



COUNTY OF HUMBOLDT

For the meeting of: 7/6/2023

File #: 23-991

To: Planning Commission
From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Nancy Young Special Permit
Assessor Parcel Number: 304-231-019
Record Number: PLN-2022-17962
Elk River area

A Special Permit to allow operation of a bed & breakfast-type establishment using an existing single-family residence and a detached cottage. A maximum of two bedrooms will be made available for nightly accommodation serving no more than four (4) guests at a time. Breakfast will not be served to guests.

RECOMMENDATION(S):

That the Planning Commission:

1. Request that staff present the project.
2. Open the public hearing and receive testimony from the public.
3. Close the public hearing and take the following actions.
4. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds the project exempt from environmental review pursuant to Section 15301 of the State CEQA Guidelines; and
 - b. Makes all required findings for approval of the Special Permit; and
 - c. Approves the Nancy Young Special Permit as recommended by staff and subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location: The project is located in Humboldt County, in the Elk River area, at the end of Elk River Court, approximately 0.3 miles South from its intersection with Elk River Road, on the property known as 7538 Elk River Court.

Present Plan Land Use Designations: Residential Agriculture (RA) specifying a density range from one unit per 5 acres to 1 unit per 20 acres, Slope Stability: Relatively Stable (0).

Present Zoning: Agriculture General - Special Building Site specifying a 5-acre minimum parcel size

[AG-B-5(5)].

Environmental Review: The project has been determined to be categorically exempt pursuant to section 15301 of the CEQA Guidelines, which permits alteration and permitting of existing structures involving negligible expansion of the former use.

State Appeal Status: Project is located outside the Coastal Zone and is therefore NOT appealable to the California Coastal Commission.

Major Issues: Neighborhood Compatibility

Executive Summary: The project involves authorizing the use of an existing primary residence and detached cottage as transient habitation under a bed & breakfast management model, with the primary difference being that breakfast will not be served to guests. Water is provided by an existing well and sewer service is provided by an existing septic system. County Assessor Records show that the property has been developed with two residences since 1965. The cottage dates to approximately 1957 and was the first home constructed on the property. Assessor Records show that the primary residence was constructed as a 3-bedroom 1 bathroom house in 1965.

The zoning of the property is Agriculture General (AG) specifying a minimum parcel size of 5-acres. The parcel is currently developed with a primary residence and a garage/cottage building. The parcel is accessed by Elk River Court, in a neighborhood composed of approximately 15 parcels which also use this private road for access. Nearly all of these parcels are substandard to the minimum parcel size specified for the zone. The project parcel is approximately 1.4 acres in size. Although also substandard, it is the second largest in the neighborhood.

A total of two bedrooms are proposed to be made available for nightly accommodation serving a maximum of four (4) guests at a time. The Environmental Health Division views the proposal as placing comparable demand on the existing septic system and water supply provided no additional bedrooms are created. Expansion of up to three (3) bedrooms & six (6) guests were initially contemplated but later abandoned when it became clear that this would likely require upgrade or replacement of the existing septic system and proving sufficient capacity of the water supply. No new buildings are proposed. Condition of Approval #7 has been included restricting the number of bedrooms and guests and specifying that increases in either be subject to first securing approval of a modification to the permit. This will ensure that agency review and public notice is provided before any increase in intensity of the use may be authorized to occur.

Management of the Bed & Breakfast will be performed by the landowner or their designee, who will reside on the property. An unpermitted Bed & Breakfast establishment was operated from the property in recent years, without the benefit of county review. The property is owned by Nancy Young, who purchased the property in April 2021, and has lived on the parcel since that time. According to Mrs. Young, she began leasing the cottage as a short-term rental beginning in July of 2021. After receiving a complaint of a possible code violation, Mrs. Young was mailed a letter from Code Enforcement staff on August 11, 2022. On August 16th, she came in to discuss the violation with staff and reached an

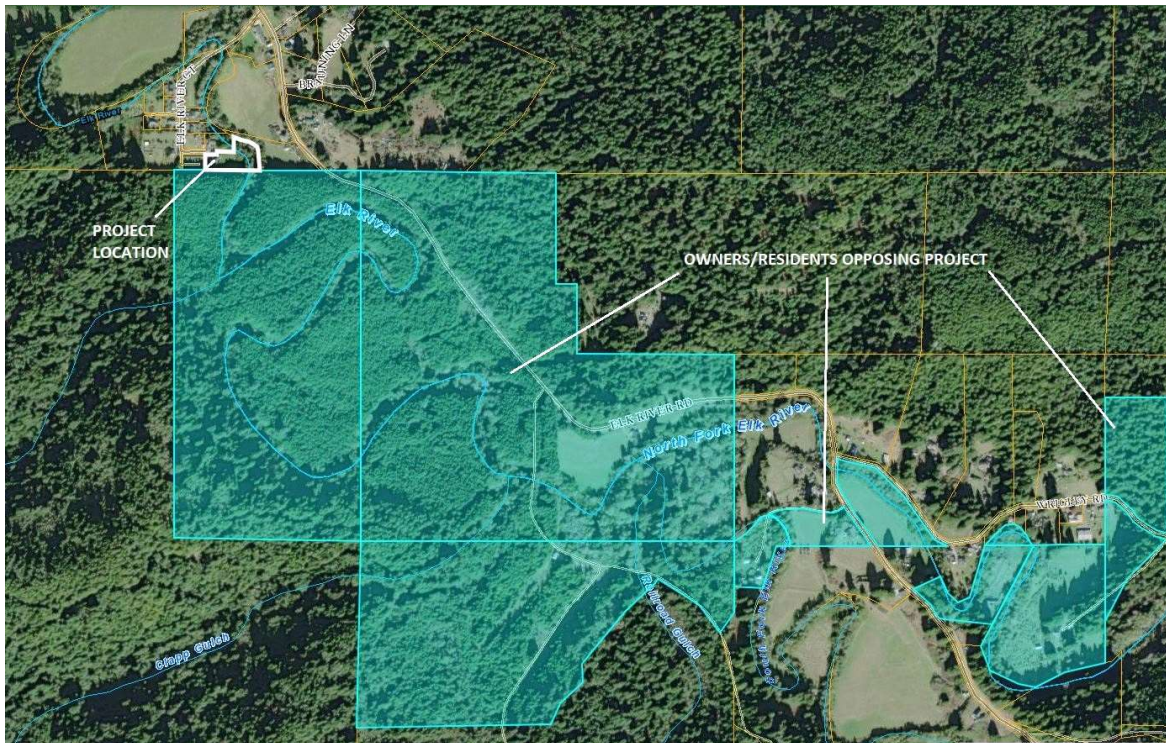
agreement allowing her to complete her remaining bookings (thru September 9th) with a commitment to cease renting bedrooms on a less than monthly basis until authorized to do so. In early October 2022, Mrs. Young met with planning staff and submitted an application for a Special Permit for a Bed & Breakfast operation, in hopes of receiving authorization to resume leasing of the bedrooms on a less than monthly basis.

The Bed & Breakfast provisions of the zoning code were established in 1989 and were last updated in 1998. B&B establishments are allowed with a Special permit in all zones which permit cottage industries -this includes all residential zones, FR, TPZ, AE, AG, and the Unclassified zone. A maximum of four (4) guest bedrooms may be permitted for use by a maximum of eight (8) guests and the owner or operator must reside on the premises. Staff believe that the project is the first Bed & Breakfast proposal to be considered in recent years, and the first of its sort ever proposed in the Elk River area.

Although pathways for permitting B&B's have existed for over 3 decades, few proposals have been received and approved to date. Interest has greatly increased in recent years, in part due to cumulative advancements in cellular and internet connectivity combined with the advent of online platforms connecting operators and potential guests (AirBnB, VRBO, etc.) and cities and counties throughout the state have seen a rapid proliferation of (often unauthorized) short-term housing rentals displacing longer-term residential occupancies and uses.

Draft amendments to the Zoning Code addressing Short-Term Rentals (STR's) were recently introduced for public review on June 16th and a public meeting is being held via zoom on June 28th. On June 6th the Board of Supervisors adopted an urgency ordinance establishing a temporary moratorium on the establishment and permitting of short-term rentals, to reduce liability and speculation during the legislative process, which will include forthcoming public review, consideration by the Planning Commission, and action by the Board of Supervisors. Both the moratorium and draft regulations deal exclusively with short-term rentals and distinguish between "Short-Term Rentals" and the separate provisions of the code governing "Bed & Breakfast" establishments. Therefore, the recently adopted moratorium does not preclude the Commission from taking action on the current Special Permit request.

The project has proven to be a source of controversy, and public comments received reveal the current community division surrounding the operation of vacation rentals and bed & breakfast operations in rural areas. The project was initially scheduled to be approved at the June 1st Zoning Administrator hearing. Following circulation of the public notice for the project, the Department was contacted by and received written comments in opposition to the project from seven (7) residents in the Elk River area, most of whom own property farther down Elk River Road, in an area slightly upstream of the confluence of the north and south fork of Elk River. Mrs. Kristi Wrigley also owns a series of adjoining parcels comprised of restocked timberland lying between the project parcel and the confluence of Elk Rivers two forks. All of the comments in opposition are included in Attachment 5.

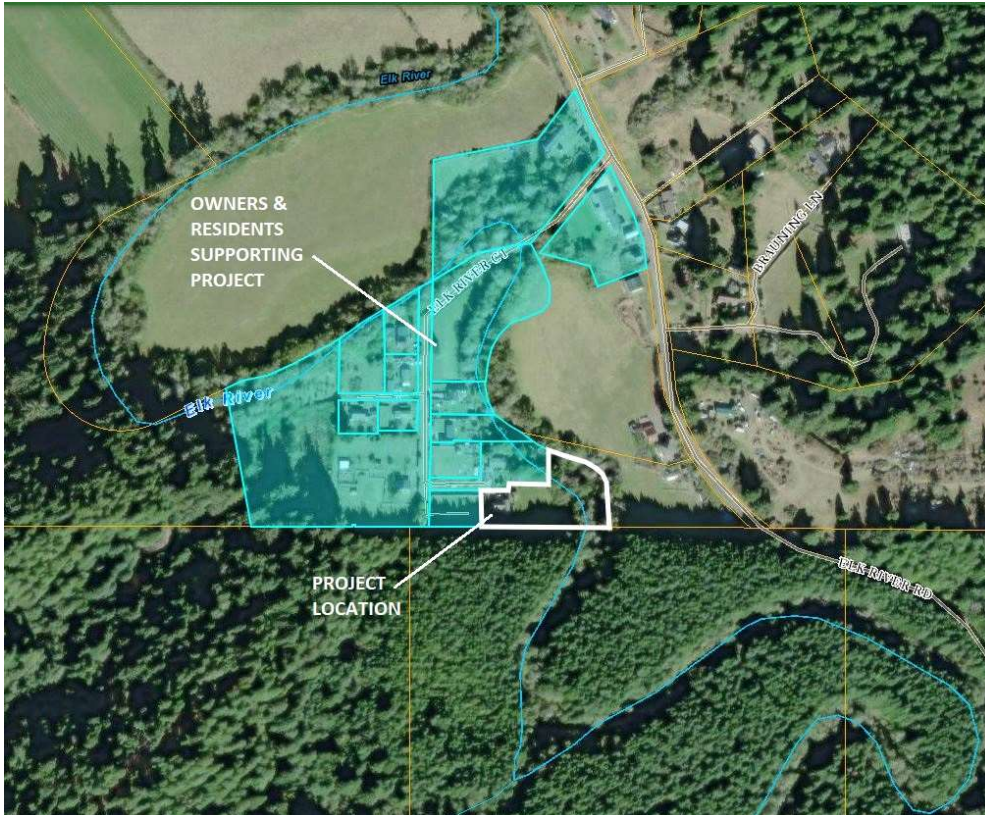


In their objections to the proposed project, opponents cite a range of concerns including: inconsistency with Goals and Policy of the General Plan Housing Element, issues surrounding public safety from fire risk and flooding and lack of reliable cell phone coverage, inadequacy of the septic system and water supply, outstanding maintenance needs of Elk River Road and potential worsening of conditions from added traffic/use, loss of long-term affordable housing stock, lack of nearby services and amenities for guests, trespass and traffic issues observed during past unpermitted operation, incompatibility with the character of the neighborhood and greater Elk River community, and potential for ongoing conflicts with and impacts to neighboring land uses.

Staff have worked with the applicant to address criticism and concerns surrounding issues that arose during prior unpermitted operation. One concern surrounded the perceived negative driving behavior of guests of the lodging -noting that some prior guests traveling at high rates of speed on Elk River Road created unsafe conditions for other users, and that excessive speed on Elk River Court was disruptive to neighboring residents, put local children in danger, and generated excessive dust. Additional feedback received surrounded concern over the perceived density of the proposal. The applicant is limiting their operation to a maximum of two bedrooms and four (4) guests, which is captured in Condition of Approval #7.

Given the novelty of the proposal, past unpermitted operation, and concerns received in response to the public notice, staff believe it is appropriate to include a Condition foreshadowing the possibility of revocation of the permit should neighborhood compatibility prove to be an issue. Condition of Approval #6 requires that the applicant establish and enforce standard protocols for guest conduct and allows the Planning Department to initiate a revocation proceeding at the Board of Supervisors if five or more complaints are received and verified following issuance of the permit. This will help ensure that guest conduct is carefully monitored and controlled. Some commenters have noted that permit

revocation is already provided for under the Zoning Regulations, without applying this condition. The primary benefit of the condition is that it serves as an explicit warning and threshold for future operators and planning staff.



The applicant circulated a petition of support for her proposal amongst neighboring property owners on Elk River Court and received signatures from nearly all of the owners and residents. The petition and letters of support are provided in Attachment 6.

One property owner on Elk River Court opposes the project, finding it a poor fit for the neighborhood. They note the property's location at the very end of a private road and that disruptions from guest traffic and pets proved to be a nuisance during prior unpermitted operation.

A variety of ongoing conditions have been included requiring that the owner/operator implement and enforce parking and noise restrictions, measures to promote safe driving, and requirements that owner/operator contact information be provided to neighboring landowners and occupants and periodically updated as needed. Staff believe that with the incorporation of these recommended conditions, the required findings for approval can be made.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comment or recommended approval or conditional approval. A summary of referral agency responses is included in Attachment 4.

RECOMMENDATIONS:

Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Special Permit.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission would elect to add or delete Conditions of Approval.
2. The Planning Commission could deny approval if unable to make all the required findings. Planning staff is confident that the required findings can be made based on the evidence submitted and subject to the recommended Conditions of Approval. Consequently, staff does not recommend further consideration of this alternative.
3. The Planning Commission could continue the item to a future meeting and direct the applicant and/or staff to address specific issues or items.

ATTACHMENTS:

1. Draft Resolution
 - A. Conditions of Approval
 - B. Site Plan
 - C. Operations Plan
 - D. House Rules
2. Location Map
3. Applicant's Supporting Evidence
 - A. Letter to Planning Commissioners
 - B. Guest Registration Form
4. Referral Agency Comments and Recommendations
5. Public comments received opposing project
6. Petition and Public comments received in support of project

Applicant/Owner

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Please contact Steven Lazar, Senior Planner, at (707)268-3741 or by email at slazar@co.humboldt.ca.us <<mailto:slazar@co.humboldt.ca.us>>, if you have any questions about the scheduled item.