

**DECISION DATE:** April 26, 2021

**PREPARED BY:** V. Stump

**DECISION BY:** J. Smith

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** Minor Use Permit 2-21 (MUP 2-21)

**OWNER/APPLICANT:** Annie Gould

**AGENT:** Debra Lennox

**REQUEST:** Minor Use Permit to construct a new garage with an Accessory Dwelling Unit (ADU) above

**LOCATION:** 451 N McPherson Street

**APN:** 008-092-16-00

**LOT SIZE:** 6928 sf. (0.159 ac.)

**ZONING:** CBD – Central Business District

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

**SURROUNDING LAND USES:**

NORTH:	Single Dwelling Units
EAST:	Single Dwelling Unit
SOUTH:	Single Dwelling Unit
WEST:	Commercial Unit

**APPEALABLE PROJECT:**

- Can be appealed to Planning Commission
- Can be appealed to City Council
- Can be appealed to California Coastal Commission

### BACKGROUND

No previous permits on file for this address.

## PROJECT DESCRIPTION

The applicant wants to construct a 672 sf. garage with a 598 sf. accessory dwelling unit above.

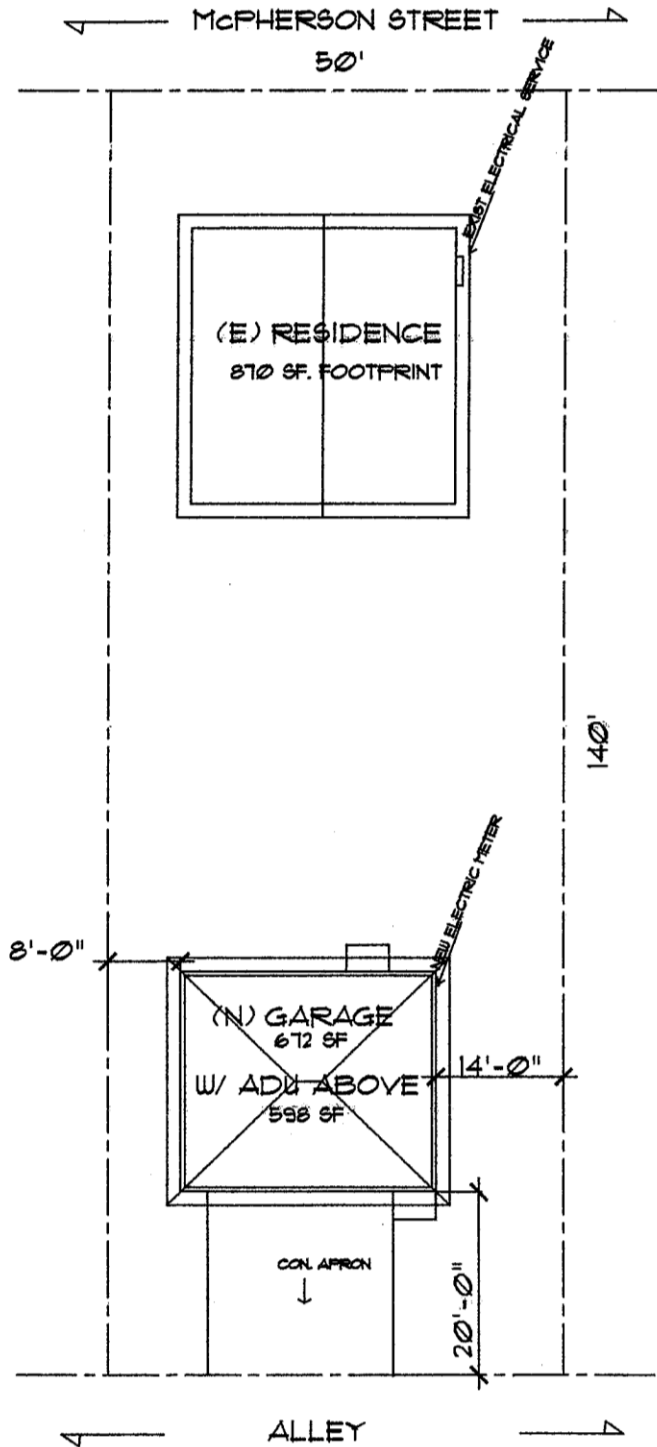


Image 1: Project Location – 451 N. McPherson St.

The Fort Bragg City Inland Use and Development Code (ILUDC) Section 18.42.170 (E) (1) requires that ADUs built over a garage are allowed only with a Minor Use Permit. The applicant applied for a Minor Use Permit on February 22, 2021. A Notice of Pending Action was mailed to property owners within 300 feet, consistent with the City's noticing requirements. In addition, a notice was posted in the City's kiosk and emailed to subscribers of the "Notify Me" for "Public Hearing Notices."

Unless a written request for a public hearing is submitted prior to 5:00 PM, March 22, 2021, the Director shall consider and make a decision on the proposed project. In the event a public hearing is requested, the public hearing will be scheduled and noticed in compliance with Chapter 18.96

Below are attachments that roughly illustrate the scope of the project. The attachments include the plot plan and the north, south, east, and west elevations.

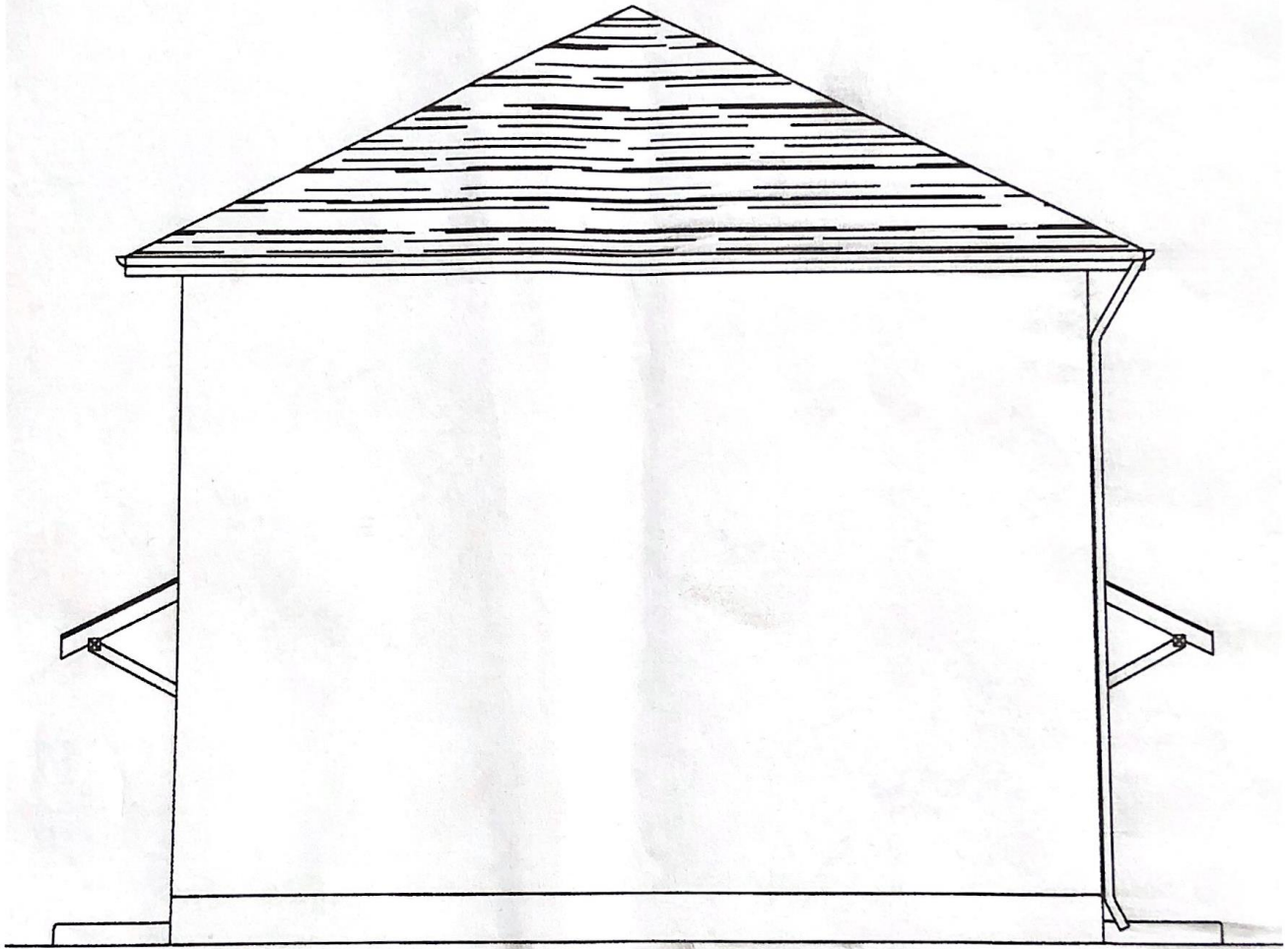


NORTH

**PLOT PLAN**

SCALE: 1" = 20'

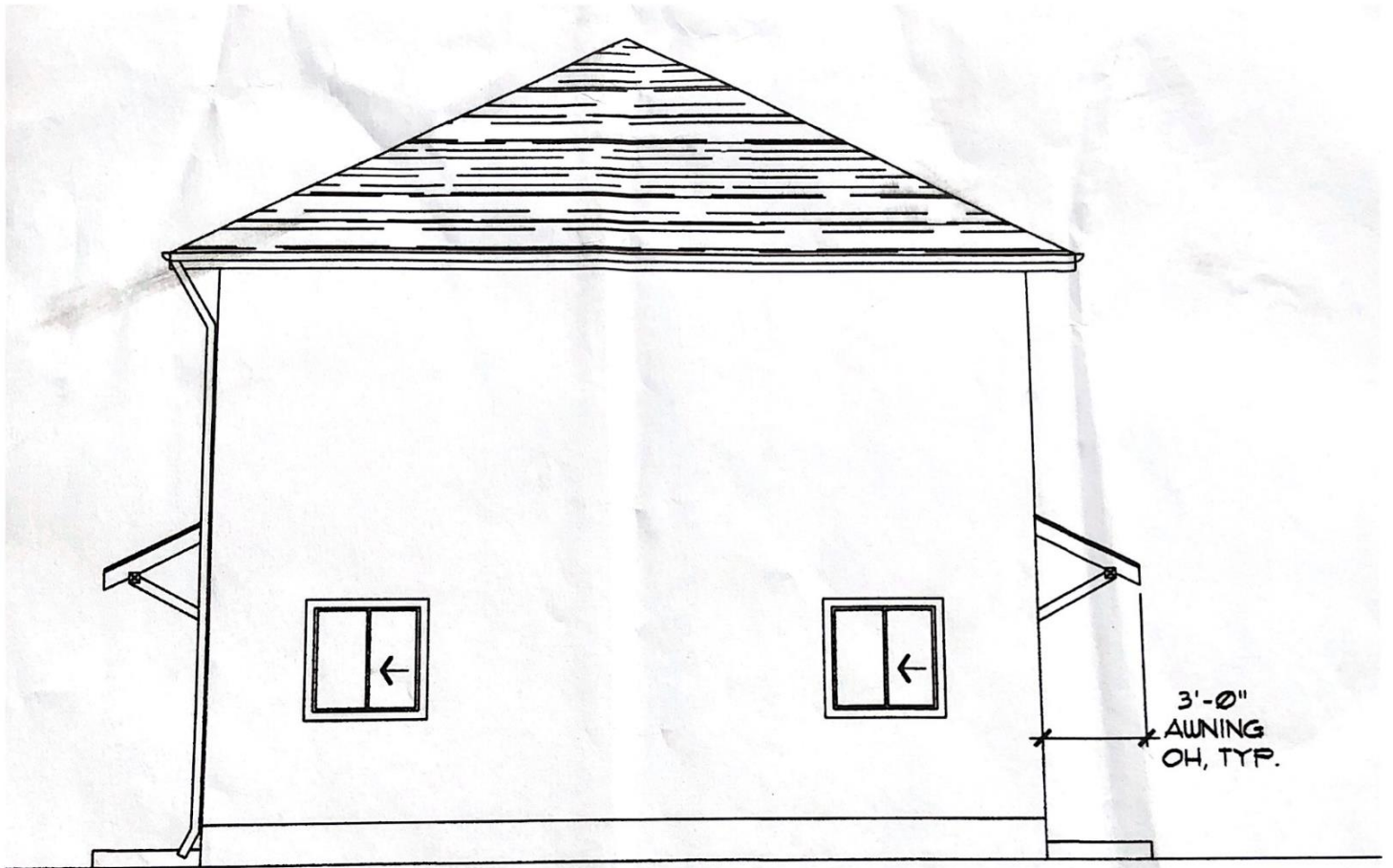
Figure 1: Plot Plan



## PROPOSED NORTH ELEVATION

SCALE: 1/4" = 1'-0"

Figure 2: North Elevation



## PROPOSED SOUTH ELEVATION

SCALE: 1/4" = 1'-0"

Figure 3: South Elevation

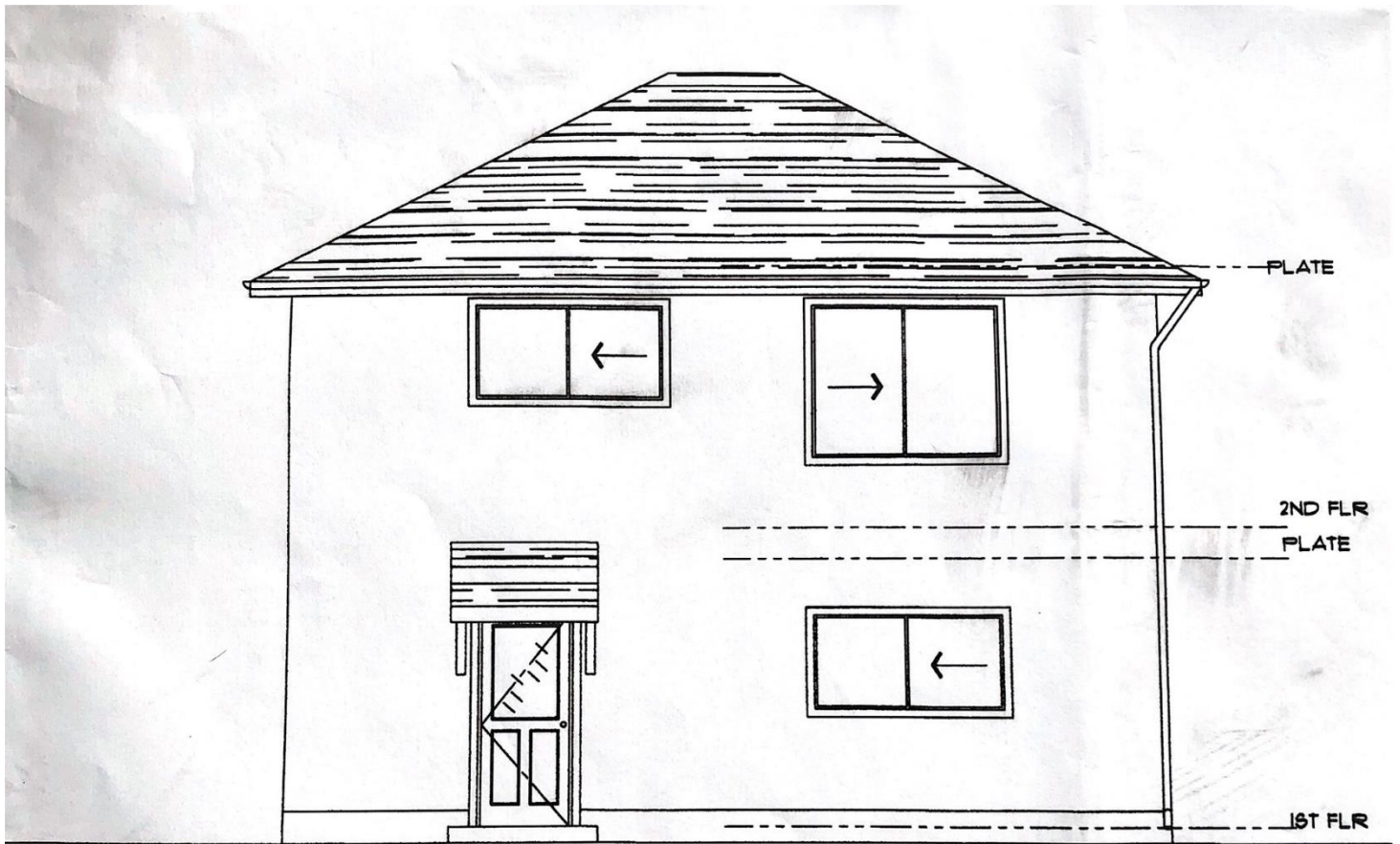




# PROPOSED WEST ELEVATION

SCALE: 1/4" = 1'-0"

Figure 4: West Elevation



## PROPOSED EAST ELEVATION

SCALE: 1/4" = 1'-0"

Figure 5: East Elevation

## CONSISTENCY WITH PLANNING POLICIES

In order to approve a Minor Use Permit, the following findings are required pursuant to ILUDC 18.71.060. An analysis of the project's compliance with these findings is below.

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

The Fort Bragg General Plan designates the subject parcel as within the Central Business District (CBD). In the Fort Bragg Inland General Plan, the residential uses of this area are encouraged up to a density of 40 units per net acre (Element 2, Section G). However, according to ILUDC 18.42.170 (C), ADUs are exempt from the calculation of the maximum allowable density for the lot on which it is located, and is deemed a residential use that is consistent with the General Plan. Even so, the current residential density in this zone is far below the limit.

The project is consistent with the following Housing Element policies and programs:

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

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

**Program H-5.2.2 Single-Family Homes:** Continue to allow the reuse of existing single-family residences, in commercial zones, as single-family residences. Consider allowing second units on commercially zoned parcels with existing single-family homes.

Although the ADU standards are the primary metric by which this project is measured, the ADU complies with multiple General Plan Policies specific to the Commercial districts including, locating on the second story, locating new residential development in close proximity with similar development, and providing off-street parking in the rear. These policies are listed below:

**Program LU-3.1.2:** Residential uses are permitted only above the ground floor or at the rear of buildings on the ground floor.

**Policy LU-3.5 Encourage Smart Growth:** Locate new residential, commercial, or industrial development within, contiguous with, or in close proximity to, existing developed areas.

**Policy CD-4.1 Parking Location:** Wherever feasible, locate parking facilities to the rear of the development so that the building facade is contiguous with the street frontage, and parking areas are hidden from the street.

Finally, streamlining ADUs in accordance with the City's Land Use policies and goals including reducing requirements for capacity fees, separate meters, and parking are all



intended for the primary goal of creating affordable housing stock. This unit is proposed in the only district which allows for vacation rentals. The Public Works Department recommends Special Condition 1, so that capacity fees (water, sewer, and drainage) can be collected if this site is used as a vacation rental in the first 5 years after certificate of occupancy. The policies below support the addition of Special Condition 1.

**Policy H-5.2 Discourage Conversion of Residential Units:** Discourage the conversion of residential units to other uses.

**Program H-5.2.1 Discourage Vacation Rentals:** Continue to prohibit vacation rentals in all zoning districts except for the CBD.

Because this property is in the CBD zone, a vacation rental is an allowable use with the approval of a use permit. However, ILUDC 18.42.170 Section D states that ADUs may not be rented for less than 31 days. In order to emphasize the goal of creating more housing and reduce the potential that this ADU is not advertised and used for a short-term vacation rental, Special Condition 1 will ensure that the current owner or subsequent owners will have to go through the correct permitting process in order to use this ADU as a vacation rental.

The next required finding reads as follows:

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.

The proposed project is allowed within the CBD zoning designation as long as there is an existing primary single residential unit in compliance with 18.22.030 Table 2-6 of the ILUDC. This project requires a Minor Use Permit because the ADU is going to be constructed over an accessory structure (garage). In the next section, Table 1 demonstrates how the proposed project meets the requirements designated by the city and is compatible with the surrounding community.

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

Requirements		Proposed Project	Compliant
<b>Zoning/Land Use</b>	CBD Zoning District with existing single residential unit	Accessory Dwelling Unit above a new garage.	Yes
<b>Setbacks</b> <i>Front</i> <i>Sides</i> <i>Rear</i>	<b>Setbacks</b> <i>Front:</i> 5' back from primary structure <i>Sides:</i> 4' <i>Rear:</i> 4' adjacent to an alley	<b>Setbacks</b> <i>Front:</i> +/-20' <i>Sides:</i> 14' / 8' <i>Rear:</i> 20'	Yes
<b>Height</b>	25' with MUP approval	24' 10"	Yes (if approved)
<b>Floor Area</b>	Maximum floor area shall not exceed 1,000 sf.	ADU floor area is 598 sf.	Yes

<b>Entrances</b>	Separate entrance required	Separate entrance proposed on west facing wall	Yes
<b>Windows</b>	No windows shall directly face windows of other units/a neighboring yard.	None of the proposed windows directly face neighboring windows or yards.	Yes (if approved)

**Table 1: Proposed Project’s Compliance with City Requirements**

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. The project complies with these standards as shown in Table 1. For further clarification concerning the windows, Figures 2 and 3 above show the proposed project’s north and south facing elevations. The North and South elevations face the neighboring properties, however, there are no proposed windows on the second-story making the window placement compliant with the current ADU requirements.

Location: The proposed project is located in the Central Business District. There is an existing single residential unit on the lot, and the proposed garage and ADU adhere to the setback requirements for this zoning district. The location of the project is compatible with the existing and future land uses in the vicinity.

Size: The maximum allowable size for ADUs is 1000 sf. The proposed ADU is 598 sf., which makes it compatible with 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 city. In consideration of the project being a residential use in a commercial district, the operating characteristics would have to be reconsidered if there was not an already existing residential unit on the parcel. However, because this parcel is a permitted single-family residential use, ADUs are permissible regardless of compliance with other development standards and regulations so long as they comply with 18.42.170. This parcel and several surrounding parcels have existing residential units so the construction of an ADU is 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 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, operating characteristics, as described in Table 1 and section 3 of this analysis. The alley between N. McPherson and N. Franklin provide sufficient access for emergency vehicles. The site is already served by City water/sewer, which has the capacity to serve the proposed ADU. This project is

appropriate for the surrounding residential neighborhood, and would not be constituted as a detriment.

5. The proposed use complies with any findings required by 18.22.030 (Commercial District Land Uses and Permit Requirements).

The proposed project is in the commercially zoned district, the Central Business District (CBD). An ADU use is permitted “only on parcels with existing single residential unit or existing/proposed multifamily development, in compliance with 18.42.170.” As shown in the sections above, the proposed project complies with the City’s regulations for ADUs. Additionally, N. McPherson is not one of the streets designated as intense pedestrian-oriented use.

### **STANDARDS FOR SPECIFIC LAND USES**

Because this proposed project is an ADU above a residential accessory structure, the standards that will take precedence for this project are the standards for ADUs in ILUDC 18.42.170. Some of these standards are illustrated in Table 1, the other standards are enumerated below.

Limitations: ADUs are allowed on any parcel that is zoned for a single residential unit or multifamily residential development. The proposed project is on a parcel zoned for a single residential unit. Additionally, single residential unit parcels are limited to one ADU and one JADU. The proposed project is a single ADU on a property that does not have existing ADUs.

Density: The residential density for the CBD is 40 units per net acre. However, ADUs are exempt from the calculation of the maximum allowable density (ILUDC 18.42.170 C).

Second Unit Standards: The proposed project meets the standards listed in Section E of ILUDC 18.42.170. Table 1 above lists both the requirements and the proposed project’s specifications.

### **RECOMMENDATION**

Staff recommends approval of Minor Use Permit 2-21 based on the 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 in general;
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 – conversion of existing structures to new uses.

### **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.
5. The proposed use complies with any findings required by Section 18.22.030 (Commercial District Land Uses and Permit Requirements).

### **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).

### **SPECIAL CONDITIONS**

1. The applicant shall be required to pay capacity fees if the property is to be used as a vacation rental in the first 5 years from the time of certificate of occupancy.
2. The applicant shall be required to request an address for the Accessory Dwelling Unit prior to occupancy.

### **NOTIFICATIONS:**

1. "Notify Me" for Public Hearing Notices
2. Applicant Annie Gould
3. Requester Jacob Patterson