



CITY OF BLAINE

COMMUNITY DEVELOPMENT SERVICES DEPARTMENT

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STAFF REPORT and RECOMMENDATION TO PLANNING COMMISSION Type II Quasi-Judicial Decision – Conditional Use Permit

To: Planning Commission

From: Stacy Clauson, Project Planner

Date of Report: October 8, 2021

Hearing Date: October 14, 2021

Files: Permit #2021076

Hearing Date and Place: Thursday, October 14, 2021 at 6pm
The meeting will be held via teleconference.

I. INTRODUCTION

Applicant: Amberleigh Brownson

File No.: 2021076

Site Location: 150 8th Street, Blaine WA

Application: Conditional Use Permit

Review Process: Quasi-Judicial, Type II-PC decision: Planning Commission shall hold the public hearing and makes a decision.

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III. RECOMMENDATIONS

Conditional Use Permit

Based on Findings and Conclusions (**Section VI**) and Attachments in this report, the Community Development Services Department (CDS or “the Department”) recommends that the Planning Commission approve the Conditional Use Permit to authorize an Accessory Dwelling Unit (ADU) at 150 8th Street, subject to the following six conditions:

1. This application is subject to the applicable requirements contained in the Blaine Municipal Code, Public Works Design and Engineering Standards and Building and Fire Codes. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these standards and codes.
2. The applicant shall be responsible for complying with any other state or local statutes, ordinance, or regulations applicable to this project.
3. The applicant shall obtain a building permit to convert the garage into residential space.
4. Prior to building permit issuance, the applicant shall pay applicable impact fees (e.g., park, fire mitigation, and traffic impact fees).
5. Prior to building permit issuance, the applicant shall revise the site plan and submit appropriate permits to address the Public Work conditions of approval:
 - Provide water and sewer to the ADU from existing private water service and sanitary sewer lateral.
 - Provide new separate electric service and meter to ADU.
 - Applicant will be required to bring driveway up to Public Works current standards. Driveways must be concrete, or other approvable surface, per Public Works Development Guidelines Section 2.02.120. No gravel driveway is permitted.
 - Contractor is responsible for preventing erosion and discharge of sediment and other pollutants from leaving the site.
 - Applicant will be required to apply for a Public Works Right of Way (ROW) excavation permit to perform work in the ROW for electrical service trenching and driveway surface upgrade.
6. Prior to issuance of a Certificate of Occupancy, the property owner shall sign and record a deed restriction with Whatcom County Auditor’s office that discloses the 1) requirements for owner-occupancy, and 2) limitations on the size of the ADU (**see Attachment H**).

IV. PROJECT DESCRIPTION AND REQUEST

Conditional Use Permit to authorize an Accessory Dwelling Unit (ADU) at 150 8th Street (**Attachment A**). The applicant is proposing to convert an existing detached garage in to the ADU. Parking would be provided for the main residence and ADU in an unenclosed area in front of the existing garage.

As established in BMC 17.34.020, an Accessory Dwelling Unit is a Conditional Use in the [RL – Residential Low-Density Zoning District](#).

A. GENERAL INFORMATION

1. Date of Application: August 4, 2021
2. Determination of Completion: September 2, 2021
3. Applicant: Amberleigh Brownson
4. Primary Contact: Amberleigh Brownson
5. Property Owners: ADRIAN A & AMBERLEIGH N BROWNSON
6. Property Location: 150 8th Street, Blaine WA (**Attachment A**)
7. Assessor Parcel Number (APN): 4101312302090000
8. Comprehensive Plan Land Use Designations, Zoning Classifications and Existing Land Uses of the Site and Surrounding Area:

The site is located within the [RL – Residential Low-Density Zoning District](#) that is part of Central Blaine. This Zoning District is situated in the northeast portion of Central Blaine south of the border facilities and within a pocket of residential zoning bounded by Highway 534 to the east, Residential Medium and Single-Family Two zoning districts to the west and south. The purpose of the [RL – Residential Low-Density Zoning District](#) is to maintain and create an environment which meets the needs for single-family detached residential housing, with small accessory dwellings, by restricting uses within the district and by establishing a minimum lot size and a maximum density..

V. BACKGROUND

In 2013, the applicant obtained a permit to construct a new detached accessory building, to be used as a garage (Permit BLDG-54-13). As an accessory structure, the garage would have been required to comply with the rear yard setback of 8 feet, and a side yard setback of 4 feet (BMC [17.34.040](#) and BMC [17.104](#)).

In 2016, the City Council passed Ordinance Number 16-2887, amending the Residential Low Density zoning chapter BMC 17.34 to allow attached and detached accessory dwelling units within the residential low-density zoning district as a conditional use. In adopting the ordinance, the Council recognized that the amendment was consistent with the goals of the Housing Element of the Comprehensive Plan by promoting the development of a variety of housing types and prices, including an adequate supply of housing in a price range affordable to employees at available jobs in Blaine and housing which meets the needs of senior citizens.

VI. ANALYSIS ¹

A. APPLICATION PROCESS

1. The city received the Conditional Use Permit application and supporting materials on August 4, 2021 (**Attachment B**). The materials included an application, site plan, floor plan, photographs of the building proposed to be converted to an accessory dwelling unit, and the applicant’s analysis of the proposal for consistency with applicable review criteria.
2. BMC [17.92.040](#) describes what constitutes a complete application for a conditional use permit.
3. The city issued a Notice of Complete Application on September 2, 2021 (**Attachment C**).
4. Per BMC [17.02.050.D.1.a](#) and [17.92.030](#), the Planning Commission has the power and duty to authorize a Conditional Use Permit application. Pursuant to BMC [17.02.050.D.1.a](#) and [17.92.030](#), notice of hearing is required and the Planning Commission is required to hold an open record hearing addressing the Conditional Use Permit request.
5. An open public record hearing is scheduled before the Planning Commission on August 12, 2021.

CONCLUSION: The application is being processed in accordance with the procedural requirements for Type II-PC applications established in Chapter 17.06 of the BMC.

B. PUBLIC NOTICE AND COMMENT

1. Notice of Application and Hearing (**Attachment D**):
 - a. The applicant published a combined Notice of Application and Public Hearing per BMC 17.06.100 and .110 in the Bellingham Herald; mailed it to property owners within 300 feet of the site; and posted it on the subject property on or before September 7, 2021 (**Attachment D**).

¹ Project analysis includes CDS findings and conclusions based on a review of current materials applicable to the project.

2. As of the issuance of this staff report, no public comments were received regarding this project.

CONCLUSION: The application meets the noticing requirements for Type II applications established in BMC Chapter 17.06.

C. ENVIRONMENTAL REVIEW AND CRITICAL AREAS ANALYSIS

1. The city acted as lead agency and analyzed the environmental impact of the proposed use as required by the State Environmental Policy Act (SEPA) Chapter 43.21 RCW.
2. The proposal is categorically exempt from SEPA as a land use decision per the WAC 197-11-800(6).
3. Per BMC 17.80.040, a SEPA checklist is not required to process the subject Conditional Use application.
4. The site is not located within or near an identified critical area as defined by Chapter 17.82 BMC.

CONCLUSION: The application meets the SEPA standards of the Chapter 17.80 BMC and Chapter 197-11 WAC, and the critical areas standards established in Chapter 17.82 BMC.

D. CONDITIONAL USE PERMIT DECISION CRITERIA

The proposed project site is in the [RL – Residential Low-Density Zoning District](#), and the standards for development in this zone are established in BMC 17.34. Pursuant to BMC 17.34.020, an Accessory Dwelling Unit is a Conditional Use in the [RL – Residential Low-Density Zoning District](#). Conditional uses are uses that are only allowed within a zone after review by the Planning Commission to ensure that the use is compatible with other permitted uses in the vicinity and zone and under what conditions.²

BMC [17.92.050](#) establishes the following requirements for approving a Conditional Use Permit application. The applicant has addressed these criteria in Exhibit 5 of **Attachment B**.

1. Will be harmonious and in accordance with the general and specific objectives of the city of Blaine comprehensive plan and zoning regulations.

² Page 113 of [“A Short Course of Local Planning Resource Manual \(2016\)”](#)

Discussion: *The project as proposed is consistent with the Comprehensive Plan and the zoning regulations for the [RL – Residential Low-Density Zoning District](#). The proposal is consistent with Housing Goal 1 and related policies³ and Housing Goal 7⁴. As described in the application materials, the ADU would be resided in by the applicant’s father, allowing him to age in place. The site is well situated for addition of an ADU, with location along a Local Collector road⁵, and in an area with a mixture of uses, with higher density housing located a block to the south of the site (**Attachment E**). The addition of an ADU would promote density in a developed area, and be consistent with the City’s efforts to encourage diversified housing stock that will enhance housing choices for residents.*

2. Will be designed, constructed, operated, and maintained so as 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.

Discussion: *The ADU is proposed within an existing building. The building was approved and constructed in accordance with the City’s development standards. As detailed below, the ADU is consistent with the ADU design criteria. As such, the development is harmonious and appropriate in appearance with the existing character of the area.*

3. Will not be hazardous or disturbing to existing or future neighboring uses.

Discussion: *The proposed use is residential and consistent with planned uses in the area. The proposed use will not be hazardous or disturbing to existing future neighboring uses.*

4. Will be serviced adequately by essential public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

³ GOAL 1: To encourage the development of a variety of housing types and prices, including an adequate supply of housing in a price range affordable to employees at available jobs in Blaine and housing which meets the needs of senior citizens.

POLICY 1.1 Residential zoning should provide for a range of allowable uses and densities including medium or high density multi-family units, townhouses, mobile homes, or accessory dwelling units in order to meet the growing needs of seniors, young adults, minorities, immigrants, and low-income households.

POLICY 1.3: The City encourages aging citizens to remain in the community and the City should support efforts to develop assisted living facilities, smaller sized housing units near services, and other housing which accommodates the needs of senior citizens.

⁴ GOAL 7: To encourage the development of affordable housing within the City without sacrificing public safety or the ability to provide needed public services and utilities.

⁵ Transportation Element of the Comprehensive Plan, Map TR-1

Discussion: *Utilities currently service the site and are proposed to be extended to serve the ADU. Public Works Department approval of the connections will be required prior to building permit issuance.*

5. Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

Discussion: *The site is located in an area planned to accommodate residential uses. As such, the project is not expected to generate any public cost, nor will it have a detrimental impact to the economic welfare of the community. The applicant will be responsible for payment of impact fees in order to contribute to providing new or expanded public capital facilities required to serve the development.*

6. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

Discussion: *The proposed use is residential and consistent with planned uses in the area. The use will not be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare, or odors.*

7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

Discussion: *The proposed use will utilize the same vehicular access point as the existing residence, which was designed and developed consistent with City standards for access. As such, the proposed use will have adequate vehicular approaches to the property that will not create interference with traffic on surrounding public streets.*

8. Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance.

Discussion: *There is no natural, scenic or historic feature of significance on the property. As a result, the proposed development would not result in destruction, loss or damage to any features of major importance.*

CONCLUSION: **The proposal, as conditioned, is consistent with the criteria for a Conditional Use Permit pursuant to BMC 17.94.100.**

E. CRITERIA OF APPROVAL FOR CONDITIONALLY PERMITTED ADUS

In addition to the criteria for Conditional Uses in BMC 17.94.100, BMC 17.102.030 and 040 establish criteria that must be met before approval of a conditional use permit for a detached accessory dwelling unit.

1. Any detached accessory dwelling unit substantially compliant with ADU Templates 1 through 4 as included in “Accessory Dwelling Units, A Guide for Property Owners for ADU Development” as determined by the director.

Discussion: *The proposed detached accessory dwelling unit is consistent with ADU Template 1. The converted garage is less than 28 feet in height. The building is a small size, has a pitched roof form and overhangs, consistent with the design of a cottage. The existing garage door on the front elevation will be removed and replaced with a front entry door and window., adding residential character to this façade.*

2. Any detached accessory dwelling unit meeting the residential design standards as permitted for the main residence in the zoning district and compliant with the size standards contained in Table 17.102.A.

Discussion: *The area of the lot is 7,200 square feet and the area of the main residence is 1,140 square feet. The proposed accessory dwelling unit is 285 square feet, which is less than 50% of the primary residence, in compliance with BMC 17.102.A.*

3. Conversion of an existing accessory structure, noncompliant with the accessory structure setbacks, on an otherwise compliant lot may be conditionally permitted without a variance. Under no circumstance may the accessory structure encroach onto adjacent private or public property or exceed 1,000 square feet of living area.

Discussion: *As an accessory structure, the garage, which was constructed in 2013, would have been required to comply with the rear yard setback of 8 feet, and a side yard setback of 4 feet (BMC 17.34.040 and BMC 17.104). An 8-foot setback is depicted on the site plan (Attachment B.2), and a 7’6” setback along the north side yard. As a result, the garage is compliant with accessory structure setbacks and this standard is not applicable.*

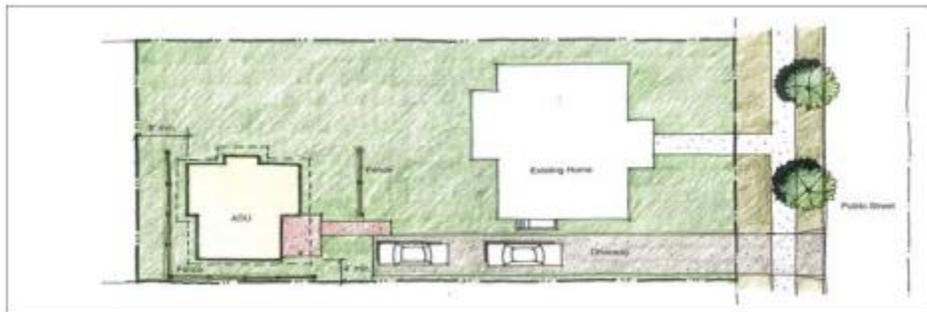
4. Exterior design of the accessory unit is compatible with the existing residence on the lot through architectural use of building style, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.

Discussion: *Attachment F contains photographs of the building and main residence. The exterior design of the accessory dwelling unit is compatible with the existing residence, including siding and trim materials, and colors.*

5. The location and design of the accessory unit maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access or parking of adjacent properties.

Discussion: *The garage to be converted is an existing building, and therefore there would be no new impacts to light, air, or solar access. The applicant will convert the existing garage to residential space, with parking located outside in a driveway. This is consistent with parking standards in the [RL – Residential Low-Density Zoning District](#), which permits in the form of a parking strip, driveway or garage. The parking is appropriately sized, with stall dimensions of 19' x 8-1/2' each parking stall.*

Further, the layout of the site is also consistent with the example diagram contained in the “[Accessory Dwelling Units, A Guide for Property Owners for ADU Development](#)”, with the ADU setback from the residence and served by a driveway with uncovered parking.



As discussed below, the privacy of the neighboring property to the north will be preserved.

6. The structure generally limits the stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley or street and away from adjacent properties where applicable.

Discussion: *As part of the conversion of the garage, new windows and doors are shown in the floor plans ([Attachment B.3](#)) along the front, side (north) and rear facades of the building. The new slider door located on the north façade is oriented toward the adjacent property. However, this door is not intended to serve as the entry door, and there is existing fencing and landscape hedge located along the property line, and the*

adjoining residence on the north side is located over 60 feet separated from the common property line. These conditions ensure that the privacy of the neighboring property to the north will be preserved.

7. Conversion of an existing accessory structure into a dwelling unit does not result in encroachment into the setback where none existed before conversion, and does not increase any existing encroachment into the setback.

Discussion: *The site plan (Attachment B.2), shows the garage is compliant with accessory structure setbacks.*

CONCLUSION: The project is consistent with the criteria for approval of a detached accessory dwelling unit contained in BMC 17.102.040.

F. ACCESSORY DWELLING UNIT DESIGN AND DEVELOPMENT STANDARDS

BMC 17.102.050 establishes design and development standards that accessory dwelling units must be consistent with.

1. The side yard and rear yard setbacks for detached accessory dwelling units shall not be less than as determined by BMC 17.104.010. Detached accessory dwelling units shall not be forward of the primary unit in relation to any public street. Detached accessory dwelling units are not eligible for variances to setbacks.

Discussion: *The site plan (Attachment B.2), shows the garage is compliant with accessory structure setbacks established in BMC 17.104.010. In addition, the garage is setback further from 8th Street than the primary residence.*

2. Attached accessory dwelling units shall meet the same setbacks as a main building in the zoning district. Attached accessory dwelling units are not eligible for variances to setbacks.

Discussion: *The accessory dwelling unit is detached and, as a result, this criterion is not applicable.*

3. The majority property owner must occupy either the primary or accessory dwelling as his or her principal place of residence.

Discussion: *The applicant currently resides on-site. The application materials indicate that the accessory dwelling unit will be resided in by the applicant's father. As a condition of approval, the applicant shall record a covenant establishing that the*

requirements for owner occupancy, to ensure that any future owners of the property are aware of these restrictions.

4. When an accessory dwelling unit is adjacent to a side street or alley, every effort shall be made to orient the accessory dwelling unit toward the side street or alley with the front access door and windows facing the side street or alley. No preference is given to either the side street or alley in regard to building orientation.

Discussion: *The subject property does not adjoin a side street. The lot does adjoin an alley on the rear side, but the alley is currently unopened (undeveloped) and is not used for access. As a result, access to the alley is not authorized under the current conditions.*

5. Parking shall be located off of an alley wherever feasible. Parking shall be provided for the ADU as required by this code. Parking does not need to be in an enclosed building.

Discussion: *Access to the alley is not authorized under the current conditions. In lieu of alley loaded parking stalls, parking for the main residence (2 parking stalls) and ADU (1 parking stall) is proposed in an unenclosed area in front of the existing garage. The parking is proposed with 2 stalls arranged in a tandem configuration. There is no prohibition for this parking arrangement for single-family residences within BMC 17.126. As noted above, the parking is consistent with parking standards for the [RL – Residential Low-Density Zoning District](#) and with the example diagrams contained in the “[Accessory Dwelling Units, A Guide for Property Owners for ADU Development](#)”.*

6. The design of the accessory unit shall relate to the design templates, or the applicable residential design standards, or the design of the primary residence by use of compatible exterior wall materials, window types, door and window trims, roofing materials and roof pitch.

Discussion: *The proposed detached accessory dwelling unit is consistent with [ADU Template 1](#). The converted garage is a single-story building, less than 28 feet in height. The building is a small size, has a pitched roof form and overhangs, consistent with the design of a cottage. The existing garage door on the front elevation will be removed and replaced with a front entry door and window., adding residential character to this façade.*

*Further, the exterior design of the accessory dwelling unit is compatible with the existing residence, including siding and trim materials, and colors (see **Attachment F**).*

The [RL – Residential Low-Density Zoning District](#) does not contain specific residential design standards, except that accessory dwelling units are required to be

complementary in design to the primary structure or must comply with the accessory dwelling unit design guideline templates as determined by the director (BMC 17.34.030). As noted, the building meets these requirements.

7. The site plan shall provide open space and landscaping that are useful for both the accessory dwelling unit and the primary residence. Landscaping shall provide for the privacy and screening of adjacent properties.

Discussion: *The new slider door will create a separate, fenced space for the ADU. There is existing fencing and landscaping in place to provide privacy to adjacent properties on the north. Property to the east is separated by the unimproved right-of-way and the east property line is also fenced.*

8. For new construction, exterior walls facing a street or alley that are over 24 feet in length shall be articulated by at least two feet.

Discussion: *The proposal does not include new construction and, as a result, this criterion is not applicable to the proposed garage conversion.*

9. Detached accessory dwelling units are limited to 28 feet in height.

Discussion: *The building is less than 28 feet in height.*

CONCLUSION: The project is consistent with the design and development standards contained in BMC 17.102.050.

G. PUBLIC UTILITIES AND SERVICES

1. *Stormwater.* No new additional hard surfaces are proposed. Contractor is responsible for preventing erosion and discharge of sediment and other pollutants from leaving the site (**Attachment G**).
2. *Fire Protection.* The applicant will be responsible for payment of fire mitigation fees, which are estimated at \$1,019.92.
3. *Water, Sewer, Garbage, and Electricity.* Property has current water and sewer utility connections and will provide water and sewer to the ADU from existing private water service and sanitary sewer lateral (**Attachment G**). The applicant will be required to provide new separate electric service and meter to ADU.
4. *Parks.* The applicant will be responsible for payment of park impact fees, which are estimated at \$1,200.

CONCLUSION: The proposed development, subject to the conditions of approval, will be fully served by sufficient public utilities and services.

H. TRANSPORTATION CONCURRENCY AND TRAFFIC IMPACT FEES

1. Traffic Concurrency.
 - a. Pursuant to BMC 17.05.020, projects that propose to generate more than 50 trips per peak hour must be reviewed for transportation concurrency.
 - b. The project would not generate more than 50 PM peak hour trips and, therefore, does not trigger the requirements for concurrency certification.
2. Traffic Impact Fees. The applicant will be responsible for payment of traffic impact fees, which are estimated at \$779.

I. TECHNICAL REVIEW COMMITTEE

1. Building Department. A residential building permit will be required for the conversion of the garage. The applicant has applied for the permit, which must be issued prior to work taking place at the site.
2. Public Works Department. The Public Works Department has reviewed the proposal and has identified the following conditions for the conversion of the ADU (**Attachment G**):
 - a. Provide water and sewer to the ADU from existing private water service and SS lateral.
 - b. Provide new separate electric service and meter to ADU.
 - c. Applicant will be required to bring driveway up to Public Works current standards. Driveways must be concrete, or other approvable surface, per Public Works Development Guidelines Section 2.02.120. No gravel driveway is permitted.
 - d. Contractor is responsible for preventing erosion and discharge of sediment and other pollutants from leaving the site.
 - e. Applicant will be required to apply for a Public Works Right of Way (ROW)excavation permit to perform work in the ROW for electrical service trenching and driveway surface upgrade.

CONCLUSION: CDS has coordinated with other departments and agencies that may have regulatory authority of the application, pursuant to BMC 17.06.130.B.2. If the Conditional Use is approved, the project shall comply with the review standards identified in this section.

VII. APPEALS

Pursuant to BMC 17.06.180, Type II final decisions made by the planning commission shall be final and conclusive unless within 14 days following the mailing of such decision a written statement of appeal is filed with the city council by the applicant, a department of the city, or party of record, who is also an aggrieved person. The statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the unified fee schedule; provided, that such appeal fee shall not be charged to a department of the city or to other than the first appellant. The appeal of a Type II decision shall be a closed record appeal.

VIII. LAPSE OF APPROVAL

Conditional Use Permit

Pursuant to BMC 17.92.070, the following timeframes would apply to the Conditional Use permit, if approved:

- A. Conditional use permits shall expire 12 months after issuance unless construction or the establishment of the use has commenced. The director may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.
- B. An application for a conditional use permit which has not been approved or has been denied in whole or in part shall not be resubmitted for a period of six months from the date of such denial.

IX. IX. MODIFICATION

Pursuant to BMC 17.92.080, modifications of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit.

X. ATTACHMENTS

- A. Vicinity Map
- B. Application Packet
 - 1. Application
 - 2. Site Plan
 - 3. Floor Plan
 - 4. Photographs
 - 5. Applicant analysis of consistency with criteria
- C. Notice of Complete Application
- D. Notice of Application and Hearing
 - 1. Notice Form

2. Certified Mailings
 3. Bellingham Herald Publication
 4. Sign Posting
- E. Map of Surrounding Land Uses
 - F. Photographs of House and Detached Garage
 - G. Public Works Comments
 - H. Draft ADU Deed Restriction

Distributed to the Following Parties:

- Applicant