

## Planning and Zoning Commission Minutes

Special Meeting Held Wednesday, May 4<sup>th</sup> 6:30 pm

Present: Vicki Lyon, Commission Chair, James Page, Vice-chair, Curtis Waisath, Commission member, Lisa Guthrie, Commission member, Hudson Saffell, City Code Compliance Officer, Chandra Taylor, City Office Assistant. Guests signed in as Patrick Navarro, Irene Bergendorf, Doreen Hawes, Lorrie Lowe, Jeannie Haddow, Mary Ellen Peck, Victor Lyon and Craig Lyon.

Vicki Lyon called meeting to order and asked Hudson Saffell, Code Compliance Officer (CCO), to give staff report (Attached). Hudson gave definitions of “Bed and Breakfast” and “Conditional Use Permit”. Hudson also read portions of Lava City Code as they pertain to this Special Meeting.

Bues\Ingmire Letter to Neighbors: “As we live at 60 E. Booth St., Lava Hot Springs (LHS) we are always on site when guests are staying.”

LHS Fire Chief “First; this request is for a B&B which by definition involves the short term rental of a ‘sleeping unit’ not a complete ‘dwelling unit’ It is my understanding that this triplex includes complete dwelling units heretofore rented as apartments. As long as a unit contains sleeping units restroom facilities AND kitchen facilities as they are currently configured, each is a complete dwelling unit as defined by code and cannot be operated as a Bed and Breakfast.”

Hirschi Letter to Neighbors: “I cannot predict how often the home will be rented. There will be a property manager\owner on site.”

Hirschi Application – Mailing address: 6285 Wing Point Drive, Idaho Falls, ID 83401

LHS Fire Chief “The application says that owner or operator will be on-site. It should be made clear that the intent of a B&B designation is to allow a homeowner to rent out a room or portion of their home to accommodate guests. It is not the intent of a B&B designation to be used as a means to circumvent requirements that exist for commercial lodging accommodations.”

Shaw Letter to neighbors: “Please let me take this opportunity to introduce ourselves as your neighbors at 137 W. Merle Street in LHS, Idaho 83246.”

Shaw Letter continues, “We also live at 113 W. Merle Street LHS and we are always on site when our guests are present.”

Shaw return address on Envelopes for Letters to Neighbors: 5326 156<sup>th</sup> Street South East, Bothell, WA 98012

LHS Fire Chief “This property has heretofore been advertised for rent, with online advertisement indicating ‘you will have the entire home to yourself’ It should be made clear that the intent of a B&B designation is to allow a homeowner to rent out a room or a portion of their home to accommodate guests. It is not the intent of a B&B designation to be used as a means to circumvent requirements that exist for commercial lodging accommodations. Interpretation of code traditionally allows for ‘onsite owner\developer to live on the property; not necessarily in the same building. That onsite individual must live and occupy the same property.

2021-4, Title 3, Ch. 1, 3-1-7: Additional Information Required From Some Applicants: C. “If the business consists of a B&B, the applicant shall, in addition to any other information required in the application for a business license, provide the following: The name of the owner or manager who will be residing on site with contact information. If the name of the owner or manager who will be residing on site changes while the license is in force, the business must notify the City Clerk within seventy-two hours of the change. Current contact information, including a working phone number, for the owner and manager shall be prominently displayed on a sign located near the entrance of the B&B and visible from the street nearest the entrance.”

2. Will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and/or the zoning ordinance;

REPORT re. Ord 1982-2, pg 41, B.,2.

Ord. 1982-4 "The Zoning Ord. of LHS" Section 3: Purpose and Scope:

- a. To support and implement the stated goals of the City as expressed in the Comprehensive Plan.
- b. To protect the natural environment from harmful imbalance in the process of community development.
- c. To mitigate the effects of incompatible land uses, and neighborhoods, thoroughfares, adjacent uses, and the community as a whole.
- d. To provide for public improvements which are serviceable and durable and which enable service delivered by all public aid agencies at the most reasonable costs possible.
- e. To preserve the positive aspects of existing neighborhoods in the City while improving neighborhood features which have become degraded or which lack public facilities.
- f. To facilitate provision of public services in newly developing neighborhoods.

P&Z Commission Meeting Minutes, 25 April 2022 – Mark Lowe "Ordinance on the books that I think should be enforced or get rid of them completely and turn the town (LHS) over to the tourists. I worked on the comprehensive plan with the city (LHS) the last time it was worked on we looked at controlling the growth to benefit the community. If it's not adhered to there is no reason to even have it."

3. Will be designed, constructed, operated and maintained to be harmonious and appropriate with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

REPORT re. Ord. 1982-2, pg. 41, B., 3.

"...existing or intended character of the general vicinity and that such use will not change the essential character of the same area;"

Ord. 1982-2, Ch. 4, section 1: R-2 Zone. "The purpose of the R-2 Zone, Combined Residential Zone is to provide medium density residential development, well designed and properly located in the community pattern adjacent to shopping, recreation, cultural and other community facilities."

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

REPORT re. Ord. 1982-2, pg. 41, B., 4

See REPORT re. Ord 1982-2 pg. 41, B., 4 and REPORT re. Ord. 1982-2, pg. 41, B., 3.

**Shaw**, Application, Location of proposed CUP B&B: 137 W Merle

Note: Elementary School located approx. 3\4 block West of 137 W. Merle

5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protections, drainage structures, refuse disposal, water and sewer 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;

No REPORT re. Ord. 1982-2, pg. 41, B., 5.

6. 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;

REPORT re. Ord. 1982-2 pg. 41, B., 6.

P&Z Commission Meeting Minutes, 25 Apr. 2022 – Chaise Warr "We (Chaise Warr & Taylor Olney) live in Salt Lake City. We own a rental at 115 W. Main (Commercial Zone, LHS). When we bought it we knew we had to rent it in a rentable zone. We bought a home (115 W. Main, LHS) and played by the rules and continue to. We pay taxes and have a business license. It \*proposed CUP B&Bs in LHS R-2 Zones) will devalue our property. I ask you to protect our property."

7. 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 reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

REPORT re. Ord. 1982-2 pg. 41, B., 2. & REPORT re. Ord. 1982-2, pg. 41, B., 3.

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

REPORT re. Ord. 1982-2 pg. 41, B., 8.

See REPORT re. Ord. 1982-2, pg. 41, B., 2. & Report re. Ord. 1982-2, pg. 41, B., 3.

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

No REPORT re Ord. 1982-2, pg. 41, B., 9.

Report from Bruce Parker LHS City Planner in regards to Beus/Ingmire conditional use application.

CITY OF LAVA HOT SPRINGS, IDAHO  
PLANNING COMMISSION STAFF REPORT  
PLANNING COMMISSION SPECIAL MEETING –5/4/2022  
APPLICATION FOR BED AND BREAKFAST, R-2 ZONE  
JADE A. BEUS, OWNER/APPLICANT, AND MORGAN INGMIRE, APPLICANT  
(Legal Description Lots 16, 17 & 18,  
Block 12, Townsite of Hall City, Bannock County, Idaho) 60 East Booth Street

TO: Planning Commission Members

SUBJECT: Conditional Use Permit Application – Bed & Breakfast – 60 East Booth Street

DATE: 5/4/2022

OVERVIEW:

The Applicants have applied for a Conditional Use Permit approval to establish a Bed and Breakfast facility in a Residential R-2 Zoning District. The City Planner recommends the Planning Commission forward a recommendation for denial to the City Council with findings.

BACKGROUND:

Mr. Jade A. Beus, Owner/Applicant, and Mr. Morgan Ingmire, Applicant, applied for a Conditional Use Permit to establish a Bed and Breakfast at 60 East Booth Street. The property is in an R-2 Residential Zoning District (Lot 16, 17 & 18, Block 12, Townsite of Hall City, Bannock County, Idaho). “Our property has six bedrooms, four bathrooms, and approximately 2,000 square feet. We have off-street parking for ten vehicles” (Planning Commission meeting, 4/25/2022). The Planning Commission conducted the necessary public hearing on April 25, 2022. The Planning Commission received various public input and substantive comments.

The City of Lava Hot Springs provides several zoning districts. The Zoning Districts Map (Zoning Map) depicts the geographic location of the C-1, C-2, R-2, R-3, and Special Use District. The City’s Zoning Ordinance allows short-term rental or vacation rental units in the C-1 and C-2 zones. Bed and Breakfasts are allowed in the C-1, C-2, R-2, and R-3 zones. When one considers the zones and the uses allowed, the City of Lava Hot Springs allows various tourist accommodation units (including short-term or Bed and Breakfast) across the City.

A Bed and Breakfast facility may be authorized as a Conditional Use at the 60 East Booth Street location if all Ordinance standards are met and conditions can be established to protect the best interests of the surrounding property or neighborhood. A Bed and Breakfast is “a dwelling where, for compensation, meals are provided onsite for no more than fifteen (15) persons who are not Immediate members of the household family residing in the dwelling and is owner or manager occupied” (Ordinance 1982-2 and Ordinance 2006-5). Ordinance 2006-5 also requires a Bed and Breakfast to be “licensed and the owner’s name residing on site must be specified on the business license application.” The Applicants stated (on 4/25/2022) that 60 Booth Street has “six bedrooms and four bathrooms.”

Section 3.B (Ordinance 2006-5) states that a Bed and Breakfast is a conditional use in the R-2 residential zone. Clarity is required regarding the proposed use and a determination if the “Bed and Breakfast,” as proposed, meets the City’s definition. The Planning Commission has now complied

with all noticing and scheduling requirements for the 4/25/2022 public hearing. With the close of the public hearing, the receipt of all public written and verbal comments, and the provisions of City ordinances, the Planning Commission can now formulate a recommendation to the City Council for the Bed and Breakfast, as presented. The Ordinance standards guide the Planning Commission in developing a recommendation. “The City Council (*and the Planning Commission in recommending*) may, after proper notice and public hearing as prescribed in this Ordinance, permit (*recommend*) the following uses (including a B & B) where such uses are deemed essential or desirable to the public convenience or welfare. The City Council shall have the authority (*and the Planning Commission in recommending*) to impose such conditions and safeguards as it deems necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance, or other detriment” (Ordinance 1982-2, emphasis text added for Planning Commission guidance and context only).

City Ordinances provide review and approval tests. These are:

1. Is the proposed use (Bed and Breakfast at the proposed location) essential or desirable to the public convenience or welfare?
2. Has the City received a complete application?
3. Does the location (60 East Booth Street), and the R-2 zone, allow a Bed and Breakfast?
4. Does the proposed use meet the definition of a Bed and Breakfast?
5. Are conditions and safeguards necessary, and if so, are they designed to protect the best interests of:
  - a. the surrounding property or neighborhood from,
    - i. damage,
    - ii. Hazard,
    - iii. Nuisance,
    - iv. or other detriments?

#### CITY PLANNER RECOMMENDATION:

No question exists that the improvements made to 60 East Booth Street have improved the structure and the neighborhood.

After attending the April 25, 2022, Public Hearing, considering all materials and comments received, the city planner respectfully provides a recommendation for Planning Commission consideration. The city planner may provide application analyses. However, the city planner is not authorized to provide a formal recommendation to the City Council; that is the purview of the Planning Commission. Members of the Planning Commission have also considered the matters associated with this Application. The Planning Commission may reach a different conclusion.

#### Recommended Motion:

The Planning Commission recommends to the City Council that the Conditional Use Permit application for a Bed and Breakfast, 60 East Booth Street, Lava Hot Springs, be denied based on findings 1 and 2 as contained in the 5/4/2022 Planning Commission Staff Report.

#### Findings.

1. The proposed use fails to meet the definition required for a Bed and Breakfast.
  - a. While the Applicants stated, “we will live onsite and provide breakfast” (4/25/2022, Public Hearing) more is required. A Bed and Breakfast must meet the following additional standards
    - i. Be “a dwelling.” (A single dwelling unit is required, not a triplex arrangement). Individual dwelling units cannot be combined to meet the standard for “a dwelling.” They remain as separate and individual dwelling units
    - ii. A “household family” must reside in the dwelling (one unit).
    - iii. “No more than fifteen (15) persons.” The Applicants indicate they will offer accommodations for up to eight (8) persons in four bedrooms with breakfast provided. The Applicants state they will be onsite when guests are staying. However, no information or evidence was provided identifying how a single dwelling unit would have its occupancy limited (owner or manager plus immediate family members plus unrelated guests [of up to 8]).

The Planning Commission recommends to the City Council that the Conditional Use Permit application for a Bed and Breakfast, 60 East Booth Street, Lava Hot Springs, be denied based on findings 1 and 2 as contained in the 5/4/2022 Planning Commission Staff Report.

- Findings.
1. The proposed use fails to meet the definition required for a Bed and Breakfast.
    - a. While the Applicants stated, “we will live onsite and provide breakfast” (4/25/2022, Public Hearing) more is required. A Bed and Breakfast must meet the following additional standards
      - i. Be “a dwelling.” (A single dwelling unit is required, not a triplex arrangement). Individual dwelling units cannot be combined to meet the standard for “a dwelling” They remain as separate and individual dwelling units
      - ii. A “household family” must reside in the dwelling (one unit).
      - iii. “No more than fifteen (15) persons.” The Applicants indicate they will offer accommodations for up to eight (8) persons in four bedrooms with breakfast provided. The Applicants state they will be onsite when guests are staying. However, no information or evidence was provided identifying how a single dwelling unit would have its occupancy limited (owner or manager plus immediate family members plus unrelated guests [of up to 8]).
  2. Is the proposed use (Bed and Breakfast) essential or desirable to the public convenience or welfare? A Bed and Breakfast is not essential or desirable to the public convenience or welfare at 60 East Booth Street. The City of Lava Hot Springs is losing its permanent resident population. A permanent resident population is essential to the meaning and full functioning of the community, its economic well-being, and the quality of the tourist and visitor experience. The triplex existing at 60 East Booth Street offers multiple full-time resident and workforce housing opportunities.

With a finding that the proposed Bed and Breakfast is not essential or desirable to the public convenience or welfare and does not meet the standards required for a Bed and Breakfast. The Planning Commission should avoid considering any conditions and safeguards when the proposed use fails the “essential” or “desirability” standards and the definition of a Bed and Breakfast.

Respectfully,  
Bruce Parker, AICP, City Planner, Planning and Development Services, LLC

cc.City of Lava Hot Springs Mayor, City Council members, and City Staff  
Applicants, Jade Beus & Morgan Ingmire  
File

Report from Bruce Parker, City Planner for the City of LHS regarding Elliot & Sonya Shaw Conditional use application.

CITY OF LAVA HOT SPRINGS, IDAHO  
PLANNING COMMISSION SPECIAL MEETING – 5/4/2022  
PLANNING COMMISSION REPORT  
APPLICATION FOR BED AND BREAKFAST, R-2 ZONE  
ELLIOT AND SONYA SHAW, OWNERS/APPLICANTS  
(Lots 3, 4 & 5, Block 13, W. J. Fife’s Second Addition to Lava, Bannock County, Idaho)  
137 West Merle Street

TO: Planning Commission Members  
SUBJECT: Conditional Use Permit Application – Bed & Breakfast, Elliot and Sonya Shaw  
DATE: 5/4/2022

OVERVIEW:

Elliot and Sonya Shaw request a Conditional Use Permit for a Bed and Breakfast in a Residential R-2 Zoning District at 137 West Merle Street, Lava Hot Springs. The proposal *is to provide a fully furnished home* in which families and individuals can stay. “Mitch’s place B&B can accommodate up to seven people with the provision of breakfast included” (Planning Commission meeting, 4/25/2022). The owners indicated they live at 113 West Merle Street “but are always on-site when our guests stay” (Ibid.). Mr. Shaw mentioned that the Applicants request a Bed and Breakfast approval to comply with City Ordinances. The City Planner recommends the Planning Commission forward a recommendation of denial to the City Council with findings.

BACKGROUND:

Elliot and Sonya Shaw (Owners & Applicants) have applied for the approval of a Conditional Use Permit for a Bed and Breakfast at 137 West Merle Street. The property is located in an R-2 Zoning District. The Planning Commission conducted the necessary public hearing on April 25, 2022.

The City of Lava Hot Springs provides various zoning districts, their location identified on the zoning map. A Bed and Breakfast is allowed in the C-1, C-2, R-2 (as a conditional use), and R-3 zones. When the geography of the City is considered, the City of Lava Hot Springs allows some type of tourist accommodation across the entire City.

A Bed and Breakfast is “a dwelling where, for compensation, meals are provided on-site for no more than fifteen (15) persons who are not immediate members of the household family residing in the dwelling and is owner or manager occupied” (Ordinance 1982-2 and Ordinance 2006-5). With a presentation by the Applicants, the close of the public hearing and receipt of the various public Written and verbal comments, and the provisions of City ordinances, the Planning Commission may Now formulate a recommendation to the City Council for a Bed and Breakfast at 137 West Merle Street. Applicable City Ordinance provisions guide the Planning Commission. “The City Council (*And the Planning Commission in recommending*) may, after proper notice and public hearing as Prescribed in this Ordinance, permit (*recommend*) the following uses (including a Bed & Breakfast) where such uses are deemed essential or desirable to the public convenience or welfare. The City Council shall have the authority (*and the Planning Commission in recommending*) to impose (*recommend*) such conditions and safeguards as it deems necessary to protect the best interests of the

surrounding property or neighborhood from damage, hazard, nuisance, or other detriment” (Ordinance 1982-2, with emphasis added for context only, emphasized text not adopted).

The City Lava Hot Springs’ Ordinances provide review and approval standards for both the Planning Commission in recommending and the City Council in deciding the Application. They are:

- 1 .Is the proposed use (Bed and Breakfast at the 137 West Merle Street) essential or desirable to the public convenience or welfare?
2. Has the City received a complete application?
3. Does the location (137 West Merle Street), and the R-2 zone, allow a Bed and Breakfast?
4. Does the proposed use Application meet the Ordinance definition of a Bed and Breakfast?
5. Are conditions and safeguards necessary, and if so, are they designed to protect the best interests of:
  - a. the surrounding property or neighborhood from
    - I. Damage,
    - ii. Hazard,
    - iii. Nuisance,
    - iv. or other detriments?

#### CITY PLANNER RECOMMENDATION:

After considering all materials, including the applicable Ordinance provisions for a Bed and Breakfast Application, the following recommendation is provided for Planning Commission consideration. The city planner may offer analyses to the Planning Commission, but the responsibility to give a recommendation to the City Council rests with the Planning Commission. Members of the Planning Commission have also considered the matters associated with this Application. The Planning Commission may reach a different conclusion.

#### Recommended Motion:

The Planning Commission recommends to the City Council the Conditional Use Permit application for a Bed and Breakfast, Elliot and Sonya Shaw, Applicants/Owners, 137 West Merle Street, Lava Hot Springs, be denied with the findings provided in the 5/2/2022 Planning Report.

#### Findings:

- 1) The Conditional Use Permit application, filed by Elliot and Sonya Shaw, fails to meet the requirements and standards for the issuance of a Conditional Use Permit for a Bed and Breakfast at 137 West Merle Street based on the following,
  - a.The Applicants never indicated they were permanent residents of 137 West Merle Street, although they did indicate they lived “nearby.” “Nearby” is not the requirement. Instead, the owner or manager must reside in the Bed and Breakfast with their immediate family. The Shaw’s did not definitively state in writing or document that they would reside *in* the dwelling unit as permanent occupants or during those periods when guests would be onsite at 137 West Merle Street (emphasis added). Rather, they indicated they live at 113 West Merle Street
  - .b .Renting the entire home is not permissible for a Bed and Breakfast facility.
2. Is the proposed use (Bed and Breakfast) essential or desirable to the public convenience or welfare? A Bed and Breakfast, at the 137 West Merle Street location is not essential or desirable to the public convenience or welfare. The City of Lava Hot Springs is losing housing stock available to permanent residents. The 2020 total resident population is estimated at 253 persons (American Community Survey 2020, <https://data.census.gov/cedsci/table?q=1600000US1645820&tid=ACST5Y2020.S0101>). The American Community Survey estimated the City’s 2010 population at 436 residents (<https://data.census.gov/cedsci/table?q=lava%20hot%20springs%20idaho%202010&g=1600000US1645820>). This population decline threatens the functionality of the Lava Hot Springs community, including but not limited to, the continued functioning of the elementary school, its ability to provide necessary 24-hour public safety services, its economic well-being, and its ability to maintain a quality visitor experience. Some may suggest that this trend is the emergent reality, and the City is powerless to do anything about it. This sentiment does not recognize the commitment of the City to its future or the abilities and resilience of City residents and businesses.

With a finding that the proposed Bed and Breakfast is not essential or desirable to the public convenience or welfare and does not meet the standards required for a Bed and Breakfast, the Planning Commission should not proceed further.

Respectfully,  
Bruce Parker, AICP, City Planner,  
Planning and Development Services, LLC

cc. City of Lava Hot Springs Mayor, City Council members, and City Staff  
Applicants Elliot and Sonya Shaw File



Report from Bruce Parker, City Planner for the City of LHS regarding Neil and Kathryn Hirschi Conditional use application.

CITY OF LAVA HOT SPRINGS, IDAHO  
PLANNING COMMISSION SPECIAL MEETING – 5/4/2022  
PLANNING COMMISSION REPORT  
APPLICATION FOR BED AND BREAKFAST, R-2 ZONE  
NEIL & KATHRYN HIRSCHI, OWNERS/APPLICANTS  
(Lots 5 & 6, Block 12, A.W. Hall’s Third Addition to Lava, Bannock County, Idaho)  
553 West Booth Street

TO: Planning Commission Members  
SUBJECT: Conditional Use Permit Application – Bed & Breakfast, 553 West Booth Street  
DATE: 5/4/2022

**OVERVIEW:**

The Applicants have applied for a Conditional Use Permit for a Bed and Breakfast facility in a Residential R-2 Zoning District. The Application proposes a Bed and Breakfast with a six (6) person capacity. “The home has two levels with about 800 square feet of living space on each level. The main level has two bedrooms, 1.5 baths, a kitchen, dining room, and a living room. The downstairs has a bathroom, bedroom, living room, office, and kitchenette laundry room. I cannot predict how often the home will be rented” (N. Hirschi, Planning Commission meeting 4/25/2022). The City Planner recommends the Planning Commission forward a recommendation for denial to the City Council with findings.

**BACKGROUND:**

Mr. Neil & Ms. Kathryn Hirschi, Owners & Applicants, have applied for a Conditional Use Permit to establish a Bed and Breakfast at 553 West Booth Street. The property is in an R-2 Zoning District. The Planning Commission conducted the necessary public hearing on April 25, 2022.

The City of Lava Hot Springs provides zoning districts. The Zoning Districts Map (Zoning Map) depicts their location and boundaries. A Bed and Breakfast is allowed in the C-1, C-2, R-2 (conditional use) and R-3 zones. When the cumulative effects of the Zoning Ordinance, and the associated zoning map, are considered, the City of Lava Hot Springs allows various tourist-related accommodations (including Bed and Breakfasts) across the City.

A Bed and Breakfast is “a dwelling where, for compensation, meals are provided onsite for no more than fifteen (15) persons who are not immediate members of the household family residing in the dwelling and is owner or manager occupied” (Ordinance 1982-2 and Ordinance 2006-5). With the close of the public hearing, the receipt of all public written and verbal comments, and guided by the the City Council for the proposed Bed and Breakfast at 553 West Booth Street. City Ordinances guide the Planning Commission in developing a recommendation. “The City Council (*and the Planning Commission in recommending*) may, after proper notice and public hearing as prescribed in this Ordinance, permit (*recommend*) the following uses (including a B & B) where such uses are deemed essential or desirable to the public convenience or welfare. The City Council shall have the authority (*and the Planning Commission in recommending*) to impose such conditions and safeguards as it deems necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance, or other detriment” (Ordinance 1982-2, emphasized text added for context only [not adopted]).

Lava Hot Springs City Ordinances provide review and approval tests. These are:

1. Is the proposed use (Bed and Breakfast at the 553 West Booth Street location) essential or desirable to the public convenience or welfare?
2. Has the City received a complete application?
3. Does the location (553 West Booth Street), and the R-2 zone, allow a Bed and Breakfast?
4. Does the proposed use meet the definition of a Bed and Breakfast?

5. Are conditions and safeguards necessary, and if so, are they designed to protect the best interests of:

- a. the surrounding property or neighborhood from, i. damage,
  - ii. Hazard,
  - iii. Nuisance,
  - iv. or other detriments?

The R-2 zone (which includes 553 West Booth Street) allows a Bed and Breakfast as a Conditional Use. However, the evidence presented at the 4/25/2022 Planning Commission meeting indicates the Application is for a short-term rental unit. The Applicant's statement, "I cannot predict how often the home will be rented," supports this conclusion (4/25/2022 Planning Commission meeting).

#### CITY PLANNER RECOMMENDATION

After considering all materials available, including all applicable City Ordinance provisions for a Bed and Breakfast, the following recommendation is provided for Planning Commission consideration. The city planner may provide application analyses, the city planner is not authorized to provide a formal recommendation to the City Council; the Planning Commission is. Members of the Planning Commission have also considered the matters associated with this Application. The Planning Commission may reach an alternative conclusion.

#### Recommended Motion:

The Planning Commission recommends to the City Council the Conditional Use Permit Application for a Bed and Breakfast, Neil and Kathryn Hirschi, Applicants/Owners, 553 West Booth Street, Lava Hot Springs, be denied based on findings 1 and 2 contained in the 5/4/2022 Planning Commission Staff Report.

#### Findings.

1. The proposed use fails to meet the definition for a Bed and Breakfast.
  - a. The Applicants never indicated they were permanent residents of 553 West Booth Street. Mr. Hirschi stated (4/25/2022 Planning Commission meeting), that the "home will be a rental." He said, referring to potential problems, "you do not have that (problems) in a short-term rental situation." Guests know the rules . . . . (and) are preapproved before they stay." Mr. Hirschi's comments indicate this Application is for a short-term rental, rather than a Bed and Breakfast, with additional support by Mr. Hirschi's reference to Section 67-6539 (Idaho Code). Typically, Bed and Breakfast guests do not cause problems as the dwelling is occupied by the owner/manager and is not the rental of the entire home. A Bed and Breakfast is a dwelling where the owner or manager resides with their immediate family members. Accommodations and meals are provided for compensation to no more than 15 guests who are not members of the resident family. Mr. Hirschi did mention that a property owner/manager would reside onsite, but this is not the standard. Bed and Breakfast requires the owner/manager to reside *in* the dwelling unit with immediate family members (emphasis added).
2. Is the proposed use (Bed and Breakfast) essential or desirable to the public convenience? Or welfare? A Bed and Breakfast is not essential or desirable to the public convenience or welfare at 553 West Booth Street. The City of Lava Hot Springs is losing housing stock available for permanent occupancy. Permanent residents are essential to the functionality of the Lava Hot Springs community, including its economic well-being and maintaining the quality of the tourist and visitor experience.

With a finding that the proposed Bed and Breakfast is not essential or desirable to the public convenience or welfare and does not meet the standards required for a Bed and Breakfast, the Planning Commission does not need to craft conditions or safeguards for a Bed and Breakfast at 553 West Booth Street.

Respectfully,

Bruce Parker, AICP, City Planner,  
Planning and Development Services, LLC

cc. City of Lava Hot Springs Mayor, City Council members, and City Staff  
Applicants Neil and Kathryn Hirschi  
File

<sup>1</sup> A Bed and Breakfast may offer accommodations in a single room lacking cooking facilities.

Vicki Lyon asks for a motion in regards to the Bues/ Ingmire Conditional use request.

MOTION BY JIM PAGE TO RECOMMEND DENIAL  
CONDITIONAL USE APPLICATION FROM JADE  
BUES/MORGAN INGMIRE

SECOND BY LISA GUTHRIE

ALL VOTED – “AYE” - UNANIMOUS

Vicki Lyon asks for a motion in regards to the Elliot and Sonya Shaw Conditional use request.

MOTION BY LISA GUTHRIE TO RECOMMEND  
DENIAL OF THE CONDITIONAL USE APPLICATION.

SECOND BY JIM PAGE

ALL VOTED “AYE” - UNANIMOUS

Vicki Lyon asks for a motion in regards to the Neil and Kathryn Hirschi Conditional use request.



MOTION BY LISA GUTHRIE IS MADE TO  
RECOMMEND DENIAL OF THE CONDITIONAL USE  
APPLICATION BY NEIL AND KATHRYN HIRSCHI.

SECOND BY JIM PAGE

ALL VOTED "AYE" - UNANIMOUS