HEARING EXAMINER
AGENDA
Thursday, June 27, 2019
5:30 p.m.
City Council Chambers
911 N. Seventh Avenue
Pocatello, ID

City Hall is accessible to persons with disabilities. Program access accommodations may be provided with three (3) days’ advance notice by contacting Skyler Beebe at sbeebe@pocatello.us, 208.234.6248 or 5815 South 5th Avenue, Pocatello, ID.

HEARING EXAMINER: Kathleen Lewis

1. Disclose who was talked to, the basic substance of the conversation, and whether the conversation had any influence. Disclose if there is anything personally or professionally that would not allow an impartial or unbiased decision. Disclose if a site visit was done, location(s) of the visit, and what was seen.

2. Tom Hughes, represented by Mark Farnes, requests a conditional use permit to allow construction of an accessory dwelling unit at 620 Galaxy Way. The property is located within a Residential Estate zoning district. Municipal Code 17.06.100 allows this use through the conditional use permit process. (ACTION ITEM)
Hearing Examiner
Staff Report
Conditional Use Permit

Hearing Date: June 27, 2019

OWNER: Tom Hughes
620 Galaxy Court
Pocatello, ID 83204

REPRESENTATIVE: Mark Farnes
148 Abraham
Chubbuck, ID 83202

REQUEST: The applicant is requesting a conditional use permit to allow construction of an accessory dwelling unit behind and attached to a new garage.

LEGAL DESCRIPTION: Lot 6, Block 1, City Creek Estates, Division 1, Bannock County

SITE CHARACTERISTICS: Zoning designation: Residential Estate
Property size: The lot measures 31,906 square feet (more or less)
Existing structures: Single family residence

SURROUNDING LAND USES AND ZONING:
North: Residential dwellings in a Residential Estate zoning district
South: Residential dwellings in a Residential Estate zoning district
East: Residential dwellings in a Residential Estate zoning district
West: Residential dwellings in a Residential Estate Family zoning district

COMPREHENSIVE PLAN LAND USE MAP DESIGNATION: Residential

PROCEDURES AND NOTICES:
1. In accordance with Municipal Code §17.02.130, §17.02.300(A)(3), §17.06.100 and Idaho Code §67-6512, a complete conditional use permit application was filed with the Planning and Development Services department at least four weeks prior to the public hearing.
2. The application was scheduled to be heard on June 27, 2019 by the Hearing Examiner at a public hearing in accordance with Municipal Code §17.02.300 and Idaho Code §67-6512.
3. Notice of the public hearing was in accordance with Municipal Code §17.02.130 and Idaho Code §67-6512.
   a. Notices were provided to political subdivisions on June 12, 2019.
   b. Notices to property owners of record within 300 feet of the subject site were mailed on June 12, 2019.
   c. Legal notice was published in the Idaho State Journal on June 11, 2019.
   d. Signs were placed on the properties on June 13, 2019.
   e. The agenda and supporting documentation were posted to the City’s website on June 20, 2019.

APPLICABLE LAWS AND PLANS:
1. Municipal Code §17.02.130, §17.02.300 and §17.06.100
2. 2015 City of Pocatello Comprehensive Plan
3. Idaho Code §67-6512

Type of Action: Quasi-Judicial. The Hearing Examiner may approve with or without conditions or may deny the application.

Municipal Code §17.02.130(E), "Authority to Grant: The hearing body may approve, approve with conditions, or deny an application for a conditional use permit. The decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code Section §67-6521) to the City Council, using the process outlined in Municipal Code Section §17.02.400, Appeals, of this title.

The hearing body may impose any conditions necessary to accomplish the following:
1. Minimize potential adverse impacts on other developments and surrounding land use;
2. Control the sequence and timing of development;
3. Control the duration of the construction period;
4. Assure that development is maintained properly;
5. Require the provision for on site or off site public facilities or services;
6. Require more restrictive standards than those generally required by this title;
7. Require mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction;
8. Require that studies addressing demographic, economic, fiscal, traffic, engineering, geologic, and environmental concerns be conducted prior to granting approval.

Municipal Code §17.02.300 states that conditional use permits shall be heard and decided on by the Hearing Examiner with an appeal to City Council.

CONDITIONAL USE PERMIT ANALYSIS:
Municipal Code §17.02.130(D), Criteria for Review. The hearing body shall review the facts and circumstances of each proposal in terms of the following standards and determine whether there is adequate evidence showing that the requested use at the proposed location:

1. Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of the code unless modified through the CUP process.

Applicant’s response: "The project is conditionally permitted within the subject land use district and complies with all of the applicable provisions of the zoning ordinance."

Staff analysis: Accessory dwelling units are allowed through the conditional permit process in all residential zoning districts. The application as presented meets most of the provisions as outlined below:

Accessory Dwelling Standards:
1. Accessory Residential Unit: An accessory residential unit is a second dwelling unit either within or added to an existing detached single-family dwelling, or constructed as a separate accessory structure on the same lot as the single-family dwelling. The accessory unit functions as a complete, independent living facility, with provisions within the unit for a separate kitchen, bathroom, and sleeping area. All standards of this code shall be met, except as modified herein.

Staff analysis: The accessory dwelling unit is to be constructed behind and attached to an attached garage that is under construction.
2. Density: One accessory residential unit may be allowed through the conditional use permit process as an accessory use to a primary single-family dwelling on any residential lot that meets the minimum lot size of the applicable residential district. Accessory dwelling units will not be counted in density calculations.

Staff analysis: The applicant is requesting one accessory dwelling unit, therefore the request meets this standard. The lot meets minimum lot size for the zoning district. The zoning district requires 15,000 square feet and this lot is 31,906 square feet (more or less).

3. Unit Size: An accessory residential unit shall not exceed seven hundred fifty (750) square feet in size and shall not have more than one bedroom or sleeping room.

Staff analysis: The applicant has supplied a plan for the accessory dwelling unit. The unit will be roughly 1,008 square feet with one bedroom, therefore, the accessory dwelling unit does not meet this standard. However, given the large lot size, the location of the accessory dwelling unit and access to it, staff finds this acceptable.

4. Off Street Parking: If on street parking is available adjacent to the primary dwelling and off street parking standards are met for the primary dwelling, only one additional off street parking space shall be required for the accessory residential unit. If on street parking is not available for the primary structure, two (2) off street parking spaces shall be provided for the accessory dwelling unit.

Staff analysis: On street parking is available for the property. There is a two-car garage and associated driveway in addition to the attached one-car garage and associated driveway that is under construction. Therefore, this standard has been met.

5. Building Height: The height of the accessory residential unit shall not exceed the height of the main structure or as permitted by the underlying zoning district, whichever is less.

Staff analysis: The accessory dwelling unit is to be behind and attached to the garage that is under construction. It will be single story and will not exceed the height of the main structure.

6. Orientation and Access: For accessory residential units in structures other than the primary dwelling on a lot, a walkway shall be provided from the unit to the street on which the primary dwelling fronts. The walkway shall be a minimum of three feet (3') wide and shall be finished with a hard, all weather surface. On corner lots, the accessory residential unit may be oriented to a different street than the primary dwelling, and the walkway may be provided to a street other than the front street. If the entrances to both the primary and accessory dwelling unit face the same street, the entrance to the accessory dwelling unit shall be minimized in appearance.

Staff analysis: The accessory dwelling unit will be contained behind and attached to an attached garage. Access to the dwelling unit will be through the garage and onto a patio at the rear of the home, therefore, this standard does not apply.

7. Design Compatibility: In order to maintain an exterior consistent with the primary dwelling, the accessory dwelling unit shall have siding, roofing materials, exterior paint colors, window trim, and roof style that match that of the primary dwelling unit, unless a case can be made for alternative designs.

Staff analysis: The accessory dwelling unit will be contained behind and attached to an attached garage and will match the primary dwelling unit.
8. Utility Hookups: Shared or separate utility hookups must comply with City requirements.

Staff analysis: The site plans provided by the applicant indicates the utilities are to be shared. Building permits shall be obtained to ensure the utility hookups meet City requirements.

9. Deed Restriction: A deed restriction shall be recorded requiring that either the primary unit or the accessory unit be owner occupied.

Staff analysis: A deed restriction will be placed on the property indicating that either the primary unit or accessory unit shall be owner occupied.

10. Substandard Lots Prohibited: Subdivision or other lot split into substandard lots shall be prohibited.

Staff analysis: This accessory dwelling unit is to be located on an existing lot with a home and a detached garage; no subdivision or lot split will be done.

2. Is consistent with the goals and policies of the comprehensive plan of the city.

Applicant’s response: “This project is consistent with the goals and policies of the comprehensive plan of the city.”

Staff analysis: Staff finds the application is consistent with the following goal and policy of the Comprehensive Plan:

Chapter 12: Housing

Goal 2: Adopt zoning districts and development regulations that allow for a variety of housing types responsive to the needs within the community.

Objective 2.1: Encourage the development of housing for those with special needs including but not limited to the elderly, mentally ill and disabled.

Policy a: Provide opportunities for accessory dwellings in residential zones by applying development standards that address architectural design, parking and separate entrances for accessory dwellings.

3. Is compatible with existing and permitted land uses within the general area.

Applicant’s response: “This project is compatible with existing and permitted land uses within the general area.”

Staff analysis: If accessory dwelling units comply with the standards set forth in code they are compatible with permitted uses.

4. Could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police and fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety and welfare.

Applicant’s response: “This project can be adequately served by public facilities and services.”

Staff analysis: The property is on an existing street and in a developed neighborhood that are already served by public facilities and services.

5. Would be harmonious in scale, mass, coverage, density, and intensity with all adjacent permitted land uses.
Applicant's response: "This project would be harmonious in scale, mass, coverage, density and intensity with all adjacent permitted land uses."

Staff analysis: The accessory dwelling unit will be behind and attached to an attached garage that is under construction. The new garage will add a third bay to their existing garage which is not out of character in the neighborhood where many homes have 3 and 4 garage bays. The accessory dwelling unit will be on the back of the garage and won’t be highly visible from the street.

6. Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.

Applicant’s response: “This project will not adversely affect the environment to a greater degree than had it a use permit outright had the ordinance been established.”

Staff analysis: This use will not adversely affect the environment more than if the property were developed without an accessory dwelling unit.

7. Would not be detrimental to the public interests, health, safety, or welfare of the city in its proposed location, size, design, and operating characteristics.

Applicant’s response: “This project will not be detrimental to the public interests, health, safety or welfare of the city in its proposed location, size, design and operating characteristics.”

Staff analysis: The proposed use will not be detrimental to the public interests, health, safety or welfare of the city.

PUBLIC COMMENTS: One phone call requesting information was received. One comment in opposition to the application has been received.

STAFF CONCLUSION: Staff finds the request meets the standards for a conditional use permit. If the Hearing Examiner should choose to approve the request staff recommends the following conditions:

1. A deed restriction shall be recorded at the Bannock County Clerk's office requiring that either the primary unit or the accessory unit be owner occupied.
2. Approved building permits must be obtained and the structure must meet appropriate standards according to current building codes.
3. All life safety issues must be addressed according to current building codes.
4. All other applicable City Code requirements not herein stated shall be met prior to occupancy of the buildings.

REPORT BY: Terri Neu

REPORT DATED: June 20, 2019

tenu@pocatello.us
208.234.6500

ATTACHMENTS: A. Public comment
B. Overhead view of the property
C. Application materials
June 18, 2019

City of Pocatello Planning and Development

Re: Conditional Use Permit for Tom Hughes, 620 Galaxy Ct.

To Whom It May Concern:

I am against approval to build a garage and additional living quarters at 620 Galaxy. Although article 1 of our protective covenants for the CITY CREEK Estates permits, “separate living quarters for family members”, I understand that two families already occupy the property now. I relate to providing a space for an elderly parent (my mother lived with us for awhile) however; how is the living space going to be used after the parent is gone? At that point, it appears to be a multi-family unit to me.

I feel fortunate to live on Galaxy Court where the lots are ~ .75 acre and limited to single family residential living. Other than barking dogs, it’s a peaceful, strikingly beautiful area in Pocatello. As a homeowner, I rely on the covenants to protect my interests. They were written and adopted for the betterment of the neighborhood. The only access road to the division is at times already congested with single lane traffic on South Grant.

Another concern I have is that the 36’X40’ garage will be a working metal shop or something comparable and not limited to storage for a RV as stated.

Sincerely,

Rae Meyers

653 Galaxy Ct

Pocatello, ID 83204 208-251-0706
CONDITIONAL USE PERMIT APPLICATION

Submittal Date: 6-5-19  Hearing Date: 6-27-19  Permit #: 19-1574
Plan Review Approved by: JN  Receipt #:  Receipt Date: 6-11-19

Dates for a public hearing will not be scheduled until application is deemed complete.

Filing Fee: $510.00 + (12 address(s) x $3.00 per address = $36) = Total Due $546.00

Applicant:
Name: Tom Hughes
Street address: 620 Galaxy
City, ST, Zip: Chubbuck ID 83201
Phone: Email:

Representative:
Name: Mark Farinas
Street address: 443 Abraham
City, ST, Zip: Chubbuck ID 83201
Phone: Email:

Project Information:
Project occupies 1.5 acres or more? NO
Street Address: 620 Galaxy Way
Legal Description (attach documentation—see C, below):

Brief Description of Proposed Project: Wants Garage to fit RV plus build living quarters for older parent so he can help him

THE FOLLOWING INFORMATION MUST ACCOMPANY EACH APPLICATION TO BE COMPLETE

A. All necessary filing fees and other specified plans and descriptions must be paid and/or filed accompanying your application.

B. A title report, property deed, or other legal documentation of ownership of the site in question, whether freehold, option, or lease.

C. The complete and accurate legal description for the subject property shall be submitted. This can be obtained from the Bannock County Assessor by requesting a copy of the controlling document for the subject site or address. A copy of this document shall be submitted with this application.

D. Two sets of typed, gummed mailing labels with all of the names and addresses of the property owners within a 300 foot radius of the subject property. A charge of $3.00 per property owner is required. A signed Affidavit of Mailing List must also be submitted (attached).

E. Two (2) site plans, one (1) measuring 8-1/2" x 11" and one (1) 18" x 24" (or larger), which describe the proposal and contain the following information:
   1. Drawn to scale.
   2. Building spacing (including setbacks for front yards, side yards and rear yards).
   3. A detailed layout of the parking area and landscaping of that area.
   4. Pattern and dimensions of all sidewalks on the parcel.
   5. Proposed containment of on-site storm drainage.

Page 1 of 6
6. Type, quantity and size of proposed landscaping on-site (or separate landscape plan).
7. Location of curb cuts and access to streets and alleys.
8. Screening or fencing to be provided (type and height).
9. Any easements or restrictions on the property.

F. One (1) set of complete design plans or written description of the proposed structure or additions including elevations and finished details (including material type and color).

G. A written analysis of your request must accompany your application. It should detail the request as well as the reasons a conditional use permit is needed. Studies may be included and all steps being taken to ease the effect of this conditional use should be outlined. The written analysis must fully address each of the following standards (contained in Section 17.02.130 of the Zoning Ordinance):

1. Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of the Zoning Ordinance unless modified through the CUP process.
2. Is consistent with the goals and policies of the Comprehensive Plan of the City.
3. Is compatible with existing and permitted land uses within the general area.
4. Could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police, and fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety, and welfare.
5. Would be harmonious in scale, mass, coverage, density, and intensity with all adjacent permitted land uses.
6. Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.
7. Would not be detrimental to the public interests, health, safety, or welfare of the City in its proposed location, size, design, and operating characteristics.

H. If a representative will be submitting the application, an affidavit, power of attorney, or other document evidencing the right of the representative to appear and submit items on behalf of the property owner.

The approval of this application does not permit the violation of any federal or state codes, any section of the Building Code, or other Pocatello Municipal Codes as adopted. Approval of this land use permit does not exempt applicant from the provisions of the federal Fair Housing Act or ADA requirements. Further, other conditions, requirements, etc. may be imposed as part of the building permit process.

A conditional use permit must be established within one (1) year of the granting of the use permit. Actual construction of the permitted building shall constitute such establishment. This period may be extended by Planning and Development Services staff for an additional one (1) year upon request at least 30 days prior to expiration of the initial 1-year period and provided the applicant demonstrates good cause for the delay.

This application shall not be considered complete (nor will a hearing before the Hearing Examiner or Planning and Zoning Commission be scheduled) until all required information has been submitted and verified.

I hereby acknowledge that I have read this application and state that the above information, including all submitted materials, is correct and I agree to the above terms and conditions. I further agree to abide by any and all conditions Hearing Examiner or Planning and Zoning Commission may impose on my use of this site. I also understand that non-conformance with these conditions in a timely manner will result in automatic forfeiture of my permit. I am also aware that the applicant or a representative must be present at the public hearing and that the decision on this request will be recorded in the official records of Bannock County.

Applicant's Signature: ____________________________ 
Date: 6-4-19

Representative's Signature: ____________________________ 
Date: 6-4-19

*A sign giving public notice will be posted at the proposed site during the course of these proceedings.
1) The project is conditionally permitted within the subject land use district and complies with all of the applicable provisions of the zoning ordinance.

2) This project is consistent with the goals and policies of the comprehensive plan of the city.

3) This project is compatible with existing and permitted land uses within the general area.

4) This project can be adequately served by public facilities and services.

5) This project would be harmonious in scale, mass, coverage, density and intensity with all adjacent permitted land uses.

6) This project will not adversely affect the environment to a greater degree than had it a use permit outright had the ordinance been established.

7) This project will not be detrimental to the public interests, health, safety or welfare of the city in its proposed location, size, design and operating characteristics.

8) This project is to provide a living space for an elderly parent, so they will be in close proximity to get the proper care and help needed. It will also provide a garage to accommodate storage for a RV.

Thank you,
All lawn & fencing remain the same and is already existing.