

**RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE COUNTY OF HUMBOLDT**

Resolution Number: 23-

Record Number: PLN-2022-17962

Assessor's Parcel Number: 304-231-019

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Nancy Young Special Permit request.

WHEREAS, Nancy Young submitted an application and evidence in support of approving a Special Permit to allow operation of a bed & breakfast-type establishment using a total of two (2) bedrooms within an existing primary single-family residence ~~and detached cottage~~ serving no more than four (4) guests at a time; and

WHEREAS, the County Planning Division, the lead agency, determined the project is Categorically exempt from CEQA review per Section 15301 of the CEQA guidelines which permits alteration and permitting of existing structures involving negligible expansion of the former use; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on July 20, 2023, and reviewed, considered, and discussed the application for the Special Permit and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** A Special Permit is being requested to allow for a bed & breakfast establishment to be operated out of an existing single-family residence and a detached cottage. A total of two bedrooms within the primary residence will be made available for nightly accommodation serving no more than four (4) guests at a time. Breakfast will not be served to guests. Water is provided by an existing well and sewer service is provided by an existing septic system. Management of the Bed & Breakfast will be performed by the landowner or their designee, who will reside on the property. Note: an unpermitted Bed & Breakfast establishment was operated from the property in recent years, without the benefit of county review. The approximately 1.25-acre parcel is currently developed with the primary residence and a garage/cottage building. No new buildings are proposed.

EVIDENCE: a) Project File: PLN-2022-17962

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with.

EVIDENCE: a) 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. The property is already host to both residential structures and no increase in the density of use would result from the proposal.

FINDINGS FOR SPECIAL PERMIT

3. FINDING The proposed development is in conformance with the County General Plan, Open Space Plan, and Open Space Action Program.

EVIDENCE a) The proposed development is consistent with the purposes of the existing Residential Agriculture (RA) plan designation applied to the area in which the site is located. The Residential Agriculture designation applies to large lot residential uses that typically rely upon on-site water and wastewater systems. The proposed project is consistent with the County open Space Plan and Open Space Action program because it involves use of existing structures on a parcel with a history of residential uses. The residences targeted for use are already used by the owner and long-term monthly tenant(s). The property abuts Elk River and is situated. Review of the site plan shows that the closest residence is located approximately 120 feet from the top of bank/riparian drip line of Elk River, consistent with Streamside Management Area and Wetland protections of the General Plan. No new structures or ground disturbance will result from the proposal.

4. FINDING The proposed development is consistent with the Guiding Principles of the Plan, including Guiding Principle #1 “Ensure that public policy is reflective of the needs of the citizenry of a democratic society as expressed by the citizens themselves.”

EVIDENCE a) The Bed & Breakfast provisions of the Zoning Regulations have existed for over thirty years, providing a permitting pathway for this land use. Though the regulations predate the advent of the internet and lodging platforms such as AirBnB, the concept remains the same. By requiring a discretionary permit, public notice is performed providing an outlet for feedback and address of localized issues.

5. FINDING The proposed development is consistent with the Guiding Principles of the Plan, including Guiding Principle #2 “Preserve and enhance the diverse character of Humboldt County and the quality of life it offers.”

EVIDENCE a) A Bed & Breakfast operated for over a year from the property before a complaint was received and the unpermitted use brought to the attention of the Planning & Building Department. Reviews on the lodging website confirm many guests enjoyed their stay at the property during that period. Through the permitting process, the applicant and staff have worked to address concerns and feedback received from neighboring property owners and occupants, and the Operations Plan and House Rules have been adjusted to institute protocols and procedures tackling these common concerns.

6. FINDING The proposed development is consistent with the Guiding Principles of the Plan, including Guiding Principle #3 “Promote and facilitate the creation of affordable housing opportunities to meet current and future demands for all income levels.”

- EVIDENCE**
- a) The Bed & Breakfast proposes utilizing the master bedroom in the owners primary residence as well as a small cottage on the property. Both homes predate the advent of local zoning regulations and are viewed as legal non-conforming. Until recently, the property was not eligible to be permitted for more than one residence due to the size of the parcel and density restrictions. The small cottage can now be considered a legal non-conforming accessory dwelling unit. Authorizing short-term rental of rooms in either dwelling does not permanently preclude them from also being used for long-term rental on a monthly basis, especially during periods of the year where tourist visitation is limited.
 - b) Spatial analysis of Department GIS information reveals that approximately 230 parcels in the Elk River watershed are zoned for agricultural or residential uses and host residential development of some sort. Conservatively assuming only one residence per parcel, authorizing the proposed project for short-term occupancy of two bedrooms would affect less than .04% of the total housing stock in this region.

7. FINDING The proposed development is consistent with the Guiding Principles of the Plan, including Guiding Principle #6 “Encourage, incentivize and support agriculture, timber ecosystem services and compatible uses on resource lands.”

- EVIDENCE**
- c) Though agriculturally zoned, the parcel is approximately 1.4 acres in size and is located in a neighborhood composed of approximately 15 parcels which are substandard to the 5-acre minimum parcel size specified for the zone. Consequently, little potential for agriculture use exists amongst these properties. The Bed & Breakfast proposal would occupancy of an existing structure so would not result in the conversion or loss of agricultural land in service of other uses.

8. FINDING The proposed development is consistent with the purposes of the existing zone in which the site is located. Additionally, the proposed development conforms with all applicable standards and requirements of the zoning regulations.

- EVIDENCE**
- a) The Agriculture General zoning district is intended to be applied in areas in which agriculture is the desirable predominant use and rural residential uses are secondary. Bed & Breakfast establishments are allowed with a Special

permit in all zones which permit cottage industries –this includes all residential zones, FR, TPZ, AE, AG, and Unclassified. A maximum of four (4) guest bedrooms may be permitted for use by a maximum of eight (8) guests. The owner or operator must reside on the premises. Staff is not aware of any prior Bed & Breakfast proposals being received or approved in the Elk River area. 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 become an issue. 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.

- b) *The applicant has requested permission to host guests of the Bed & Breakfast in bedrooms found within both the primary dwelling and detached cottage/accessory dwelling unit. However, use of a separate detached residence equipped with kitchen and full bathroom does not fully conform to the Bed & Breakfast requirements found in sections 314-44.1 and 314-172.2.1 of the Zoning Regulations, which prohibit guest rooms from including kitchen facilities and require that the structure be occupied with one-family in permanent residence. A Condition of Approval has been included restricting the Bed & Breakfast Operation to a maximum of two (2) bedrooms within the primary dwelling and requiring that the primary dwelling be occupied by the owner-operator or a designated caretaker-operator during all times that the Bed & Breakfast is being operated. The Condition also prohibits use of the cottage/ADU as part of the Bed & Breakfast operation but allows for occupancy by up to two (2) persons and leasing on a monthly or longer-term basis.*
- c) *Leasing of a fully-equipped detached residential dwelling unit without an on-site resident family more closely conforms to the provisions for Vacation Home Rental currently found in sections 314-37 and 314-157 of the Zoning Regulations, which permit “the transient use of single-family and duplex dwelling units” without an on-site caretaker or operator, but currently only within the inland portion of the Shelter Cove subdivision. On June 16th, 2023 draft amendments to this section of the Zoning Code were introduced for public review. The amendments are intended to further address and expand regulation of Short-Term Rentals (STR’s) of the sort currently regulated under the Vacation Rental “V” Combining zone provisions of the code. The first public meeting was held via zoom on June 28th. On June 6th the Board of Supervisors adopted a temporary moratorium on the establishment and permitting of short-term rentals, to reduce liability and speculation during the legislative process, which will include further public review, and forthcoming 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. The current limitations of the V combining zone and recently adopted short-term rental moratorium preclude authorizing rental of the detached cottage on a less-than-monthly basis.

- d) The project meets or exceeds all applicable setbacks for the AG zone. Because the parcel is substandard to the minimum lot size, the setbacks are as follows:

Minimum front setbacks are twenty (20) feet and rear setbacks are ten (10) feet, and the side setbacks are five (5) feet. Project as proposed meets all required yard setbacks. Maximum building height is 35 feet, which the proposed project currently meets. Both residences predate the advent of zoning and building regulations. No new development is proposed.

- e) The parcel is served by an existing on-site waste treatment system and well. The proposal has been reviewed by the Environmental Health Division who recommend approval of the proposal. They note in their review that septic and water use levels are comparable amongst short-term and long-term rentals, and that use is ultimately tied to the number of available bedrooms. No new or additional bedrooms are proposed to be developed or used as part of the proposal and there are no known issues with the existing on-site waste treatment system or well. A condition of approval has been included requiring that the existing system pass a hydraulic load test performed by a qualified professional or qualified service provider before operation of the Bed & Breakfast may resume.

- f) The property owner has noted that during past operation: *“Eighty percent of my 30+ day renters in the cottage have had 2 cars, 60% in the master bedroom. It was fairly rare, for short-term renters place to have more than one car, no more than 10-15%.”*

Given this, it appears that traffic volumes are generally less under a short-term rental scenario. Therefore, traffic impacts should not exceed baseline levels and may in fact be less.

9. FINDING

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE

- a) The site is not included in the County’s currently adopted Housing Inventory and the property currently exceeds the permissible density allowed under the General Plan.

10. FINDING

The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) 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. A Condition has been included (COA #6) requiring that the applicant establish and enforce standard protocols for guest conduct. The Condition also 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.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permit for Nancy Young, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference,

Adopted after review and consideration of all the evidence on **July 20, 2023**.

The motion was made by Commissioner _____ and seconded by Commissioner _____ and the following ROLL CALL vote:

AYES: Commissioners:
NOES: Commissioners:
ABSTAIN: Commissioners:
ABSENT: Commissioners:
DECISION:

I, John H. Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.

John H. Ford, Director,
Planning and Building Department