

DECISION DATE: April 12, 2021

PREPARED BY: K. Locke

DECISION BY: J. Smith

AGENDA ITEM SUMMARY REPORT

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

OWNER: Benjamin & Joanna Gonzalez

APPLICANT: Same as owner

AGENT: Same as owner

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

LOCATION: 327 N. Corry St.

APN: 008-185-10-00

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

ZONING: RM – Medium Density Residential

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

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

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

BACKGROUND

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

Figure 1 Project Vicinity – 327 N. Corry Street



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

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

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

Figure 2 North Elevation

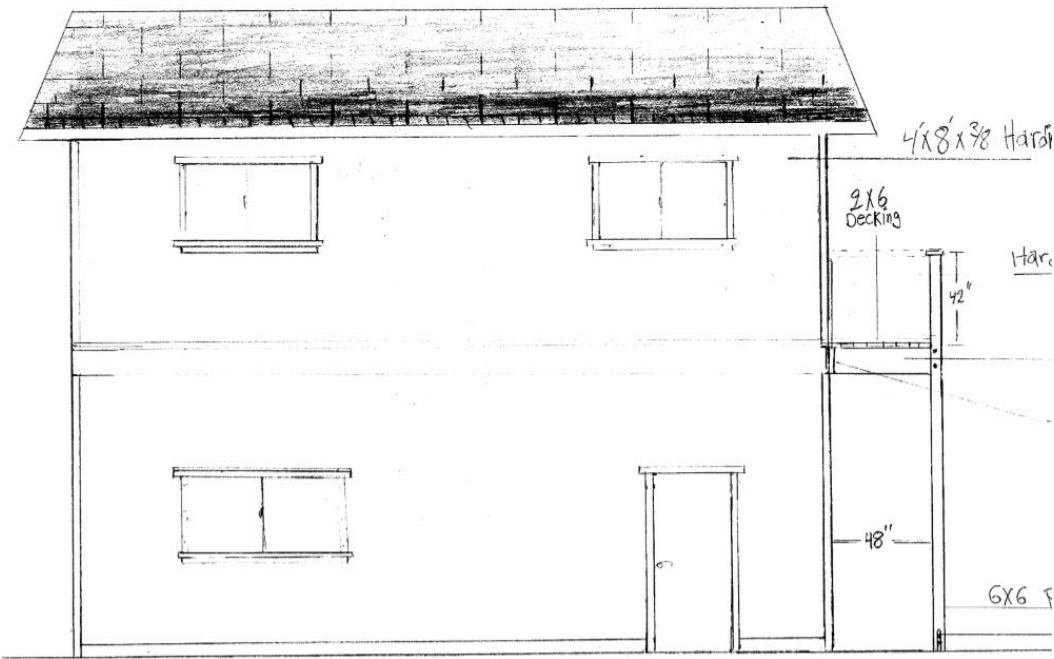


Figure 3 West Elevation

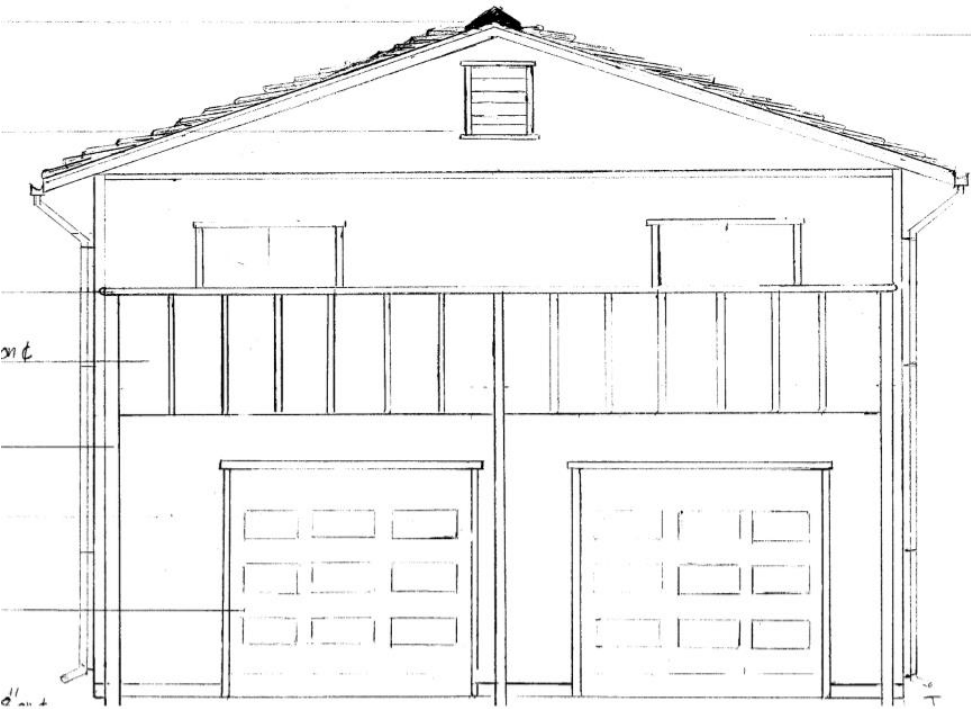


Figure 4 East Elevation

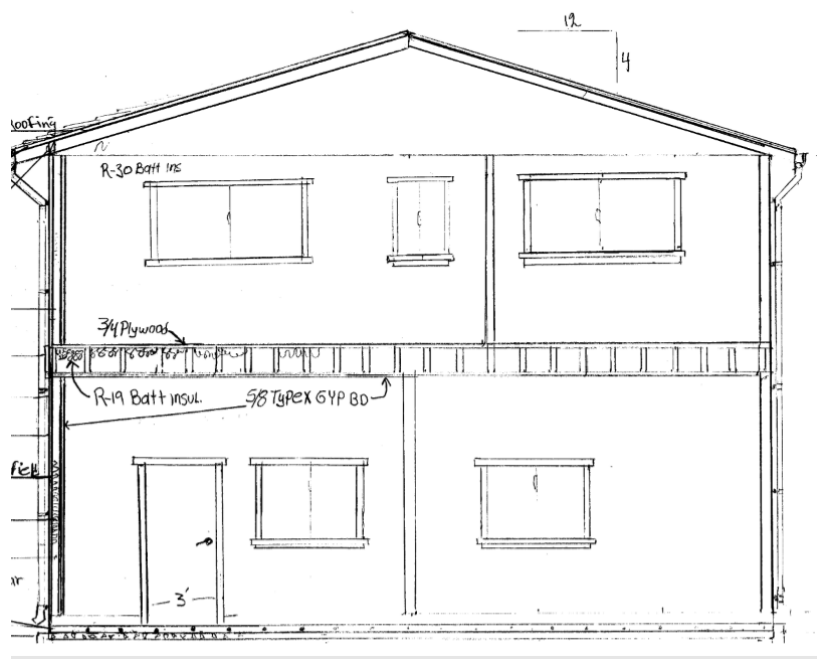
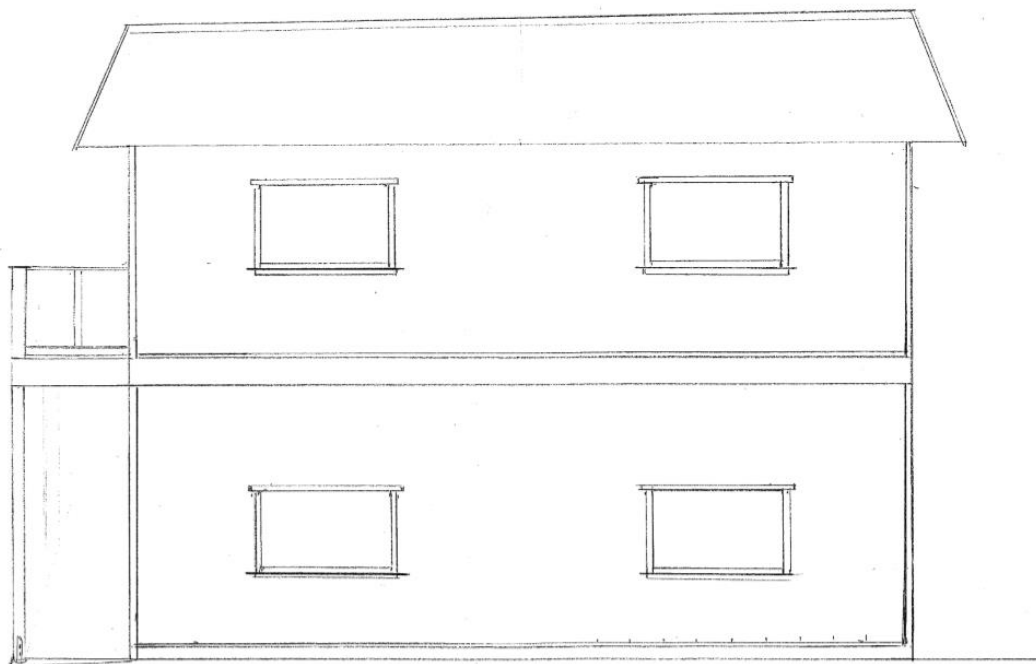


Figure 5 South Elevation



Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Public Comment & Analysis

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

Public Commenter: Kathy Silva

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

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

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

Public Commenter: Laura Rubin

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

Recommendation

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

General Findings

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

Use Permit Findings

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

Standard Conditions

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

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

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

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

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

NOTIFICATIONS:

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

Attachments:

Attachment A – Site Vicinity Photos