



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda Special Meetings

Monday, April 12, 2021

3:00 PM

Via Video Conference

Administrative Public Hearing for Minor Use Permit (MUP 3-21)

PLEASE TAKE NOTICE.

DUE TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20 WHICH SUSPEND CERTAIN REQUIREMENTS OF THE BROWN ACT, AND THE ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MENDOCINO TO SHELTER IN PLACE TO MINIMIZE THE SPREAD OF COVID-19, THIS PUBLIC HEARING WILL BE VIA TELECONFERENCE HELD ON APRIL 12, 2021.

In compliance with the Shelter-In-Place Orders of the County and State, this meeting will be closed to the public. The meeting will be live-streamed on the City's website at city.fortbragg.com and on Channel 3. Public Comment regarding matters on this agenda are restricted to electronic, written or in real time via Zoom webinar. Electronic comments should be emailed to Administrative Assistant Joanna Gonzalez, jgonzalez@fortbragg.com, prior to 12:00 PM on the day of the meeting. Written comments may be delivered before 12:00 PM. on the day of the meeting by using the drop-box for utility payments to the right of the front door at City Hall, 416 N. Franklin Street.

We appreciate your patience and willingness to protect the health and wellness of our community. If you have any questions regarding this meeting, please contact the City at (707) 961-2827 ext. 111 or jgonzalez@fortbragg.com.

ZOOM WEBINAR INVITE

You are invited to a Zoom webinar.

When: Apr 12, 2021 03:00 PM Pacific Time (US and Canada)

Topic: MUP 3-21 Public Hearing

Please click the link below to join the webinar:

<https://zoom.us/j/92322579180?pwd=S3VjcVN2aW15SUIRUTRwWFFBdmxHdz09>

Passcode: 760233

Or One tap mobile :

*US: +16699009128,,92322579180#,,,,*760233# or +12532158782,,92322579180#,,,,*760233#*

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

*US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799
or +1 646 558 8656*

Webinar ID: 923 2257 9180

Passcode: 760233

International numbers available: <https://zoom.us/u/acGMRhP41j>

[21-128](#)

Receive Report, Conduct a Public Hearing and Consider Approval of Minor Use Permit (MUP 3-21) to Construct a 900 Square Foot Accessory Dwelling Above a 2 Car Garage in the Medium Density (RM) Residential Zoning

- Attachments:** [04122021 MUP 3-21 Staff Report for ADU](#)
[Attachment A- Site Vicinity Photos & Shadow Analysis](#)
[Attachment B - Applicant Comments](#)
[Attachment C – Hearing Request from Kathy Silva](#)
[Attachment D – Hearing Request from Laura Rubin](#)
[Attachment E- Public Comments](#)

STATE OF CALIFORNIA)
)ss.

COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on April 9, 2021.

 Joanna Gonzalez,
 Administrative Assistant Community Development

NOTICE TO THE PUBLIC



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-128

Agenda Date: 4/12/2021

Version: 1

Status: Business

In Control: Special Meetings

File Type: Staff Report

Agenda Number:

Receive Report, Conduct a Public Hearing and Consider Approval of Minor Use Permit (MUP 3-21) to Construct a 900 Square Foot Accessory Dwelling Above a 2 Car Garage in the Medium Density (RM) Residential Zoning

DECISION DATE: April 12, 2021

PREPARED BY: K. Locke

DECISION BY: J. Smith

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: Minor Use Permit 3-21 (MUP 3-21)

OWNER: Benjamin & Joanna Gonzalez

APPLICANT: Same as owner

AGENT: Same as owner

PROJECT: Minor Use Permit to construct a two-car garage and accessory dwelling unit above the garage

LOCATION: 327 N. Corry St.

APN: 008-185-10-00

LOT SIZE: 6955 Sq. Ft. (0.15 Acres)

ZONING: RM – Medium Density Residential

ENVIRONMENTAL DETERMINATION: Categorical Exempt from CEQA pursuant to Section 15303 – new construction or conversion of small structures.

SURROUNDING LAND USES:
NORTH: Single Dwelling Unit
EAST: Single Dwelling Unit
SOUTH: Single Dwelling Unit
WEST: Single Dwelling Unit

APPEALABLE PROJECT: Can be appealed to Planning Commission
 Can be appealed to California Coastal Commission

BACKGROUND

The project site is located at 327 N. Corry Street in an area zoned for medium density residential (RM). The site is surrounded by existing residential housing and would be accessed by an alleyway to the west. **Figure 1** illustrates the general site location.

Figure 1 Project Vicinity – 327 N. Corry Street



The proposed Accessory Dwelling Unit (ADU) would have similar architectural features and color schemes to the existing single-family residence to allow the ADU to blend in with the current built environment. **Figure 2** through **Figure 5** shows the proposed elevations of the site.

The City's Inland Land Use and Development Code (ILUDC) Section 18.42.170(E)(1) requires ADU's over garages to be approved with a Minor Use Permit. The applicant applied for a Minor Use Permit on February 23, 2021. A Notice of Pending Action was mailed to property owners within 300ft , consistent with the City's noticing requirements. In addition, notices were posted on the City's website under Notice of Pending Action, and emailed to subscribers of the "Notify Me" for Current Planning Permits and Public Hearing Notices.

A written request for a public hearing was submitted prior to 5:00 PM, **March 22, 2021**. Therefore, the Director shall consider and make a decision on the proposed project on April 12, 2021. The public hearing was scheduled and noticed in compliance with Chapter 18.96.

Figure 2 North Elevation

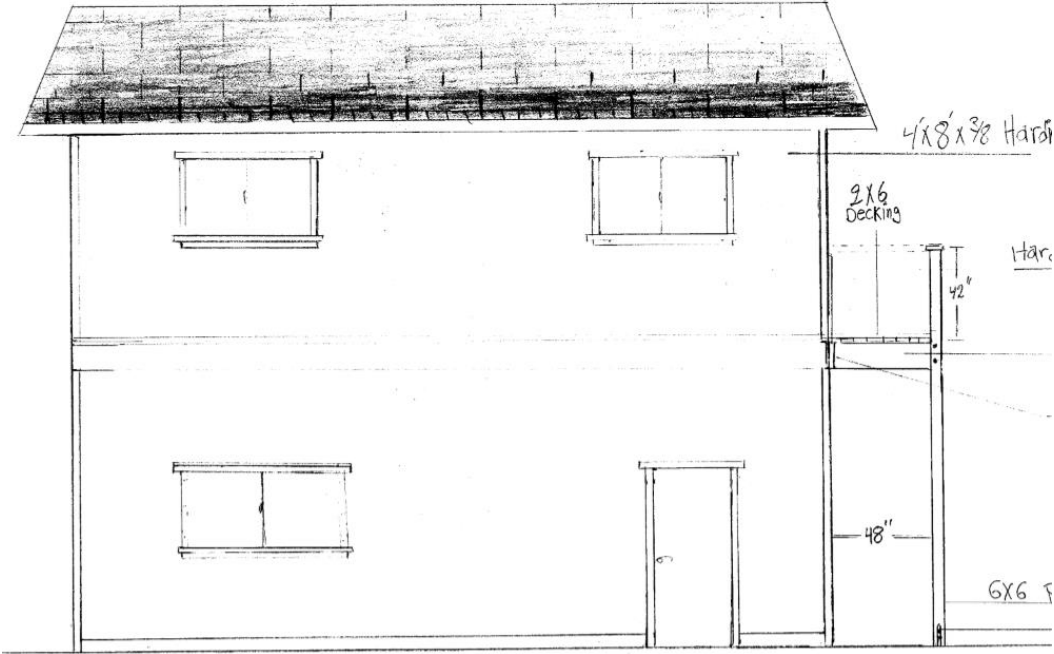


Figure 3 West Elevation

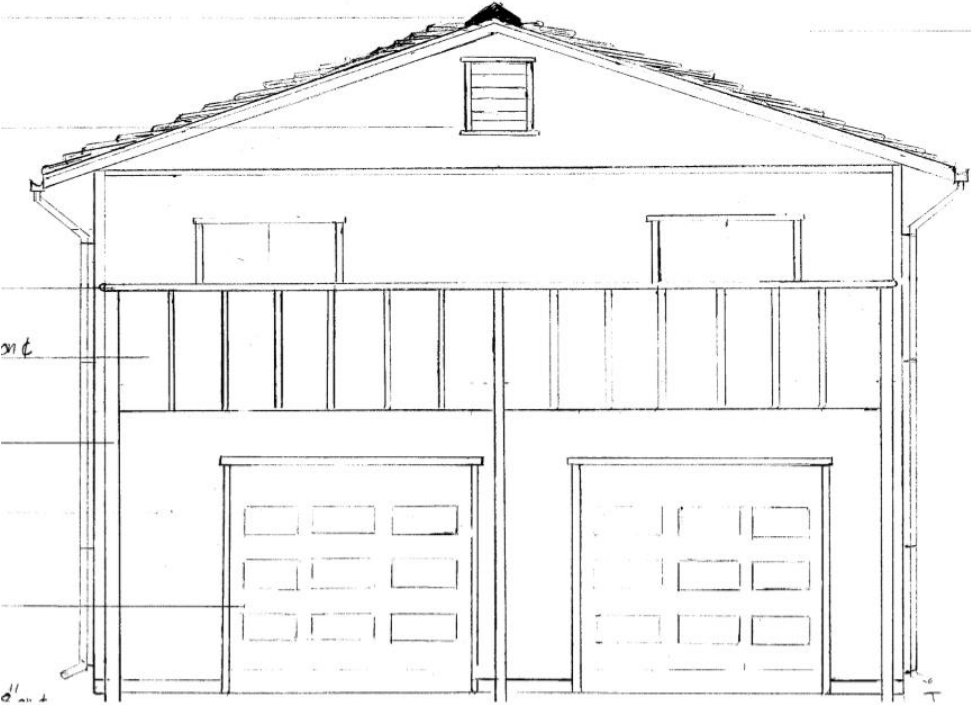


Figure 4 East Elevation

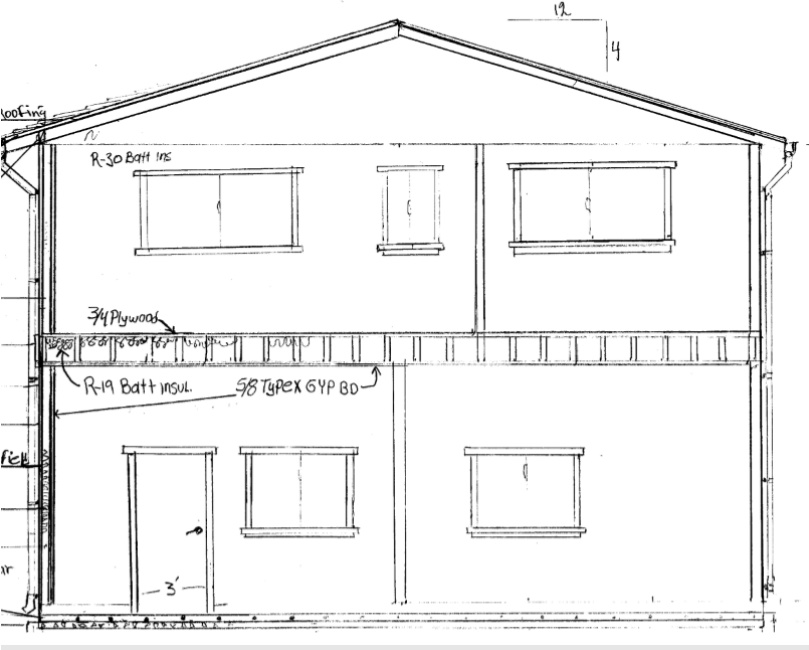
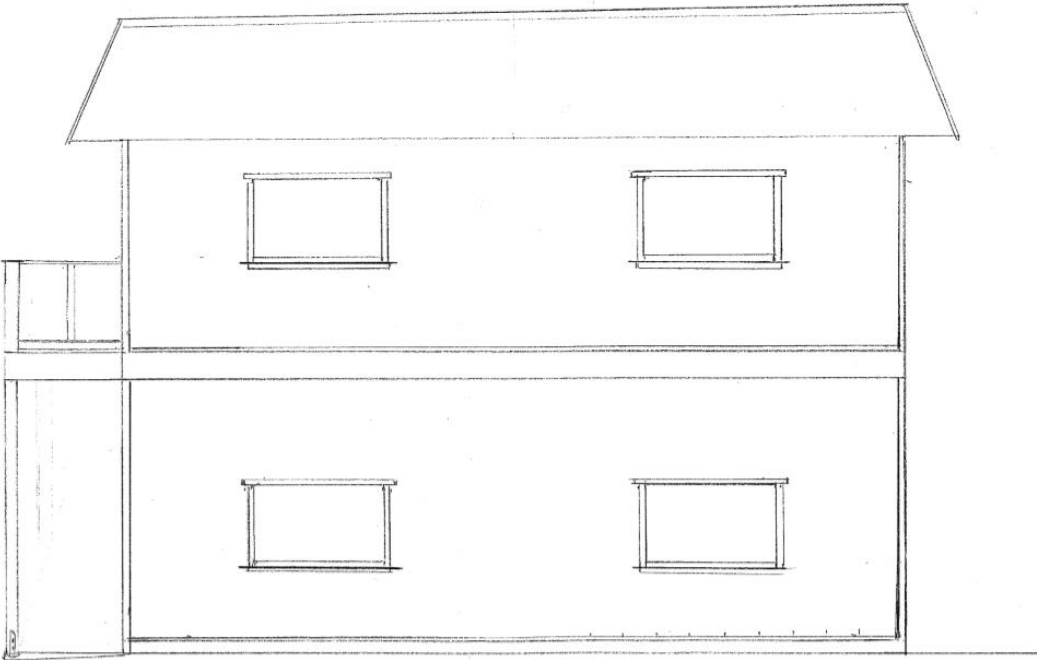


Figure 5 South Elevation



Analysis

In order to approve a Minor Use Permit, the following findings are required per ILUDC 18.71.060. Those being:

1. The proposed project use is consistent with the General Plan and any applicable specific plan.

The City’s General Plan designated the subject parcel as Medium Density Residential, which is primarily intended for a variety of housing types, including single-family homes, duplexes, triplexes, townhouses, and apartment units located in proximity to parks, schools, and public services. The proposed project is consistent with the General Plan designation and complies with the following Housing Element policies and programs:

Policy H-1.3 Secondary Dwelling Units: Continue to facilitate the construction of secondary units on residential properties.

Policy H-1.6 Infill Housing: Encourage housing development on existing infill sites in order to efficiently utilize existing infrastructure.

2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and Municipal Code.

The proposed land use, “Second Unit – ADU/JADU” is permitted in the subject parcel’s zoning designation, Medium Density Residential (RM). An accessory dwelling unit located above a garage is permitted with a Minor Use Permit. Table 1 illustrates applicable City regulations and the proposed projects compliance with these provisions.

	Requirement	Proposed Project	Compliant (Y/N)
Zoning/Land Use	RM Zoning District	Accessory Unit	Y
Setbacks			
<i>Front</i>	5’ from primary structure	35’	Y
<i>Side</i>	4’	10’	
<i>Rear</i>	4’	10’	
Height	25’ with MUP approval	24’ 6”	Y (if approved)
Floor Area	Max 1000 Sq. Ft.	900 Sq. Ft.	Y
Entrances	Separate entrance required	Separate entrance proposed	Y
Windows	No windows shall directly face windows of other units/a neighboring yard.	See analysis section three (3) for more information	Y (if approved)

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.

As stated previously, an ADU is a permitted use in the RM zoning district and would only require a building permit approval if not located above a garage. ADU's proposed above garages or other residential accessory structures require approval of a Minor Use Permit to ensure the increased height and building size is compatible with the surrounding community.

Design: The City does not conduct design review on single residential units or second units. However, there are development standards that could affect the design of an ADU located over a garage, which require further approval. Those being:

- *Height* – Based on the City of Fort Bragg's ILUDC 18.42.170(E)(1)(a) accessory structures may be allowed with a maximum height of 25ft with MUP approval. The site is located in an RM zoning district, which allows for more intensive residential development. Due to this, the proposed height of the structure would not be out of the ordinary as there are multiple other structures in the area of similar height and size. It is also not located in the vicinity of a scenic corridor meaning the height of the structure would not impact visual ridgelines.
- *Windows* – The applicant is seeking multiple windows that would need further approval. These windows would be located on the north and south elevations on the second story. Based on the ILUDC Section 18.42.170(E)(1)(e) regarding windows for ADU's,

“An ADU that is placed 20 feet or less from a residential unit on the same parcel or an adjacent parcel shall not have windows that directly face windows in the other unit. An ADU that is located over a residential accessory structure shall not have windows or balconies that directly face a neighboring yard. This limitation applies only to side yards, not to windows facing alleys.”

Within the glossary of the ILUDC, a yard is defined as “*an area between a lot line and a structure, unobstructed and unoccupied from the ground upward.*” Adjacent to the proposed ADU on the lots to the North/South are garages. This means the proposed windows would not be overlooking what is defined as a yard in the ILUDC. As well, due to the structures being garages, they would not be considered livable spaces and overlooking windows would not create an invasion of privacy. Thus, the applicant would only need to ensure that the proposed windows would not directly face windows in the other unit. There is a single window on the second story of the property to the south, which the applicant has staggered their proposed windows to accommodate this window. See **Attachment A** for photos of the surrounding structures as it pertains to the windows.

Should the decision maker determine that the window staggering is insufficient or further wish to eliminate or rearrange the window configurations shown in Figure 4

and Figure 5 above a supplemental special condition may be selected (Special Condition 1 or 2).

1. The applicant shall revise their plans to install clerestory windows on the northern and southern elevations; or
2. The applicant shall revise the window orientation to remove one second story window from each the south elevation and north elevation to allow future potential upward ADU growth on neighboring parcels to enjoy similar number/size of windows with staggering.

Location: As stated above, the proposed project would be located in Medium Density Residential, which is the zoning designation intended for single residential units and second units. There is an existing primary dwelling unit and the project adheres to the applicable setback requirements of the zoning district. As such, the location of the proposed project is compatible with existing and future land uses in the vicinity.

Size: The maximum allowable size for ADUs is 1,000 Sq. Ft. The proposed project is approximately 900 Sq. Ft. As such, the size of the proposed project is compatible with the existing and future land uses in the vicinity.

Operating Characteristics: The residential use of the proposed ADU would be similar to the residential uses of other second units and primary units in the neighborhood. In consideration of the project being a residential use in a residential zoning district, the operating characteristics would be compatible with existing and future land uses.

4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities to ensure that the type, density and intensity of the use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

The site is suitable in terms of design, location, shape, size and operating characteristics, as analyzed above. N Corry Street and the alley between N. Corry Street and N. Whipple Street provide sufficient vehicle access for emergency vehicles. The site is served by City water/sewer infrastructure, which has sufficient capacity to serve the proposed ADU. The proposed ADU is appropriate for the surrounding residential neighborhood and would not constitute a detriment.

Public Comment & Analysis

As of March 19, 2021 Staff received two requests for a public hearing regarding MUP 3-21. This section is intended to provide a record of the public comments received and allow staff to analyze these comments with the City of Fort Bragg ILUDC. Based on the analysis, staff will also provide recommendations or alternatives to the director, which he/she shall decide upon at their own discretion.

Public Commenter: Kathy Silva

Comment	Analysis	Identified Alternatives
<p>“The proposed two-story building will create significant loss of morning sunlight that enters the windows of our home, creating an unhealthy living situation. This issue can be resolved by moving the proposed building eastward, 5 to 10 feet, as the impact of overshadowing diminishes with distance. The overshadowing could also be resolved by building a one-story residence.</p>	<p>Within the ILUDC there is no mention of shadows as it relates to loss of light or shading of another structure. Therefore, the code will not be able to be used in regulating an ADU’s shadowing of another lot. The director will need to make a decision at their discretion.</p>	<p>Staff has identified a special condition for review by the director.</p> <p>Supplemental Condition #4: The applicant shall revise their plans and move the ADU back another five feet from the rear property line.</p>
<p>The site plan contradicts itself. Some pages show a 4’ wide deck on the west side of the building. The drawing of the entire lot shows the building at the minimum 10’ setback with no deck on the west side. A second-story deck cannot extend into the 10’ setback.</p>	<p>Within the ILUDC Section 18.42.170(E)(b) it states “an ADU shall have a minimum rear and side setback of 4 feet.” The applicant is well beyond the ILUDC setback requirement.</p> <p>The site plan does not show the proposed deck as it does in the building elevations. Staff has been aware of this issue, but felt it was unnecessary for the applicant to redraw their plans at time of review.</p>	<p>Staff has identified a special condition for review by the director:</p> <p>Supplemental Condition #5: The applicant shall revise their site plan to show the proposed deck prior to building permit submittal.</p>
<p>“The site plan shows a concrete driveway. Our alley is impassable by foot when it rains, flooding down the</p>	<p>The applicant has been amicable to using a permeable surface but based on the ILUDC Staff is unable to regulate their decision. The</p>	<p>N/A</p>

<p>center and then across its entire width on the northern third. It is already difficult for people to walk to the library or park after a rain without going out into the street to avoid getting their feet wet. If the driveway is not made of a permeable material, the excess runoff will greatly compound the flooding. The site plan should show a permeable material, not just “concrete.”</p>	<p>applicant already complies with storm water regulations in the City.</p>	
<p>The site plan should be corrected before approval to show what is actually being proposed and where it will be situated. And the verbal assurances from staff should be added in writing: the deck will have solid sides; the french doors will not be placed directly across from any of our windows; it will not be possible to see into our windows through the windows of the french doors; the deck will not extend into whatever setback will be required; the driveway will permeable.</p>	<p>Staff believes that this is a reasonable request.</p>	<p>Staff recommends the following condition:</p> <p>Supplemental Condition #6: The applicant shall revise their plans prior to building permit approval to specifically demarcate any architectural features which may be indistinguishable on the elevations.</p>
<p>No residential alley in Fort Bragg has 2 two-story buildings directly across from each other. It is a healthy practice, allowing sunlight exposure and avoiding overcrowding the alleyways. The staff report states that there are multiple other structures in the area of similar height and size, but the only other two-story dwelling on the alley is our home directly across from the location of the proposed project. And all of the existing buildings, on every lot on our alley, have</p>	<p>Within the Inland General Plan Land Use Element: Medium Density Residential zones allows for 6-12 dwelling units per acre and/or up to 30 persons per acre (at a rate of 2.5 persons per household). The proposed ADU would not intensify the area enough to reach these thresholds. As well, while the proposed ADU would add another structure in the alley, the alleys are already mainly lined with residential structures directly facing each other so it would not create an intensification that is not already relatively common in the area and in Fort Bragg.</p>	<p>N/A</p>

little to no setback, making it an already crowded alleyway.		
It is not only the loss of sunlight into our home that is detrimental. Mold and mildew are ubiquitous in Fort Bragg. A lack of sunlight on a building exacerbates that health hazard. Moving the building east will help prevent that growth.	See initial public comment analysis regarding shade.	N/A

Public Commenter: Laura Rubin

Comment	Analysis	Identified Alternatives
I am concerned about new residents peering into the neighboring yards.	See analysis section three regarding windows.	N/A
I am concerned about additional traffic on a block and alley that are already congested.	The applicant is proposing two off street garage parking spaces, which would prevent any further congestion along the alley.	N/A
I am concerned about a new two-story building looming over the neighborhood.	As stated within the staff report, there are numerous two-story buildings in the vicinity and the proposed structure would not create an intensification of the area that is not already common.	N/A

Recommendation

Staff recommends approval of Minor Use Permit 3-21 based on analysis, findings, and conditions contained herein.

General Findings

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the General Plan, Inland Land Use and Development Code (ILUDC) and the Fort Bragg Municipal Code;
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
3. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located;
4. The project complies with Specific Use Regulations established for the project; and
5. For the purposes of the California Environmental Quality Act (CEQA), this project was found to be exempt under Section 15303 – New Construction or Conversion of Small Structures.

Use Permit Findings

1. The proposed use is consistent with the General Plan and any applicable specific plan;
2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

Standard Conditions

1. This action shall become final on the 11th day following the decision unless an appeal to the City Council is filed pursuant to ILUDC Chapter 18.92 - Appeals.
2. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless

an amendment has been approved by the City. Any condition directly addressing an element incorporated into the application exhibits shall be controlling and shall modify the application. All other plans, specifications, details, and information contained within application shall be specifically applicable to the project and shall be construed as if directly stated within the condition for approval. Unless expressly stated otherwise, the applicant is solely responsible for satisfying each condition prior to issuance of the building permit.

3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State, and Federal agencies having jurisdiction. All plans submitted with the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.
5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.
7. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
8. Unless a condition of approval or other provision of the Coastal Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with ILUDC Subsection 18.76.070 (B).

Supplemental Conditions (Conditions 1 and/or 2 shall only apply if certain findings are determined to be inadequate)

1. The applicant shall revise their plans to install clerestory windows on the northern and southern elevations.
2. The applicant shall revise the window orientation to remove one second story window from each the south elevation and north elevation to allow future potential upward ADU growth on neighboring parcels to enjoy similar number/size of windows with staggering.
3. The applicant shall apply for addressing of the new unit prior to final occupancy.

NOTIFICATIONS:

1. Applicant applied for Minor Use Permit on February 23, 2021.
2. Property owners within 300' were mailed a Notice of Pending Action on March 11, 2021.
3. Notice of Pending Action was posted in the City's kiosk on March 11, 2021.
4. "Notify Me" for Public Hearing Notices were emailed out on March 11, 2021.
5. Written requests for a public hearing must be submitted prior to 5:00 PM, March 22, 2021.
6. Interested party submitted request for a public hearing prior to 5:00PM, March 22, 2021.
7. Property owners within 300' were mailed a Notice of Public Hearing on April 1, 2021.
8. Notice of Pending Action was posted in the City's kiosk on April 1, 2021.
9. "Notify Me" for Public Hearing Notices were emailed out on April 1, 2021.

Attachments:

Attachment A – Site Vicinity Photos



Figure 1 – View toward the North



Figure 2 – View towards the South

Public Works Director, John Smith
416 N. Franklin St. Fort Bragg Ca, 95437

Greetings Director Smith,

As the applicant of MUP 3-21, I have reviewed the public comments and would like to address the concerns of my neighbors.

First, I would like to mention that the neighboring properties and my future tenants' well-being and comfort were taken in to consideration during the design and planning phases of my project.

1. I am proposing a generous 10 ft setback on all 3 sides to allow ample onsite parking on the alley side and still provide my tenants an open space.
2. I am proposing 2 windows on both the north and south side to allow ample ventilation and light. Having these side windows allows me to not have to place windows on the alley side as to not create privacy issues for the existing residents or my tenant. I am proposing 2 French doors with frosted glass to allow accessibility of furniture to the second story. The proposed north and south windows will not look on to adjacent yards and have been strategically placed to adhere to the City's codes.
3. I am well aware of the City's stormwater and runoff controls and plan to keep all my buildings stormwater on site by installing copper rain gutters on both sides with downspouts that divert the water in to the french drain and flowerbeds in my yard.
4. I am sympathetic to the neighbors concern of light deprivation, mold and mildew issues, however in reality my proposed project will be more light deprived as the sun rises in the east and sets the west giving any building with southerly exposure a greater advantage. In this case the preexisting alley house across the alley from mine creates the most impact to the neighborhood. To resolve the light deprivation and mold or mildew issues in my building I am proposing adequate ventilation, windows, heat and a dehumidifying system if needed.
5. I see there is a concern with traffic in the alley. I have lived on my property for 16 years and there has never been a traffic issue. The alley is well maintained and almost every residence in the alley has off street parking. My tenants will be allowed 2 off street parking spaces.

I would like to reassure my concerned neighbors that my proposed project would not only add to the local housing stock but will also add to neighboring property values and enhance the aesthetic of our neighborhood. Being a local contractor and having been in the trade for over 23 years I know quality materials and construction and would never build or rent out a building that I myself would not live in.

I appreciate your time and consideration.

Respectfully,

Benjamin Gonzalez

Some components of my project which are beneficial to my neighbors and exceed the code requirements are:

- Setback required 4 ft, proposed 10
- No off-street parking required, proposed 2
- North and south windows do not have an unobstructed view to neighboring yards, they will look on to garage roofs not yards
- Storm water will be diverted into bioswales on site
- Neighbor's "view" is looking towards the east, and is my backyard
- Alley windows are not regulated, yet for my tenant's and existing neighbor's privacy I have not proposed any

I am not only taken by surprise by the negative responses of my neighbors, but also saddened by the fact that they are opposing that I develop my property in the same way that they have developed theirs. As proposed, my project will have conforming setbacks, regulated stormwater mitigation, off-street parking and regulated window placement. I have owned my lot for 16 years, paid over \$51,000 in property taxes, and have learned to accept the challenges of living in the city with neighbors close by. As a longtime owner of a parcel in the city limits, I am familiar with constricted on-street parking caused by neighbors or their guests in front of my house and on the alley. So even though, the recent state laws passed to streamline and improve housing stock, don't require the addition of parking spaces for ADU's, I've included them in my project to ensure my tenants have adequate off street parking and that my project doesn't unduly impact nearby properties. My neighbors are free to develop their property and live their lives without consulting me and I am perfectly content with that. The notice of pending action is sent out to inform the neighbors of development and to show that the applicant (myself) is being compliant and transparent.

I appreciate and value the concerns of my neighbors which is why I put so much thought into many components of my project. My project is compliant with the City's Land Use Codes and creates much needed housing in our community. I just want to continue to be a good neighbor.

From: [K.Silva](#)
To: [Locke Kevin](#); [Smith, John](#); [Gonzalez, Joanna](#)
Subject: Public Comment April 12 Public Hearing MUP 3-21
Date: Monday, April 12, 2021 11:53:04 AM

Please acknowledge receipt of this email and add it to the Agenda Packet. Thank you.

I believe that this project should be one story or moved 5 - 10 feet to the East, where it will still be much closer to our home than theirs, with clerestory windows in the areas that overlook neighboring properties. Knowing what and how far we can see from our windows, I believe that clerestory windows are the right thing to use.

The second story deck over the driveway is at a height of 10 feet. An ADU that provides parking “shall comply with the location and design requirements of Chapter 18.36.100.” That Chapter says “A driveway shall have an overhead clearance of 14 feet in height, except within a parking structure, which may be reduced to 7 ft. 6 in.” The deck/balcony over the driveway, allows for only 10 feet of clearance and does not comply with the requirements.

The copper gutters leading to a french drain, as mentioned by the applicant, will not catch the runoff from the driveway. How will the water be kept from running down the alley?

Most important to me, I do hope you have read my request for the Public Hearing. The second story alone of our home to the west will be subjected to a significant loss of sunlight, 2 - 3 hours this time of year as can be seen by my photos, and more or less depending upon the season. Many governmental agencies have sunlight, daylight and overshadowing requirements. Some areas have “right to light” laws that would certainly not allow this overshadowing. Allowing opposing two-story buildings in an alley, especially with little setback, will set a precedent that may be unfortunate in Fort Bragg with our high humidity creating prevalent mold and mildew issues throughout the city in areas that do not receive ample sunlight. I understand that this is a discretionary decision and I hope that you will take into account the unnecessary negative impacts that this project places on neighboring properties and that you will attach conditions that will help mitigate those impacts and allow the applicants to build their ADU.

Sincerely~
Kathy Silva

From: [K Silva](#)
To: [Locke Kevin](#); [Smith, John](#); [Gonzalez, Joanna](#)
Subject: Public Comment April 12 Public Hearing MUP 3-21
Date: Monday, April 12, 2021 11:53:04 AM

Please acknowledge receipt of this email and add it to the Agenda Packet. Thank you.

I believe that this project should be one story or moved 5 - 10 feet to the East, where it will still be much closer to our home than theirs, with clerestory windows in the areas that overlook neighboring properties. Knowing what and how far we can see from our windows, I believe that clerestory windows are the right thing to use.

The second story deck over the driveway is at a height of 10 feet. An ADU that provides parking “shall comply with the location and design requirements of Chapter 18.36.100.” That Chapter says “A driveway shall have an overhead clearance of 14 feet in height, except within a parking structure, which may be reduced to 7 ft. 6 in.” The deck/balcony over the driveway, allows for only 10 feet of clearance and does not comply with the requirements.

The copper gutters leading to a french drain, as mentioned by the applicant, will not catch the runoff from the driveway. How will the water be kept from running down the alley?

Most important to me, I do hope you have read my request for the Public Hearing. The second story alone of our home to the west will be subjected to a significant loss of sunlight, 2 - 3 hours this time of year as can be seen by my photos, and more or less depending upon the season. Many governmental agencies have sunlight, daylight and overshadowing requirements. Some areas have “right to light” laws that would certainly not allow this overshadowing. Allowing opposing two-story buildings in an alley, especially with little setback, will set a precedent that may be unfortunate in Fort Bragg with our high humidity creating prevalent mold and mildew issues throughout the city in areas that do not receive ample sunlight. I understand that this is a discretionary decision and I hope that you will take into account the unnecessary negative impacts that this project places on neighboring properties and that you will attach conditions that will help mitigate those impacts and allow the applicants to build their ADU.

Sincerely~
Kathy Silva

March 22, 2021

City of Fort Bragg

Attn: Kevin Locke, Assistant Planner

416 N. Franklin Street

Fort Bragg, CA 95437

Via Hand-delivery

To Whom it May Concern,

I am a resident living at 546 E. Laurel Street at the corner of Laurel and Corry. I have been informed that my neighbors a few houses down at 327 N. Corry Street intend to construct a new building with an alley house above a garage along the alley behind my house. I am writing to the City of Fort Bragg to request a public hearing for the permits for this new alley house and garage building as outlined in the notice of pending action for the minor use permit because I am concerned about a new two story building looming over the neighborhood, new residents peering into the neighboring yards and additional traffic on an block and alley that are already congested.

Sincerely,



Laura Rubin

546 E. Laurel Street

Fort Bragg, CA 95437



Re: 327 N. Corry MUP



Jacob Patterson <jacob.patterson.esq@gmail.com>

Reply all | ▾

Mon 3/15/2021 11:32 PM

To: Locke Kevin

Cc: O'Neal, Chantell ^

Patterson



Action Items



Kevin,

First, welcome to the City. I am encouraged that you actually have a planning background. I understand that email isn't working so I will also call you. I reviewed these materials as well as the similar MUP 2-21 assigned to Valerie and noted a potential issue. Unlike MUP 2-21, which does not have any second story windows overlooking the adjacent properties, this proposal includes second story windows on the north and south elevations. The City has guidelines about window placements for second story ADUs that overlook adjacent parcels and this project may need to be adjusted accordingly. Please treat this email as a written request for a public hearing on MUP 3-21.

Thanks,



On Fri, Mar 12, 2021 at 2:44 PM Locke Kevin <Klocke@fortbragg.com> wrote:

Good Afternoon Mr. Patterson,

I was recently informed that you would like to view the application materials for Minor Use Permit 3-21. Attached you will find the application and Site Plan + Elevations. Please let me know if you have any questions.

Have a great weekend!

Kevin Locke

Kevin Locke

Assistant Planner

City of Fort Bragg

[416 North Franklin Street](#)

[Fort Bragg, CA 95437](#)

Phone: 707-961-2823 ext. 114

Sent: Friday, March 12, 2021 8:49 AM

To: Locke Kevin <Klocke@fortbragg.com>

Subject: FW: Request to review planning permit application materials

Hi Kevin,

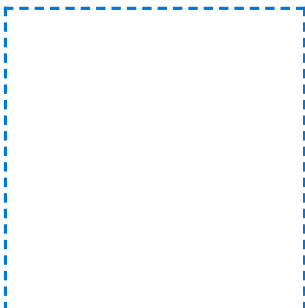
Please provide Mr. Patterson with the application materials for Minor Use Permit 3-21.

Thank you,

Joanna Gonzalez, Administrative Assistant

Community Development

(707)961-2827 ext 111





From: Jacob Patterson <jacob.patterson.esq@gmail.com>

Sent: Thursday, March 11, 2021 3:05 PM

To: O'Neal, Chantell <COneal@fortbragg.com>; Gonzalez, Joanna <JGonzalez@fortbragg.com>

Cc: Miller, Tabatha <TMiller@fortbragg.com>

Subject: Request to review planning permit application materials

Chantell & Joanna,

The City has removed the application materials from the public website so little to no information about pending project is available for public review without making an appointment to do so despite City Hall not being open to the public. I would like to review the relevant project information for all pending and active planning projects that I used to be able to review electronically without having to request access from City staff. This includes the project information for the Caltrans Highway One project, the Dollar General project, the two 2021 MUPs for garages with second story ADUs that were just noticed today, and any other permit application that has been submitted to the City.

If this needs to be done in person now I am willing to do so--I have also already been vaccinated for Covid-19--but I prefer electronic review that doesn't involve having to come in for in-person review of physical records. Please advise.

Thanks,

--Jacob

Email correspondence with the City of Fort Bragg (and attachments, if any) may be subject to the California Public Records Act, and as such may therefore be subject to public disclosure unless otherwise exempt under the Act.

Gonzalez, Joanna

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Thursday, April 08, 2021 8:53 AM
To: Locke Kevin; Gonzalez, Joanna
Subject: Re: 327 N. Corry MUP

Also, shifting the building five feet further to the east (per the new staff report that attempts to respond to the concerns of neighbors), would result in exposing more of the neighboring yards to the proposed building, including the second-story windows overlooking the yards. The revised site plan needs to show the locations of the neighboring structures to the north and south of the proposed building to address compliance with ILUDC requirements if the windows are not removed or replaced with clerestory windows above the eye line of building occupants.

On Thu, Apr 8, 2021 at 8:37 AM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
Kevin,

First, I am not sure why the agenda lists Joanna as the contact email address for public comments since this is her and her husband's application and I don't think City staff should be involved in a project review for a permit they are requesting in any way, including not facilitating the meeting or application materials or other documents in the record for this review. I am a little concerned that this project appears to be receiving special treatment compared to permit reviews for second story ADUs over a garage that were submitted by applicants who do not work in the City's Community Development Department, particularly concerning the north and south facing windows that face the adjacent property. Regardless, please include this as a public comment for the MUP 3-21 hearing on April 12, 2021.

I want to bring your attention to an applicable policy from the Inland General Plan that relates to the written request for a public hearing from Kathy Silva:

Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post-project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.

Although we do not have an Inland General Plan policy requiring permeable paving in the inland zone of the City like we do in the coastal zone, Policy OS-6.3 deals with some of the same issues, namely reducing stormwater runoff from projects. The applicant is proposing gutters that connect to a french drain that will retain stormwater that falls onto the roof of the proposed ADU. That is a good start; however, the gutters and on-site french drain do nothing to address the stormwater runoff from the new proposed hardscaping in the parking area to the west of the proposed building and the alley and stormwater retention from that area directly adjacent to the alley is of concern based on public comments. The best way to address this very real issue and make this project consistent with Policy OS-6.3, is to require a driveway trench drain (see below) at the edge of the paved parking area that captures stormwater runoff from the paved area and also connects it to the on-site french drain. Driveway trench drains are either constructed just inside the connection between the driveway and parking area and the paved alley or along/in front of the structure near the garage doors if the parking area is graded to drain away from the alley or street. I recommend a special condition requiring a trench drain to address these particular concerns from neighbors. Permeable paving would also be a good idea, although likely unnecessary if the drain is sized appropriately to handle all stormwater from the paved parking and driveway area.



The project requires another special condition to comply with ILUDC section 18.42.170. The north and south windows that directly face the adjacent yards should also be removed or replaced with clerestory windows that will still allow light and cross ventilation but which eliminates windows that directly face adjacent residential units or the neighboring yards because they are at a height that is above the eye level of building occupants. (See below for why the City's definition of "yard" is different than it is described in the staff report.) Please note that the building to the south if this project is, in fact, a residential unit with the address of 321 1/2 N. Corry Street, and not simply a residential accessory structure, with separate electrical service as well as phone and cable connections.



These two additional special conditions and design adjustments will allow the City to approve MUP 3-21 should the Acting Community Development Director see fit to approve it, which is recommended to remain consistent with the City housing element, another important part of the Inland General Plan.

Thanks,

--Jacob

On Mon, Mar 29, 2021 at 6:07 PM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
Kevin,

First and as always, no one at the City can rely on anything in my email messages as legal advice since I am not representing the City in these matters and you should direct any interpretive questions to the City's legal counsel. Anyway, I just skimmed the staff reports and saw how you addressed this particular issue. I also reviewed the glossary definition of yard that you reference but I want to point out that the language concerning the definition of yard is technically, albeit only slightly, different than how it is applied in the report (e.g., you appear to exclude the unoccupied setback areas next to the accessory structures in the yards behind the primary residences in the adjacent lots to the north and south of the lot for this project). To the best of my knowledge and recollection, the City hasn't been excluding those areas from the definition of yard or the protections of 18.42.170 even though there is an unoccupied lot area "gap" that isn't explicitly addressed by the language of the definitions for yard, front yard, rear yard, and side yard (i.e., the setback areas I just mentioned next to accessory structures within rear yards).

Yard. An area between a lot line and a structure, unobstructed and unoccupied from the ground upward, except for projections permitted by this Land Use and Development Code. See also "Setback," and § [18.30.100](#) (Setback Requirements and Exceptions).

- 1. Front Yard.** An area extending across the full width of the lot between the front lot line and the primary structure.
- 2. Rear Yard.** An area extending the full width of the lot between a rear lot line and the primary structure.
- 3. Side Yard.** An area between a side lot line and the primary structure extending between the front and rear yards.

Here, "yard" has a general definition and then specific sub-types of yards are addressed with their own definitions after the general definition. The primary structure on a residential property is the house or multi-unit building itself rather than any accessory structure like garages, other outbuildings, or ADUs. The City's specific definitions for front, rear and side yards do not clearly carry forward the "unobstructed and unoccupied from the ground upward" language from the definition that applies to the yard in general because those definitions only exclude areas occupied by the primary structure rather than accessory structures. These definitions indicate that a lot's "yard" is everything that isn't occupied by the primary structure with front, rear, and side yards being defined in relation to the primary structure and the respective lot lines. (The cross reference to the definition of "setback" complicates things a bit because setbacks are smaller than a lot's "yard" areas but all areas within setbacks are necessarily included as part of a lot's yard.) By inference, front and rear yard areas include those areas occupied by accessory structures, although the code might be viewed as confusing because the general definition excludes areas occupied by structures even though the more

specific definitions for specific types of yards do not exclude anything that isn't occupied by the primary structure. (Although inconsistent with past practices, a very literal reading of 18.42.170 might be interpreted to only prohibit second-story windows that directly overlook the side yard areas next to primary structures in the adjacent parcels and not any part of the rear yards at all; however, I believe that the City has consistently interpreted the ILUDC to prohibit second-story windows in ADUs above accessory garages that directly overlook adjacent side and rear yards and only allow second story windows overlooking rear yards in the lot across the alley or across the rear lot line from the proposed ADU if there is no alley between the rear yards of both lots.)

In fact, a rear yard is defined as the entire area between the primary structure and the rear lot line with no mention of areas occupied by residential accessory structures like garages or ADUs. In the least, that would include any of the yard area within the setbacks where no other structures are obstructing or occupying that area from the ground upward, including the strip next to existing buildings. At most, it would include the entire portion of the lot that is between the primary residence (or other primary structure if it isn't a residential unit) and the rear lot line in or along the alley, including areas occupied by accessory structures. The general definition of yard clearly includes all areas on a lot that aren't occupied by a structure, which would also include portions of the lot within the side and rear setbacks and/or yards that aren't occupied by accessory structures (e.g., the yard area between the side lot line and the existing accessory structures in the rear and side yards of the adjacent parcels). Based on how I read these connected provisions, a lot containing an existing accessory structure doesn't magically exclude the portions of the yard that happen to run along the sides or to the rear of an accessory structure even if some portions of a lot's yard are not protected from overlooking windows by 18.42.170 (i.e., the rear yard of the lot across the alley from the second-story ADU and possibly the portion of a rear yard behind an accessory structure in neighboring lots on the same side of the alley as the proposed second-story ADU, which is usually just dedicated to parking along the alley and the accessory structure). The only time there would be no yard in the adjacent lot directly next to the windows of the proposed ADU is if the adjacent lot has an existing structure (likely non-conforming) that sits right on the lot line within the normal setback area or the ADU is proposed for a corner lot with an adjacent parcel with a yard only on one side of the proposed ADU rather than both sides. Otherwise, there is always a portion of that lot's yard within the side or rear setback, including those areas between the accessory structure and the (common) side lot line that is behind the primary residence between it and that adjacent lot's rear lot line. As such and in line with past practices, it appears that the second story windows on the north and south elevations of the proposed ADU "directly face" the neighboring yards even if the area of the neighboring yard that those windows face is only a narrow strip between the existing accessory structures and the side lot line between the adjacent lots.

Regards,

--Jacob

Gonzalez, Joanna

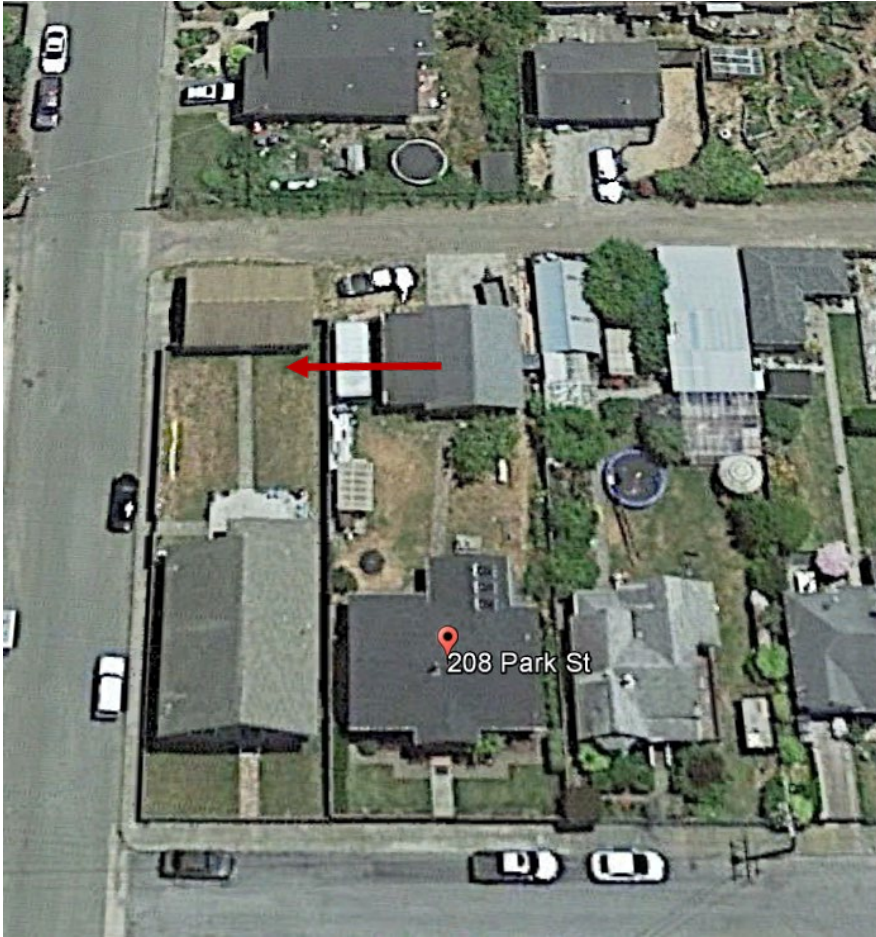
From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Thursday, April 08, 2021 11:30 AM
To: Locke Kevin
Cc: Gonzalez, Joanna
Subject: Public Comment -- MUP 3-21
Attachments: Second Story ADU - 321 S. Whipple and 208 Park Street.pdf

Kevin,

See the attached window analysis from two recent second story ADU MUP applications. This type of visual analysis is missing from the staff report and agenda materials for MUP 3-21. In light of the staff recommendation to further shift the proposed second story ADU eastward five additional feet from the location proposed by the applicant in response to neighborhood compatibility concerns raised in the written request for a public hearing, this type of "neighboring yard" window placement analysis is even more necessary for the review for MUP 3-21 to evaluate the window placement for the northern and southern elevations of the proposed second story ADU. I recommend that it be prepared and presented during the administrative public hearing to ensure that no windows directly overlook any of the rear or side yard areas on the neighboring lots.

Regards,

--Jacob



208 Park Street

Staff determined window placement looked directly into neighboring yard



321 S Whipple Street

Staff determined windows looked directly onto roof of neighboring structure to south, and parking area to the north

From: [Locke Kevin](#)
To: [Gonzalez, Joanna](#)
Subject: FW: 327 N. Corry Public Noticing/Application Materials
Date: Friday, April 09, 2021 1:54:53 PM

Hi Joanna, can you add this comment to the agenda packet?

-----Original Message-----

From: socorro@mcn.org <socorro@mcn.org>
Sent: Friday, April 9, 2021 12:44 PM
To: Locke Kevin <Klocke@fortbragg.com>
Subject: Re: 327 N. Corry Public Noticing/Application Materials

Kevin,

These are our comments to be added to the agenda packet during the public hearing Monday April 12, 2021.

We are concerned about the windows on the Upper Floor East Side and North side both of which have an unobstructed view of our back yard eliminating all privacy.

Next we are concerned about the added traffic and parking in the alley which is already a problem. If they have added vehicles visiting where would they park?

If they are planning on accessing the Unit from Corry street that would add an extra burden for parking on the street.

I also think that because of the late notification that we should be given more time to look over all the details. My Mother who owns the property is 86 years of age, she does not get the local paper and does not have a computer to access the website. The neighbors who are requesting the addition did not communicate this to her. She was shared this by the neighbors on the west side just yesterday afternoon 4/8/2021.

Please also note that if you check your files there have been other mailings from the City sent to 335 N Corry Street which we have responded to immediately. If there have been 2 other mailings on this matter which address were they sent to?

Thank you for your attention on this matter.
Bonnie Cutler on behalf of Ofelia Ybarra
707 734-3300

> Good Morning Bonnie,
> I apologize that you never received any of the public noticing
> letters. We confirmed that you are on the mailing list and your
> address is correct. We mailed out letters to your address on March 18
> and April 1 so we have no idea why you wouldn't have received them. Again, we do apologize for this.
> For future reference, these notifications are also posted in the
> newspaper and on the cities website.
>
> Nevertheless, I have attached the Notice of Public Hearing which
> includes the phone numbers you may call in on for the meeting on
> Monday April 12, at 3PM, the staff report for the ADU, and the stand
> alone application materials (site plan & elevations). Please send over
> any comments in writing and we can add it to the agenda packet, or you
> simply may speak during the public hearing.
>
> Thank you!
>

- > Kevin Locke
- > Assistant Planner
- > City of Fort Bragg
- > 416 North Franklin Street
- > Fort Bragg, CA 95437
- > Phone: 707-961-2823 ext. 114
- >
- > Email correspondence with the City of Fort Bragg (and attachments, if
- > any) may be subject to the California Public Records Act, and as such
- > may therefore be subject to public disclosure unless otherwise exempt
- > under the Act.
- >