

**BLAINE COUNTY BOARD OF COUNTY COMMISSIONERS  
PUBLIC HEARING on April 2, 2019**

<p><b>REGARDING AN APPLICATION OF:</b> David and Marie Morrow for a Floodplain Conditional Use Permit for west of the Big Wood River. This is a follow up to an emergency stream alteration permit issued during the flooding of 2017.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION</b></p>
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**REQUESTED ACTION:** Public hearing and consideration of a floodplain conditional use permit application by David and Marie Morrow to upgrade culverts under a private driveway, within the designated floodplain, to improve drainage and access to existing structures on the property. The project site is 24 Gimlet Lane (Lot 19, Gimlet Sub #10) and is zoned Planned Residential (R-2) with areas of Floodplain (FP) Overlay District.

**PROPERTY OWNER/APPLICANT:** David and Marie Morrow

**REPRESENTATIVE:** Charles (Chuck) Erwin  
Steve Butler PE, of Butler Associates, Inc.

**NAME/REACH OF STREAM:** Big Wood River

**LOCATION/LEGAL DESC.:** Gimlet Sub #10, Blaine County

**APPLICABLE REGULATIONS:** Title 9 (Zoning): Chapters 9 and 17  
Title 8 (Comprehensive Plan)

**I. APPLICATION, NOTICE, EXHIBITS & GENERAL FACTS**

1. **Notice of this public hearing was:**
  - a. Legal notice was published in the Idaho Mountain Express on March 13, 2019.
  - b. Notice was mailed on March 11, 2019, to surrounding landowners within 300' of the exterior boundary of the property and to all Blaine County political subdivisions.
  - c. An on-site notice was posted on or before March 26, 2019, at least 7 days prior to the hearing as evidenced by the affidavit in file.

**Pursuant to Idaho Code §67-6512 and Blaine County Zoning Ordinance regulations, the Board shall review the above notice procedures and make a finding as to compliance.**

► **FINDING:** Upon motion by Commissioner Fosbury, second by Commissioner McCleary, and by a vote of 2 to 0, the Board finds notice to be adequate.

2. **Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?**  
Commissioner McCleary was involved during the 2017 flooding ESAP and is aware of the flooding issues on this property.

3. Attached to this report are the following exhibits:

**Exhibit A—Application Materials**

All application materials were received on February 25, 2019, unless indicated otherwise.

- A-1: Blaine County FP-CUP Application
- A-2: Vicinity Map and adjoining landowners
- A-3: No Adverse Impact Statement- Steve Butler PE, Butler and Assoc.
- A-4: Gravel Drive Profile- Steve Butler PE, Butler and Assoc.

**Exhibit B—Agency Comments**

- B-1: County Engineer comments- 03.01.19

**Exhibit C—Blaine County Supplemental Information**

- C-1: Emergency Stream Alteration Permit (ESAP)- 08.08.17
- C-2: Site Photos- various dates

**Exhibit D—Public Comments**

None received as of the date of this report

4. **History:** On August 8, 2017, an emergency stream alteration permit (ESAP) was issued by the Blaine County Board of Commissioners for the reconstruction of the driveway which accesses the primary residence at 24 Gimlet Lane. The existing culvert(s) were washed away during the spring flooding that year. The Board ultimately approved the installation of up to four culverts under the driveway. However, only one culvert was installed. Refer to Exhibit C-1, ESAP application and approval.

During the spring runoff of 2018, minor flooding was observed on the property flowing through an existing swale/drainage area that flows through the existing culvert underneath the driveway. The water backed up behind the driveway and nearly flooded the recently repaired garage on the property. County staff requested that the property owner follow up on the emergency work to design a culvert/drainage system that would function more adequately for allowing surface water to drain from the lot and continue south to reconnect with the Big Wood River. This application is a response to that request and the requirement outlined in Blaine County code for follow up permitting to an ESAP. Refer to Exhibit C-2 for photos of the site during high water runoff.

5. **Summary:** The application indicates that this project proposes to replace an existing 24-foot long by 3.5-foot wide by 2.5-foot tall CMP culvert in a floodplain fringe channel under the driveway to the Morrow residence with two, 30-foot long by 3.5-foot wide by 2.5' tall CMP culverts. The plan sheet also indicates installation of one, 40-foot long by 18-inch diameter CMP culvert under the driveway at the driveway approach to Gimlet Lane. The application indicates the two replacement culverts are designed to approximate the capacity of the floodplain fringe channel. Floodplain flows in excess of this channel capacity are shown to overflow the driveway as experienced, now.

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;*

- **FINDING: Compliant.** This application proposes development to protect the land and structures located wholly on private property. There should be no excessive additional requirements at public cost.

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, dust, odors, vibration, water pollution or safety hazards. Water pollution includes impact to surface and ground water and potable water sources. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area, the commission shall consider the impact of the project on potable water sources and determine whether there is sufficient information in the record to demonstrate that the project has been designed to mitigate adverse impact to potable water source(s);*

- **FINDING: Compliant.** It is not anticipated that this project would have impacts to potable water sources.

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

- **FINDING: Compliant.** No additional vehicular approaches are proposed. This application proposes to increase the functionality and access of the existing approach.

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

- **FINDING: Conditionally Compliant.** The floodplain is a natural and scenic feature of major importance. Adequately sized culverts should allow for floodwaters to more readily flow through the site to rejoin the Big Wood River. See conditions # 1, 2, 4, 5, & 6.

10. *If the applicant or landowner with respect to an application for a conditional use permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528.*

- **FINDING: Compliant.** Not applicable.

**II. CONDITIONAL USE PERMITS: STANDARDS OF EVALUATION**  
**Blaine County Code §25-3-17A**

Blaine County Code §9-17-9E *It is incumbent upon the applicant to show that the criteria of this regulation has been satisfied. The commission or the board shall consider factors specified in other sections of this title . . .*

*1. Will, in fact, constitute a conditional use as established for the zoning district involved;*

- **FINDING: Compliant.** This application is a follow up to a previously permitted emergency stream alteration permit. According to BCC §9-17-11C(4), a follow up Stream Alteration Permit is required of the applicant. Since this area is a mapped floodplain, a Floodplain Conditional Use permit was required to satisfy the requirement of a follow up public hearing with the Board.

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

- **FINDING: Compliant.** Floodplain issues are addressed in the Comprehensive Plan in Chapter 3, Recreation; Chapter 5, Natural Environment; Section 9, Land Use; as well as Chapter 17 of the Zoning Ordinance. The overall policy established by the Comprehensive Plan and Code is to protect the floodplain by avoiding development that adversely impacts the natural functioning of the floodplain while accommodating residential uses whose negative impacts can be mitigated. The residential uses on this lot is existing and the proposed culverts are intended to improve access and floodplain functionality.

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

- **FINDING: Conditionally Compliant.** The essential character of the general vicinity is primarily natural floodplain and riparian area with predominantly residential uses. The culverts will be harmonious and appropriate in appearance to this character. See conditions 4-6.

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

- **FINDING: Conditionally Compliant.** Existing and future neighboring uses are residential. The current culvert is inadequate for flow and the proposal is to increase drainage through the lot. See conditions 1, 2, 3, and 6.

*5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, 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;*

- **FINDING: Compliant.** No changes to public service is anticipated.

use larger diameter culverts), or include erosion protection as part of the design. See condition # 6.

5. *The effect upon fish and wildlife habitat, including existing vegetation.*

- **FINDING: Conditionally Compliant.** There should be no impact to fish and wildlife habitat. Revegetation of areas disturbed by the installation of the culverts, and other construction activities shall be planted with approved floodplain plants and seed-mixes, including invasive weed mitigation. This will minimize erosion, turbidity and the release of sediments into surface water runoff. See condition # 5.

6. *The availability of alternative locations not subject to flooding for the proposed use.*

- **FINDING: Compliant.** There are no alternative locations for access not subject to flooding.

7. *The probability of mass erosion to adjacent property as opposed to normal stream bank erosion and accretion.*

- **FINDING: Conditionally Compliant.** This area is subject to high velocity flows and surface runoff which have historically resulted in mass erosion to adjacent properties, including Gimlet Lane and downstream driveways. The objectives of this proposal are to provide for flow, however, erosion at the base of the proposed culverts may continue to occur during flooding events. Additional erosion protection is necessary on the downstream end of the culverts to prevent erosion. See condition # 6.

8. *The safety of access to the property in times of flood of ordinary and emergency vehicles.*

- **FINDING: Compliant.** Access is currently inhibited during flooding events. This project proposes to provide for safer, long-term access to the structures on this lot in times of flooding.

9. *The danger that materials may be swept on to other lands or downstream to the injury of others.*

- **FINDING: Conditionally Compliant.** The newly designed culverts should allow for water to more adequately drain from the lot back towards the Big Wood River during flooding events. The culverts should be adequately anchored to prevent them from washing downstream. See condition # 6.

10. *The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.*

- **FINDINGS: Compliant.** The water supply and sanitation systems are existing and will remain unchanged should this project be approved. It is recommended to not plant rhizomatous woody shrubs or trees plants adjacent to the septic mound.

11. *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners and the local public interest.*

- **FINDING: Compliant.** Not applicable.

**III. FLOODPLAIN CONDITIONAL USE PERMIT APPLICATION (FP-CUP): STANDARDS OF EVALUATION**  
**Blaine County Code §9-17-9E**

*E. Criteria for Evaluation: It is incumbent upon the applicant to show that the criteria of this regulation have been satisfied. The commission or the board (or hearing examiner) shall consider factors specified in other sections of this title, as well as the following:*

*1. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.*

- **FINDING: Compliant.** Floodplain issues are addressed in the Comprehensive Plan in Chapter 3, Recreation; Chapter 5, Natural Environment; Section 9, Land Use; as well as Chapter 17 of the Zoning Ordinance. The overall policy established by the Comprehensive Plan and Code is to protect the floodplain by avoiding development that adversely impacts the natural functioning of the floodplain while accommodating residential uses whose negative impacts can be mitigated. This project proposes mitigation through upgrading culverts to allow for flow of surface flood waters which contribute to floodplain health and connectivity. Development is existing and access to the home is critical.

*2. The preservation of the inherent natural characteristics of the watercourses and floodplain areas. This includes maintaining the storage and carrying capacity of these areas.*

- **FINDING: Conditionally Compliant.** This application proposes to maintain access during flooding to the existing home and garage on the property. Project intent is to preserve the natural flow of water to the greatest extent possible while achieving property access during times of flooding. Culverts have been incorporated to encourage floodplain connectivity and preservation. Although channelizing water in the floodplain may lead to additional scour and erosion at the upstream or downstream ends of the culvert, access to existing development on the lot is essential. Increasing the capacity of the culvert flow under the existing driveway will maintain access to the Morrow residence via the existing driveway during some flood events. Similarly, increasing the capacity of the culvert flow under the driveway increases the conveyance of floodplain fringe flow. See conditions #4-6.

*3. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.*

- **FINDING: Compliant.** The existing development in the vicinity is residential. No further residential development is anticipated on this or the adjacent lots.

*4. The danger to life and property due to increased flood heights or velocities caused by encroachments.*

- **FINDING: Conditionally Compliant.** Encroachments in this vicinity are existing. The existing culvert is not designed adequately to accommodate most flood flows therefore a larger culvert will aid in the access to the home on this lot. See photos, Exhibit C-2 in staff report. The County Engineer is of the opinion that the culvert flow velocity may be erosive at the downstream ends of the culverts without erosion protection installed. The applicant may consider modifying the culverts design to decrease the velocities in the culverts (e.g. flatten the culvert slope, slopes, or

**IV. DECISION AND POSSIBLE CONDITIONS:**

► **DECISION** : Upon a motion by Commissioner Fosbury, seconded by Commissioner McCleary, and by a 2-0 vote the Board of County Commissioners move to approve the application by David and Marie Morrow, located at 24 Gimlet Lane, for a Floodplain Conditional Use Permit to upgrade culverts under a private driveway, finding the proposal complies with the applicable criteria set forth under Title 9, Chapter 17, Floodplain Overlay District and Riparian Setback District, subject to the following conditions:

**CONDITIONS OF APPROVAL:**

1. Applicant shall comply with all applicable zoning, building, fire and health district regulations.
2. Any modifications to the plans shall require further zoning review, and may be subject to additional regulations pursuant to the Blaine County Zoning Ordinance.
3. The applicant shall provide the county floodplain manager with a construction activities schedule prior to the start of work.
4. Culverts shall be maintained (cleaned) as necessary on an annual basis.
5. A revegetation plan shall be submitted to the County for approval. This plan shall incorporate native riparian plantings in all disturbed areas due to construction activities. It is recommended to avoid planting woody shrubs with rhizomatous growth habit adjacent to the septic mound so as not to compromise the integrity of the system.
6. The placement of erosion resistant rip-rap including angular rock at the outlet and inlet of the culvert pipes shall be designed by the applicant and approved by the County Engineer prior to construction.

Idaho Code §67-6535(c) Notice: The owner of the property subject to this application and decision may request a regulatory taking analysis pursuant to I.C. 67-8003.

IT IS SO ORDERED.

DATED this 9 day of April, 2019

BLAINE COUNTY BOARD OF COMMISSIONERS

  
Angelle McCleary, Vice Chair

12. *The importance of the service provided by the proposed facility to the community.*

- **FINDING: Compliant.** Not applicable. There is no facility proposed.

13. *The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.*

- **FINDING: Conditionally Compliant.** Some localized increases in floodplain fringe flow velocities may be realized with the installation of the proposed culverts. Based on observations of the existing culvert during flood events, the proposed culverts installation will increase the conveyance of the existing floodplain fringe channel under the existing driveway. The indicated flow velocity of 6.13 feet/second may be erosive in a floodplain fringe area like this, but the applicant may justify the existing channel is more resistant to erosion than the typical floodplain fringe of this area, hence the assumption of the more typical stream channel roughness coefficient. The applicant shall include erosion protection as per Condition # 6.

14. *Effect of and susceptibility to obstruction by landslides, avalanches, ice jams or timber.*

- **FINDING: Compliant.** This project is located outside of the mapped floodway of the Big Wood River. The floodway has the highest susceptibility to obstruction by ice jams and timber. The project is not located within an avalanche zone.

15. *If the applicant or landowner with respect to an application for a conditional use permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, . . .*

- **FINDING: Compliant.** Not applicable.

16. *The project will not have an adverse impact on potable water sources when the project is located within a wellhead protection area.*

- **FINDING: Compliant.** The project is located within a wellhead protection area, however, this project should not have any adverse impacts on potable water sources.



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**CERTIFICATE OF MAILING**

The undersigned person hereby certifies that on the \_\_\_\_ day of \_\_\_\_\_, 2019, she served a true and correct copy of the foregoing document by depositing the same in the U.S. Mail addressed as follows or by service otherwise as noted:

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Staff

