

GALLATIN COUNTY

STAFF REPORT

TO: BRIDGER CANYON PLANNING AND ZONING COMMISSION

FROM: WARREN J. VAUGHAN, PLANNER *WJ*

SUBJECT HEARING: CONDITIONAL USE PERMIT REQUEST BY IVEY FOR A CARETAKER'S RESIDENCE

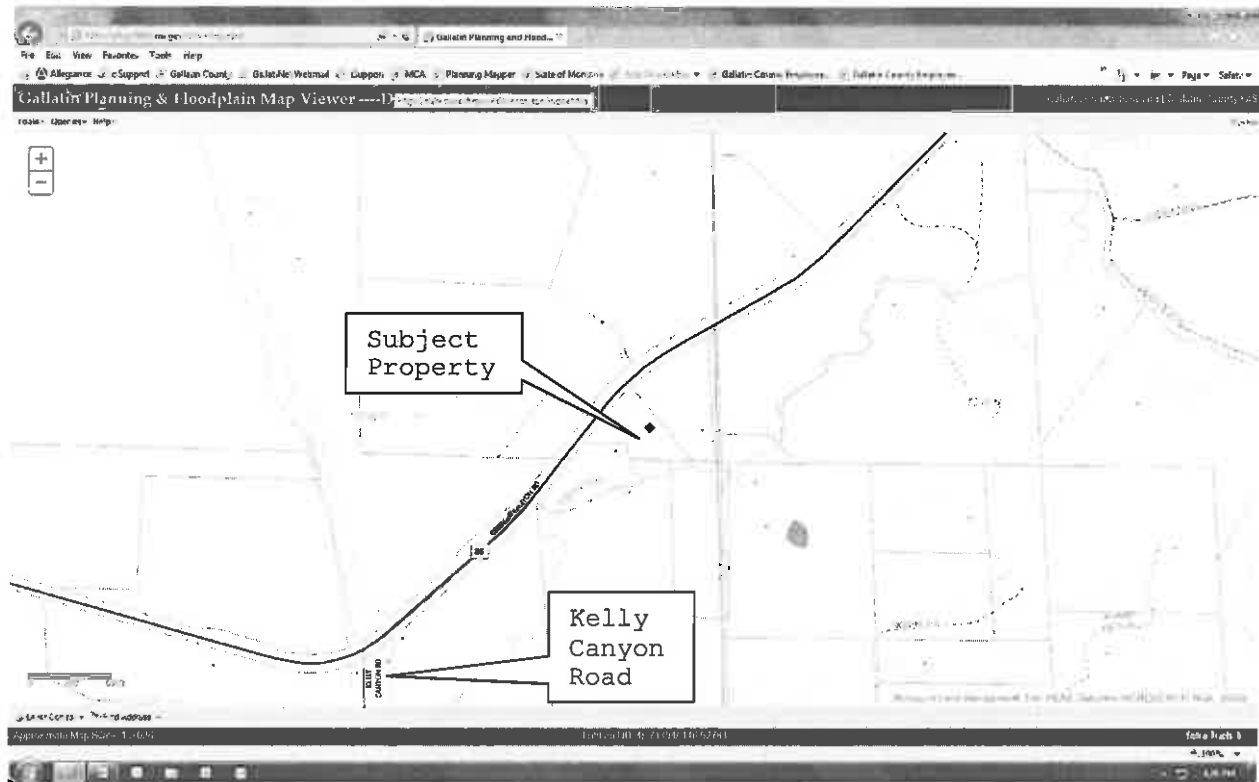
HEARING DATE: MAY 12, 2016; 9:00 AM

LOCATION: COURTHOUSE COMMUNITY ROOM
311 W. MAIN STREET, BOZEMAN

CONDITIONAL USE PERMIT REQUEST:

Judith Ivey (Applicant) has requested approval of a Conditional Use Permit (CUP) to allow the conversion of the existing barn into a Caretaker's Residence in the Agricultural Exclusive (AE) District of the Bridger Canyon Zoning District (Zoning District). Specifically, the Applicant proposes to convert approximately 800 square feet in the existing barn to a Caretaker's Residence (to be occupied by her son) and to use the main house as the primary residence when she is in town.

Vicinity Map



PROPOSED FINDINGS:

1. **Request.** The Applicant owns 4.69 acres along Bridger Canyon Road in the Bridger Canyon Zoning District. A house and barn/accessory structure are currently on the property (photos attached). The barn is 48' by 36' (1,728 square feet) and is a single story. In verbal conversations, the Applicant stated they intend to convert approximately 800 square feet of the into living space for a caretaker (currently intended to be the Applicant's son). The rest of the space in the barn would continue to serve as storage. The Applicant would continue to use the main home as their living space when they are in town.
2. **Location.** The subject property is 4.69 acres in the Northeast One-Quarter (NE $\frac{1}{4}$) of Section Thirty-Six (36), Township One South (T01S), Range Six East (S06E), PMM,

Gallatin County, Montana. The property is generally located east of Bridger Canyon Road immediately north of the cutoff with Kelly Canyon road.

3. **Adjacent Land Uses/Zoning.** The land use in all directions is residential and is zoned Agricultural Exclusive.
4. **Topography/Site Characteristics.** The Subject Property is generally flat and slopes downward to Bridger Creek to the south (off the property).
5. **Access.** Access to the Subject Property is provided by a private drive off of Bridger Canyon Road.
6. **Public Health and Safety-Waste Water.** The Applicant's current use of the property does appear to be in compliance with the existing septic permit. The Applicant will need to with the Gallatin City-County Health Department (GCCHD) to ensure that their septic system will be compliant for both a Caretaker's Residence and a single-family dwelling.
7. **Public Health and Safety-Fire.** Staff forwarded the application for review to the Bridger Canyon Rural Fire Department. No response was received from the Fire Department.
8. **Applicable Objectives and Goals of the Bridger Canyon General Plan and Development Guide.**

This plan recognizes Bridger Canyon as:

- *A desirable place to live and an area with an increasing growth rate.*
- *A place of growing recreational use and demand.*
- *An area where forest lands will continue to exert influence.*
- *A place demanding protection of its environmental beauty and agricultural open space.*
- *An area with strong citizen interest favoring conservation of natural resources; preservation of open space and agricultural usage; and limited, controlled growth compatible with the natural environment.*

The Applicant's narrative response letter provides a response to the objectives and goals of the Bridger Canyon General Plan and Development Guide as it relates to the Subject Property.

The proposed Caretaker's Residence appears to conform to the objectives and goals listed in the Bridger Canyon General Plan and Development Guide.

9. **Applicable Requirements of the Zoning Regulation.**

A. Caretaker's Residence Definition Section 3.16. *Dwelling unit for a person that takes care of the house or land of an owner who may be absent.*

B. Zoning District Intent Section 6.1. The applicant's property is zoned Agricultural Exclusive (AE). The intent of the AE District is:

"to preserve agriculture as one of the primary occupational pursuits and an economic endeavor in Bridger Canyon. It is further the intent of this District to protect and preserve the existing rural character of Bridger Canyon and to preserve existing developed and undeveloped farm lands from unplanned residential, commercial and industrial development."

The proposed Caretaker's Residence appears to meet the intent of the Zoning District. The barn is an existing structure; improving the structure for use as a Caretaker's Residence will not result in additional structures on the property. The property is adjacent to Bridger Canyon Road and has been used as a residential lot since it was recorded in 1987.

C. Uses Permitted After Securing Approval of a Conditional Use Permit Section 6.3. Caretaker Residences are included in the list of Conditional Uses.

D. Setbacks Section 6.5.b. According to Section 6.5.b the required setbacks for the AE District are: *"Minimum setbacks for residential buildings shall be twenty-five (25) feet from any property line, road right-of-way or road easement; one hundred (100) feet from any creek; one hundred and twenty-five (125) feet from the right-of-way of the Bridger Canyon Road, Kelly Canyon Road, and Jackson Creek Road."*

The existing structure meets all setback requirements of the Zoning Regulation.

E. Criteria for Granting a Conditional Use Permit Section 18.3

Conditional Use Permits 18.3.2. *"Conditional Use Permits shall be issued only by the Bridger Canyon Planning and Zoning Commission and may be issued for any of the uses as set forth in this Regulation. Such permit may be granted only if it is found that the establishment, maintenance, or operation of the use or building applied for will not under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort and general welfare of the Bridger Canyon Zoning District."*

Permits, Terms of Issuance 18.3.3. *"A conditional use permit or variance may be issued for a revocable, temporary, permanent or term period. It may contain*

such conditions as are authorized by State statute and this Regulation, including but not limited to:

- a) Requiring dedication of right-of-way;*
- b) Requiring improvements of right-of-way;*
- c) Requirements for landscaping to protect adjoining property;*

1. If landscaping is required, security shall be provided to ensure that the landscaping is properly installed. Such security shall be in the form of a certificate of deposit or a certified check in the amount equal to 110% of the estimated cost of the landscaping, as approved by the Zoning Enforcement Office, to ensure that the landscaping is installed and maintained for a period of one (1) year. The security and any interest shall be returned one (1) year after the installation of landscaping, if the landscaping has been maintained. The required security shall not be reduced or paid out if the landscaping has not been maintained.

- d) Regulation of placement of uses on the property.*
- e) Regulation of height.*
- f) Regulation of the nature and extent of the use.*
- g) Regulation of the length of time which such use or variance may be permitted.”*

The Applicant’s narrative response letter provides a response to the criteria for granting a Conditional Use Permit in the Zoning District. (see Exhibit A)

The conversion of the existing barn into a Caretaker’s Residence appears to meet the general definition of Caretaker’s Residence and does not appear to affect the health, safety, peace, morals, comfort or general welfare of any persons who reside within the Bridger Canyon Zoning District. Further, the Caretaker’s Residence is in compliance with all applicable Zoning Regulation requirements.

The Planning and Zoning Commission should consider the application submitted by the Applicants, any public testimony, and the proposed findings to the conditional use permit criteria listed above for Items 9.F in determining whether or not granting the Applicants’ request will be contrary to the health, safety, peace, morals, comfort and general welfare of the Bridger Canyon Zoning District residents.

This conditional use permit, if approved, would be issued on a permanent basis. If approved, the conditional use permit will allow the property to be used for a purpose that is authorized within the Zoning District. Section 6.3 of the Zoning Regulation lists Caretaker's Residence as a Conditional Use.

10. **Notice.** Public notice was published in the Bozeman Daily Chronicle on April 17 & 24, 2016. Property owners within 300 feet were sent certified mail on April 19, 2016, as shown on the certification of property owners list provided by the Applicants.
11. **Public Comment.** As of the publication of this report no written comments have been received.

STAFF SUGGESTED CONDITIONS OF APPROVAL:

If the Bridger Canyon Planning and Zoning Commission decides to approve the Conditional Use Permit request, staff suggests the following conditions of approval be attached in order to secure substantial protection for public health, safety, and general welfare:

1. The Conditional Use Permit authorizes the use of the Caretaker's Residence and shall not be utilized for any other use unless such use is permitted in conformance with the Bridger Canyon Zoning Regulation.
2. The Caretaker's Residence shall not be offered for sale as an individual dwelling unit.
3. The Applicant shall provide the Gallatin County Planning Department copies of the GCCHD approvals prior to occupancy of the Caretaker's Residence.
4. The Applicants shall record a "Notice of Decision" prepared by the Planning Department with the Gallatin County Clerk and Recorder and provide evidence that it has been recorded to the Planning Department.

REQUIRED ACTIONS OF THE PLANNING AND ZONING COMMISSION:

- A. **Sample Motions.** The role of the Planning and Zoning Commission in this instance is to decide on the conditional use permit request. The following sample motions have been provided by Staff for consideration by the Planning and Zoning Commission:
 - **Sample Motion for Approval:** Having reviewed and considered the application materials, staff report, and public comment, in accordance with the requirements of Section 6.3 and Section 18.3 of the Bridger Canyon Zoning Regulation, I move to approve the conditional use permit request from Judith Ivey to convert the existing barn into a Caretaker's Residence, with approval subject to all applicable laws and regulations, staff findings and staff recommended conditions (or with staff recommended conditions with the following modifications...).

- **Sample Motion for Denial:** Having reviewed and considered the application materials, staff report, and public comment, in accordance with the requirements of Section 6.3 and Section 18.3 of the Bridger Canyon Zoning Regulations, I move to deny the conditional use permit request from Judith Ivey for a Caretaker's Residence.
 - **Sample Motion for Continuance:** Having reviewed and considered the application materials, staff report, and public comment, I move to continue the Ivey Conditional Use Permit Application for the purpose of (explain reason for continuance, and if applicable, specify any additional information that is being requested) until (state the date when the item will be heard again).
- B. Required Findings.** The Planning and Zoning Commission's decision must be supported by findings related to the below determinations.
- Whether the conditional use permit request meets the criteria of Section 18.3.2 of the Zoning Regulation (See Staff Finding 8.E., page 4).
1. **To provide findings in support of the above determinations, the Bridger Canyon Planning and Zoning Commission may wish to adopt in whole or in part the Proposed Findings presented in the staff report.**
 - If the Proposed Findings are adopted in part, please specify which findings are omitted.
 2. **The Bridger Canyon Planning and Zoning Commission also should make original findings based on other relevant information entered into the record during the hearing, including the applicant's presentation and public comment.**
- C. Motion for Issuance of Findings of Fact, Conclusions of Law, and Order.** I move to authorize the Chair of the Planning and Zoning Commission to sign and issue written Findings of Fact, Conclusions of Law and Order that incorporate all of the findings and conclusions entered into the record in this manner.

Attachments:

Exhibit A: Applicants' Application Packet

CC:

County Attorney
Judith Ivey, PO Box 8017, Santa Fe, NM 87504



