



AGENCY:	Planning Commission
MEETING DATE:	August 23, 2017
PREPARED BY:	Marie Jones
PRESENTED BY:	Marie Jones

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: Use Permit Modification (USP 9-03/17)

OWNER: Mendocino Coast Hospitality Center (MCHC)

AGENT: Lynelle Johnson, MCHC Board President

REQUEST: The Community Development Director requests that the Planning Commission make findings based on the evidence presented to modify existing Use Permit 9-03 (USP 9-03) for the Hospitality House Emergency Shelter (Hospitality House) to include additional conditions to address nuisance conditions and violations of special and standard conditions of the Use Permit.

The Use Permit violation is comprised of violations of:

1. Special Condition 1: An unpermitted expansion of the number of beds from 24 to 35 in violation of USP 9-03; and
2. Standard Condition 6: This permit shall be subject to revocation or modification upon a finding of any one (1) 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 (1) or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) or more conditions.

The City has identified the following nuisance conditions that relate to operation of the Hospitality House, in violation of various Fort Bragg Municipal Code Sections and Standard Condition 6 of the Use Permit:

- a. Between June 2016 and June 2017, the Fort Bragg Police Department received 196 confirmed calls for service to respond to the Hospitality House to address a

variety of issues, including: disturbance, assault, battery, fighting, verbal threats, suspicious people/vehicle, trespass, drunk in public, etc.;

- b. During this time period, the City received numerous complaints from residents and business owners regarding the following issues:
- I. Urination, feces, vomit, pet waste on public and private property;
 - II. Aggressive panhandling, loitering, shouting, arguing, cursing in the public right of way;
 - III. Littering;
 - IV. Public drinking and drug use in the public right of way and on private property;
 - V. Trespassing, shoplifting, vandalism and fighting on private property;
 - VI. Sleeping on sidewalks, in vehicles, and on private property; and
 - VII. Obstruction of sidewalks and alleys with personal property.

LOCATION: 237 North McPherson Street

APN: 008-155-11

ZONING: Central Business District (CBD)

ENVIRONMENTAL DETERMINATION: The proposed action is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15321CCR, for enforcement actions by regulatory agencies.

SURROUNDING USES:

NORTH: Single Family Residence
EAST: Grocery Store
SOUTH: Single Family Residence
WEST: Grocery Store

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

☐ **Can be appealed to California Coastal Commission**

INTRODUCTION

Most of this staff report is identical to the staff report prepared for the July 26, 2017 Planning Commission hearing. To clearly show what has been changed in this staff report in comparison to the staff report that was published for the July 26th Planning Commission hearing, substantive new text is noted in **purple**.

The City of Fort Bragg received numerous written and verbal complaints about the operation of the Hospitality House from the fall of 2016 through the present. These complaints resulted in the City opening a code violation case regarding the Hospitality House. During the course of the code violation investigation, staff visited the Hospitality House on two occasions, with the permission of the Executive Director of MCHC, to observe and understand how Hospitality House operates. During the visits, staff discovered a violation of the Hospitality House Use Permit (USP 9-03), namely an increase in the number of beds from 24 (as permitted by the Use Permit) to 35. As a result of the confirmation of nuisance conditions relating to operation of the Hospitality House emergency shelter and the discovery of the unpermitted increase in beds, the City initiated proceedings to modify Use Permit 9-03 to address the nuisance conditions and the permit violation.

On July 7, 2017, pursuant to Fort Bragg Municipal Code (FBMC) Section 17.96, the City served a Notice of Violation and Hearing on the Hospitality House (Attachment 1). The Notice stated the violations of the Use Permit and FBMC, and provided that a hearing would be held before the Planning Commission on July 26, 2017. The City completed all other noticing requirements on July 13th per Section 18.96.¹

On July 20, 2017, MCHC requested that the July 26, 2017 public hearing be continued, to allow Hospitality House representatives more time to prepare for the hearing (Attachment 2). **MCHC's attorney also requested a meeting with City staff and the City Attorney to discuss the proposed modifications to the Use Permit's special conditions. The meeting was scheduled for the morning of July 27.**

On July 26, the Planning Commission Chair continued the public hearing on the Hospitality House Use Permit modification to 6:00 p.m. on August 23, 2017. As the matter was thereby removed from the Planning Commission's July 26 agenda, the public was invited to comment regarding the Hospitality House Use Permit Modification under the Agenda item entitled "Comments on Non-Agenda Items." Public comments were received from 37 people. All comments will be included in the administrative record for this proceeding. The public will have another opportunity to comment at the August 23, 2017 continued public hearing.

¹ Method of notice distribution, included the following: 1) publication once in the Fort Bragg Advocate 10 days before the scheduled hearing; 2) mailing of Hearing Notice to be delivered at least 10 days before the scheduled hearing to project site owners, local agencies, all owners of real property within a radius of 300 feet of the exterior boundaries, all tenants located within 100 feet of the exterior boundaries of the site, and all persons requesting notice; and 3) posting of the notice on the subject parcel in the front yard.

As this is an enforcement proceeding, it is not uncommon for both sides to sit down and seek to arrive at common ground in order to reduce the risk of further legal action. Accordingly, at the request of MCHC's attorney, on July 27, the following individuals met to discuss the proposed special conditions in the Use Permit Modification:

Hospitality House representatives: Jerry Thomas, Wally Wetterman (Attorney), Pamela Cohen (Attorney), Anna Shaw, Lynelle Johnson

City representatives: Marie Jones, Linda Ruffing, Samantha Zutler (Attorney)

The City agreed to the meeting at the request of MCHC, which notified the City in advance that it would agree to comply with some of the conditions as proposed, and that it was seeking modifications to some of the proposed Special Conditions. MCHC asked for an opportunity to meet with City staff to discuss possible modifications to the proposed Special Conditions. Generally, the City meets with code violators in order to identify and develop methods to address violations; this meeting was in conformance with this standard City practice.

After much discussion, City staff agreed to bring some of the proposed modifications to the Special Conditions forward for consideration by the Planning Commission. This staff report shows: 1) the original Special Condition; 2) the revised Special Condition as requested by MCHC; 3) staff's analysis and a final staff recommendation.

If the Planning Commission chooses to modify the Hospitality House Use Permit, it can choose any of the following courses of action for each Special Condition:

1. Adopt the Special Condition from the June 23rd staff report which is indicated with the original numbering and retained in this staff report;
2. Adopt the Special Condition requested by MCHC, which is indicated by the original numbering plus the letter "a" (e.g. 1a, 2a, 3a etc.);
3. Adopt the Special Condition as agreed upon between City Staff and MCHC at the July 27th meeting which is indicated by the original numbering plus the letter "b" (e.g. 1b, 2b, 3b, etc.); or
4. Adopt new or further revised Special Conditions per Planning Commission's direction. For Special Conditions that do not address a nuisance condition or respond to a finding already in the staff report, it would be wise for the Commission to continue the hearing and direct staff to return with findings and evidence that supports the new conditions.

PAST APPLICATIONS & HISTORY

SA 3-87. In 1987, the Planning Commission approved Site and Architectural Review permit SA 3-87 to allow the conversion of a vacant single family residence and

accessory dwelling unit to an emergency shelter (the Hospitality House). At that time, the City determined that the use type was most similar to a “hotel,” as the use type “emergency shelter” was not a use type defined in the Zoning Code. As a hotel in the Central Business District was allowed as of right, no Use Permit was required for the Hospitality House. The Planning Commission approved the Site and Architectural Review permit with special conditions requiring that the project comply with all fire and building codes and provide three parking spaces. According to the application materials, at the time of application, the Hospitality House served meals to homeless people who stayed at the house and were referred to the Hospitality House by other social service organizations; no drop-ins or people under the influence were served. The application further noted that, at the time, the Hospitality House served 1,200 meals (an average of 4 total meals per day).² A copy of SA 3-87 is attached as Attachment 3.

VAR 5-88. In 1989, the Planning Commission approved a variance (VAR 5-88) to waive the requirement for the three on-site parking spaces as required by SA 3-87. The HH supported its variance request with information indicating that: 1) the majority of Hospitality House clients were without vehicles; and 2) all clients were required to vacate the location between the hours of 9 am and 4 pm. A copy of VAR 5-88 is attached as Attachment 3.

Scenic Corridor and Site and Architectural Review (SCR/SA 13-03) / Use Permit (USP 9-03). In 2003, the Planning Commission approved a Scenic Corridor/ Site and Architectural Review and Use Permit to: 1) authorize a 1,164 square foot addition to the main house; 2) relocate and reconstruct an existing alley house to meet setbacks; 3) construct an addition of 432 square feet to the second floor of the alley house; and 4) establish a parking area accessed off of the alley. At the time, the City defined the emergency shelter (which was an unlisted use type in the Zoning Code) to be most similar to a “Quasi-Public Use” which required a Use Permit in the Central Business District. The Planning Commission made a finding that the project would not result in an intensification of use and approved USP 9-03, which includes two special conditions limiting the Hospitality House to 24 beds as follows:

1. The total number of emergency shelter beds shall not exceed 24. A Use Permit amendment shall be required prior to any increase in the number of beds at the site.
2. Prior to occupancy of the new/renovated alley “family” structure, Community Development Department staff shall conduct an inspection of the entire facility to ensure that no more than 24 beds are at the site.

USP 9-03 did not include a Special Condition limiting the number of meals served. However, the application materials indicated that the Hospitality House provided 6,000 bed nights to patrons (an average of approximately 16 clients per night) and served 12,000 meals (an average of approximately 32 meals per day, which correlates to two meals per day per overnight client).

² See page 19 of Attachment 3.

In June 2004, the City adopted a new Land Use and Development Code, which listed “Emergency Shelter” as a use and prohibited that use within the Central Business District. Thus, in June 2004, the Hospitality House emergency shelter became a legal, non-conforming use.³ As such, the use may be continued in accordance with its permits, but not intensified, enlarged or increased unless a Minor Use Permit is obtained.⁴

In November 2004, based on USP 9-03, the City issued a building permit for the rehabilitation of the main house of the emergency shelter. The authorized work included: installation of fire safety exits, fire alarms and automatic fire sprinklers; an upgrade of electrical and plumbing systems; a new roof; and a kitchen expansion. The building permit was finalized in 2006.

In 2006, the City was awarded a Community Development Block Grant (CDBG) for MCHC to upgrade the alley house at the Hospitality House emergency shelter. The City issued a building permit for the project in 2008. The project, completed in 2009, included demolition and reconstruction of a 2-story structure in the same location with an increase of 564 square feet over the original structure.⁵ The alley house improvements included construction of a dormitory-style first floor sleeping area; first floor restroom and shower with separate outdoor entry; and installation of a 4-space parking area at the rear of the property. According to the 2006 CDBG Grant application, the 24-bed emergency shelter provided nearly 7,000 bed nights (19 guests/night) to families and individuals and served nearly 18,000 meals (50 meals/day). The application indicated that, at the time, most meals were provided to guests of the shelter

³ ILUDC Section 18.90.020 defines a nonconforming use as follows:

A use of land and/or a structure (either conforming or nonconforming) that was legally established and maintained before the adoption of this Development Code or amendment, but does not conform to the current Development Code requirements for allowable land uses within the applicable zoning district.

⁴ See ILUDC Section 18.90.030:

18.90.030 - Restrictions on Nonconforming Structures and Uses

A nonconforming land use and the use of a nonconforming structure may be continued, including transfers of ownership, provided any such continued use shall comply with the requirements of this Section. See Section 18.90.040 for exceptions regarding certain residential uses and structures.

A. Nonconforming use of land.

1. General rule. A nonconforming use of land may be continued, provided the use shall not be intensified, enlarged or increased, nor be extended to occupy a greater area of land than it lawfully occupied before becoming nonconforming, with the exception noted in 18.90.030.A.2 below.

2. Nonconforming use in a conforming structure. A nonconforming land use within a conforming structure may be expanded or replaced with Minor Use Permit approval, in the following manner:

a. Expansion of use. The nonconforming use of a portion of a structure may be expanded throughout the structure; and

b. Substitution of use. The nonconforming use of a structure may be changed to another nonconforming use of the same or more restricted nature; except that if a nonconforming use is changed to a conforming use, no nonconforming use may be resumed.

⁵ This project was authorized under USP 9-03 which vested in 2004 when the first building permit was approved for the Main House. Thus, although the project was a legal non-conforming use at the time that the building permit was pulled for the Alley House, much delayed after the approval of the Use Permit, the fact of the vested USP 9-03 allowed the project to proceed even though it was a physical expansion (+564 SF) of a non-conforming use, which is otherwise not permitted by the Land Use and Development Code unless a Minor Use Permit is obtained.

(38 meals/day), with a slight increase in meals served to people not staying at the shelter (12 meals/day).⁶ A copy of MCHC's application materials for USP 9-03 is attached as Attachment 4. A copy of USP 9-03 is also included in Attachment 4.

In or around 2006, Hospitality House added a 500 square foot outside concrete patio with three picnic tables.⁷ The patio area is located between the Main House and the Alley house. Staff determined the timing for the construction of the outside dining area through the review of aerial photos of the parcel on Google Earth.

In 2015, MCHC started to operate a seasonal Extreme Weather Shelter (EWS) based out of Hospitality House. EWS activities at the Hospitality House included: 1) gathering EWS clients at the Hospitality House; 2) feeding them a meal; and 3) transferring them by bus to a temporary church-based shelter for the night. In 2016, in response to community complaints, the City required MCHC to obtain a Limited Term Permit to continue operating the EWS. The Limited Term Permit (LTP 13-16) included the following conditions:

1. This permit is valid for a limited term only. The temporary use is to occur between November 1, 2016 and April 30, 2017.
2. The EWS shall activate only when the NOAA weather service forecasts temperatures 40 degrees or below, and/or there is a 20% or greater chance of precipitation.
3. Guests shall arrive at the EWS, via bus, no earlier than 6 p.m. on evenings of operation, and shall vacate the EWS no later than 7 a.m. the following day.
4. Hospitality House employees shall be on-site for security and supervision during the EWS operating hours. One employee shall be present if there are less than twelve guests, two employees shall be present if there are twelve or more guests.
5. With the exception of a dedicated and supervised smoking area, guests of the EWS must remain in the EWS overnight. Guests who must leave shall not be permitted to return that same night.
6. The EWS shall not be operated at a single location for more than fourteen consecutive days. The EWS shelter shall be limited to the following locations: First Presbyterian (367 S Sanderson Way); Trinity Lutheran (620 E Redwood Avenue); St. Michaels (201 E Fir Street); Fort Bragg Grace Community (1450 E Oak Street) and the Coast Christian Center (1004 E Chestnut Street). Additional locations may be requested for consideration by the Community Development Director.

LTP 13-16 for the operation of the Extreme Weather Shelter expired on April 30, 2017. A copy of LTP 13-16 is attached as Attachment 5.

BACKGROUND

⁶ CDBG Grant Application.

⁷ As observed through review of building permits, observation and a review of Google Earth photos from the time period.

The Hospitality House is a year-round emergency shelter that has operated at 237 North McPherson Street since 1987. It is operated by the Mendocino Coast Hospitality Center (MCHC), a 501(c)3 non-profit organization. According to MCHC, in 1987 clients of the shelter were limited to a maximum stay of three days unless they entered a drug/alcohol treatment program, in which case their stay was extended to a maximum of 30 days.

In 2007, the Hospitality House became the base for operation of the Extreme Weather Shelter (EWS) which was located off-site. Clients gathered at the Hospitality House and ate dinner prior to transfer to the EWS (hosted at a local church) by bus. The EWS provided shelter to homeless men who do not comply with admittance criteria for the Hospitality House emergency shelter. In the winter of 2016/2017, heavy rains resulted in increased operation of the EWS, which brought more clients into the neighborhood of the Hospitality House, where many loitered while waiting for access to the Hospitality House meals program and the EWS. The EWS appears to have exacerbated the operational impacts of the Hospitality House on the neighborhood and CBD. Furthermore, expansion of activities at the Hospitality House (i.e., meals program, EWS) has resulted in an increase in police calls and code enforcement complaints as detailed in the evidence provided below.

USE PERMIT VIOLATION & NUISANCE FINDINGS

The Use Permit violation is comprised of violations of:

1. Special Condition 1: An unpermitted expansion of the number of beds from 24 to 35 in violation of USP 9-03; and
2. Standard Condition 6: This permit shall be subject to revocation or modification upon a finding of any one (1) 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 (1) or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) or more conditions.

In addition, the City has identified the following nuisance conditions that relate to operation of the Hospitality House emergency shelter, in violation of various FBMC Sections and Standard Condition 6 of the Use Permit:

- a. Between June, 2016 and June 2017, the Fort Bragg Police Department received 196 confirmed calls for service to respond to the Hospitality House to address a variety of issues, including: disturbance, assault, battery, fighting, verbal threats, suspicious people/vehicle, trespass, drunk in public, etc.;
- b. During this time period, the City has received numerous complaints from residents and business owners regarding the following issues:

- I. Urination, feces, vomit, pet waste on public and private property;
- II. Aggressive panhandling, loitering, shouting, arguing, cursing in the public right of way;
- III. Littering;
- IV. Public drinking and drug use in the public right of way and on private property;
- V. Trespassing, shoplifting, vandalism and fighting on private property;
- VI. Sleeping on sidewalks, in vehicles, and on private property; and
- VII. Obstruction of sidewalks and alleys with personal property.

The Community Development Director is recommending modification of Use Permit (USP 9-03) to address the above violation of the Use Permit and nuisance conditions. The Planning Commission may revoke or modify an approved Use Permit in accordance with Inland Land Use and Development Code (ILUDC) 18.98.070 C and D:

C. **Revocations.** The City's action to revoke a permit or approval shall have the effect of terminating the permit and denying the privileges granted by the original approval.

D. **Modifications.** City modification of a permit or approval instead of revocation may include any operational aspect of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect/condition determined to be reasonable and necessary to ensure that the permit is operated in a manner consistent with the original findings for approval.

Furthermore, the Planning Commission may revoke or modify an approved Use Permit by making at least one of the findings listed in ILUDC Section 18.98.070 F:

F. **Review Authority action.**

1. **Permits.** A Use Permit, Minor Use Permit, or other City planning permit or approval (except a Variance, see Subsection F.2.) may be revoked or modified by the Review Authority (e.g., Director, Commission, or Council) that originally approved the permit, if the Review Authority first makes any one of the following findings:
 - a. Circumstances under which the permit or approval was granted have been changed to an extent that one or more of the findings that justified the original approval can no longer be made, and the public health, safety, and welfare require revocation or modification;
 - b. The permit or other approval was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application, or in the applicant's testimony presented during the public hearing, for the permit or approval;
 - c. **One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated;**

- d. The approved use or structure has ceased to exist or has been suspended for at least 12 months;
- e. An improvement authorized in compliance with the permit is in violation of any applicable code, law, ordinance, regulation, or statute; or
- f. **The improvement/use allowed by the permit has become detrimental to the public health, safety, or welfare, or the manner of operation constitutes or is creating a nuisance.**

Staff recommends that the Planning Commission modify the Use Permit under Findings C and F. As noted in the discussion below, the operation of the Hospitality House does not comply with Use Permit Special Condition 1, Standard Condition 2, and Standard Conditions 6b and 6c.

USE PERMIT MODIFICATION BASED ON USE PERMIT VIOLATION

As noted above, in 2003 MCHC obtained a Use Permit for operation of an emergency shelter that included two special conditions. Special Condition 1 is:

1. The total number of emergency shelter beds shall not exceed 24. A Use Permit amendment shall be required prior to any increase in the number of beds at the site.

On June 9, 2017, staff inspected the facility and counted 35 beds which is in violation of Special Condition 1. There were 24 beds in the Main House and ten beds in the Alley House (Attachment 6 and 7). The Hospitality House has neither requested nor obtained a Minor Use Permit or Use Permit amendment to increase the number of beds.⁸ To address this violation, staff recommends that the Commission make Finding 1, and modify USP 9-03 to include Special Conditions 1 and 2 as follows:

Finding 1: One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated. Specifically, the Hospitality House is in violation of USP 9-03 Special Condition 1, which permits a maximum of 24 beds in the emergency shelter. There are currently 35 beds in the emergency shelter.

Special Condition 1: The total number of beds at the emergency shelter shall not exceed 24. An increase in the number of beds is not permitted unless a Minor Use Permit or Use Permit Amendment is applied for and obtained. If this provision is violated, operator shall pay a code violation fee, as determined by the City's Fee Schedule, for each occurrence of violation.

⁸ The Fire Marshal has noted that the unpermitted increase in the number of beds may present fire safety issues and any increase in the number of beds would be carefully reviewed by the Fire Inspector and may not be approvable.

Special Condition 2: The emergency shelter operator shall permit periodic inspections by City staff, which may be conducted without prior notification, to ensure that the limitation on the number of beds is not exceeded.

The above Special Conditions 1 and 2 would supersede existing Special Conditions 1 and 2 of USP 9-03.

MCHC has proposed to modify Special Conditions 1 and 2 as follows:

Special Condition 1a: The total number of ~~beds~~ *guests* at the emergency shelter shall not exceed 24. An increase in the number of ~~beds~~ *guests* is not permitted unless a Minor Use Permit or Use Permit Amendment is applied for and obtained. ~~If this provision is violated, operator shall pay a code violation fee, as determined by the City's Fee Schedule, for each occurrence of violation.~~

Special Condition 2a: The emergency shelter operator shall permit periodic inspections by City staff, which may be conducted without prior notification, to ensure that the limitation on the number of ~~beds~~ *guests* is not exceeded.

MCHC representatives indicated that they need flexibility to serve different combinations of people in different rooms each night based on gender and family status, and a strict limitation on the number of beds, as provided for in the 2003 Use Permit, limits their ability to serve 24 guests per night, as the beds may be difficult to move. MCHC provided a spreadsheet with 18 months of Homeless Management Information System (HMIS) data showing the nightly headcount at the Hospitality House. HMIS data is maintained by MCHC in accordance with State and federal requirements. The data indicates that the headcount exceeded the 24 guest limit on 26 occasions (25 guests on 16 nights; 26 guests on 5 nights; and 27 guests on 4 nights) (see Attachment 8).

City staff is concerned that a 24 “guest” limit may prove difficult to enforce as the data indicates that, on occasion, more than 24 guests have stayed at the Hospitality House. Additionally, staff would need to make spot checks on random nights to ensure that the limit is not exceeded, and it relies on adherence to the Special Condition by evening staff who may not always understand or follow the limits established in the Special Condition. Additionally, there may be Building Code and Fire Code issues relating to the configuration of beds and possible concentration of guests in the upstairs of the front house.

Staff Recommendation: City staff continues to recommend that the nightly occupancy of the Hospitality House be constrained by a 24 bed limit as described in Special Conditions 1 and 2 from the July 26th staff report.

USE PERMIT MODIFICATIONS BASED ON USE PERMIT VIOLATIONS RESULTING IN NUISANCE CONDITIONS

USP 9-03 includes the following Standard Condition 6:

6. This permit shall be subject to revocation or modification upon a finding of any one (1) 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 (1) or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) or more conditions.

As currently operated, the Hospitality House has become a nuisance. Staff thus recommends the Commission make the below findings, and modify USP 9-03 in order to include special conditions designed to address the nuisance conditions described in the findings and supporting evidence.

Over the past six months, the City has received numerous verbal and written complaints about the operation of the Hospitality House (see Attachment 13). Staff also obtained a log of all calls for police services at the Hospitality House over the past year which indicates a very high call volume and constitutes a nuisance (see Attachment 9).

Through a review of complaint letters, the police call log, and conversations with property owners and business owners within the neighborhood, City staff has identified the following nuisance conditions related to the Hospitality House emergency shelter and meal programs:

- a. Over the past year, 196 confirmed calls for service to the Police Department to the Hospitality House to address a variety of issues, including: disturbance, assault, battery, fighting, verbal threats, suspicious people/vehicle, trespass, drunk in public, etc.;
- b. Numerous code complaints from residents and business owners regarding the following concerns:
 - I. Urination, feces, vomit, pet waste on public and private property;
 - II. Aggressive panhandling, loitering, shouting, arguing, cursing in the public right of way;
 - III. Littering;
 - IV. Public drinking and drug use in the public right of way and on private property;
 - V. Trespassing, shoplifting, vandalism and fighting on private property;
 - VI. Sleeping on sidewalks, in vehicles, and on private property; and
 - VII. Obstruction of sidewalks and alleys with personal property.

Most of these issues constitute violations of the FBMC and, as such, are considered to be nuisance conditions (see FBMC Section 6.12.040 R). The following activities are prohibited within the City of Fort Bragg by the FBMC:

- a. Aggressive Solicitation (pan handling) – Section 9.26
- b. Disorderly conduct – Section 9.36
- c. Public drunkenness – Section 9.4
- d. Trespass on Private Property – Section 9.58
- e. Obstruction of Streets, Alleys and Sidewalks – Section 9.60
- f. Camping on public property – Section 9.66

Per FBMC Section 6.12.040, continual and excessive calls for service is one criterion for determining if a nuisance exists at a property.

U. Continual complaints of violations of Local, State or Federal laws that require the Police Department to respond to the property resulting in the issuance of citations or the making of arrests.

The Hospitality House has precipitated 196 calls for service over the past year. These calls far exceed the number of calls to other comparable properties. For instance, the Golden West Saloon, also located in the CBD, includes a number of Single Room Occupancy rentals, a bar and two retail tenants. The Golden West Saloon had 29 calls for service in the same time period. The Country Inn provides overnight accommodations and meals as a package; the Country Inn had two calls for service in the same time period. Cucina Verona serves three meals per day, and has four apartments for rent and a bar. Cucina Verona had 4 calls for service during the same time period (see Table below and Attachments 9, 10, 11 and 12).

Calls for Service, June 2016 - June 2017		
Property Address & Business Name	Type of Business	Evidence: Calls for Service June 2016 to June 2017
Hospitality House 237 N. McPherson St.	Accommodations & food service	196 calls for service Attachment 9
Golden West Saloon 128 E Redwood Ave	Bar, retail and Single Room Occupancy (SRO)	29 calls for service Attachment 10
Cucina Verona 124 E Laurel St,	Restaurant & Bar	4 calls for service Attachment 11
Country Inn 632 N Main St	Accommodations & food service	2 calls for service Attachment 12

As illustrated in the table above, Hospitality House precipitated 575% more calls for service in a year than the Golden West Saloon, located within the same zoning district.

To support a finding of nuisance, FBMC Section 18.98.070F requires the Commission to make the following finding:

1. The improvement/use allowed by the permit has become detrimental to the public health, safety, or welfare, or the manner of operation constitutes or is creating a nuisance.

In addition to the above, staff recommends that the Commission make the following findings, supported by the listed evidence. To address the nuisance conditions created by Hospitality House operations, staff recommends that the Commission add the following corresponding Special Conditions to USP 9-03.

Recommended Finding	Special Conditions
<p>Some Hospitality House clients leave a variety of personal trash and belongings around the neighborhood. Hospitality House clients leave the facility with food on paper plates and leave the paper plates and food supplies littered around the neighborhood.</p> <p><u>Evidence:</u> Code Complaints Regarding Nuisance Conditions (Attachment 13) Email dated Tuesday, February 28, 2017 8:08 AM; Email dated May 2, 2017 at 7:56:46 AM; Email dated Saturday, February 18, 2017 at 4:36 PM. Email dated Thursday, February 16, 2017 9:52 AM; Email dated Wednesday, February 15, 2017 8:11 PM; Email dated Saturday, February 11, 2017 5:46 PM</p>	<ol style="list-style-type: none"> 3. Hospitality House shall serve all food on premises. Food shall not be prepared or served “to go” for clients to carry off-site. 4. Hospitality House shall provide at least two 50-gallon trash receptacles on site for clients to dispose of personal trash. Trash cans shall be emptied on a regular basis to ensure sufficient trash capacity.
<p><u>Staff Recommendation:</u> City staff recommends retaining Special Condition 3 and 4 as written above.</p> <p>MCHC has indicated that Special Conditions 3 and 4 are acceptable.</p>	
<p>Some Hospitality House clients defecate and urinate on Hospitality House property and immediately adjacent properties.</p> <p><u>Evidence:</u> Code Complaints Regarding Nuisance Conditions (Attachment 13) Email dated June 5, 2017 at 4:22 PM; Email dated March 21, 2017 at 9:12 PM; Email dated Tue, Mar 21, 2017 at 9:12 PM; Email dated February 28, 2017 at 8:07:53 AM; Email</p>	<ol style="list-style-type: none"> 5. Hospitality House shall provide a restroom facility for clients starting one hour before food service each day and for one hour after food service each day.

Recommended Finding	Special Conditions
dated Saturday, February 25, 2017 3:57 PM	
<p>MCHC proposed the following revision to Special Condition 5.</p> <p>5a. Hospitality House shall provide a restroom facility for clients <i>during starting</i> one hour before food service each day and for one hour after food service each day.</p> <p>MCHC is concerned that opening the restrooms before meal service will result in clients loitering in the neighborhood and on the premises earlier in the day. The necessity of monitoring clients in the courtyard would create a staffing burden at a time when the Hospitality House staff is busy preparing meals.</p> <p>City staff noted that the complaints regarding outside defecation and urination primarily relate to occurrences in the morning hours when clients are waiting for breakfast to be served.</p> <p><u>Staff Recommendation:</u> City staff recommends modifying Special Condition 5b as follows:</p> <p>5b. Hospitality House shall provide a restroom facility for <i>non-guest</i> clients starting one hour before <i>the breakfast meal program</i> each day.</p> <p>MCHC has indicated that Special Condition 5b is acceptable.</p>	

<p>Some Hospitality House clients loiter and block the public right of way while waiting for Hospitality House to open to serve meals.</p> <p><u>Evidence:</u> Code Complaints Regarding Nuisance Conditions (Attachment 13) Email dated June 5, 2017 at 4:22 PM; Email dated June 4, 2017 at 7:21 PM; Email dated May 8, 2017 at 6:30 AM; Email dated Wednesday, March 1, 2017; Email dated Tuesday, February 28, 2017 6:45 PM; Email dated February 28, 2017 at 8:07:53 AM; Email dated Wednesday, February 22, 2017 10:55 AM; Email dated Saturday, February 18, 2017 2:24 PM; Email dated Thursday, February 16, 2017 9:52 AM; Email dated Wednesday, February 15, 2017 8:11 PM; Email dated Saturday, February 11, 2017 5:46 PM; Anonymous Letter</p>	<p>6. Hospitality House shall provide a location on Hospitality House premises for clients to gather and wait for the meals program to open. The gathering area shall be available to clients starting one hour before food service each day. The waiting area shall be monitored by Hospitality House staff.</p>
<p>MCHC proposed the following revision to Special Condition 6.</p> <p>6a. Hospitality House shall provide a location on Hospitality House premises for clients to gather and wait for the meals program to open. The gathering area shall be available to clients starting one hour before food service each day. The waiting area shall be monitored by Hospitality House staff.</p> <p>MCHC is concerned that providing an opportunity for clients to gather at the Hospitality House one hour prior to food service will result in more loitering even earlier in the day, as people will loiter outside the facility in advance of the opening of the gathering area.</p> <p>City staff remains concerned about the high incidence of loitering precipitated by people waiting for meals to be served.</p> <p><u>Staff Recommendation:</u> City staff recommends that Special Condition 6 be retained as originally worded.</p>	
<p>Some Hospitality House clients engage in behaviors which cause nuisance conditions, such as: 1) fighting, aggressive pan-handling, loitering, shouting, arguing, cursing, littering, public drinking & drug use in the public right of way; 2) obstruction of sidewalks and alleys; 3) trespassing, shoplifting and vandalism of</p>	<p>7. Hospitality House shall monitor client behavior in and adjacent to the Hospitality House and report illegal behavior to the Police Department and cooperate with the Police Department to address the client behavior that disturbs</p>

private property; and 4) sleeping on sidewalks, in vehicles, and on private property. Hospitality House clients engage in behaviors which cause nuisance conditions that prompt excess calls for service to the Police Department and disturb the peace of the neighbors surrounding the Hospitality House.

Evidence:

Fort Bragg Calls for Service to Hospitality House 2017 (Attachment 9)

Battery, assault and fighting – 15 calls for service

Disturbance of the peace – 5 calls for service for threats, verbal assault, loud music

Public Drinking – 2 calls for service

Trespass – 4 calls for service

Theft – 5 calls for service

Code Complaints Regarding Nuisance Conditions (Attachment 13)

Open containers & public intoxication -
Emails dated: Saturday, February 11, 2017 5:46 PM; February 28, 2017 at 8:07:53 AM; Thursday, February 16, 2017 9:52 AM; Wednesday, February 15, 2017 8:11;

Shouting, arguing, cursing – Email dated Friday, June 2, 2017 4:47 PM; police log

Trespass, shoplifting and vandalism -
February 28, 2017 at 8:07:53 AM; Saturday, February 11, 2017 5:46 PM

Sleeping in sidewalks and vehicles – emails dated Friday, June 2, 2017 4:47 PM; Wednesday, February 22, 2017 10:55 AM; May 2, 2017 at 7:56:46 AM; Monday, May 08, 2017 6:30 AM

the peace.

8. Hospitality House shall establish rules of conduct for clients, aimed at curtailing behaviors that are unlawful and/or disturb the peace. Clients who violate the rules of conduct shall be denied service by Hospitality House for a period of not less than three days. Serial violators of the rules of conduct (more than three violations in a one-month period) shall be refused service.

9. The Hospitality House rules of conduct shall, at a minimum, prohibit drug use, drinking, intoxication and loitering in and around the Hospitality House. Clients that violate these rules of conduct shall not be served meals and/or provided with a room for the evening.

10. The Hospitality House shall post signs on the front and back property entrances that prohibit drug use, drinking, intoxication and loitering in and around the Hospitality House. The signs shall also provide a 24-hour complaint phone number for a member of the HH staff.

11. The Extreme Weather Shelter shall not be operated from the Hospitality House.

MCHC proposed the following revisions to Special Condition 7.

7a. Hospitality House shall monitor client behavior ~~in and adjacent to~~ on the Hospitality House ~~property~~ and report illegal behavior to the Police Department and cooperate with the Police Department to address the client behavior that disturbs the peace.

MCHC requested this change because “adjacent to” is not clearly defined.

City staff clarified that the intent was for Hospitality House to monitor the sidewalk directly in front of the Hospitality House property and the alley directly behind the Hospitality House property.

Staff Recommendation: City staff recommends modifying Special Condition 7b as follows:

7b. Hospitality House staff shall monitor client behavior on and adjacent to the Hospitality House premises and shall report illegal behavior to the Police Department and cooperate with the Police Department to address client behavior that disturbs the peace. *“Adjacent to” means the sidewalk directly in front of the Hospitality House property and the alley directly behind the Hospitality House property.*

MCHC has indicated that Special Condition 7b is acceptable.

MCHC proposed the following revision to Special Condition 8:

8a. Hospitality House shall establish rules of conduct for clients, aimed at curtailing behaviors that are unlawful and/or disturb the peace. Clients who violate the rules of conduct shall be denied service by Hospitality House *in accordance with policies approved by the MCHC Board of Directors.* ~~for a period of not less than three days. Serial violators of the rules of conduct (more than three violations in a one-month period) shall be refused service.~~

MCHC provided a copy of their policies and rules for staying at Hospitality House (see Attachment 14). The rules include progressive discipline as follows: written warnings, discharge, and banned until further application for reentry is considered by the Executive Director and the MCHC Board.

City staff explained that the Hospitality House rules have not been consistently followed as intoxicated people have been observed staying in the house and a small number of Hospitality House guests appear to be responsible for the majority of calls for service to the address. Staff noted that establishing a “ban list” would be helpful, particularly if the Police Department could review the ban list and add people to it who have been cited or arrested for illegal actions (including actions occurring in locations other than the Hospitality House premises). The Police Department has also indicated that it would also be very helpful to have closed-loop surveillance cameras in the public spaces (interior and exterior) of the Hospitality House so that Hospitality House and Police Department staff can more easily identify responsible parties involved in crimes.

Staff Recommendation: Based on discussions with MCHC, City staff recommends a revised Special Condition 8b as follows:

8b. Hospitality House shall establish rules of conduct for clients, aimed at curtailing behaviors that are unlawful and/or disturb the peace. Clients who violate the rules of conduct shall be denied service by Hospitality House *in accordance with policies approved by the MCHC Board of Directors. The Hospitality House shall establish a “ban list” that identifies individuals who are temporarily and/or permanently banned from the Hospitality House property. The “ban list” shall be shared with the Police Department and the Police Department may add the names of individuals who have been cited and/or arrested for illegal actions (including actions occurring in locations other than the Hospitality House premises). The Police Department shall use its judgment as to whether an individual should be temporarily banned or permanently banned from the Hospitality House depending upon the severity and frequency of repetition of the crime(s) committed. The Hospitality House shall abide by the “ban list.” Closed loop surveillance cameras shall be installed in the interior and exterior public spaces of the Hospitality House and footage shall be shared with the Police Department upon request.*

MCHC has indicated that Special Condition 8b is acceptable.

MCHC proposed the following revisions to Special Condition 9.

9a. The Hospitality House rules of conduct shall, at a minimum, prohibit drug use, drinking, ~~intoxication~~ and loitering ~~in and around the~~ on Hospitality House property. Clients that violate these rules of conduct shall not be served meals and/or provided with a room for the evening.

Hospitality House indicated that their current rules of conduct require a written warning the first time that someone tests positive for drug or alcohol use and discharge the second time. However, the Police Department has indicated that an inordinate number of the calls for service to the facility are precipitated by drunk and drug intoxicated individuals. Both parties agreed that the additions to Special Condition 8 which include the ability of the City to place individuals on the temporary or permanent ban list will hopefully reduce these excessive calls for service.

Staff Recommendation: City staff recommends revised Special Condition 9b.

9b. The Hospitality House rules of conduct shall, at a minimum, prohibit drug use and drinking ~~intoxication and loitering in and around the~~ on Hospitality House property. Clients who violate these rules of conduct shall not be served meals and/or provided with a room for the evening.

MCHC proposed the following revisions to Special Condition 10.

10a. The Hospitality House shall post signs on the front and back property entrances that prohibit drug use, drinking, ~~intoxication~~ and loitering ~~in and around~~

~~the on Hospitality House property. The signs shall also provide a 24-hour complaint phone number to reach for a member of the Hospitality House staff during Hospitality House operating hours.~~

MCHC noted that management is not available 24 hours a day as the house is generally closed between 9:00 am and 4:00 pm.

City staff notes that much of the nuisance conduct occurs in the evening or overnight, so it is especially important to have access to HH staff during these times.

Staff Recommendation: Based on this discussion, City staff recommends revising Special Condition 10b as follows:

10b. The Hospitality House shall post signs on the front and back property entrances that prohibit drug use, drinking, intoxication and loitering ~~in and around the on Hospitality House property.~~ The signs shall also provide a 24-hour complaint phone number to reach for a member of the Hospitality House staff during Hospitality House operating hours from 4:00pm through 9:00am.

MCHC has indicated that Special Condition 10b is acceptable.

MCHC has indicated that Special Condition 11 is acceptable as written.

Intoxicated and/or inebriated people are accommodated at Hospitality House in violation of its stated rules. The Hospitality House has been, on occasion, left unmanaged in the evenings/nights and clients contribute to nuisance conditions at such times.

Evidence:

Police Response Log for 2017 Calls to Hospitality House (Attachment 9)

Police Officer Testimony

12. The Hospitality House shall be managed by a competent person who has both training and experience in the successful management of an emergency shelter, group home, residential treatment program or similar facility.

13. The Hospitality House manager shall be responsible for oversight of all activities on the premises and shall work to minimize the negative impacts of the facility and its clients on the surrounding neighborhood.

14. The Hospitality House shall have an on-site manager at all times when clients are present.

MCHC proposed the following revisions to Special Condition 12.

12a. The Hospitality House shall be managed by a competent person who has both *the requisite* training and experience *to manage in the successful management of an emergency shelter, group home, residential treatment program or similar facility.*

MCHC and City staff discussed the proposed revision and noted that the primary goal of Special Condition 12 is to ensure that Hospitality House staff is competent to successfully manage the facility.

Staff Recommendation: Based on this discussion, City staff recommends the following revised Special Condition 12b:

12b. The Hospitality House shall be *successfully* managed by a competent person who has both *the requisite* training and experience *to manage in the successful management of an emergency shelter, group home, residential treatment program or similar facility.*

MCHC has indicated that Special Condition 12b is acceptable.

MCHC has indicated that Special Condition 13 is acceptable.

MCHC proposed and City staff recommends the following revision to Special Condition 14:

14a. The Hospitality House shall have *a trained person an on-site manager* at all times when clients are present.

At times, the manager of the Hospitality House has refused to cooperate with Police Department investigations of individuals housed at the shelter.

Evidence:
Police Officer Testimony

15. The Hospitality House Management shall cooperate with the Police Department and Police Officers when they respond to complaints and calls for service at the Hospitality House, or when undertaking investigations at the Hospitality House.

MCHC has indicated that Special Condition 15 is acceptable.

The expansion of the meals program, in both number and hours, has increased the number of code violation complaints, calls for service and has resulted in an overall increase in all nuisance conditions in the neighborhood.

Evidence:

16. The Hospitality House shall not expand the hours of meal service. Meal service shall be limited to 20,000 meals per year (2017 use rate).

17. Other homeless services currently

<p>The number of meals has increased from 12,000 meals in 2003 to 20,000 meals in 2017. Until recently, in order to accommodate the additional meal clients, the Hospitality House provided meals “to go,” which resulted in many complaints about trash and waste food being left in the neighborhood. In late 2016, the Hospitality House added an additional hour of service for meals in the evening to accommodate the higher number of clients without providing meals to go. The expanded hour of service has resulted in additional loitering as people not able to eat in the first seating often wait outside the facility until the second seating.</p> <p>The increase in the number of meals and the expansion of the hours of service has resulted in an increase in the nuisance conditions in and around Hospitality House.</p> <p>General Nuisance Conditions:</p> <p>Email dated June 5, 2017 at 4:22 PM; Email dated June 4, 2017 at 7:21 PM; Email dated May 8, 2017 at 6:30 AM; Email dated Wednesday, March 1, 2017; Email dated Tuesday, February 28, 2017 6:45 PM; Email dated February 28, 2017 at 8:07:53 AM; Email dated Wednesday, February 22, 2017 10:55 AM; Email dated Saturday, February 18, 2017 2:24 PM; Email dated Thursday, February 16, 2017 9:52 AM; Email dated Wednesday, February 15, 2017 8:11 PM; Email dated Saturday, February 11, 2017 5:46 PM; Anonymous Letter</p> <p>Open containers & public intoxication - Emails dated: Saturday, February 11, 2017 5:46 PM; February 28, 2017 at 8:07:53 AM; Thursday, February 16, 2017 9:52 AM; Wednesday, February 15, 2017 8:11</p> <p>Shouting, arguing, cursing – Email dated Friday, June 2, 2017 4:47 PM; police log</p> <p>Trespass, shoplifting and vandalism -</p>	<p>offered at the facility shall not be intensified or expanded. Non-guest use of showers shall be limited to 4,500 or fewer showers per year (2017 use rate). Non-guest use of laundry services shall be limited to 750 or fewer users per year (2017 use rate).</p> <p>18. The Hospitality House shall not offer new services that attract additional clients to the facility at other times of day or otherwise intensify the utilization of the facility, including but not limited to: counseling, educational services, mental health services, mail service, computer access, food pantry, etc.</p>
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<p>February 28, 2017 at 8:07:53 AM; Saturday, February 11, 2017 5:46 PM</p> <p>Sleeping in sidewalks and vehicles – emails dated Friday, June 2, 2017 4:47 PM; Wednesday, February 22, 2017 10:55 AM; May 2, 2017 at 7:56:46 AM; Monday, May 08, 2017 6:30 AM</p>	
<p>MCHC has indicated that Special Condition 16 is acceptable.</p> <p>MCHC proposed and City staff recommends the following revision to Special Condition 17:</p> <p style="padding-left: 40px;">17a. Other homeless services currently offered at the facility shall not be intensified or expanded. Non-guest use of showers shall be limited to 4,500 or fewer showers per year (2017 use rate). Non-guest use of laundry services shall be limited to 750 or fewer users per year (2017 use rate).</p> <p>MCHC explained that it is more desirable for non-guests to be able to shower and do their laundry at the Hospitality House than for them to be in the community without a shower and in clothes that could use a wash. Staff believes the proposed modification is reasonable.</p> <p>MCHC has indicated that Special Conditions 18 is acceptable.</p>	

Letters in support of and in opposition to the Use Permit Modification are in Attachment 15.

Environmental Determination. The proposed action is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15321CCR, for enforcement actions by regulatory agencies

RECOMMENDED PLANNING COMMISSION ACTION

1. Receive report, open public hearing, accept public comment and adopt the Resolution of the Fort Bragg Planning Commission Making Findings Based on the Evidence Presented to Modify Existing Use Permit 9-03 (USP 9-03) to Include Additional and Revised Conditions to Address Nuisance Conditions and Ongoing Violations of Special and Standard Conditions of the Use Permit.

ALTERNATIVE ACTION

Three alternative courses of action include:

2. Receive report, open public hearing, accept public comment and provide direction to Staff to revise the Resolution of the Fort Bragg Planning Commission Making

Findings Based on the Evidence Presented to Modify Existing Use Permit 9-03 (USP 9-03) to Include Additional and Revised Conditions to Address Nuisance Conditions and Ongoing Violations of Special and Standard Conditions of the Use Permit. The Resolution may be revised by the Commission to incorporate alternative findings, special and or standard conditions. The Planning Commission may then adopt the revised resolution.

3. Receive report, open public hearing, accept public comment and provide direction to Staff to prepare findings and a resolution to revoke USP 9-3. The resolution and supporting findings would be presented to the Planning Commission for adoption at a subsequent Planning Commission meeting.
4. Receive report, open public hearing, accept public comment and take no action, which would leave Use Permit 9-03 unmodified.

STAFF RECOMMENDATION

Adopt the Resolution of the Fort Bragg Planning Commission Making Findings Based on the Evidence Presented to Modify Existing Use Permit 9-03 (USP 9-03) to Include Additional and Revised Conditions to Address Nuisance Conditions and Ongoing Violations of Special and Standard Conditions of the Use Permit.

MODIFIED USE PERMIT FINDINGS

The six findings of USP 9-03 shall remain in effect. In addition, the following findings are made to support the revised Special Conditions of USP 9-03:

7. One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated. Specifically, two conditions have been violated: (a) The Hospitality House violated USP 9-03 Special Condition 1, which permits a maximum of 24 beds in the emergency shelter. There are currently 35 beds in the emergency shelter. (b) The Hospitality House is in violation of Standard Condition 6c which states 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.”
8. The improvement/use allowed by the permit has become detrimental to the public health, safety, or welfare, and the manner of operation constitutes or is creating a nuisance.
9. Ongoing complaints alleging violations of local, State or federal laws require the Police Department to respond to the property and have resulted in the issuance of citations or the making of arrests.

10. The Hospitality House operates in such a way as to cause nuisance conditions:

- a. Some Hospitality House clients leave a variety of personal trash and belongings around the neighborhood. Some Hospitality House clients leave the facility with food on paper plates and leave the paper plates and food supplies littered around the neighborhood.
- b. Some Hospitality House clients defecate and urinate on Hospitality House property and immediately adjacent properties.
- c. Some Hospitality House clients loiter and block the public right of way while waiting for Hospitality House to open to serve meals.
- d. Some Hospitality House clients engage in behaviors which cause nuisance conditions, such as: 1) fighting, aggressive pan-handling, loitering, shouting, arguing, cursing, littering, public drinking & drug use in the public right of way; 2) obstruction of sidewalks and alleys; 3) trespassing, shoplifting and vandalism of private property; and 4) sleeping on sidewalks, in vehicles, and on private property. Some Hospitality House clients engage in behaviors which cause nuisance conditions that prompt excess calls for service to the Police Department and disturb the peace of the neighbors surrounding the Hospitality House.
- e. On occasion, intoxicated and/or inebriated people are accommodated at Hospitality House in violation of its stated rules. The Hospitality House is, on occasion, left unmanaged in the evenings/nights and clients contribute to nuisance conditions at such times.
- f. At times, the manager of the Hospitality House has refused to cooperate with Police Department investigations of individuals housed at the shelter.
- g. The expansion of the meals program, in both number and hours, has resulted in an increase in the number of code violation complaints, calls for service and has resulted in an overall increase in nuisance conditions in the neighborhood.

SPECIAL CONDITIONS

The Special Conditions of USP 9-03 shall be deleted and replaced with the following Special Conditions:

1. The total number of beds at the emergency shelter shall not exceed 24. An increase in the number of beds is not permitted unless a Minor use Permit or Use Permit Amendment is applied for and obtained. If this provision is violated, operator shall pay a code violation fee, as determined by the City's Fee Schedule for each occurrence of violation.

2. The emergency shelter operator shall permit periodic inspections by City staff, which may be conducted without prior notification, to ensure that the limitation on the number of beds is not exceeded.
3. Hospitality House shall serve all food on premises. Food shall not be prepared or served "to go" for clients to carry off-site.
4. Hospitality House shall provide at least two 50-gallon trash receptacles on site for clients to dispose of personal trash. Trash cans shall be emptied on a regular basis to ensure sufficient trash capacity.
5. Hospitality House shall provide a restroom facility for non-guest clients starting one hour before the breakfast meal program each day. (5b)
6. Hospitality House shall provide a location on Hospitality House premises for clients to gather and wait for the meal program to open. The gathering area shall be available to clients starting one hour before food service each day. The gathering area shall be monitored by Hospitality House staff.
7. Hospitality House shall monitor client behavior on and adjacent to the Hospitality House premises and shall report illegal behavior to the Police Department and cooperate with the Police Department to address client behavior that disturbs the peace. "Adjacent to" means the sidewalk directly in front of the Hospitality House property and the alley directly behind the Hospitality House property. (7b)
8. Hospitality House shall establish rules of conduct for clients, aimed at curtailing behaviors that are unlawful and/or disturb the peace. Clients who violate the rules of conduct shall be denied service by Hospitality House in accordance with policies approved by the MCHC Board of Directors. The Hospitality House shall establish a "ban list" which identifies individuals who are temporarily and/or permanently banned from the Hospitality House property. The "ban list" shall be shared with the Police Department and the Police Department may add the names of individuals who have been cited and/or arrested for illegal acts occurring in locations other than the Hospitality House premises. The Police Department shall use its judgment as to whether an individual should be temporarily banned or permanently banned from the Hospitality House depending upon the severity and frequency of repetition of the crime(s) committed. The Hospitality House shall abide by the "ban list." Closed loop surveillance cameras shall be installed in the interior and exterior public spaces of the Hospitality House and footage shall be shared with the Police Department upon request. (8b)
9. The Hospitality House rules of conduct shall prohibit drug use and drinking on Hospitality House property. Clients that violate these rules of conduct shall not be served meals and/or provided with a room for the evening. (9b)
10. The Hospitality House shall post signs on the front and back property entrances that prohibit drug use, drinking, intoxication and loitering. The signs shall also provide a phone number to reach a member of the Hospitality House staff during Hospitality House operating hours from 4:00 pm to 9:00 am. (10b)
11. The Extreme Weather Shelter shall not be operated from the Hospitality House.

12. The Hospitality House shall be successfully managed by a competent person who has both the requisite training and experience to manage an emergency shelter. (12b)
13. The Hospitality House manager shall be responsible for oversight of all activities on the premises and shall work to minimize the negative impacts of the facility and its clients on the surrounding neighborhood.
14. The Hospitality House shall have a trained person on-site at all times when clients are present. (14a)
15. The Hospitality House Management shall cooperate with the Police Department and Police Officers when they respond to complaints and calls for service at the Hospitality House, or when undertaking investigations at the Hospitality House.
16. The Hospitality House shall not expand the hours of meal service. Meal service shall be limited to 20,000 meals per year (2017 use rate).
17. Other homeless services currently offered at the facility shall not be intensified or expanded. (17a)
18. The Hospitality House shall not offer new services that attract additional clients to the facility at other times of day or otherwise intensify the utilization of the facility, including but not limited to: counseling, educational services, mental health services, mail service, computer access, food pantry, etc.

STANDARD CONDITIONS

The Standard Conditions of USP 9-03 shall be deleted and replaced with the following 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 Inland Land Use and Development Code (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 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.

ATTACHMENTS

1. July 7, 2017 Notice of Violation and Hearing to the Hospitality House
2. July 20, 2017 Letter from Pamela Cohen, Disability Rights California
3. Application & Planning File SA 3-87; VAR 5-88
4. Application & Planning File SA SCR 13-03 and USP 09-03
5. Extreme Weather Shelter Limited Term Permit LTP 13-16
6. Site Photos – Internal
7. Floor plan with number of beds per room
8. MCHC Guest Log
9. Police Activity Log Calls for Service to Hospitality House
10. Police Activity Log Calls for Service to Golden West Saloon
11. Police Activity Log Calls for Service to Cucina Verona
12. Police Activity Log Calls for Service to Country Inn
13. Code Complaint Letters Regarding Nuisance Conditions
14. Hospitality House Policy and Rules
15. Letters Regarding the Proposed Use Permit Modification
16. Site Location Map
17. Site Photos - External
18. Petition to Revoke USP 9-03
19. Petition to Modify USP 9-03
20. Petition in Support of the Hospitality House
21. Submitted photos
22. Hospitality House Proposed Changes to Special Conditions for USP 09-03 Modification
23. August Hearing Notice
24. Resolution of The Planning Commission to Modify USP 09-03

NOTIFICATIONS

- 1) Lynelle Johnson, MCHC Board President
- 2) Anna Shaw, MCHC Executive Director
- 3) Pamela Cohen, Disability Rights California
- 4) Rob Epstein, Epstein Law Firm
- 5) Hospitality House Code Violation Complainant List
- 6) Use Permit Modification Comment list
- 7) “Notify Me” lists:
 - Homeless
 - Economic Development
 - Downtown
 - CDBG Activities