

AGENCY:	Planning Commission
MEETING DATE:	August 26, 2015
PREPARED BY:	M. Jones
PRESENTED BY:	M. Jones

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** Use Permit 3-15 (USP 3-15), 6-29-2015

**FILE NUMBER(S):** USP 3-15

**APPLICANT:** Overtime Brewing, Inc.

**PROPERTY OWNER:** Gary Roussan

**AGENT:** Greg Ziemer

**PROJECT:** Use Permit to allow accessory retail and service uses in association with approval of a permitted new brewery. The accessory uses requiring a Use Permit include: 1) onsite retail sales of food, merchandise, and beer; 2) offsite sale of food and beer; and 3) an event space for music and special events. Proposed hours of operation are 11:00 AM to 10:00 PM, seven (7) days a week.

**LOCATION:** 190 E. Elm Street, Fort Bragg, CA 95437

**APN:** 008-035-13

**LOT SIZE:** 14,000 SF

**ZONING:** Heavy Industrial (IH)

**ENVIRONMENTAL DETERMINATION:** Project is Categorically Exempt from CEQA, per Section 15303 (C), new construction or conversion of small structures.

**SURROUNDING LAND USES:**  
NORTH: Elm St / FloBeds Manufacturing Facility  
EAST: Franklin St / Sew & Sew, Chubby's Commercial Kitchen  
SOUTH: Toscano's Auto Repair  
WEST: Alley / Nello's Market & Deli

**APPEALABLE PROJECT:** ☒ Can be appealed to City Council

## PREVIOUS PERMITS

MUP 6-09 – Minor Use Permit to allow retail sales as an accessory use to primary light industrial manufacturing uses. The retail and gallery space was subordinate to light manufacturing uses to support the Lost Coast Culture Machine.

## PROJECT DESCRIPTION

The applicants propose to manufacture craft beer within an existing 2,332 SF building located at 190 E. Elm Street. There is an additional existing 1,225 SF storage building onsite that is being used by the property owner and is not part of the brewery project.

The applicants propose a brewing system of 1,500 barrels per year. The applicants anticipate that approximately 50 percent of the beer produced will be sold onsite and the other 50 percent will be sold through wholesale distribution. In addition to the proposed brewery, which is a permitted use in the Heavy Industrial (IH) zoning district, the applicants are proposing accessory retail and service uses including:

- Onsite retail sales of food, merchandise, and beer;
- Offsite sale of food and beer; and
- An outdoor event space for music and special events.

As depicted in the site plan for the brewery (see Attachment #3), a total of 12 parking spaces will be onsite with one dedicated ADA space. As shown on the building floor plan (see Attachment #4), the project has been designed to include the following:

- Fully enclosed brewing area;
- Commercial kitchen to prepare adjuncts [unmalted grains (such as corn, rice, rye, oats, barley, and wheat) for different beer recipes plus space to prepare food for on and offsite consumption;
- Onsite retailing area with a 15-seat bar and a dining area with 12 seats;
- Approximately 192 SF of retail space to sell offsite retail items;
- Approximately 576 SF of outdoor event area;
- Walk-in cooler; and
- Two restrooms, one of which is ADA accessible.

Proposed hours and days of operation are 11:00 AM to 10:00 PM, seven (7) days a week.

**Site Photo from Intersection of Elm and Franklin Streets**



## **CONSISTENCY WITH PLANNING POLICIES**

**Land Use.** The proposed brewery is a permitted land use in the IH zoning district. Per the requirements of the ILUDC, a Minor Use Permit is required for the accessory retail and service uses. Typically, a Minor Use Permit is approved or disapproved by the Community Development Director; however, consistent with Section 18.71.060 (C)(2)(a) of the ILUDC, the Community Development Director may choose to refer this project to the Planning Commission for review and decision, which converts the Minor Use Permit to a Use Permit.

“The Director may choose to refer Minor Use Permit application to the Commission for hearing and decision.”

It should be noted that bars/taverns and restaurants, cafes, and coffee shops are NOT allowed in the IH zoning district. The Director chose to refer this project to the Commission, because it is a judgment call at which point accessory retail that includes the sale of beer and food manufactured at the facility could be construed as a restaurant or bar. Initially the applicant's proposal included outdoor seating in the event area and additional indoor seating. It is the Director's opinion that the initially proposed level of onsite retailing was more like a bar and a restaurant than a brewery. Subsequently the applicant redesigned the site plan removing some of the tables and chairs from the retailing area and all of the tables and chairs from the event space. The applicant intends to expand the brewery over the long term. Unfortunately our current zoning ordinance includes a Catch-22. If an entrepreneur starts out with a restaurant in a land use zone where restaurants are permitted (as the North Coast Brewery did), they will be limited in their opportunities for expansion because the brewery portion of the business becomes a non-conforming use once it grows too much to be considered part of the restaurant. Thus the North Coast Brewery has only been able to expand their operations within their

existing footprint. This has made for a very efficient use of space but has hampered the ability of the North Coast Brewery to grow. The reverse is true if an entrepreneur starts their brewery in the industrial zone, the onsite sales portion of the business is not allowed to be too successful (it cannot become dominant over the brewery). Understanding these constraints, Overtime Brewing has selected the Industrial Zone to start their brewery with the recognition that they intend to be able to expand their brewery here over time if they are successful. Staff is mindful that the current regulations regarding Brewery/Pub/Restaurant may be overly restrictive and will bring this code issue forward for Council and Planning Commission consideration during our next update of the Land Use and Development Code.

Section 18.42.020 of the City's ILUDC provides standards for accessory retail and service uses, including restaurants, pharmacies, and the sale of retail merchandise, that are accessory to a primary commercial, industrial, or institutional use, where allowed by Article 2 (Zoning Districts and Allowable Land Uses) as follows.

- A. **General standard.** There shall be no external evidence of any commercial activity other than the primary use of the site (e.g., no signs, windows with merchandise visible from adjoining streets, etc.), nor access to any space used for the accessory retail or service use other than from within the primary structure.
- B. **IL (Light Industrial) zoning district.** Accessory retail service uses within the IL zoning district shall be limited to businesses that the review authority determines will manufacture, refine, repair, finish, or store their products or services on-site, will provide adequate parking and street access, and not generate significant customer traffic.
- C. **Review and approval requirements.** Accessory retail and service uses may require Design Review in compliance with Section 18.71.050. Accessory retail and service uses require a Minor Use Permit in compliance with Table 2-10 in Section 18.24.030. In order to approve an accessory retail or service use, the review authority shall first find that there will be no adverse effects on adjacent existing or potential residential uses from excessive traffic, noise or other effects of the accessory use.

Staff has analyzed the project below in relation to each of the standards for accessory retail and service uses.

- 1. **General standard.** *There shall be no external evidence of any commercial activity other than the primary use of the site (e.g., no signs, windows with merchandise visible from adjoining streets, etc.), nor access to any space used for the accessory retail or service use other than from within the primary structure.*

The brewery is considered the primary use and will be operated within the confines of the existing structure. All customer access to the business will occur at the primary entrance located on the western side of the building with all accessory retail and service uses located within the primary structure with the exception of the outdoor event space, though this area will be accessed by the primary entrance. In order to comply with the General Standard noted above, staff recommends **Special Condition 1**.

**Special Condition 1:** There shall be no external evidence of any commercial activity outside of the primary use of the site for the brewery. No retail merchandise shall be suspended from any windows or otherwise visible from either Franklin or Elm Streets. Additionally, the applicant's signage shall be limited to advertising the brewery operation. Signage shall not reference a "restaurant or bar" facility at the brewery.

- 2. IL (Light Industrial) zoning district.** *Accessory retail service uses within the IL zoning district shall be limited to businesses that the review authority determines will manufacture, refine, repair, finish, or store their products or services on-site, will provide adequate parking and street access, and not generate significant customer traffic.*

The project site is located within the IH zoning district, and therefore, Standard 2 does not apply to this project.

- 3. Review and Approval Requirements.** *Accessory retail and service uses may require Design Review in compliance with Section 18.71.050. Accessory Retail and Service Uses require a Minor Use Permit in compliance with Table 2-10 in Section 18.24.030. In order to approve an accessory retail or service use, the review authority shall first find that there will be no adverse effects on adjacent existing or potential residential uses from excessive traffic, noise or other effects of the accessory use.*

Design Review. Design review is not required for the project as there are minimal improvements proposed to the exterior of the building. The applicants want to install a water cooling tank on the eastern side of the building adjacent to an existing propane tank and new outdoor event space which is located at the rear of the building. In order to ensure that the new event space is consistent with the City's design standards, staff recommends **Special Condition 2.**

**Special Condition 2:** Prior to issuance of the business license, the applicants shall submit a site plan and design details for the proposed outdoor event area to the Community Development Director for review and approval.

Minor Use Permit. As previously noted a Minor Use Permit is required; however, consistent with Section 18.71.060 (C)(2)(a) of the ILUDC, the Community Development Director may choose to refer this project to the Planning Commission for review and decision, which converts the Minor Use Permit to a Use Permit.

Effects on adjacent existing or potential residential uses. The closest residential use is located approximately 160 feet from the building across the alley above Nello's Market & Deli. Per Section 9.44.020 of the City's Municipal Code, between the hours of 10:00 PM of one day and 7:00 AM of the following day, it is unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to create, cause to be created or maintain sources of noise which cause annoyance or discomfort to a reasonable person of normal sensitiveness in the neighborhood. As proposed, the operating hours of the brewery are 11:00 AM to 10:00 PM, seven (7) days a week which would comply with the City's noise restrictions for residential areas. However, as bars are not permitted uses in the IH zoning district, staff recommends that the operating hours for the accessory retail and service uses be limited to 9:00 PM, seven days a week. **Special Condition 3** reflects this recommendation.

**Special Condition 3:** The operating hours for the accessory retail and service uses (outside events) shall be from 11:00 AM to 9:00 PM, seven days a week. The manufacturing of beer can occur outside these hours; however, no onsite or offsite retail sales of food, merchandise, or beer or outdoor events shall occur after 9:00 PM.

The accessory uses will occur completely within the confines of the existing building with the exception of the outdoor event space which is located at the rear of the building. Special Condition 3 applies to all outside events as well as to indoor accessory retail. As conditioned, the accessory retail and service uses will not have an adverse effect on the adjacent residential use or neighborhood.

### Zoning Standards

There are no major changes to the exterior of the building except for the addition of the water cooling tank on the east side and the outdoor event area located at the rear of the building. The proposed development complies with the IH zoning standards as outlined in the table below.

Development Standard	IH Zoning District Requirement	Proposed Project	Compliance
<b>Front Setback</b>	30 ft from Highway 1; 15 ft elsewhere.	No change	N/A
<b>Side – Interior</b>	10 ft; except no setback required if the other side is 15 ft or more.	No change	N/A
<b>10 ft on any side abutting a C zone</b>	30 ft on any side abutting an R or OS zone, or a PD zone not specified for industrial uses.	No change	N/A
<b>Side – Street Side</b>	Same as front setback.	50 feet	Yes
<b>Rear</b>	Abutting an alley, 10 ft within 30 ft of each side property line or driveway accessing the alley; 30 ft if adjacent to an R zone; none required elsewhere.	20 feet	Yes
<b>Floor Area Ratio</b>	0.40 (5,600 SF)	No change ( <i>outdoor space not included in floor area</i> )	N/A
<b>Height Limit</b>	40 ft; 60 ft with Use Permit approval.	No change	N/A

### Parking Analysis

The proposed project is a change in land use and, therefore, must comply with the ILUDC parking requirements.

Staff analyzed the various uses proposed for the project and calculated that a minimum of 10 onsite parking spaces is required with a maximum of 24 parking spaces allowed as depicted in Table 1 below.

**Table 1 – Parking by Uses**

<b>Use</b>	<b>Total SF</b>	<b>Vehicle Spaces Required - Minimum</b>	<b>Vehicle Spaces Required - Maximum</b>	<b>Minimum/Maximum</b>
Brewery includes kitchen area and restrooms	1,092 SF	1 space for each 1,000 sf of floor and/or ground area devoted to other than office use	1 space for each 500 sf of floor and/or ground area devoted to other than office use	1.1 space / 2.2 spaces
Dining area	528 SF	1 space for each 100 sf of dining area	1 space for each 40 sf of dining area	5.3 spaces / 13.2 spaces
Retail space	192 SF	1 space for each 400 sf of floor area	1 space for each 200 sf of floor area	0.5 spaces / 0.96 spaces
Outdoor event area	576 SF	1 space for each 250 sf of floor area or 5 seats, whichever would yield more spaces	1 space for each 100 sf of floor area or 3 seats, whichever would yield more spaces	2.3 spaces / 5.8 spaces
Upstairs office	195 SF	1 space for each 400 sf of floor area	1 space for each 200 sf of floor area	0.5 spaces / 0.98 spaces
Upstairs storage	325 SF	1 space for each 1,000 sf of floor area	1 space for each 500 sf of floor area	0.33 spaces / 0.65 spaces
<b>Total</b>	<b>2,908 SF</b>			<b>10 spaces / 24 spaces</b>

As proposed, the project includes 12 onsite parking spaces with one (1) dedicated ADA space which would comply with the City's parking space requirements. However the applicant did not submit a complete parking site plan. The submitted plan does not illustrate required landscape, dimensions, and other requirements of the ILUDC. To ensure the project complies with the ILUDC parking standards, staff recommends **Special Condition 4**.

**Special Condition 4:** Prior to issuance of the building permit, the applicants shall submit a fully dimensioned parking schematic consistent with the ILUDC parking standards (which cover aisle dimensions, circulation, stormwater management, landscaping requirements, etc.) to the Community Development Director for review and approval. Prior to issuance of the business license the parking plan shall be implemented.

### **Consistency with Inland General Plan Policies**

The following Inland General Plan Goals require analysis and findings to determine consistency with the Inland General Plan.

Goal PF-1 Ensure that new development is served by adequate public services and infrastructure.

Policy PF-1.2: All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and business.

Program PF-1.2.1: New development shall be responsible for any improvements or extensions of infrastructure or the service capacity necessary to serve the development.

Water service under severe drought is the only constrained City utility service for the project. Currently there is adequate capacity to serve the proposed brewery with water services for the level of requested production (10 barrels per year). Providing water service for the brewery is not anticipated to impact any authorized or probable priority uses (i.e. projects with active files that are under review).

## **Water Supply and Wastewater Disposal Adequacy**

### **Water Service**

The brewery proposes to utilize an initial brewing system of 10 barrels with an ultimate brewing capacity of 1,500 barrels per year. For comparison, the North Coast Brewery produces about 80,000 barrels of beer per year and is permitted to produce 90,000 barrels.

The proposed Overtime Brewing's 1,500 barrel system would result in the production of 46,500 gallons of beer per year which would require approximately 204,000 gallons of water per year. The brewing system would also use a cooling system for the beer which would be a closed loop system that recaptures water. In addition to the water used for brewing, an additional 70,000 gallons of water per year would be needed to support the accessory retail and service uses (bathrooms, triple sink at the bar, and other purposes). The total water budget is approximately 274,000 gallons/year or an average of 750 gallons per day or about the same amount of water that is used by four residential units.

Water availability under severe drought conditions is the primary constraint for City utility service. In 2010, City staff completed a water supply analysis that found that the City could increase water use by 8% over 2006 water use in a severe drought (such as the 1977 drought) and continue to serve all customers without falling below the 5 million gallon reserve required to maintain adequate pressure in the system for fire flows. Since 2006 the City has approved projects that would utilize 3.6% of the 8% of available water capacity (2.8% for North Coast Brewery Expansion, 0.6% for the Cottages at Cypress Street, 0.1% Taco Bell, and 0.1% for Brewery Restaurant expansion). However, the City as a whole has reduced its overall water demand during this same period by approximately 19% from 798,000 gallons/day to 629,000 gallons per day.

At 274,000 gallons per year or 750 gallons per day the proposed Overtime Brewing project would increase water use by 0.1% over current use, bringing the total water use, since the water analysis was completed, to 3.7%. This additional use is within the relatively conservative 8% limit, and leaves 3.4% of water capacity available for other new projects if we don't consider the incredible water conservation success in Fort Bragg of the past eight years.

The City is working to add water storage to our system to ensure adequate water supply under severe drought conditions and to serve future development. The City has designed and completed the permitting process for construction of a 45-acre foot (i.e., 15 million gallon) reservoir at its Newman Gulch property off Summers Lane. That project will be constructed in 2016 and fill up and come on line in 2017. Construction of the Newman Reservoir project would enable the City to increase water service by an additional 12% over the existing 8% excess capacity for a total of 20% additional capacity.

Based on this water analysis, the City has sufficient capacity to serve Overtime Brewing up to and including the production of 1,500 barrels per year. However, in the future, conditions could



change and should the brewery want to expand beyond the 1,500 barrels, staff recommends **Special Conditions 5 and 6 below.**

**Special Condition 5:** The business license approval for Overtime Brewing shall include a Special Condition that limits total beer production to 1,500 barrels of beer annually. In the event that Overtime Brewing expands their operations beyond the 1,500 barrel brewing system, the applicants shall submit a new business license application to the Community Development Department for modification to the facility's barrel production limitation.

**Special Condition 6:** In the event that Overtime Brewing expands their operations beyond the 1,500 barrel brewing system, the applicants shall submit an application to the Community Development Department for modification to the facility's Use Permit.

### **Wastewater Services**

Based on the City's experience with the North Coast Brewing Company, high strength wastewater is periodically discharged from brewing operations to the City's wastewater treatment plant (WWTP). Brewery wastewater includes: floor wash down liquid, keg washing, beer wasted from bottle overfilling, spills, cleaning of tanks, and product that cannot be used and is discharged to the drain.

An analysis conducted at the North Coast Brewing Company as part of their expansion calculated that their wastewater organic strength has a biochemical oxygen demand (BOD) concentration ranging from 4,300-9,500 mg/L. Combining the average wastewater strength and discharge quantities from the North Coast Brewing Company results in a BOD loading to the WWTP of 1,060 lbs/day which is a significant fraction of the organic capacity of the WWTP. The current design capacity of the WWTP for BOD is 1,500 lbs/day.

While an analysis for BOD was not conducted as part of the application for Overtime Brewing and the Overtime Brewing system is significantly smaller than the North Coast Brewing Company (1,500 barrels annually vs 90,000 barrels), it can be assumed that similar BOD concentrations will result from the Overtime Brewing facility. Therefore, to ensure that organic loading from the Overtime Brewing does not result in impacts to the City's WWTP or exceedances of the discharge requirements, staff recommends **Special Condition 7.**

**Special Condition 7:** Prior to the final inspection for the building permit, the applicants shall enter into a regulatory agreement with the City of Fort Bragg which establishes compliance thresholds for biochemical oxygen demand (BOD) and total suspended solids (TSS), monitoring requirements, and penalties for violations.

### **USE PERMIT ANALYSIS**

As previously noted, the Inland Land Use and Development Code (ILUDC) allows for the proposed accessory retail and service uses through a Minor Use Permit approval by Community Development Director or the Community Development Director may refer the project to the Planning Commission for review and approval. As noted above, the Community Development Director has chosen to refer this project to the Planning Commission. In order for the Planning Commission to approve a Use Permit, the following findings must be made [ILUDC Section 18.71.060(F)].

F. **Findings and decision.** An application for a Use Permit may be approved subject to conditions, or disapproved by the Review Authority. The Review Authority shall approve a Use Permit only after first finding all of the following:

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.

Staff has analyzed the project below in relation to each of the required findings.

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

The Inland General Plan defines the Heavy Industrial zoning district intent as follows:

This designation is intended for a range of heavy industrial uses including manufacturing, assembly and processing, and the storage and distribution of raw materials, aggregate plants, and related heavy industrial uses which are generally incompatible with and require locations removed from residential and visitor serving uses.

The applicants are proposing to operate a new brewery with accessory retail and service uses in the IH zoning district. A brewery is a permitted land use in the IH with accessory retail and service uses requiring a Use Permit. Special conditions are recommended and would minimize the potential offsite impacts related to the accessory uses. The proposed use would be consistent with the General Plan, and the Planning Commission can make this finding.

**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;***

A brewery is a permitted land use within the IH zoning district with accessory retail and service uses requiring the approval of a Use Permit. As bar/tavern is not an allowed use in the IH zoning district, staff has recommended that the hours of operation for the accessory retail and service uses be limited to 9:00 PM versus the proposed 10:00 PM closing time. Staff has included **Special Condition 3** noted above to reflect this recommendation.

Staff has analyzed the project with regard to impacts related to the brewery and accessory retail and service uses and the Inland Land Use and Development Code and found the

project to be in compliance as described and conditioned in this report. The Planning Commission can make this finding.

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

The proposed project will be located in an existing building within the IH zoning district. Existing land uses within the vicinity include: auto repair shops, manufacturing, institutional, industrial, and commercial. The proposed brewery would be consistent with the operating characteristics of the area and the previous use at this location. The Lost Coast Culture Machine conducted retail services as part of their operation. The Planning Commission can make this finding.

**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.***

The site is physically suitable for the manufacture of craft beer as well as the proposed accessory retail and service uses. To ensure that the project does not constitute a public hazard and pursuant to a recommendation from the Fort Bragg Police Chief, staff recommends **Special Condition 8**.

**Special Condition 8:** The applicant shall incorporate the California Department of Alcohol and Beverage Control's (ABC) Responsible Beverage Service (RBS) Training into the operation's business plan and ensure that all employees are provided training through the RBS program.

The project, as conditioned, will minimize impacts to adjacent properties, and the Planning Commission can make this finding.

**Environmental Determination.** The project is Categorically Exempt from the California Environmental Quality Act (CEQA), meeting Section 15303 (C), new construction or conversion of small structures, because the project does not include the use of significant amounts of hazardous substances, and does not exceed 2,500 square feet in floor area as the total floor area of the enclosed building is 2,332 SF, and the additional 576 SF of outdoor space does not constitute floor area.

## **PLANNING COMMISSION ACTION**

1. Hold a hearing, close the hearing, deliberate, and make a decision regarding the Use Permit at this Planning Commission meeting.

## **ALTERNATIVE ACTION**

2. Hold a hearing, close the hearing, deliberate without a decision, and revisit the application at the next scheduled meeting for a decision and the addition of any new findings.
3. Hold the hearing, and continue the hearing to a date certain if there is insufficient time to obtain all input from all interested parties. At the date certain, the Commission may then deliberate and make a decision.
4. Deny the Use Permit.

## **RECOMMENDATION**

Staff recommends approval of **Use Permit 3-15 (USP 3-15)** for the project based on the following findings and subject to the conditions cited below:

### **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 Inland 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; and
4. For the purposes of environmental determination, the project is exempt from CEQA, pursuant to the California Environmental Quality Act (CEQA), Section 15303 (C), new construction or conversion of small structures, because the project does not include the use of significant amounts of hazardous substances, and does not exceed 2,500 square feet in floor area.

### **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 11<sup>th</sup> day following the decision unless an appeal to the City Council is filed pursuant to ILUDC Chapter 18.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the ILUDC.
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 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.
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 Inland 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. There shall be no external evidence of any commercial activity outside of the primary use of the site for the brewery. No retail merchandise shall be suspended from any windows or otherwise visible from either Franklin or Elm Streets. Additionally, the applicant's signage shall be limited to advertising the brewery operation. Signage shall not reference a "restaurant or bar" facility at the brewery.
2. Prior to issuance of the business license, the applicants shall submit a site plan and design details for the proposed outdoor event area to the Community Development Director for review and approval.

3. The operating hours for the accessory retail and service uses and outside events shall be from 11:00 AM to 9:00 PM, seven days a week. The manufacturing of beer can occur outside these hours; however, no onsite or offsite retail sales of food, merchandise, or beer or outdoor events shall occur after 9:00 PM.
4. Prior to issuance of the building permit, the applicants shall submit a fully dimensioned parking schematic consistent with the ILUDC parking standards (which cover aisle dimensions, circulation, stormwater management, landscaping requirements, etc.) to the Community Development Director for review and approval. Prior to issuance of the Business License the parking plan shall be implemented.
5. The business license approval for Overtime Brewing shall include a Special Condition that limits total beer production to 1,500 barrels of beer annually. In the event that Overtime Brewing expands their operations beyond the 1,500 barrel brewing system, the applicants shall submit a new business license application to the Community Development Department for modification to the facility's barrel production limitation.
6. In the event that Overtime Brewing expands their operations beyond the 1,500 barrel brewing system, the applicants shall submit an application to the Community Development Department for modification to the facility's Use Permit.
7. Prior to the final inspection for the building permit, the applicants shall enter into a regulatory agreement with the City of Fort Bragg which establishes compliance thresholds for biochemical oxygen demand (BOD) and total suspended solids (TSS), monitoring requirements, and penalties for violations.
8. The applicant shall incorporate the California Department of Alcohol and Beverage Control's (ABC) Responsible Beverage Service (RBS) Training into the operation's business plan and ensure that all employees are provided training through the RBS program.

#### **ATTACHMENTS**

1. Site Location Map
2. Project Description
3. Site Plan
4. Floor Plan
5. Emails in Support of Project
6. Email in Opposition to Project