

MEETING DATE: August 9, 2017

PREPARED BY: S. Perkins

PRESENTED BY: S. Perkins

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: Minor Use Permit 1-17 (MUP 1-17)

OWNER: Orso Palazzo, LLC

APPLICANT: Jamie Campione and John Scott

REQUEST: Minor Use Permit to convert two (2) residential units into two (2) Vacation Rental Units.

LOCATION: 400 North Main Street, Fort Bragg

ASSESSOR'S PARCEL NO.: 008-056-24

ENVIRONMENTAL DETERMINATION: Categorically Exempt from CEQA pursuant to Section 15303 – conversion of existing structures to new uses.

SURROUNDING LAND USES:

NORTH:	Commercial
EAST:	Mixed-Use (Commercial and Residential)
SOUTH:	Commercial (across Laurel Street)
WEST:	Commercial (across Main Street)

APPEALABLE PROJECT: ☒ Can be appealed to City Council

PROJECT BACKGROUND AND DESCRIPTION

The property at 400 North Main Street (See **Attachment 1 – Location Map**) is a mixed use building with commercial retail on the first floor (Splendiferous) and four residential units on the second floor. City records indicate the presence of at least four residential units on the second floor, with various configurations and combinations throughout the years, dating back to the 1940s. The first floor has been historically commercial, as it remains today.

New owners purchased the property and have undertaken repairs and renovations to the building. The following building permits were approved and have passed final inspection by the Building Department and Fire Department:

BF 2016-0943: Install tub/showers, miscellaneous repairs (final inspection 3/8/17)
BF 2016-0526: Commercial sewer repair (final inspection 6/28/16)

At a public hearing on June 12, 2014, the City Council adopted comprehensive changes to the Inland Land Use and Development Code (ILUDC), Including the addition of ILUDC Section 18.42.190, which provides requirements and standards for the operation of Vacation Rental Units (VRUs) in the Central Business District. Following Council's adoption of the ILUDC update, the new ordinance became effective on July 12, 2017.

The applicants propose to convert two of the existing residential units on the second floor to two VRUs.

ANALYSIS

Land Use Consistency

The proposed VRU would be located in the Central Business District and this use is permitted within the CBD with a Minor Use Permit (MUP) approval. As with all MUPs, any property owner located within 300 feet of the proposed project can appeal the MUP to the Planning Commission where the project is analyzed for a Use Permit. This project's MUP was appealed on July 10, 2017 by Dan Hemann to the Planning Commission for its consideration.

Specific Regulations for Vacation Rentals

ILUDC Section 18.42.190 contains the requirements for the approval of a VRU. The following analysis addresses each of these requirements.

Policy	Project Consistency
18.42.190(D)(1)(a) Vacation Rental Units shall be located only within the Central Business District (CBD), and shall be limited only to second or third floors above a commercial use.	Yes

Two VRUs are proposed on the second floor of the building at the northeast corner of Laurel and Main Streets. The first floor use is an existing retail store. See **Attachment 2 – Floor Plan**.

Policy	Project Consistency
18.42.190(D)(1)(b) Vacation Rental Units shall only be permitted within a legal dwelling unit, as defined in 18.100.020(D).	Yes

In Section 18.100.020(D), the ILUDC defines a dwelling unit as “a room or group of internal connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.” This application would convert two existing residential units on the west-facing façade of the building into VRUs. City records indicate the presence of at least four residential units on the second floor, with various configurations and combinations throughout the years, dating back to the 1940s. In a conversation with the Mendocino County Building Department on July 21, 2017, the building department conferred with their records to confirm the presence of two legal dwelling units where the VRUs are proposed. The Fort Bragg Fire Department Fire Inspector reviewed the application and toured the property on August 2, 2017, and also confirmed that the project is consistent with applicable fire codes. See **Attachment 3 – Interior Photos**.

Policy	Project Consistency
18.42.190(D)(2)(c) The maximum occupancy permitted for a Vacation Rental Unit shall be limited to two persons per bedroom, plus one person (not including children under age 12). The maximum occupancy shall be stated as an approval condition of a permit authorizing a Vacation Rental Unit.	Yes, with condition

The two residential units proposed for conversion to VRUs each contain one bedroom. As a result, the maximum occupancy permitted for the units is three (3) persons each, not including children under age 12.

Special Condition 1: Both proposed Vacation Rental Units contain one bedroom. Based on ILUDC Section 18.42.190(D)(2)(c), the maximum permitted overnight occupancy for each Vacation Rental Unit is three (3) persons, not including children under age 12. Any advertisement for the use of the Vacation Rental Units shall include the maximum permitted overnight occupancy in a clear manner such that potential guests are aware of the limitation. Use of the Vacation Rental Units inconsistent with this Special Condition is a violation of this permit.

Policy	Project Consistency
18.42.190(D)(2)(d) The maximum number of vehicles permitted for guests of a Vacation Rental Unit shall equal the number of bedrooms in the unit. The maximum number of vehicles shall be stated as a condition of the Vacation Rental Unit permit.	Yes, with condition

The two residential units proposed for conversion to VRUs each contain one bedroom. As a result, the maximum number of vehicles for guests of each unit is one (1) vehicle.

Special Condition 2: Both proposed Vacation Rental Units contain one bedroom. Based on ILUDC Section 17.42.190(D)(2)(d), the maximum number of vehicles for guests of each Vacation Rental Unit is one (1) vehicle. Any advertisement for the use of the Vacation Rental Units shall include the maximum permitted number of vehicles for guests in a clear manner such that potential guests are aware of the limitation. Use of the Vacation Rental Units inconsistent with this Special Condition is a violation of this permit.

Policy	Project Consistency
18.42.190(D)(2)(e) All advertisement listings for Vacation Rental Units shall include the following:	Yes, with condition

<ul style="list-style-type: none"> i. City of Fort Bragg business license number and Minor Use Permit number; ii. Maximum permitted occupancy, as stated on the approved permit; and iii. Maximum vehicles permitted, as stated on the approved permit. 	
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The proposed conversion of two residential units to VRUs would be consistent with this requirement, provided **Special Condition 1** and **Special Condition 2**, as stated above, and **Special Condition 3** are components of the approved permit.

Special Condition 3: Any advertisement for the use of the Vacation Rental Units shall include the applicant's business license number and Minor Use Permit number MUP 1-2017 in a clear manner.

Policy	Project Consistency
18.42.190(D)(2)(f) Vacation Rental Units shall have a property manager who is available 24 hours per day, 7 days per week during all times that the property is rented or used on a transient basis. Operation of a Vacation Rental Unit without a property manager shall be considered a violation of this Section. The name and contact information of the property manager shall be provided to any interested party upon request.	Yes, with condition

The property managers are the applicants, Jamie Campione and John Scott. They have a contact phone number on file, which has been distributed to the Police Department and Fire Department, and is available upon request.

In addition to the policies in Section 18.42.190, the ILUDC requires the review authority make the following finding for the approval of Use Permits and Minor Use Permits in the Central Business District:

Policy	Project Consistency
18.22.030(C)(3) The use compliments the intense pedestrian and regionally oriented shopping areas of the CBD, and will not detract physically from the basically pedestrian nature of the CBD.	Yes

City Council amended the ILUDC to allow VRUs only in the CBD on the second floor of commercial uses with the intention of bringing more visitors to the downtown area. The requirement that these uses be allowed only on the second floor is intended to make sure VRUs do not detract from the pedestrian nature of the CBD. Based on the proposed project's consistency with the requirements for VRUs, staff recommends the Planning Commission can make this finding.

PLANNING COMMISSION ACTION

1. Hold a hearing, close the hearing, deliberate and approve Minor Use Permit 1-17 (U 1-17) subject to the required approval findings and subject to standard and special conditions.

ALTERNATIVE ACTIONS

1. 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.

2. 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.
3. Deny the Minor Use Permit.

RECOMMENDATION

Staff recommends approval of Minor Use Permit 1-17 based on the following findings and conditions:

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).

SPECIAL CONDITIONS

1. Both proposed Vacation Rental Units contain one bedroom. Based on ILUDC Section 18.42.190(D)(2)(c), the maximum permitted overnight occupancy for each Vacation Rental Unit is

three (3) persons, not including children under age 12. Any advertisement for the use of the Vacation Rental Units shall include the maximum permitted overnight occupancy in a clear manner such that potential guests are aware of the limitation. Use of the Vacation Rental Units inconsistent with this Special Condition is a violation of this permit.

2. Both proposed Vacation Rental Units contain one bedroom. Based on ILUDC Section 17.42.190(D)(2)(d), the maximum number of vehicles for guests of each Vacation Rental Unit is one (1) vehicle. Any advertisement for the use of the Vacation Rental Units shall include the maximum permitted number of vehicles for guests in a clear manner such that potential guests are aware of the limitation. Use of the Vacation Rental Units inconsistent with this Special Condition is a violation of this permit.
3. Any advertisement for the use of the Vacation Rental Units shall include the applicant's business license number and Minor Use Permit number MUP 1-2017 in a clear manner.

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 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 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).

ATTACHMENTS

1. Location Map
2. Floor Plans
3. Interior Photos