February 18, 2021

Butte-Silver Bow
Zoning Board of Adjustment
Virtual Meeting

Members Present: David Wing, Sylvia Cunningham, Garrett Craig and Tyler Shaffer

Absent: Todd Collins, Julie Jaksha and Loren Burmeister

Staff: Lori Casey, Planning Director
Dylan Pipinich, Assistant Planning Director
Carol Laird, Administrative Assistant

M I N U T E S

I. The meeting was called to order at 5:32 P.M.

II. The Minutes of the meeting of January 21, 2021, were approved. (Tyler Shaffer moved and Garrett Craig seconded the motion to approve 4-0).

III. Hearing of Cases, Appeals and Reports:

The legal ad was published in the Montana Standard on February 11, 2021.

David Wing stated the procedures that pertained to the meeting and said since there were only four members present that night, the applicants had an opportunity to continue consideration of their application until the next regularly scheduled meeting of the Board of
Adjustment, which he thought should be Thursday, March 18th. He understood that one of the applicants had already exercised that motion and that would be Daniel Hall, was that correct? No, it would be Mr. Vesco. Mr. Wing said Mr. Vesco wasn’t present at this meeting and the consideration of his matter for SUP-21-000002 would be continued until March 18th, the next regularly scheduled meeting of the Board of Adjustment.

SUP-21-000003 – Daniel Hall was present at this meeting.

Mr. Wing asked Mr. Hall if he was present and he said yes. Mr. Wing said Mr. Hall was present by telephone. Mr. Wing then said just to make sure that Mr. Hall wanted to proceed with the matter that night, because he did need to have all four votes in order to be approved, and if Mr. Hall had any concerns about getting the four votes, he could continue consideration of his matter until March 18th. He then asked Mr. Hall if he wished to proceed that night and Mr. Hall said yes sir.

Dylan Pipinich summarized the staff analysis that is attached and made a part of these Minutes during the viewing of the presentation pictures.

Mr. Wing asked if any of the Board members had any questions with respect to the presentation by the staff. There was no response.

Mr. Wing asked the applicant, Mr. Hall, if he cared to add anything to the information that was provided by the staff to assist the Board in making its decision that night.

Mr. Hall said no sir, he covered everything quite well.

Mr. Wing said he would now ask and this would have to be done by telephone and the number they would use was 497-5009. He said he would then ask if anybody that was listening to this particular meeting was in approval or had any objections to this particular application. He said anybody that was “For” this proposal now had the opportunity to phone in and speak in favor of the application. They would allow a few minutes for that to occur.

Mr. Wing said there had been no calls in support of this application.
Mr. Wing further said that now he would ask if anybody who was listening would have any objections to this application and again the number for them to call was 497-5009. He said they should phone that number, if they had any objections to this application and again, they would give them a few minutes for that to happen.

Mr. Wing said they had received no calls in opposition.

Mr. Wing then closed the public portion of the meeting and opened it for Board discussion.

Tyler Shaffer said he saw no issues with this whatsoever. He said he would be willing to make a motion but would like to give the other Board members a chance to say their piece.

Mr. Wing asked if any Board members had any other thoughts with regard to this matter or was somebody prepared to second Mr. Shaffer’s motion.

Garrett Craig said he didn’t have any concerns either and would second Tyler’s (Shaffer) motion.

Mr. Wing said a motion had been made by Tyler Shaffer that they approve the application and that motion had been seconded by Garrett Craig.

Mr. Wing said he would now ask individually for their vote.

Garrett Craig - in favor
Tyler Shaffer - yes vote
Sylvia Cunningham - in favor
David Wing - in favor

Mr. Wing said it was a 4-0 vote in favor of the application and the application had, therefore, been approved – the motion had been approved. He said he (Mr. Hall) would be receiving a letter from the Planning staff to that effect. He said the letter would be setting forth the four conditions that were applicable to this approval.
The conditions are as follows:

1. The applicant shall be required to secure a State of Montana Public Accommodations License through the Butte-Silver Bow Health Department.

2. Any remodeling of the existing residence performed to accommodate the proposed business will be required to meet all applicable Building Code and Health Code requirements, as required by the Butte-Silver Bow Building Code Department and the Butte-Silver Bow Health Department, respectively. All necessary approvals must be granted prior to the applicant receiving final business license approval.

3. The applicant shall be limited to the occupancy level as determined by the Butte-Silver Bow Building Code Department and the Butte-Silver Bow Fire Marshal. The occupancy level shall be determined prior to final business license approval.

4. The applicant will be limited specifically to the business as stated and approved. Any future business expansions, changes in business or building expansions will require further review by the Zoning Board of Adjustment.

SUP-21-000003 – Conditionally Approved

Garrett Craig For Sylvia Cunningham For
Tyler Shaffer For David Wing For

Garrett Craig, Sylvia Cunningham, Tyler Shaffer and David Wing voted “For” the motion to approve the application.

Mr. Wing said as before, they did have a written voting ballot they had to fill out and they could fax, e-mail it, bring it up to the Planning Office or the Planning Office could send somebody to collect it from them. He said they had to get their written votes in signifying voting “For” the motion.
IV. A motion was made to adjourn. Seconded and passed. The meeting adjourned at 5:50 P.M.

By: [Signature]

David Wing, Chairman

[Signature]

Lori Casey, Planning Director
AGENDA

APPLICANT OR REPRESENTATIVE MUST BE PRESENT FOR THE VIRTUAL MEETING

I. Call to Order.

II. Approval of the Minutes of the meeting of January 21, 2021.

III. Hearing of Cases, Appeals and Reports:

The meeting may be attended virtually at https://co.silverbow.mt.us/2149/MEDIA (streaming live tab). Public comment will be heard via telephone at (406) 497-5009 during the public comment period of the meeting at the above-mentioned website. Written comments will be accepted until 4:00 p.m. on Thursday, February 18, 2021, and may be submitted by email to planning@bsb.mt.gov or mailed to:

BSB Planning Department
155 W. Granite Rm 108
Butte, MT 59701

SPUSE-21-000002 — A special use permit application by Aldo Vesco, owner, to operate a professional business office (counseling services) in an existing structure in a residential zone, per Section 17.38.250 – Professional and Business Offices, of the BSBMC. The property is located in an “R-4” (Manufactured Home) zone, legally described as Lots 1-5 of Block 4 of the St. Paul Townsite, commonly located at 914 Holmes Avenue, Butte, Montana.

SPUSE-21-000003 — A special use permit application by Daniel Hall, owner, to locate a short-term rental in an existing residence per Section 17.38.180 – Special Use Permit – Uses Allowed, of the BSBMC. The property is located in an “R-1” (One Family Residence) zone, legally described as Lots 33-34 of Block 7 of the Hurlbut Addition, commonly located at 1919 Harvard Avenue, Butte, Montana.
AGENDA

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IV. Other Business.

V. Adjournment.

BY: Lori Casey, Planning Director
ITEM: Special Use Permit Application SPUSE-21-000002 - An application for a special use permit to locate a professional business office (single practitioner counseling services) in an existing structure in a residential zone, as per the requirements of Section 17.38.250, Professional and Business Offices, of the BSBMC.

APPLICANT: Aldo Vesco, 304 Hattie Loop, Butte, Montana, owner.

DATE/TIME: Virtual Meeting, Thursday, February 18, 2021, at 5:30 P.M., from the Council Chambers, Third Floor, Room 312, Silver Bow County Courthouse, Butte, Montana. A WebEx invitation will be sent to the applicant on February 18, 2021 via email to join the meeting. All other interested parties may attend the meeting virtually at https://co.silverbow.mt.us/2149/MEDIA. Public comment will be via telephone at (406) 497-5009 during the public comment period of the meeting at the above-mentioned website.

REPORT BY: Dylan Pipinich, Assistant Planning Director

VICINITY MAP:
LOCATION/DROPICRITION: The property is located in an "R-4" (Manufactured Home) zone, legally described as Lots 1 - 5, Block 4 of the Saint Paul Townsite, commonly known as 914 Holmes Ave., Butte, Montana.

PROPOSAL: The applicant is proposing to locate a counseling services office in an existing building in a residential zone. The proposed building was originally utilized as a detached garage and later utilized for a business office.

STAFF FINDINGS: Professional business offices are recognized as special uses allowed in any residential zoning district, provided that the prescribed use is in harmony with the other uses permitted in the zone and not found to be contrary to the public interest. The special use permit process provides for review of public input, a measure of the potential impact of the proposed use on the surrounding area and the compatibility of the proposed use with the adjoining neighborhood.

The Zoning Board of Adjustment will review the physical conditions, which exist at the location, the conduct and operation of the proposed use and whether the combination of these factors will be compatible with the proposed site and surrounding area.

To provide the Board with information about the proposed special use, the applicant has responded to the established 20 question review criteria. The applicant's responses are shown after each question. The Planning staff will, in turn, respond to the 20 review questions.

1. The location, character and natural features of the property.

   Applicants' Response: "Address is 914 Holmes Avenue. This is a large corner property existing of 5
lots. It is located on a busy street that has a mix of residential and commercial property.”

**Staff Comments:** The property is located in an “R-4” (Manufactured Home) zone, which allows single family residences and manufactured homes. The building was constructed as a detached garage but has been utilized for a business office in the past. The applicant currently uses the other structure (a two bedroom dwelling) as a residential rental unit. There is a paved parking lot in front of the structure that does not have parking stall striping.

2. **The location, character and design of adjacent buildings.**

**Applicants’ Response:** “This property has 2 structures, one is 2 bedroom one bath rental house. The second structure for which we seek the conditional use is a fully converted garage, consisting of two large rooms and a bathroom. A paved parking lot exists between the units. The adjacent properties are a mix of residential and commercial with an automotive business to the south, a single-family residential property to the west, and this property is located across the street from Stodden Golf course.”

**Staff Comments:** The property is located within a mixed-use area containing both commercial and residential uses. The property is located within one block of a “C-2” (Community Commercial) zone.

3. **Substantial changes that have occurred in the surrounding land uses since the original adoption of this Ordinance.**

**Applicants’ Response:** “No changes to this surrounding land use.”
**Staff Comments:** There have been no recent changes to the Zoning Ordinance in this area.

The property in question is located within Suburban Mix placetype in the Comprehensive Plan (Growth Policy). Suburban mix placetype neighborhoods exhibit a mixed-residential development pattern and are typically immediately adjacent to urban areas. In many instances, the mixed neighborhood acts to buffer the more traditional, established neighborhoods from higher intensity commercial uses.

4. Proposed fencing, screening and landscaping.

**Applicants’ Response:** “No proposed changes to fencing, screening or landscaping, only maintenance of the existing bushes and grass.”

**Staff Comments:** Except for the paved parking lot, the current landscaping is typical of residential neighborhoods and should fit in the character of the surrounding homes. The applicant is proposing to maintain the existing landscaping. It should be noted that because the applicant is not proposing to expand the footprint of the building, there is no additional landscaping requirement. That being said, staff believes that the applicant’s proposed landscaping is typical for a residential neighborhood.

5. Proposed vegetation, topography and natural drainage.

**Applicants’ Response:** “No change to vegetation, topography or natural drainage.”
**Staff Comments:** As the applicant will not be adding to the footprint of the existing house or garage, the natural drainage should not be impacted.

In regard to vegetation, the proposed upkeep of the existing lawn and bushes should be beneficial to the adjacent residences.

6. Proposed vehicle access, circulation and parking, including that relating to bicycles and other unpowered vehicles and provisions for handicapped persons.

**Applicant's Response:** "Vehicles will continue to access the structures through the existing driveway on Holmes. The property has a large parking lot that is suitable for off street parking and can accommodate handicapped parking for both buildings."

**Staff Comments:** As stated above, there is an existing paved parking lot located adjacent to the structure. The Zoning Ordinance requires four (4) parking spaces to accommodate the proposed use, one of which is required to meet ADA standards. Staff believes the parking lot should be striped to meet these requirements.

7. Proposed pedestrian circulation, including provisions for handicapped persons.

**Applicants' Response:** "Pedestrians will continue to have the use of the sidewalk, and there is ramped sidewalk for handicapped use."

**Staff Comments:** There is currently a sidewalk along the Holmes Avenue frontage, but there is not an existing sidewalk along Arizona Street. Because the applicant is not proposing to expand the structure footprint, the applicant is not required by the Zoning
Ordinance to meet the full requirements of the landscaping ordinance, including sidewalk, curb, and gutter.

8. Proposed signs and lighting.

*Applicants' Response:* "There is no proposed signage at this time, no change to the lighting. There are existing street lights and a light fixture is present above the entrance of the building.

*Staff Comments:* The applicants, under BSBMC Section 17.42.050.A-5 may have one (1) sign as a directional/informational sign no larger than five square feet (5 sq. ft.) in area to inform guests as to where the parking area is located. In addition, the applicants shall be permitted a one (1) square foot sign flat against the front wall of the building. Any signage is required to be reviewed and receive a sign permit prior to the installation of said sign. It should be noted that the applicant has stated that he does not intend to install signage.

Regarding lighting, the existing lighting is typical of the residential neighborhood.

9. All potential nuisances.

*Applicants' Response:* "No potential nuisances, parking is ample, no change to exterior, minimal day time traffic associated with an appointment based business. i.e. counseling services so there should not be nuisances of any measure."

*Staff Comments:* One of the potential nuisances associated with commercial uses locating in residential zones is an increase in traffic on the adjacent streets. In this particular case, the subject parcel is located adjacent to Holmes Avenue, and consequently, this area has a larger amount of traffic
than that of a typical residential neighborhood. Given the nature of the proposal, staff does not believe that the increased traffic in the area will create a noticeable impact on the residential properties.

Another potential nuisance is an increase in noise generated by customers and/or the commercial use. In that regard, professional offices are generally not intensive commercial uses for several reasons. First, the number of clients is typically limited. Second, these types of businesses typically only operate during daytime hours and not on weekends. As such, adjacent residents are not subjected to additional noise during the evening hours or on weekends. Because of this, it would appear the proposed use would have minimal, if any, impact on adjacent residents.

Staff would also mention that the dwelling located on the property is currently utilized for residential purposes and is in close proximity to the garage structure proposed for an office. However, the applicant owns five (5) lots at the proposed location, so the increase in traffic should not substantially affect the surrounding neighbors.

At this time, staff cannot foresee any other potential negative impacts.


*Applicants' Response:* "Public safety and health unaffected, the structure is already converted and has previously been approved for conditional use. The structure itself is safe with proper construction, has plenty of windows, and the land is already without any concerns for public safety."

*Staff Comments:* The applicant has stated in the application that some remodeling has been
completed to accommodate the proposed use. It should be noted that a building permit was not purchased from the Butte-Silver Bow Building Code Department for any changes to the interior of the structure. Prior to a business license being issued for the proposed use, the applicant shall receive all necessary permits from the Butte-Silver Bow Building Code Department for the completed changes and any subsequent changes to the structure. The applicant will also have to adhere to all regulations regarding the occupancy level of the building, as determined by the Butte-Silver Bow Building Official and the Fire Marshal.

Staff cannot foresee any other potential negative impacts on public health and safety created by this proposal.

11. The availability of public utilities and services.

Applicants’ Response: “Public utilities including electric and water services are already part of the structure, and this will not change. The structure is already equipped with separate power services, and the water utility services will not change.”

Staff Comments: This property is serviced by public utilities and services.

12. Situations that prevent the utilization of the property for the full range of uses in that district.

Applicants’ Response: “No foreseen situations to prevent the property to be allowed for full range of uses, it was a garage many years ago, and then after the conversion it was permitted to be used for other conditional uses and there was a business in this structure before. Nothing substantial has changed to the property or adjacent structures or neighborhood since the last permit was issued.”
**Staff Comments:** As noted above, the prior use of the structure was a detached garage for a single family home. However, the garage door has since been removed and the structure has been utilized for office purposes allowed by a prior Special Use Permit granted by the Zoning Board of Adjustment in 2000.

13. **The use or zone classification sought would enhance and promote the comprehensive development of the immediate neighborhood and community.**

**Applicants' Response:** "The use of this structure for a small business will enhance the neighborhood because the building will be maintained with a professional appearance, with more focus on keeping the outside clean and neat looking and keeping the grass and bushes maintained. It promotes the development of the community by becoming an affordable office space to support the growth of small business."

**Staff Comments:** Normally, the establishment of a commercial operation in an existing residential neighborhood would not appear to enhance the development of the immediate neighborhood. However, this property is located along Holmes Avenue and carries a large amount of traffic per day. As such, any additional traffic generated by the proposed use, one to two vehicles per hour, should not negatively impact the neighboring residences.

In addition, professional offices are generally open only during normal business hours and not on weekends, thus reducing the impact of any clients accessing the office during hours that may be
disruptive to the neighboring residences.

14. That the use or classification conforms generally to the objectives of the adopted comprehensive plan and to the purpose of this Ordinance.

*Applicants' Response:* "The use of this structure for an appointment based business, i.e. counseling office will bring a small handful of cars into the parking lot per day and only during regular business hours, and this building has been approved for similar conditional use in the past, so this should conform to the purpose of this Ordinance, and since no exterior changes are being made, it should fit into the plan."

*Staff Comments:* The Zoning Ordinance permits certain commercial uses (professional and business offices) to be located within all residential zones after review of the request by the Zoning Board of Adjustment. The special use application process was created to ensure that these types of businesses will not negatively impact adjacent residents by requiring mitigation where a potential negative impact may result.

As stated above, the Comprehensive Plan (Growth Policy) placetype designation for this parcel is the Suburban Mix placetype. This placetype is sometimes used to buffer more traditional, established neighborhoods from more urban areas. Staff believes that this proposal is consistent with that goal.

15. That the use will promote or not substantially impede the conservation of resources and energy and the conservation policy of Butte-Silver Bow, State of Montana.
Applicants' Response: "This use will not impact conservation resources or energy."

Staff Comments: The structure will only be utilized during daytime hours, consequently, energy usage should be substantially less than if the structure was utilized for residential purposes.

16. That the use meets the overall density, yard, height and other requirements of the zone in which it is located.

Applicants' Response: "The zone for this property is R4. The structures are single level, with concrete foundations, and there will be no changes to the density, yard, or heights."

Staff Comments: The existing structure does conform to all development standards for the "R-4" zone, if it were used as a detached garage as originally constructed.

17. That the use or classification will not adversely affect nearby properties or their occupants.

Applicants' Response: "The nearest occupant will be the tenants located in the rental unit. They will be minimally affected by sharing a parking area during the day with additional cars. It is our plan to designate parking for the tenants, and then they should be unaffected by the business during the day, and not affected by the proposed business after hours and on weekends. Additional traffic will be minimal, and the street is already busy so this should not affect nearby properties. This business type will not be noisy, it will operate during regular business hours, and is unlikely to affect the nearby properties at all."
Staff Comments: Any time a commercial business encroaches into a residential neighborhood, there is a potential for the use to negatively impact the surrounding residential property owners due to the potential for an increase in traffic and/or noise.

In regard to any increase in traffic, the parcel in question is served by dedicated streets designed and built to carry typical residential and commercial traffic. The parcel’s proximity to several higher intensity commercial uses suggests that the proposed use will not significantly add to the traffic in the area.

As for any potential increase in noise, the proposed use will most likely not be the largest impact to the immediate neighborhood. There are currently several commercial uses in the neighborhood. The noise impact should be minimal, as it will be most likely open during daytime hours and not on weekends.

18. Conformity of the proposed use with the Neighborhood Plan, if one has been adopted.

Applicants’ Response: “This neighborhood is well developed and Holmes Avenue itself has businesses, homes, apartment complexes, empty lots, a golf course so the use of this structure for business should not change the neighborhood plan, though we have no knowledge that a plan has been previously adopted.”

Staff Comments: There is no known Neighborhood Plan for this area of Butte-Silver Bow.

19. Compatibility of proposed project with the existing adjacent buildings, structures, neighborhood, topography or other considerations.
Applicants' Response: “The exterior of the building and the appearance and topography of this property will not change. It is already compatible with the existing buildings. The siding is light colored, matches the other rental unit, and this fits with the neighborhood which is already a mix of property types and conditions.”

Staff Comments: As previously stated, professional offices are generally low intensity commercial uses that have limited impacts on adjacent residents. First, the applicant is not proposing to change the exterior of the building. Second, the number of clients per hour and per day is limited. Third, the hours and days of operation are usually limited to those hours and days of the week when most residents are either not at home or are expecting an increase in background noise. That coupled with the surrounding existing commercial uses, the proposed professional office would be a low intensity commercial use in the area.

20. Expressed public opinion relating to the criteria enumerated above, including the views of Neighborhood Associations.

Applicants' Response: “The current tenants of the rental house support the use of the building for professional services of any type. The business owner to the south has expressed his support for the use of the building for business services. No neighborhood associations exist to our knowledge. This permit would cause very few changes to the neighborhood and the most notable change would be a small increase in the number of cars parked in the lot during business hours.”
**Staff Comments:** The Planning staff will make available to the Zoning Board any public comments received.

**CONCLUSION:** Therefore, based on the above discussion, staff finds that Special Use Permit Application SPUSE-21-000002 is an appropriate use for this area. Therefore, staff recommends that the Zoning Board approve Special Use Permit Application SPUSE-21-000002, provided the following conditions are met:

1. Any placement of signs shall be limited to Section 17.42.050 – B, - On-Premises Signs Permitted in Residential Zones.

2. Prior to receiving a business license, the applicant shall submit a parking plan to the Planning Department for review and approval. The submitted parking plan must meet the parking requirements of Chapter 17.40.900 – Off-street parking – Table of minimum standards. The applicant must bond for the installation of the parking lot striping prior to final business license approval. The applicant shall submit a cost estimate from a licensed contractor for the materials and installation of the approved parking plan. This cost estimate will be used as the paving bond amount plus ten percent (10%).

   This bond can be in the form of cash, letter of credit, surety bond, certified check or other guaranteed negotiable instrument.

3. In order to reduce the potential negative impact of on-site lighting on adjacent residences, all lighting must be designed as low glare, be residential in character and be directed away from all adjacent residences.

4. Any remodeling of the existing structure to accommodate the proposed business will be required
to meet all applicable Building Code requirements, as required by the Butte-Silver Bow Building Code Department. All necessary approvals must be granted prior to the applicant receiving a business license.

5. The applicant will be limited specifically to the business as stated and approved. Any future business expansions, changes in business or building expansions will require further review by the Zoning Board of Adjustment.
The second building has tons of home potential for a business or can be converted back to a garage. Additional land would be great for RV parking.

The seller loves about this lot available for negotiation.


Great property! 2 bedroom 1 bath.

The description below may be 941 Homes Ave, Suite, MT 59701. 2 bd! 2 x20 sqft.
BUTTE-SILVER BOW
ZONING BOARD OF ADJUSTMENT
STAFF ANALYSIS

ITEM: Special Use Permit Application SPUSE-21-000003 - An application for a Special Use Permit to locate a short-term rental in an existing residence as per the requirements of Section 17.38.180, Special Use Permit – Uses Allowed, of the BSBMC.

APPLICANT: Daniel Hall, 2553 Busch St., Butte, MT, owner.

DATE/TIME: Virtual Meeting, Thursday, February 18, 2021, at 5:30 P.M., from the Council Chambers, Third Floor, Room 312, Silver Bow County Courthouse, Butte, Montana. A WebEx invitation will be sent to the applicant on February 18, 2021, via email to join the meeting. All other interested parties may attend the meeting virtually at https://co.silverbow.mt.us/2149/MEDIA. Public comment will be via telephone at (406) 497-5009 during the public comment period of the meeting at the above-mentioned website.

REPORT BY: Dylan Pipinich, Assistant Planning Director

VICINITY MAP:
LOCATION/DESCRIPTION: The property is located in an "R-1" (Single Family Residence) zone, legally described as Lots 33-34, Block 7 of the Hurlburt Addition, commonly addressed as 1919 Harvard St., Butte, Montana.

PROPOSAL: The applicant is proposing to rent out a two bedroom residence for overnight stays and short-term rentals through online hosting programs. The applicant lives on the same block as the residence.

STAFF FINDINGS: Lodging provided by a homeowner for compensation is recognized as a special use allowed in any residential zoning district, provided that the prescribed use is in harmony with the other uses permitted in the zone and not found to be contrary to the public interest. The special use permit process provides for review of public input, a measure of the potential impact of the proposed use on the surrounding area and the compatibility of the proposed use with the adjoining neighborhood.

The Zoning Board of Adjustment will review the physical conditions, which exist at the location, the conduct and operation of the proposed use and whether the combination of these factors will be compatible with the proposed site and surrounding area.

To provide the Board with information about the proposed special use, the applicants and Planning staff have responded to the established twenty (20) question review criteria.

1. The location, character and natural features of the property.
Applicant's Response: “1919 harvard Ave. Butte, MT 59701, Bungalow”

Staff Comments: The property is located in an “R-1” (One Family Residence) zone. The home is a single family home with a footprint of 784 square feet. The subject parcel itself is 6,300 square feet in size.

2. The location, character and design of adjacent buildings.

Applicant's Response: “none”

Staff Comments: The property in question is located within an area containing single family homes. Across Harvard Street is a commercial hardware store. Interstate 90 is located one block to the south.

3. Substantial changes that have occurred in the surrounding land uses since the original adoption of this Ordinance.

Applicant's Response: “none”

Staff Comments: In 2019, a parcel located directly south and east of the subject parcel changed from “R-1” (Single Family Residential) to “C-2” (Community Commercial) and is the existing location of a hardware store.

The property in question is located within Suburban Mix placetype in the Comprehensive Plan (Growth Policy. Suburban mix placetype neighborhoods exhibit a mixed-residential development pattern and are typically immediately adjacent to urban areas. In many instances, the mixed neighborhood acts to buffer the more traditional, established neighborhoods from higher intensity commercial uses.
4. Proposed fencing, screening and landscaping.

*Applicant's Response:* “none.”

*Staff Comments:* The applicants are not proposing any changes concerning landscaping. The property is landscaped in a fashion that is typical for residential dwelling units.

5. Proposed vegetation, topography and natural drainage.

*Applicant's Response:* “none.”

*Staff Comments:* Planning staff does not foresee this proposed use as having any impact on drainage and storm water runoff from the site, as no additional impervious area is being planned.

6. Proposed vehicle access, circulation and parking, including that relating to bicycles and other unpowered vehicles and provisions for handicapped persons.

*Applicant's Response:* “none.”

*Staff Comments:* Vehicle access to and from the property is acceptable for the proposed use. The access is provided via Harvard Street to the front of the residence. There is enough room for several vehicles in the driveway and in the detached garage. Handicapped access may be a concern, as there are some stairs in the front of the residence to access the house. Staff feels that the applicant should state this in his listing for the rental.

7. Proposed pedestrian circulation, including provisions for handicapped persons.
Applicant's Response: "none."

Staff Comments: There is not a sidewalk adjacent to Harvard Street. The house is located toward the rear of the parcel and there is a sidewalk extending from the street to the front door, as well as a concrete driveway on the east side of the property. As stated in Question #6 above, there are some stairs to access the front of the dwelling.

8. Proposed signs and lighting.

Applicant's Response: "none."

Staff Comments: The applicant, under BSBMC Section 17.42.050.A-5 may have one (1) sign as a directional/informational sign no larger than five square feet (5 sq. ft.) in area to inform guests as to where the parking area is located. In addition, applicants shall be permitted a one (1) square foot sign flat against the front wall of the building. Any signage is required to be reviewed and receive a sign permit prior to the installation of said signs. It should be noted that the applicant has stated that he does not intend to install signage.

Regarding lighting, the existing lighting is typical of the residential neighborhood.

9. All potential nuisances.

Applicant's Response: "none"

Staff Comments: A primary concern with a commercial use in a residential area is the potential for increased traffic in the neighborhood. In that regard, as long as the occupancy level of the residence is in conformance with the residential Building Code, the renting out of one - (2) bedroom house on a short-term basis should not considerably
increase traffic. The additional traffic should not be any greater than that of a typical family.

In addition, any time a commercial business exists within a residential neighborhood, there is a potential for a parking problem. In this instance, there is enough room for several off-street parking spaces in the concrete driveway. There should be sufficient parking to accommodate the rental dwelling unit.

Another concern is that of guests being unable to locate the specific property and inadvertently driving onto the properties of neighbors of the subject property. Staff believes that the address should be clearly posted on the front of the residence and be visible from the street to mitigate the potential for renters to mistake a neighbor’s home for the rental unit.

The last potential nuisance is noise. Renters may be less concerned about creating excessive noise within the neighborhood. That being said, while the owner will not be residing in the residence at the time, the owner does live on the corner of the same block. Staff would suggest that the owner does enforce rules through the online hosting program that does not allow for parties or excessive noise.

Staff can foresee no other potential nuisances at this time.


**Applicant's Response:** “none”

**Staff Comments:** The applicant will be required to meet all Butte-Silver Bow Health Department regulations related to providing rooms for rent. Verification of approval from the Health Department
will be required prior to the final approval of the business license.

The applicant will also have to adhere to all regulations regarding the occupancy level of the building, as determined by the Butte-Silver Bow Building Official and the Fire Marshal.

Staff cannot foresee any other potential negative impacts on public health and safety created by this proposal.

11. The availability of public utilities and services.

*Applicant's Response*: “existing”

*Staff Comments*: Public utilities, including sanitary sewer and potable water are available to the subject property.

12. Situations that prevent the utilization of the property for the full range of uses in that district.

*Applicant's Response*: “none”

*Staff Comments*: There appears to be no compelling reasons why the property could not continue to be utilized for residential purposes.

13. The use or zone classification sought would enhance and promote the comprehensive development of the immediate neighborhood and community.

*Applicant's Response*: “Community Enhancement”

*Staff Comments*: The established character of the existing residential neighborhood would not appear to be impacted by this proposal. It would appear that there would be no change to the aesthetics of the
surrounding properties nor to the surrounding landscape should this proposed use be approved.

14. That the use or classification conforms generally to the objectives of the adopted comprehensive plan and to the purpose of this Ordinance.

*Applicant's Response:* “unknown”

*Staff Comments:* The Comprehensive Plan (Growth Policy) designation for this parcel is the Suburban Mix placetype. As stated above, this placetype is sometimes used to buffer more traditional, established neighborhoods from more urban areas. Staff believes that this proposal is consistent with that goal and also believes that the proposed use is consistent with the intent of the Zoning Ordinance to allow for the reasonable use of private property.

15. That the use will promote or not substantially impede the conservation of resources and energy and the conservation policy of Butte-Silver Bow, State of Montana.

*Applicant's Response:* “unknown”

*Staff Comments:* The proposed use would not substantially impede the conservation of resources and energy within Butte-Silver Bow County.

16. That the use meets the overall density, yard, height and other requirements of the zone in which it is located.

*Applicant's Response:* “unknown”

*Staff Comments:* The applicant’s property appears to not meet the typical setback requirements of the “R-1” zone. The buildings are considered legal nonconforming structures. Any expansions of the
building footprint shall be required to meet the development standards of the zone.

17. That the use or classification will not adversely affect nearby properties or their occupants.

*Applicant's Response:* "none"

*Staff Comments:* Any time a commercial business encroaches into a residential neighborhood, there is a potential for the use to negatively impact the surrounding property owners. In this case, when considering the low impact commercial nature of the business and the owner limiting the number of occupants, staff feels that it would appear to have a minimal impact on adjacent properties and property owners.

18. Conformity of the proposed use with the Neighborhood Plan, if one has been adopted.

*Applicant's Response:* "unknown."

*Staff Comments:* There is no known Neighborhood Plan for this area of Butte-Silver Bow.

19. Compatibility of proposed project with the existing adjacent buildings, structures, neighborhood, topography or other considerations.

*Applicant's Response:* "Yes"

*Staff Comments:* Although the use of the home is proposed to be changed by this application, the exterior of the building will remain unchanged. Consequently, the house will remain compatible with the surrounding neighborhood.
20. Expressed public opinion relating to the criteria enumerated above, including the views of Neighborhood Associations.

Applicant's Response: "none"

Staff Comments: The Planning staff will make available to the Zoning Board any additional public comments received.

CONCLUSION: Based on the above discussion, staff finds that providing lodging by renting a dwelling unit on a short-term basis through online hosting programs will have a minimal impact on the surrounding residential neighborhood. Therefore, staff recommends that the Zoning Board of Adjustment approve Special Use Permit Application SPUSE-21-000003 provided the following conditions are met:

1. The applicant shall be required to secure a State of Montana Public Accommodations License through the Butte-Silver Bow Health Department.

2. Any remodeling of the existing residence performed to accommodate the proposed business will be required to meet all applicable Building Code and Health Code requirements, as required by the Butte-Silver Bow Building Code Department and the Butte-Silver Bow Health Department, respectively. All necessary approvals must be granted prior to the applicant receiving final business license approval.

3. The applicant shall be limited to the occupancy level as determined by the Butte-Silver Bow Building Code Department and the Butte-Silver Bow Fire Marshal. The occupancy level shall be determined prior to final business license approval.

4. The applicant will be limited specifically to the business as stated and approved. Any future business expansions, changes in business or
building expansions will require further review by the Zoning Board of Adjustment.