Engineering

#### B Exhibits- Agency Comments

- B-1: Blaine County Engineer Review, April 9, 2023

#### C Exhibits- Blaine County Supplements:

- C-1: Parcel Determination Letter and Map, February 23, 2021
- C-2: GIS Aerial

#### D Exhibits- Pubic Comment: None as of the date of this report

**Section II. Evaluation of Site Alteration Permit  
Design Review Standards of Evaluation  
Pursuant to §9-21-5 of the Zoning Ordinance**

Applicant responses are in Exhibit A-1b. **Staff comments are in bolded font.** *Code citations are italicized.*

Pursuant to §9-21-5 (D) of the Zoning Regulations, *the applicant has the burden of demonstrating compliance with this chapter, including each of the following design review standards of evaluation. Before approving or conditionally approving a site alteration permit, the commission shall review and find adequate evidence that the proposed development or site alteration meets the following standards:*

1. *No sufficient available area for the site alteration exists on the lot outside of the mountain overlay district. "Available area" excludes land located within the 100-year floodplain, floodway, wetlands, avalanche or landslide hazards created by off site conditions where such environmental concerns outweigh the hillside concerns for the particular project. Existing structures that are nonconforming to this chapter may be improved, moved, or replaced within the mountain overlay district, provided the commission finds that the proposal is less nonconforming than what is existing and is in substantial compliance with subsections D2 through D13 of this section.*

► **Comment:** All of the subject property is located in the Mountain Overlay District. No area exists outside of the Mountain Overlay District on the property.

2. *Visibility of the site alteration as viewed from reference roads shall be minimized through design, landscaping and siting. Except where extraordinary circumstances (or natural circumstances as defined in subsection D3 of this section) exist that are peculiar to the physical characteristics of the site, site alterations, particularly buildings, other structures, and hillside roads, are less visible the lower in elevation they are as determined by topographic contour lines. New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. The maximum bulk of structures shall be hidden or minimized by design, landscaping and siting. Landscaping shall blend harmoniously with the surrounding area, and shall not create excessive contrast with the surrounding area.*

► **Comment:** Visibility was determined by the Land Use Director. The proposed residence will be visible from Elkhorn Road.

- **DESIGN:** The proposal is for an approximately 6,138 square foot single-family residence; 5,176 SF of living space and a 962 SF garage.
- **SCALE:** The residences on the north and south side of Keystone Street are within June Day Subdivision. These homes appear to be compatible in scale at 6,900 and 5,507 square feet. The one home further out Keystone Street is much smaller at approximately 1,022 square feet. The 2 level design does not minimize the visual impact of the residence and the Elkhorn Road.
- **SITING:** The residence appears to be sited on the lowest portion of the Lot while still observing the required wetland setback. The south portion of the lot, while being lower in elevation is entirely a wetland area bisected by an intermittent stream and therefore protected by Blaine County Code. A knoll, or hill exists between the proposed residence and the adjacent neighbors within June Day Subdivision minimizing impacts to the adjacent subdivision.

- **LANDSCAPING:** The existing vegetation on the Lot appears to be entirely native grasses and sagebrush. Wetland vegetation is abundant on the south side of Keystone Street. The applicant is proposing fir trees and aspen as well as native drought tolerant shrubs and grasses. The Commission may want to consider requiring more trees on the western property line to reduce visibility.

3. *Site alterations for property protection and hillside stabilization and rehabilitation due to natural circumstances may be permitted, N/A*

4. *The site alteration, and any grading and excavation relating thereto, shall include measures or designs to mitigate the risk of soil erosion, silting of lower slopes, slide damage, flooding, and any other geologic instability. All excavation, grading and fill shall be revegetated as provided herein (except for roadway surfaces) and otherwise stabilized to control erosion.*

- ▶ **Comment:** Per County Engineer comments in Exhibit B-1. “The geotechnical report indicates the soil properties identified on site are suitable for the proposed project. The construction recommendations in the geotechnical report should be included in construction requirements should this MOD-SAP be approved”.

**Suggested Condition:** The applicant shall provide a certificate of compliance with the geotechnical plans and recommendations from the geotechnical engineer prior to final inspection.

**Suggested Condition:** Prior to Certificate of Occupancy, Financial Security in the amount of 150% of the estimated cost of the approved landscaping plan approved by the Board, or a minimum of \$5,000, shall be collected and held for up to five (5) growing seasons to ensure at least 80% establishment of the plants as determined by the Administrator.

5. *The site alteration shall comply, where reasonable, with the requirements of the avalanche overlay district.*

- ▶ **Comment:** Portions of the residence are located in the blue (low hazard) avalanche zone which is permitted pursuant to §9-22-4.

Blaine County Avalanche Chapter requires natural barriers to avalanche slide areas for all portions of the structure within the blue avalanche hazards boundary.

The applicant has proposed to mitigate avalanche hazard with a wall uphill from the residence.

**9-22-4: LOW HAZARD AREAS:**

*Residential uses are permitted in low hazard areas. The following performance standards shall apply to all structures built within the low hazard areas:*

*A. Inhabited Structures: Inhabited structures must be set back from projected slide areas and offset from slide paths.*

*B. Structural Modifications: Reinforcing structural modifications shall be incorporated in the design of structures subject to avalanche danger.*

*C. Natural Barriers: Natural barriers to potential avalanche slide areas shall not be removed or altered so as to increase the degree of avalanche potential. (Ord. 77-5, 3-28-77, eff. 4-7-77)*

**Suggested Condition:** The avalanche wall design shall be completed by an Idaho licensed structural engineer confirming the ability to withstand avalanche forces identified in the avalanche study.

6. *Any proposed building or other structure shall remain below the skyline and shall be sited in such a manner so as not to create a silhouette against the sky as viewed from any reference road.*

- ▶ **Comment:** The proposed residence does not appear to skyline as viewed from any reference roads.

7. *Manmade slopes, road alignments, driveways, improvements, grading, excavation, berming, and fill activities shall conform as closely as possible to the natural terrain. Alteration and severe scarring of the natural drainage of the site shall be minimized and mitigated, except where natural circumstances exist as defined in subsection D3 of this section, in which cases protective factors of the site alteration shall be considered. Hillside roads shall also meet all other applicable road or driveway standards under county ordinances and adopted codes, including, but not limited to, those for grades and emergency vehicles. Existing roads/driveways to existing nonconforming structures located within the mountain overlay district may be moved or improved to reduce the degree of noncompliance with requirements for grades and emergency vehicles.*

- ▶ **Comment:** Very little change to existing grade is proposed. The drainage plan includes 2 culverts under the roadway and a drywell in the residential parking area. If greater than one acre of area is disturbed during construction, a Storm Water Pollution Prevention Plan (SWPPP), approved by Idaho DEQ will be required at building permit.

The applicant's response to standards (Exhibit A-3) states "driveway conforms as closely as possible to natural terrain and was designed with an engineer with standard 7 in mind".

8. *Native or native compatible vegetation shall be preserved to the greatest extent possible, and revegetation adjacent to residences shall be with low combustible plant species. Revegetation and rehabilitation of disturbed areas shall utilize plant materials harmonious and/or native to the area. The method for control and prevention of noxious weeds shall be demonstrated. Disturbed areas shall be regraded, landscaped or revegetated in a timely manner after completion of the site alteration activities. Components of the revegetation plan shall include the techniques that will be used to ensure the establishment of the proposed vegetation for a period of not less than five (5) years.*

- ▶ **Comment:** See County Engineer comment in Exhibit C-2. "Fire suppression and fire protection requirements from the Fire District, including "fire-wise protection" for wildland fire protection around the residence, should be construction requirements should this MOD-SAP be approved" The applicant's response to standards (Exhibit A-3) states: "native/existing vegetation shall be retained to the fullest extent possible and in areas where construction impacts existing vegetation, it will be replaced with similar native and drought tolerant vegetation".

**Suggested Condition:** Prior to Certificate of Occupancy, Financial Security in the amount of 150% of the estimated cost of the approved landscaping plan approved by the Board, or a minimum of \$5,000, shall be collected and held for up to five (5) growing seasons to ensure at least 80% establishment of the plants as determined by the Administrator.

9. *Exterior building materials shall be of nonreflective materials. The visibility of hillside development shall be lessened by limited glazing and exterior lighting, and by use of materials and colors compatible with the natural surrounding setting. Roofs shall be designed to minimize the visibility of the structure. Reflective metal roofs are prohibited; nonreflective metal roofs may be approved.*

- ▶ **Comment:** Exhibit A-2; sheet A5.1 Color Board indicates materials and colors chosen for the exterior of the residence. The applicant's response regarding materials: materials have been chosen to resist wildfire. Wall and trim colors will blend with indigenous vegetation. Site colors echo the mining history of the site".

10. All outdoor lighting shall comply with the outdoor lighting requirements of chapter 29A of this title.

**Comment:** Lighting is proposed in code required locations. Lighting appears to meet the requirements of Chapter 29A Outdoor Lighting. Lighting will be reviewed for compliance again at building permit.

11. Construction proposed as part of a site alteration permit application shall comply with other applicable codes and ordinances, including, but not limited to, the fire code; title 7, chapter 3 of this code; and the building code, as amended, in effect at the time.

► **Comment:** This should be a condition of approval.

**Suggested Condition:** The applicants shall comply with all applicable Federal, State and County regulations. The applicants shall apply for and obtain a building permit prior to commencement of any further site preparation work or construction, and shall comply with all applicable zoning, building, fire and health district regulations. Review and approval of the building permit application and plans by South Central District Health and Wood River Rural Fire and Rescue, prior to submittal to the Blaine County Building Department are required.

12. Any proposed new road or driveway is necessary to access a building site or building that was lawfully approved under this title.

► **Comment:** A driveway is necessary to access a residence if approved. The proposed driveway has preliminary Fire District approval. The fire district will review construction plans with the building permit submittal.

**The proposed driveway does not appear to require extensive site alteration.**

13. If the applicant or landowner with respect to an application for a site alteration permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof. . . **N/A**

14. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area the applicant has adequately demonstrated that the project has been designed to mitigate any adverse impact to a potable water source.

► **Comment:** The subject parcel is not within a wellhead protection district according to the Blaine Co. GIS.

**Section III. Decision and Possible Conditions**  
**Pursuant § 9-21-5 (E), § 9-30-5, and § 9-25-5 (A) of the Zoning Ordinance:**

► **Motion:** I move to (approve with conditions or deny) the proposed Mountain Overlay District Site Alteration permit application at 112 Keystone Street as presented and discussed at this Public Hearing. The Commission (finds that there is adequate evidence in the record that the proposed development meets the design review standards of evaluation or finds that the following standard(s) have not been met.

If the Commission finds that there is adequate evidence in the record that the proposed development meets the design review standards of evaluation as set forth in Section II, the Commission may attach reasonable conditions including, but not limited to:

**Possible conditions of approval:**

1. *Suggested Condition: Prior to Certificate of Occupancy, Financial Security in the amount of 150% of the estimated cost of the approved landscaping plan approved by the Board, or a minimum of \$5,000, shall be collected and held for up to five (5) growing seasons to ensure at least 80% establishment of the plants as determined by the Administrator.*
2. *The applicants shall comply with all applicable Federal, State and County regulations. The applicants shall apply for and obtain a building permit prior to commencement of any further site preparation work or construction, and shall comply with all applicable zoning, building, fire and health district regulations. As with any building permit application, review and approval of the building permit application and plans by South Central District Health and the responding fire district, in this case Wood River Rural Fire and Rescue, prior to submittal to the Blaine County Building Department are required.*
3. *Expiration of Permit: This site alteration permit shall expire one year following the date of its approval if the site alteration has not been substantially commenced. If good cause for delay in commencement of construction is shown, the Administrator may once only extend the period for commencement of construction for a period not exceeding one year, provided application is made for an extension before expiration of the permit.*
4. *Fill removed from the subject site shall not be placed elsewhere in Blaine County's Mountain Overlay District without permitting from Blaine Co. Land Use.*
5. *The applicant shall provide a certificate of compliance with the geotechnical plans and recommendations from the geotechnical engineer prior to final inspection.*
6. *The avalanche wall design shall be completed by an Idaho licensed structural engineer confirming the ability to withstand avalanche forces identified in the avalanche study.*
7. *There shall be no disturbance in the wetland.*

*The approval granted herein is based on the application as submitted by the applicant and the conditions stated herein. Any material changes and deviations in design from the approved plan shall be subject to*

*further zoning review and may result in further review at the applicant's expense by either the County Engineer or the Planning and Zoning Commission.*