

CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD
TUESDAY JULY 13, 2021
CITY HALL COUNCIL CHAMBERS @ 12:00 NOON

1. Call meeting to order
2. Roll Call, excused members
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes of the June 22, 2021 regular meeting
6. New Business:
 - A. Public Hearing for a conditional use request for an accessory dwelling unit within a R-1 zone located at 938 Rumsey Avenue.
 - B. Review a conditional use request for an accessory dwelling unit within a R-1 zone located at 938 Rumsey Avenue.
7. P & Z Board Matters (announcements, comments, etc.)
8. Council Update
9. Staff Items
10. Adjourn

The public is invited to attend all Planning, Zoning and Adjustment Board meetings. If you need special accommodations to participate in the meeting, please call the City office at (307) 527-7511 at least 24 hours in advance of the meeting.

City of Cody
Planning, Zoning, and Adjustment
Board Meeting June 22, 2021

A meeting of the City of Cody Planning, Zoning and Adjustment Board was held in the Council Chambers of Cody in Cody, Wyoming on Tuesday, June 22, 2021 at 12:00 pm.

Present: Kayl Mitchell; Richard Jones; Carson Rowley; Rodney Laib; City Deputy Attorney Sandee Kitchen; City Planner Todd Stowell; Council Liaison Andy Quick; Administrative Coordinator Bernie Butler.

Absent: Sandi Fisher; Scott Richard

Kayl Mitchell called the meeting to order at 12:12 pm, followed by the pledge of allegiance.

Richard Jones moved to approve the agenda, seconded by Rodney Laib. Vote on the motion was unanimous, motion passed.

Richard Jones moved to approve the minutes from the May 25, 2021 meeting, seconded by Carson Rowley. Vote on the motion was unanimous, Motion passed.

Staff reviewed the final plat for the Sinners and Saints minor subdivision. The final plat application is to divide Lots 10 and 12 of the Rocky Mountain Business Park Subdivision into four lots. Lot 10 is vacant and would be split into two lots. Lot 12 contains two contractor buildings and each building would be split onto its own individual lot. Todd Stowell reviewed the status of the preliminary plat conditions.

Richard Jones made a motion, seconded by Carson Rowley to recommend to City Council the approval of the final plat for the Saints and Sinners minor subdivision, with recommendations 1-4 in the staff report.

P&Z Board Matters: None

Council Updates: Andy Quick said the Council is looking for a new Planning and Zoning Board member to replace Wade McMillin who has resigned.

Staff Updates: Todd Stowell said that the City Council approved the final plat for the Pintail Subdivision.

Richard Jones made a motion, seconded by Rodney Laib to adjourn the meeting. Vote on the motion was unanimous. Meeting adjourned at 12:21 pm.

Bernie Butler

Bernie Butler, Administrative Coordinator

**CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD
STAFF REPORT**

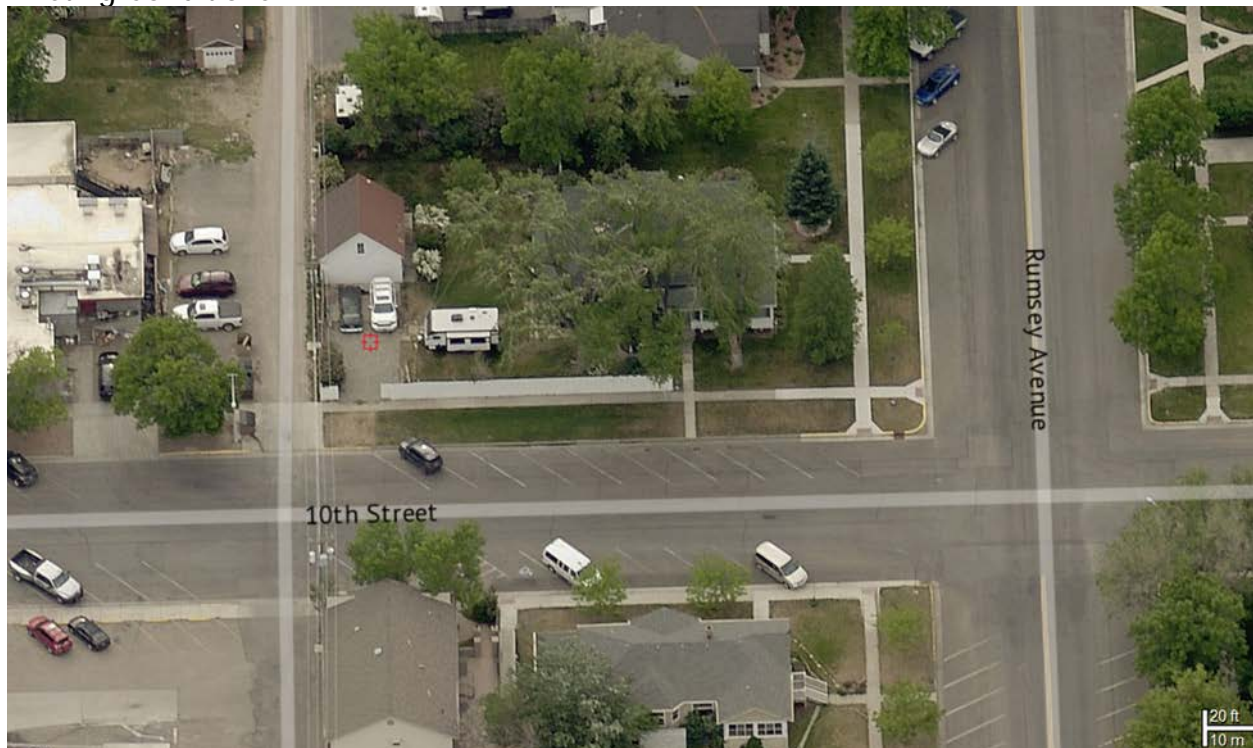
MEETING DATE:	JULY 13, 2021	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	CONDITIONAL USE REQUEST FOR ACCESSORY DWELLING UNIT IN R-1 ZONE: RICHARD BROLIN, 938 RUMSEY AVENUE. SUP 2021-07	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

PROJECT DESCRIPTION:

Richard and Iris Brolin have submitted an application to convert an existing storage building behind 938 Rumsey Avenue into an Accessory Dwelling Unit. The 14,000-square-foot property is located immediately southwest of the Rumsey Avenue and 10th Street intersection, within the R-1 (Single-family Residential) zoning district.

The Accessory Dwelling Unit (ADU) would be located within a building that is non-conforming due to not meeting current setback requirements from the alley property line. As a result, a nonconforming structure review is included (see item 4 below).

Existing Conditions:



REVIEW PROCEDURE:

Accessory dwelling units can only be permitted in the R-1 zone by Conditional Use Permit, which permit request is considered and determined by the Planning and Zoning Board. In addition, there are supplementary development standards for accessory dwelling units (ADUs), as outlined in Chapter 10-8 of the City Code.

Notice of the public hearing was provided as required, at least 10 days prior to the meeting by publication in the Cody Enterprise (July 29) and mailing to neighboring property owners within 140' (June 16).

REVIEW CRITERIA:

The Accessory Dwelling Unit supplemental standards are listed below with staff comment.

1. *Location: An accessory dwelling unit, where permitted, may be located only in one of the following manners:*

...

- d. Within an accessory building on the same parcel as a detached single-family dwelling unit.*

Comment: Met.

2. *Lot Area, Dwelling Size, and Density: The minimum lot size required for an accessory dwelling unit (ADU) is seven thousand (7,000) square feet. (Accessory dwelling units are not subject to the minimum dwelling size requirement of the zoning ordinance and are not included in the density calculations for a lot.)*

Comment: Met. The property is 14,000 square feet in size.

3. *Number: Only one accessory dwelling unit (ADU) per lot may be permitted and the ADU must be accessory to a detached single-family dwelling. A lot already occupied by two (2) or more dwellings is not permitted to have an accessory dwelling unit.*

Comment: Met. The property only contains one dwelling.

4. *Height and Setbacks: A single-story ADU that does not exceed fifteen feet (15') in building height is subject to the setback standards applicable to private garages. ADU structures that are taller than fifteen feet (15') in building height shall conform to setback standards applicable to a primary residence.*

Comment: The existing building is approximately 14 feet tall (measured to midpoint of roof, using CONNECT Explorer aerial photo software). If the building were being constructed as new, it would need to meet a 5-foot setback from the rear property

line. The building location is presently about one foot from the alley property line, and is legally nonconforming.

Pursuant to the nonconforming provisions of the City ordinance, the construction of a dwelling unit within a structure that is nonconforming requires review by the Planning and Zoning Board, considering the following:

1. *In the case of a nonconforming use, that the use was lawful at the time of its inception;* (Comment: Not applicable, only the setback is non-conforming, not the use.)

2. *That the significance of any hardship to the applicant from denial of the request is more compelling than, and reasonably outweighs, the benefit the public would receive from denial of the request;* (Comment: To require compliance would necessitate demolition of the existing structure. The existing structure appears to be structurally stable, and therefore has value. The public benefit of meeting the setback would be minimal, as across the alley is commercial zoning, which does not need the protection that adjacent R-1 residential land would necessitate.)



3. *That the proposal is compatible with the character of the neighborhood to the extent that it does not jeopardize the future development or use of the surrounding area in compliance with this title and the master plan;* (Comment: Neighbor comments have been fully in support of the project. Several other ADUs exist in the residential areas in this older area of town, so it is not out of character with the neighborhood.)

4. *That the project will otherwise comply with all applicable development standards and codes, such as parking and landscaping, unless a special exemption or zoning variance is granted for such;* (Comment: All other applicable standards will be met.)

5. *That the proposal will not otherwise be significantly detrimental to the public health, safety, or welfare.* (Comment: While the building location does not meet zoning setbacks, there is no violation of applicable building/fire code setbacks as the fire line is measured from the middle of the alley. No significantly detrimental impacts are anticipated.)

5. *Lot Coverage: The footprint of a proposed building containing an ADU that is structurally detached from the primary residence may cover up to twenty percent (20%) of the lot.*

Comment: Met. The building covers 3.15 % of the lot.

6. *Living Area: The total living area of an ADU may not exceed seventy-five percent (75%) of the living area of the primary dwelling, or eight hundred (800) square feet, whichever is less...*

Comment: Met. The living area of the ADU would be 400 square feet, which is within the size limits noted.

7. *Type of Construction: Within the RR, R-1, R-2 and R-3 zoning districts, ADUs are to be of conventional site-built construction, be assembled and inspected on site, and meet the requirements of the adopted building code for residential dwellings. ...*

Comment: Met. The ADU would be of conventional site-built construction.

8. *Bedrooms: An ADU may not contain more than two (2) bedrooms/sleeping areas.*

Comment: Met. Only one bedroom/living area is proposed.

9. *Parking: An ADU must have a minimum of one off-street parking space, when located outside of the downtown parking district. The required parking space shall meet the standards of Chapter 16, "Off Street Parking", of this title. Any required existing parking may not be displaced by the ADU, unless such parking is replaced elsewhere on the lot.*

Comment: Met. The property is within the downtown parking district, so on-site parking is not required for the ADU.

10. *Owner Occupancy: Within the RR, R-1, and R-2 zoning districts, the owner of the property must utilize the primary dwelling unit or ADU as their primary residence; the dwellings shall not both be occupied unless this is the case.*

Comment: The owner currently lives in the main house and plans to continue to do so.

11. *Short-Term Rental: An ADU may be utilized as a short-term rental when located in an R-2, R-2MH, R-3, or R-4 zoning district, provided applicable short-term rental requirements are met, which includes an owner-occupancy requirement in the R-2 and R-2MH zones.*

Comment: Not applicable, as the property is R-1. (Short term rental is not an option.)

12. Utilities: Both the primary dwelling and the ADU must be connected to public sewer and public water, and be served with a functional fire hydrant meeting applicable requirements for distance to the dwellings. Both dwelling units are to be serviced from a single water meter and a single electric meter.

Comment: The utility plan has not yet been provided. The plan will need to comply with this requirement.

13. Home Occupations: Any home occupation within an ADU shall be limited to the small-scale home occupation standards.

Comment: None proposed.

14. Addressing: The ADU will be assigned an individual address, which must be posted as required by code.

Comment: Noted.

CONDITIONAL USE CRITERIA:

The conditional use standards of review are found in Section 10-14-1(D) of the City of Cody Code, and are listed below, with staff comments provided. The Board has authority to approve, impose conditions on, or deny conditional use applications. The Board is to base its determination upon the following considerations.

1. Is the site large enough to accommodate the proposed use and meet all of the dimensional standards and development regulations of the zoning district in which the project is located?

Comment: The site is large enough to accommodate the ADU, and the ADU meets all dimensional standards except the rear setback requirement, which is addressed in the nonconforming structure authorization process included in Item 4 above.

2. Is the use, at the scale or density proposed, compatible with all other uses in the immediate area and with permitted uses that may be established in the area?

Comment: The question of compatibility with other uses in the immediate area is the crux of the conditional use review process. Neighbor comment is often an indicator of compatibility, and also serves to identify specific issues that may need mitigated.

As of the time of the staff report, five neighbors, representing six lots, have submitted written comments—all in favor of the request. The map indicates the location of the responses, with green indicating no objection. (Additional response at corner of 9th Street.)

Comments at the public hearing will also need to be considered.



3. *Does the proposed use involve activities, processes, materials, equipment, hours of operation, or any other operational characteristics that would be materially detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, dust, glare, odors, hazards, or similar impacts?*

Comment: Only standard residential activities are anticipated.

4. *Does the proposal include provisions for necessary and desired public utilities and facilities such as potable water, fire hydrants, sewer, electrical power, streets, storm water facilities, and sidewalks/pathways?*

Comment: Yes. All standard utilities and public facilities are available.

5. *Will the proposed use create excessive additional costs for public facilities and services that would be materially detrimental to the economic welfare of the community?*

Comment: No such additional costs are anticipated. It is noted that the property is composed of two lots, so two dwelling units is still within the original anticipated density for the subdivision, and within the service levels previously contemplated.

6. *Will the proposed use result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of significant importance?*

Comment: No such features exist on or immediately near the property.

7. *Is the proposed use consistent with the applicable provisions of the Cody Master Plan?*

The master plan shows this neighborhood as a low-density residential area. Even with the added unit, the situation is within the definition of low-density due to the relatively large lot size.

Some guidance is provided in Principle 3.2.b, Design of New Development:
“Encourage infill and redevelopment that matches the desired future character of a neighborhood by matching size and scale where possible.”

Principle 5.2.c notes that ADUs are one of many potential options for providing an adequate supply of housing.

ATTACHMENTS:

Application materials.

ALTERNATIVES:

Approve, deny, or approve with conditions.

RECOMMENDATION:

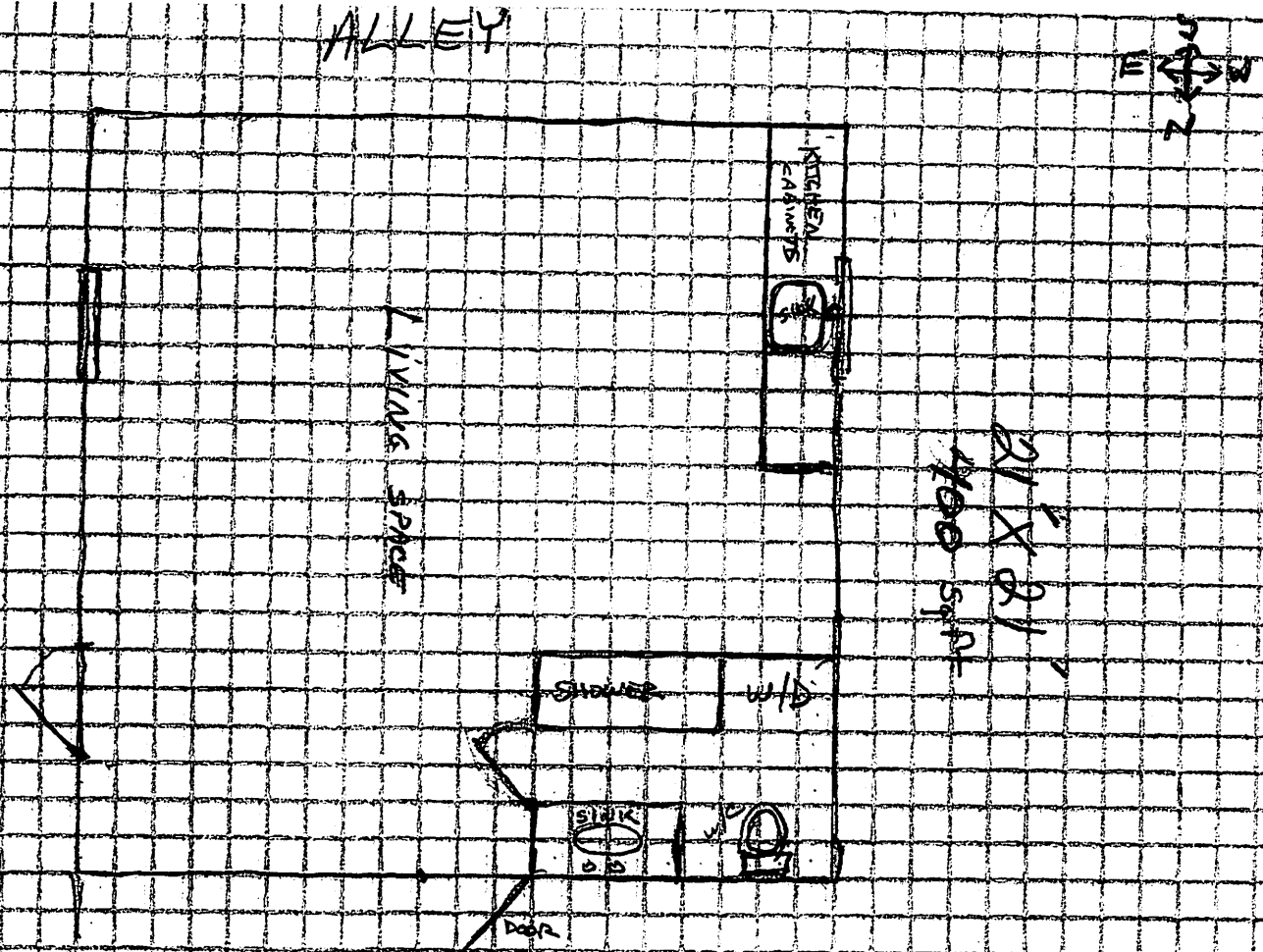
(Note: Comments from the public hearing also need to be considered.)

It is recommended that the Planning and Zoning Board find that the points identified in the staff report and at the Board meeting are adequate to set forth the reasoning why the criteria of the applicable standards (ADU supplemental development standards, conditional use permit standards, and nonconforming review standards) are met; and,

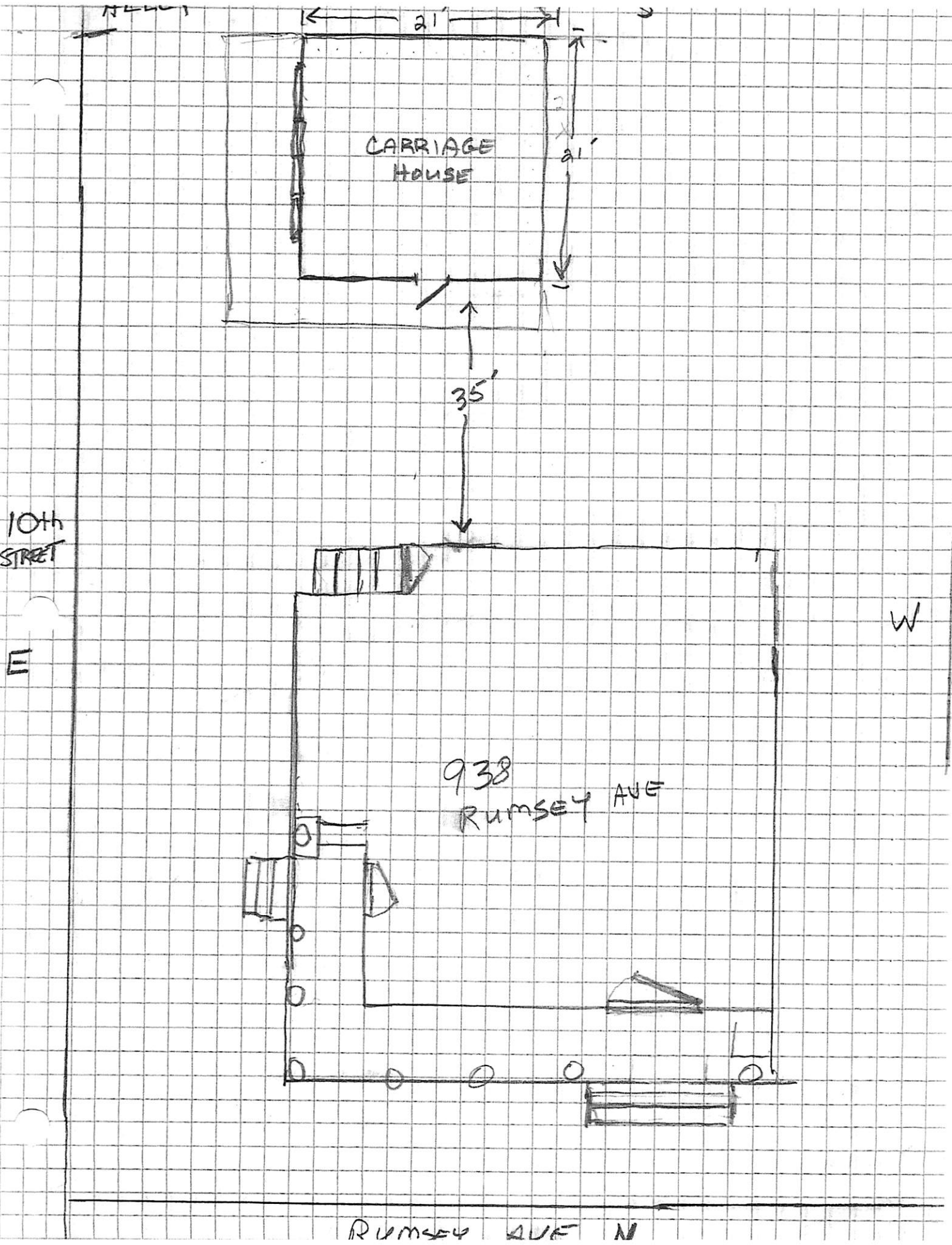
Approve the ADU as proposed, subject to the following:

- 1) A building permit for the ADU must be obtained within 3 years or the authorization shall automatically expire.
- 2) A utility plan that complies with the ADU requirements must be submitted with the building permit application.
- 3) Occupancy of the ADU is subject to continued compliance with the ADU standards –see City of Cody Code 10-8-2(A).

Note: If the project is approved, a Conditional Use Permit document will be prepared and will need to be recorded at the County Clerk’s Office. The permit is to be recorded when the building permit is issued.



- 1928 Carriage House
- 21' X 21', 35' from main house
- concrete slab
- gas and electric run to it
- no water or sewage
- 13' tall from peak to ground
- main house and carriage house are on 2 standard lots
- Part 1 is to upgrade electricity and plumbing



CARRIAGE
HOUSE

21'

21'

35'

10th
STREET

E

938
RUMSEY AVE

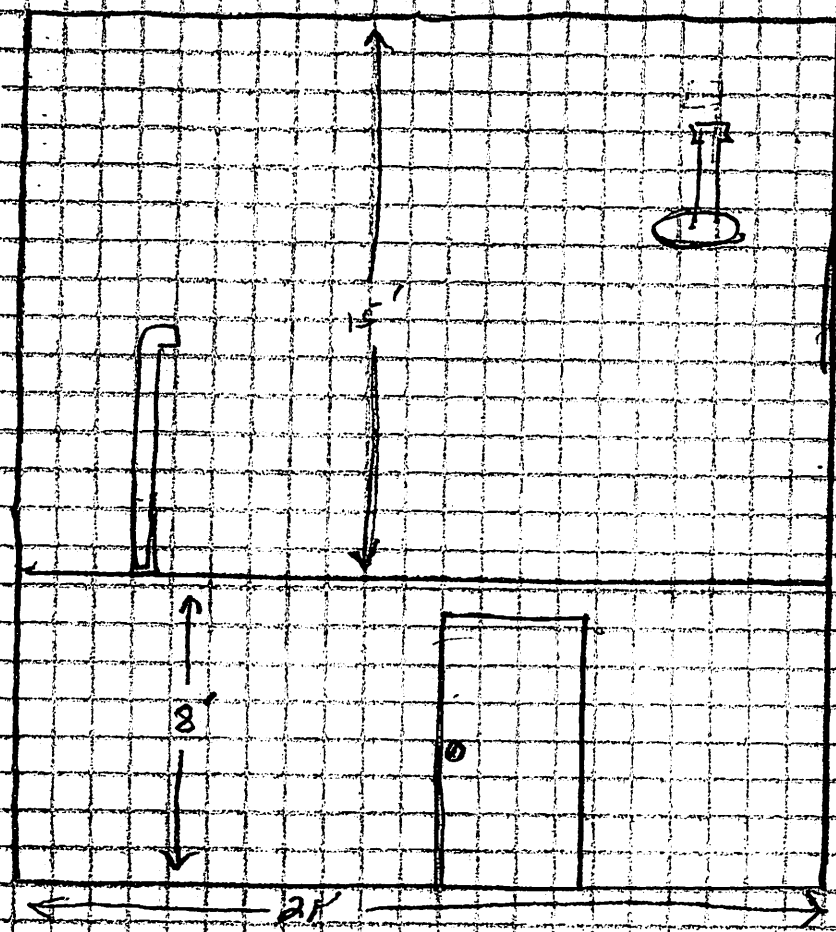
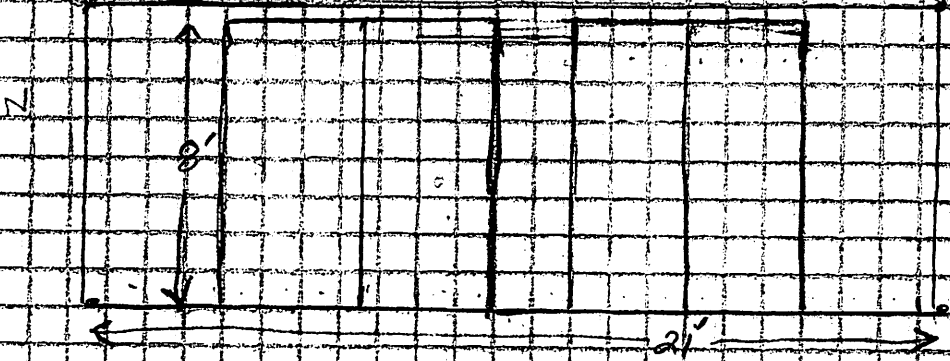
W

RUMSEY AVE N

FRONT



N
W
E
S



SIDE

E
S
W
N

Notice to Owners of Neighboring Properties:

Please return this letter by June 30, 2021 to:

Date: June 14, 2021

Cody City Planner
P.O. Box 2200
Cody, WY 82414

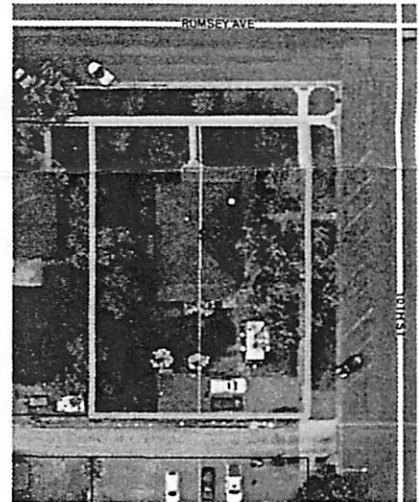
RE: **CONDITIONAL USE PERMIT**

THE CITY OF CODY HAS RECEIVED THE FOLLOWING REQUEST FOR A CONDITIONAL USE PERMIT. YOUR COMMENTS WOULD BE APPRECIATED.

Applicant Name(s): Richard & Iris Brolin
Address of Subject Property: 938 Rumsey Avenue

Description of Request: To convert the existing accessory building behind 938 Rumsey Avenue into an Accessory Dwelling Unit. The Cody zoning ordinance allows a property owner to request a conditional use permit to construct an Accessory Dwelling Unit (ADU) in the R-1 zoning district. The ADU cannot be used for short term rental, and the property must be the owner's primary place of residence.

The City of Cody Planning & Zoning Board will hold a public hearing to consider this request at their regularly scheduled meeting on Tuesday, July 13, 2021 at 12:00 p.m. in the City Hall Council Chambers, at 1338 Rumsey Ave. Comments may be submitted at the meeting, or in writing beforehand.



Response Letter from Owners of Neighboring Properties within 140 Feet of Subject Property:

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

I am familiar with the proposal by Richard & Iris Brolin to construct an Accessory Dwelling Unit on their property, as described above.

☒ I have NO OBJECTION to the Request.

Name: VIRGINIA LIVINGSTON

Address: 914 RUMSEY AV

Comments: Good idea!
TH

☐ I OBJECT to the Request:

Name: _____

Address: _____

Reason for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____

Notice to Owners of Neighboring Properties:

Please return this letter by June 30, 2021 to:

Date: June 14, 2021

Cody City Planner
P.O. Box 2200
Cody, WY 82414

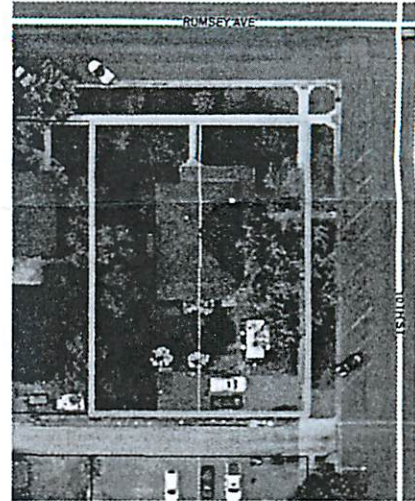
RE: **CONDITIONAL USE PERMIT**

THE CITY OF CODY HAS RECEIVED THE FOLLOWING REQUEST FOR A CONDITIONAL USE PERMIT. YOUR COMMENTS WOULD BE APPRECIATED.

Applicant Name(s): Richard & Iris Brolin
Address of Subject Property: 938 Rumsey Avenue

Description of Request: To convert the existing accessory building behind 938 Rumsey Avenue into an Accessory Dwelling Unit. The Cody zoning ordinance allows a property owner to request a conditional use permit to construct an Accessory Dwelling Unit (ADU) in the R-1 zoning district. The ADU cannot be used for short term rental, and the property must be the owner's primary place of residence.

The City of Cody Planning & Zoning Board will hold a public hearing to consider this request at their regularly scheduled meeting on Tuesday, July 13, 2021 at 12:00 p.m. in the City Hall Council Chambers, at 1338 Rumsey Ave. Comments may be submitted at the meeting, or in writing beforehand.



Response Letter from Owners of Neighboring Properties within 140 Feet of Subject Property:

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

I am familiar with the proposal by Richard & Iris Brolin to construct an Accessory Dwelling Unit on their property, as described above.

☒ I have NO OBJECTION to the Request.

Name: Gary & Dede Fales

Address: 2768 Northfork, Cody, WY 82414

Comments: _____

920 + 925 Rumsey
2 Lots

☐ I OBJECT to the Request:

Name: _____

Address: _____

Reason for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____

Notice to Owners of Neighboring Properties:

Please return this letter by June 30, 2021 to:

Date: June 14, 2021

Cody City Planner
P.O. Box 2200
Cody, WY 82414

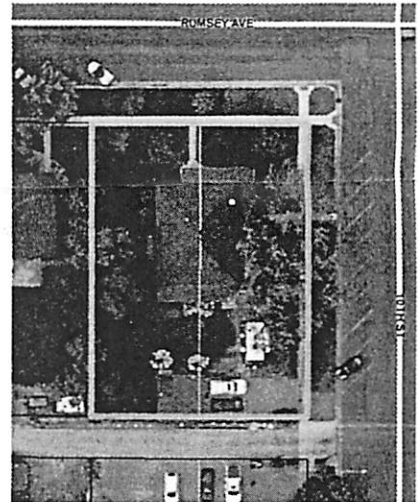
RE: **CONDITIONAL USE PERMIT**

THE CITY OF CODY HAS RECEIVED THE FOLLOWING REQUEST FOR A CONDITIONAL USE PERMIT. YOUR COMMENTS WOULD BE APPRECIATED.

Applicant Name(s): Richard & Iris Brolin
Address of Subject Property: 938 Rumsey Avenue

Description of Request: To convert the existing accessory building behind 938 Rumsey Avenue into an Accessory Dwelling Unit. The Cody zoning ordinance allows a property owner to request a conditional use permit to construct an Accessory Dwelling Unit (ADU) in the R-1 zoning district. The ADU cannot be used for short term rental, and the property must be the owner's primary place of residence.

The City of Cody Planning & Zoning Board will hold a public hearing to consider this request at their regularly scheduled meeting on Tuesday, July 13, 2021 at 12:00 p.m. in the City Hall Council Chambers, at 1338 Rumsey Ave. Comments may be submitted at the meeting, or in writing beforehand.



Response Letter from Owners of Neighboring Properties within 140 Feet of Subject Property:

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

I am familiar with the proposal by Richard & Iris Brolin to construct an Accessory Dwelling Unit on their property, as described above.

☒ I have NO OBJECTION to the Request.

Name: Kevin Buss - SBLW

Address: 931 Rumsey

Comments: Richard & Iris are great neighbors & it seems like about every other house has an Accessory Dwelling unit in the neighborhood.

☐ I OBJECT to the Request:

Name: _____

Address: _____

Reason for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____

Notice to Owners of Neighboring Properties:

Please return this letter by June 30, 2021 to:

Date: June 14, 2021

Cody City Planner
P.O. Box 2200
Cody, WY 82414

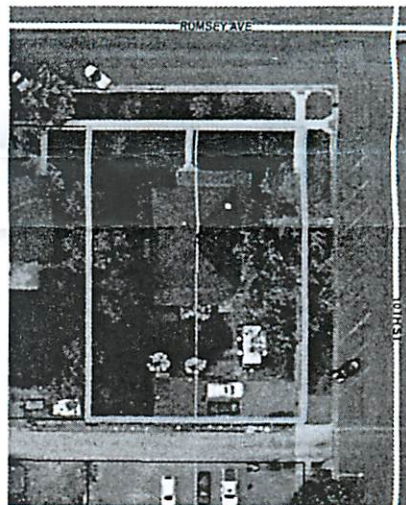
RE: **CONDITIONAL USE PERMIT**

THE CITY OF CODY HAS RECEIVED THE FOLLOWING REQUEST FOR A CONDITIONAL USE PERMIT. YOUR COMMENTS WOULD BE APPRECIATED.

Applicant Name(s): Richard & Iris Brolin
Address of Subject Property: 938 Rumsey Avenue

Description of Request: To convert the existing accessory building behind 938 Rumsey Avenue into an Accessory Dwelling Unit. The Cody zoning ordinance allows a property owner to request a conditional use permit to construct an Accessory Dwelling Unit (ADU) in the R-1 zoning district. The ADU cannot be used for short term rental, and the property must be the owner's primary place of residence.

The City of Cody Planning & Zoning Board will hold a public hearing to consider this request at their regularly scheduled meeting on Tuesday, July 13, 2021 at 12:00 p.m. in the City Hall Council Chambers, at 1338 Rumsey Ave. Comments may be submitted at the meeting, or in writing beforehand.



Response Letter from Owners of Neighboring Properties within 140 Feet of Subject Property:

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

I am familiar with the proposal by Richard & Iris Brolin to construct an Accessory Dwelling Unit on their property, as described above.

☒ I have NO OBJECTION to the Request.

Name: Marjorie F. Wilder

Address: 902 Rumsey Ave

Comments: _____

☐ I OBJECT to the Request:

Name: _____

Address: _____

Reason for Objection: _____

If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: _____