

REGARDING THE APPLICATIONS of Richard and Sarah Jane Vanica for a Plat Amendment and an Accessory Dwelling Unit Conditional Use Permit for Lot 1, Block 1, Hyndman Peak Sub.	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
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Requested Action: A public hearing and consideration of a Plat Amendment application and an Accessory Dwelling Unit (ADU) Conditional Use Permit (CUP) application for Richard and Sarah Jane Vanica to reconfigure the building envelope on Lot 1, Block 1, Hyndman Peak Sub to accommodate existing improvements and a proposed accessory dwelling unit. The 2.94-acre property is located at 185 Hyndman View Dr. The property is located in the Residential/Agricultural District (R-5) and the Wellhead Protection District.

Applicable Regulations Title 10 Subdivision Regulations, including chapters 1-5; Title 9 Zoning Regulations, including chapters 1-4, 7 and 25.

Representatives: Benchmark Associates

I. Application, Notice, Exhibits & General Facts

A. Application:

1. The subject applications were received at the Blaine County Land Use and Building Services office on February 6, 2019.
2. The Board of County Commissioners are hearing concurrent applications, a plat amendment and an Accessory Dwelling Unit Conditional Use Permit (ADU-CUP), pursuant to:
§9-25-2(F). Concurrent Submission: A conditional use permit application may be submitted and reviewed concurrently with other applications affecting the same piece of property, with the approval of the Administrator. The Administrator may require concurrent submission of a conditional use permit application(s) with other land use applications affecting the same parcel(s) of property. Additional time for review of concurrent applications may be specified by the Administrator. Concurrent submissions will be voted on separately.

B. Notice:

Public notice for these applications was as follows:

1. Legal notice was published in the Idaho Mountain Express on April 22, 2019
2. Notice was mailed to surrounding landowners within 300 feet of the exterior boundary of the subject properties on April 16, 2019;
3. All Hyndman Peak Subdivision property owners on April 17, 2019;
4. Notice was mailed to all Blaine County political subdivisions on April 16, 2019;
5. An on-site notice was posted on April 30, 2019 at least seven (7) days prior to the date of the public hearing;

6. The application materials for this application were posted on the Blaine County website on April 24, 2019

► **Finding for Notice:** Upon motion by Commissioner McCleary, a second by Commissioner Fosbury, and by a vote of 3 to 0, the Board finds notice to be in compliance with applicable regulations, §10-4-7 of the Subdivision Regulations and 9-25-4 of the Zoning Regulations.

C. Exhibits

PLAT AMENDMENT:

A Exhibits- Applicant Submittals: Received on February 6, 2019 unless otherwise noted.

- A-1 Completed Plat Amendment application
- A-2 CLTA LOT BOOK GUARANTEE; Blaine Co. Title, Inc.
- A-3 Vicinity Map
- A-4 300' adjoiners map and list of property owners
- A-5 Preliminary Plat (large and 11 X 17)

ADU-CUP:

- A-6 Completed ADU-CUP application and responses to Standards of Evaluation
- A-7 ADU Elevations
- A-8 Floor plan and square footages
- A-9 Landscape site plan

B Exhibits- Agency and Professional comments

- B-1 South Central Public Health District-rec'd 4-1-2019

C Exhibits- Blaine County supplements

- C-1 Current governing plat

D Exhibits- Public Comments

None received.

Summary for Plat Amendment: The property owners propose to reconfigure the building envelope to accommodate existing improvements and a proposed accessory dwelling unit. The ADU is proposed in the location of an existing structure which will be demolished.

Decision, conditions and plat notes are on page 9.

II. PLAT AMENDMENT AND CORRECTION
§10-4-7(D)

Italicized font indicates a code section.
Findings are bolded.

Subdivision Regulations §10.4.7

(A) vacation: not applicable

(B) dedication: not applicable

(C) resubdivision: not applicable

(D) Plat Amendment and Correction:

1. Administrative Review . . . a minor amendment . . .

▶ **FINDING:** The proposal is to expand a building envelope. It is not a minor correction or minor amendment to the plat. The proposed plat amendment requires a public hearing with the Board of County Commissioners for their review and decision.

2. Board Approval: Any other requested amendment to a plat that does not create a new lot shall be acted upon by the Board after not less than one public hearing for which each record holder of property within the subdivision, if determined by the Board to be necessary, and all property owners within three hundred feet (300') of the exterior boundary of the lots proposed for plat amendment were sent notice by mail. The Board may approve an application if the applicant has demonstrated that the proposed amendment:

a. Does not alter the existing character of the subdivision; and

▶ **FINDING:** Hyndman Peak Subdivision was platted in 1980. Some of these older plats have smaller building envelopes, such as 50 X 50 or 2,500 sf. (see Ex. C-1 and A-5). These envelopes have been treated as centroids over the years. These "centroids" direct placement of development on a platted lot to in and around the centroid. Centroids have not been defined in county code and are rarely clarified in a subdivisions plat notes. As a result, they have been subject to the Land Use Administrator's interpretation over the years. The subject lot has not used the centroid location for the location of development. Nothing is within the centroid. As such, the Land Use Director is requiring the lot be brought into compliance prior to new construction. The proposal is to enlarge the building envelope/centroid from 2,500 sf to 46,007 sf or 1.06 acres. This area includes all development on the lot and also includes the area of proposed new development.

b. Satisfies to the extent practical all the applicable requirements of this Code, as amended.

▶ **Applicable Findings are stated below.**

3. Modifications To Building Envelope Or Centroid: If the amendment involves any modification to a building envelope or centroid, the applicant, in addition to meeting the requirements of subsection D2 of this section, must demonstrate that:

a. The proposed location is not within or farther within a natural resource overlay district or hazard area. No such overlay districts or hazard areas exist on the lot.

III. DESIGN AND IMPROVEMENT STANDARDS
Subdivision Regulations §10-5-1, §10-5-2, §10-5-3

10-5-1: ADMINISTRATIVE STANDARDS: *No preliminary plat application shall be considered by the Board or commission until the Administrator makes a positive finding with regard to each of the following standards:*

A. Other Regulations: *To the extent applicable, subdivision proposals shall comply with:*

1. The following sections of this Code:

- a. Any chapter of title 3 with the recommendation or approval of the Health District; Exhibit B-1; septic permit for 185 Hyndman View Dr.**
- b. Any chapter of title 6 with the recommendation or approval of the County Engineer and Recreation District if appropriate; No comments from the Co. Engineer or the Rec. District are warranted at this time.**
- c. Any chapter of title 7 with the recommendation or approval of the building official and fire official in an established district; No comments from the building official or the fire official are warranted at this time.**
- d. Title 8, chapter 2; and The subject lot is not within an Area of City impact.**
- e. Any chapter of title 9. Applicable Title 9-Zoning Regulations are reviewed below.**

2. Adopted Idaho Transportation Department standards, if the applicant seeks a new or expanded access onto a State highway. Not Applicable. The property accesses onto Hyndman View Dr.

B. Resource Protection Requirements:

1. Floodway Areas: N/A

2. Avalanche Areas: No new habitable buildings shall be located within a high (red) avalanche hazard area, as determined by a professional study. See plat note #4 on Ex. A-5, preliminary plat. Staff recommends adding "Blaine County" to the plat note to read as follows:

AVALANCHE: THE AVALANCHE HAZARDS LINE SHOWN ON THE ORIGINAL PLAT OF HYNDMAN PEAK SUBDIVISION MAP IS CONSIDERED BY BENCHMARK ASSOCIATES AND BLAINE COUNTY TO BE REASONABLE FOR REGULATORY PURPOSES. HOWEVER, BENCHMARK ASSOCIATES AND BLAINE COUNTY DO NOT REPRESENT, GUARANTEE, WARRANT, NOR IMPLY, THAT AREAS OUTSIDE OF THE DESIGNATED AVALANCHE AREA ARE SAFE AND FREE FROM AVALANCHE OR AVALANCHE DANGER. AVALANCHE INFORMATION ON THIS MAP IS PER HYNDMAN PEAK SUBDIVISION PLAT INSTRUMENT NO. 208275 RECORDS OF BLAINE COUNTY, IDAHO.

3. Riparian Areas: N/A

4. Wetlands Areas: N/A

C. Drainage: N/A

D. Lot Requirements:

1. Lot sizes, uses and the location of uses shall satisfy any zoning regulations and other applicable sections of this code. **The Lot size remains the same, the new building envelope satisfies zoning regulations and other applicable sections of the code.**
 2. No single lot shall be divided by a street, existing right of way or other lot. **No change proposed.**
 3. No single lot shall be divided by a municipal or county boundary line. **No change proposed.**
 4. Lots shall have a minimum mean width of seventy-five feet (75'). **No change proposed.**
 5. No residential building or structure for human habitation shall be located within one hundred fifty feet (150') of the centerline of a power transmission line. **Power lines across East Fork Rd are in excess of 150' away from the proposed building envelope.**
 6. All buildings on lots located adjacent to public lands. . . **N/A**
- E. Utilities: Any proposed subdivision. . . The subdivision was platted in 1980. Utilities are in place.**
- F. Water Supply: No changes are proposed that affect water supply.**
- G. Sewage Disposal: The SCPHD has issued a new septic permit. See Ex. B-1.**
- H. Street Improvements: No changes are proposed.**
- I. Intersection Location And Specifications: No changes are proposed.**
- J. Street Specifications: No changes are proposed.**
- K. Lighting Standards: All outdoor lighting in the proposed subdivision shall comply with title 9, chapter 29A of this code. Outdoor lighting is reviewed at building permit.**

► **ADMINISTRATOR'S FINDING FOR ADMINISTRATIVE STANDARDS:** The proposed plat amendment complies with the applicable administrative standards.

10-5-2: THRESHOLD STANDARDS: No preliminary plat application shall be approved unless the board determines that the application complies with each of the following standards:

- A. Administrative Standards: The administrator's recommendations on the standards set out in section 10-5-1 of this chapter are acceptable or need modification. The Board finds the administrator's finding on the standards set out in section 10-5-1 of this chapter are acceptable. The administrator's finding on administrative standards is noted above.**
- B. Comprehensive Plan: The proposed subdivision of land conforms to and is in accordance with the comprehensive plan text and map. N/A. The subdivision is in existence. This proposal is to amend the plat for one lot.**
- C. Impact On Public Facilities And Services: N/A**
- D. Land Under Floodplain: N/A. None on the site.**
- E. Agricultural And Rural Land (A-20, A-40, R-10 And RR-40): The lot is zoned R-5**
- F. Avalanche Areas: Land subject to avalanche hazards, as determined by a professional study, shall not be used for private roads unless the hazards are mitigated or overcome by approved design and construction plans. No private roads are proposed. The Board Finds that "Blaine County" should be added to the plat note #4 on Ex. A-5.**
- G. Unsuitable Land: No unsuitable land is identified.**
- H. Applicant Or Landowner: If the applicant or landowner with respect to an application for a subdivision under this chapter is the state of Idaho, or any agency. . . N/A**
- I. Water Quantity And Quality: N/A. No changes are proposed that would affect water quantity and quality.**

- **FINDINGS FOR THRESHOLD STANDARDS:** Threshold standards are met with plat notes and conditions or are not applicable.

10-5-3: DESIGN STANDARDS: No preliminary plat application shall be approved unless the board makes a positive finding that the application complies with each of the following standards. No waiver of any of these standards may be granted except pursuant to section 10-8-5 of this title.

A. *Preservation Of Natural Features:* Where found practicable and appropriate, the following specific areas regardless of location shall be left undeveloped and undisturbed:

1. *Unique or fragile areas such as geologic features and natural topography of the land with the goal of preserving the character, natural features and configuration of land terrain; The lot is already developed and is relatively flat.*
2. *Areas of natural vegetation, including unique landscapes, large individual trees, and stands of trees, excluding irrigation rights of way under Idaho Code 42-1101. A plan for landscape protection, tree preservation, and tree introduction shall be evaluated to determine compliance with this standard; The subdivision was platted in 1980 and the subject lot was developed in 1983.*
3. *Natural habitat and other areas of significant value to wildlife, including migration corridors as identified by Idaho fish and game; N/A. The subdivision was platted in 1980 and the subject lot was developed in 1983.*
4. *Historically significant structures or sites; and N/A. There are none.*
5. *Wetlands, natural drainage channels or watercourses. N/A. There are none.*

B. *Lot Requirements:*

1. *Each lot shall contain a satisfactory building site which is properly related to topography. This plat amendment is proposing to expand the existing building envelope to accommodate existing structures and a proposed ADU.*
2. *Corner lots shall be a sufficient area without obstructive landscaping to provide acceptable visibility for traffic safety. No changes proposed.*
3. *Each lot shall have access . . . N/A*
4. *Calculation of lot area. . . N/A*
5. *If lots in a residential land use area are more than double the minimum acreage required for a residential zoning district (R-4_ R-2¹/₂) . . . N/A*
6. *Each lot located adjacent to public lands ... N/A*

C. *Blocks: Blocks shall be designed... N/A*

D. *Utilities: N/A. Utilities are in place.*

E. *Drainage: N/A. No changes proposed.*

F. *Water Supply: N/A. No changes proposed.*

G. *Sewage Disposal: See SCPHD septic permit, Ex. B-1.*

H. *Solid Waste Disposal: N/A. No changes proposed.*

I. *Park Or School Site Dedication: N/A.*

J. *Access Easements: N/A.*

K. *Development Rights: N/A.*

L. *Hillside Standards: N/A.*

M. *Design Of Subdivisions . . . N/A. The subdivision was platted in 1980.*

- N. Street Improvements: N/A.
- O. Intersection Location And Specifications: N/A.
- P. Landscaping And Grading: N/A.
- Q. Nonmotorized Facilities: N/A.
- R. Wildlife: N/A. The lot is developed.
- S. Gates: N/A.
- T. Riparian And Wetland Areas: N/A.

- **FINDINGS FOR DESIGN STANDARDS:** Design standards are met with plat notes and conditions or are not applicable.

Decision, conditions, and plat notes are on page 9.

Summary for ADU-CUP: There is currently a structure that will be demolished in the proposed location of the detached ADU/Garage. See preliminary plat A-5.

IV. ACCESSORY DWELLING UNIT CONDITIONAL USE PERMIT APPLICATION
Relevant Zoning Ordinance Sections for ADU-CUP

9-3-11: ACCESSORY DWELLING UNIT(S):

The purpose of the accessory dwelling unit regulations is to define what an accessory dwelling unit is; address under what circumstances it is appropriate to allow increased density on a lot; and address the impacts an accessory dwelling unit may have on the surrounding area such as the need for potable water and sanitation, increased traffic and compatibility with the neighborhood.

A. Standards: One accessory dwelling unit may be constructed on a lot provided the following standards are met prior to issuance of a building permit: . . .

2. On lots of two (2) acres to less than five (5) acres in size:

b. One accessory dwelling unit that is located in excess of twenty five feet (25') from the principal residential dwelling unit, measured as described in subsection A2a of this section, may be allowed under a conditional use permit obtained from the commission. Notice and hearing procedures contained in chapter 25 of this title shall be followed. The application shall be subject to the provisions contained herein and the standards of evaluation contained in subsections 9-25-3A3 and A4 of this title.

- **FINDING:** The subject lot is 2.94 acres. The proposed garage and ADU shall be located in excess of 25' from the primary residence. This CUP application is being reviewed concurrently with a plat amendment application the Board of County Commissioners.

B. Restrictions: All accessory dwelling unit(s):

1. Shall be limited to a maximum one thousand two hundred (1,200) square foot floor area with a maximum of two (2) bedrooms. Said floor area shall be the total of all floor areas as measured from the exterior face of the exterior walls. Garage space up to an additional one thousand two hundred (1,200) square feet is allowed.

a. The area encompassing the mechanical system shall be included in the square footage calculation based upon the location of the mechanical system. If the mechanical equipment is located in the crawl space, it shall be exempt from the square footage calculation.

b. Exterior stairs that are not enclosed shall be excluded from the square footage calculation.

c. When an attic roof truss system creates an unusable and inaccessible attic space between the interior and exterior wall, the floor area measurement shall be taken from the outside of the interior wall;

► **FINDING: Compliance.** See Ex. A-8. The garage/ADU structure is 2400 SF. 1200 for the garage and 1200 for the ADU. No stairs are proposed.

2. Shall be allowed in the A-20, A-40, R-10, RR-40, R-5, R-2^{1/2}, R-2, R-1, R-.4, R-1/4, and RD zoning districts and shall not be allowed in any designated overlay district; except where an accessory dwelling unit is proposed in the floodplain overlay district (see subsection B3 of this section) or on property located within the CH overlay district that is not part of a CH-PUD; or within the MOD and within a platted building envelope or categorically excluded pursuant to section 9-21-4 of this title;

► **FINDING: Compliance.** The lot is in the R-1 zoning district. There are no overlay districts within the lot boundaries.

3. May be allowed in the floodplain overlay district. . . N/A

4. Shall meet setbacks for the zoning district in which it is located;

► **FINDING: Compliance.** The ADU shall be located within the newly platted building envelope if approved.

5. Shall require a building permit;

► **FINDING: Conditional compliance.** See conditions of approval.

6. Shall be located on the same lot as the principal residential dwelling unit;

► **FINDING: Compliance.**

7. Shall provide for one parking space in addition to the minimum required for the principal residential dwelling unit;

► **FINDING: Compliance.** Though not specifically identified, there is ample room for parking associated the dwellings on this property.

8. Shall meet requirements of the South Central health district evidenced by approval therefrom upon application for building permit;

FINDING: Ex. B-1 is the current septic permit which will be submitted at building permit submittal.

9. Shall be prohibited on any lot less than one acre in size, regardless of the applicable zoning district;

► **FINDING: Compliance.** The lot is 2.94 acres.

10. May be part of an accessory building containing other accessory uses, as allowed in the zoning district provided that: a) the gross floor area of the accessory building does not exceed seventy five percent (75%) of the gross floor area of the primary residence; b) the accessory dwelling unit portion of the building satisfies all applicable regulations; c) the floor area of the accessory dwelling unit and garage associated therewith is separate and distinct from other accessory uses contained within the same building.

- ▶ **FINDING: Compliance.** Proposed is a 1200 sf ADU and a 1200 sf attached garage. See Exhibit A-8. It is not part of an accessory building containing other accessory uses.

9-25-3: STANDARDS FOR EVALUATION:

A. Review: The commission or the Board shall review the particular facts and circumstances of each proposed conditional use in the terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

9-3-11A2. On lots of two (2) acres to less than five (5) acres in size. . .

b. . . . The application shall be subject to the provisions contained herein and the standards of evaluation contained in subsections 9-25-3A3 and A4 of this title.

9-25-3A 3. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area. All outdoor lighting shall comply with chapter 29A of this title;

- ▶ **FINDING: Compliance.** There is an existing structure in the proposed location of the ADU. That structure will be removed and the new structure built in approximately the same location. The existing structure encroaches into the front yard setback. The new structure will meet all setback requirements, thus improving the general vicinity. The ADU is designed to be harmonious with the main house and the character of the area.

9-25-3A 4. Will not be hazardous or disturbing to existing or future neighboring uses;

- ▶ **FINDING: Compliance.** The existing and future uses for this area are residential. The propose ADU will not create any hazard nor will it disturb the residential uses of the area.

V. Decisions, Conditions and Plat notes

PLAT AMENDMENT

▶ **DECISION:** Having considered the information presented and the above criteria, the Board of Commissioners, upon a motion by Commissioner Fosbury, a second by Commissioner McCleary, and 3 to 0 vote, approves the plat amendment application by property owners Richard and Sarah Jane Vanica to amend the building envelope on Lot 1, Block 1, Hyndman Peak subdivision as proposed and discussed, finding the application complies with the applicable criteria set forth under Title 10, Subdivision Regulations and applicable criteria of Title 9, Zoning Regulations, subject to the following conditions and plat notes:

Conditions

1. Final plat shall include reference to the plat notes from the existing governing plat; Instrument No. 208275.
2. Record the final plat within one year of final approval or seek and be granted an extension at the Board's discretion within that period;
3. Pay all county engineer fees, if any, prior to obtaining the final county signatures;
4. Place the standard health department signature note on the face of the final plat;
5. Set out the square footage of each lot on the final recorded plat;
6. Satisfy the monumentation requirements of state law and §10-4-5(H);
7. Comply with the survey requirements of Blaine Co. Resolution #2002-54;
8. Add to the plat an I.C. §50-1334 certificate regarding the type of domestic water system.
9. Change Plat note #4 on the preliminary plat to read as follows on the final plat:
AVALANCHE: THE AVALANCHE HAZARDS LINE SHOWN ON THE ORIGINAL PLAT OF HYNDMAN PEAK SUBDIVISION MAP IS CONSIDERED BY BENCHMARK ASSOCIATES AND BLAINE COUNTY TO BE REASONABLE FOR REGULATORY PURPOSES. HOWEVER, BENCHMARK ASSOCIATES AND BLAINE COUNTY DO NOT REPRESENT, GUARANTEE, WARRANT, NOR IMPLY, THAT AREAS OUTSIDE OF THE DESIGNATED AVALANCHE AREA ARE SAFE AND FREE FROM AVALANCHE OR AVALANCHE DANGER. AVALANCHE INFORMATION ON THIS MAP IS PER HYNDMAN PEAK SUBDIVISION PLAT INSTRUMENT NO. 208275 RECORDS OF BLAINE COUNTY, IDAHO.

Plat notes- See condition no. 1 referencing plat notes from the previous plat and Ex. A-5, notes on preliminary plat.

Additional plat notes-

1. All structures shall be located wholly within the platted building envelope.
2. Septic systems shall be built with riser, out-flow filters and drainfield inspection ports on each system.
3. Domestic well water shall be limited to use on a maximum of one-half acre.

ACCESSORY DWELLING UNIT CONDITIONAL USE PERMIT

► **DECISION:** Having considered the information presented and the above criteria, the Board of Commissioners, upon a motion by Commissioner Fosbury, a second by Commissioner McCleary, and 3 to 0 vote, approves the accessory dwelling unit conditional use permit application by property owners Richard and Sarah Jane Vanica to construct an accessory dwelling unit on Lot 1, Block 1, Hyndman Peak subdivision as proposed and discussed, finding the application complies with the applicable criteria set forth in Title 9, Zoning Regulations, subject to the following conditions:

Conditions for ADU-CUP:

1. Any modifications to the approved plan or change of space uses shall require further zoning review, and may be subject to additional regulations pursuant to the Blaine County Zoning Ordinance.
2. Applicant shall comply with all applicable zoning, building, fire and health district regulations.
3. The applicants shall apply for and obtain a building permit prior to demolition, commencement of any site preparation work or construction, and shall comply with all applicable zoning, building, fire and health district regulations. Building Permit shall be obtained within one (1) year of the date of the Findings of Fact, Decision and Conditions, or the approvals contained herein shall be null and void. As with any building permit application, review and approval of the building permit application and plans by South Central Public Health District and the responding fire district prior to submittal to the Blaine County Building Department are required.

IT IS SO ORDERED.

DATED this 14 day of May 2019.

BLAINE COUNTY BOARD OF COUNTY COMMISSIONERS


Jacob Greenberg, Chairman

Notice pursuant to I.C. 67-6535 (c): The owner of the property subject to this application and decision may request regulatory taking analysis pursuant to I.C. 67-8003.

CERTIFICATE OF MAILING

The undersigned person hereby certifies that on the 15th day of May, 2019, she served a true and correct copy of the foregoing document by depositing the same in the U.S. Mail addressed as follows or by service otherwise as noted:

Richard and Sarah Jane Vanica
jonathan.vanica@gs.com

Benchmark Associates
garth@bma5b.com
davidp@sawtoothstrategies.com



Staff Member