

Re: 327 N. Corry MUP



Jacob Patterson <jacob.patterson.esq@gmail.com>

 Reply all | 

Mon 3/15/2021 11:32 PM

To: Locke Kevin

Cc: O'Neal, Chantell 

Patterson



Action Items



Kevin,

First, welcome to the City. I am encouraged that you actually have a planning background. I understand that email isn't working so I will also call you. I reviewed these materials as well as the similar MUP 2-21 assigned to Valerie and noted a potential issue. Unlike MUP 2-21, which does not have any second story windows overlooking the adjacent properties, this proposal includes second story windows on the north and south elevations. The City has guidelines about window placements for second story ADUs that overlook adjacent parcels and this project may need to be adjusted accordingly. Please treat this email as a written request for a public hearing on MUP 3-21.

Thanks,

On Fri, Mar 12, 2021 at 2:44 PM Locke Kevin <Klocke@fortbragg.com> wrote:

Good Afternoon Mr. Patterson,

I was recently informed that you would like to view the application materials for Minor Use Permit 3-21. Attached you will find the application and Site Plan + Elevations. Please let me know if you have any questions.

Have a great weekend!

Kevin Locke

Kevin Locke

Assistant Planner

City of Fort Bragg

[416 North Franklin Street](#)

[Fort Bragg, CA 95437](#)

Phone: 707-961-2823 ext. 114

Sent: Friday, March 12, 2021 8:49 AM

To: Locke Kevin <Klocke@fortbragg.com>

Subject: FW: Request to review planning permit application materials

Hi Kevin,

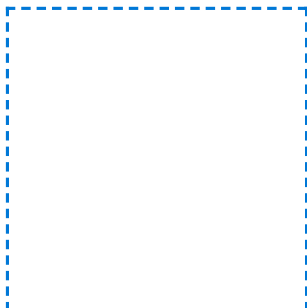
Please provide Mr. Patterson with the application materials for Minor Use Permit 3-21.

Thank you,

Joanna Gonzalez, Administrative Assistant

Community Development

(707)961-2827 ext 111





From: Jacob Patterson <jacob.patterson.esq@gmail.com>

Sent: Thursday, March 11, 2021 3:05 PM

To: O'Neal, Chantell <COneal@fortbragg.com>; Gonzalez, Joanna <JGonzalez@fortbragg.com>

Cc: Miller, Tabatha <TMiller@fortbragg.com>

Subject: Request to review planning permit application materials

Chantell & Joanna,

The City has removed the application materials from the public website so little to no information about pending project is available for public review without making an appointment to do so despite City Hall not being open to the public. I would like to review the relevant project information for all pending and active planning projects that I used to be able to review electronically without having to request access from City staff. This includes the project information for the Caltrans Highway One project, the Dollar General project, the two 2021 MUPs for garages with second story ADUs that were just noticed today, and any other permit application that has been submitted to the City.

If this needs to be done in person now I am willing to do so--I have also already been vaccinated for Covid-19--but I prefer electronic review that doesn't involve having to come in for in-person review of physical records. Please advise.

 Reply all | ▾



Delete

Junk | ▾



Thanks,

--Jacob

Email correspondence with the City of Fort Bragg (and attachments, if any) may be subject to the California Public Records Act, and as such may therefore be subject to public disclosure unless otherwise exempt under the Act.

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Thursday, April 08, 2021 8:53 AM
To: Locke Kevin; Gonzalez, Joanna
Subject: Re: 327 N. Corry MUP

Also, shifting the building five feet further to the east (per the new staff report that attempts to respond to the concerns of neighbors), would result in exposing more of the neighboring yards to the proposed building, including the second-story windows overlooking the yards. The revised site plan needs to show the locations of the neighboring structures to the north and south of the proposed building to address compliance with ILUDC requirements if the windows are not removed or replaced with clerestory windows above the eye line of building occupants.

On Thu, Apr 8, 2021 at 8:37 AM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
Kevin,

First, I am not sure why the agenda lists Joanna as the contact email address for public comments since this is her and her husband's application and I don't think City staff should be involved in a project review for a permit they are requesting in any way, including not facilitating the meeting or application materials or other documents in the record for this review. I am a little concerned that this project appears to be receiving special treatment compared to permit reviews for second story ADUs over a garage that were submitted by applicants who do not work in the City's Community Development Department, particularly concerning the north and south facing windows that face the adjacent property. Regardless, please include this as a public comment for the MUP 3-21 hearing on April 12, 2021.

I want to bring your attention to an applicable policy from the Inland General Plan that relates to the written request for a public hearing from Kathy Silva:

Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post-project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.

Although we do not have an Inland General Plan policy requiring permeable paving in the inland zone of the City like we do in the coastal zone, Policy OS-6.3 deals with some of the same issues, namely reducing stormwater runoff from projects. The applicant is proposing gutters that connect to a french drain that will retain stormwater that falls onto the roof of the proposed ADU. That is a good start; however, the gutters and on-site french drain do nothing to address the stormwater runoff from the new proposed hardscaping in the parking area to the west of the proposed building and the alley and stormwater retention from that area directly adjacent to the alley is of concern based on public comments. The best way to address this very real issue and make this project consistent with Policy OS-6.3, is to require a driveway trench drain (see below) at the edge of the paved parking area that captures stormwater runoff from the paved area and also connects it to the on-site french drain. Driveway trench drains are either constructed just inside the connection between the driveway and parking area and the paved alley or along/in front of the structure near the garage doors if the parking area is graded to drain away from the alley or street. I recommend a special condition requiring a trench drain to address these particular concerns from neighbors. Permeable paving would also be a good idea, although likely unnecessary if the drain is sized appropriately to handle all stormwater from the paved parking and driveway area.



The project requires another special condition to comply with ILUDC section 18.42.170. The north and south windows that directly face the adjacent yards should also be removed or replaced with clerestory windows that will still allow light and cross ventilation but which eliminates windows that directly face adjacent residential units or the neighboring yards because they are at a height that is above the eye level of building occupants. (See below for why the City's definition of "yard" is different than it is described in the staff report.) Please note that the building to the south if this project is, in fact, a residential unit with the address of 321 1/2 N. Corry Street, and not simply a residential accessory structure, with separate electrical service as well as phone and cable connections.



These two additional special conditions and design adjustments will allow the City to approve MUP 3-21 should the Acting Community Development Director see fit to approve it, which is recommended to remain consistent with the City housing element, another important part of the Inland General Plan.

Thanks,

--Jacob

On Mon, Mar 29, 2021 at 6:07 PM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
Kevin,

First and as always, no one at the City can rely on anything in my email messages as legal advice since I am not representing the City in these matters and you should direct any interpretive questions to the City's legal counsel. Anyway, I just skimmed the staff reports and saw how you addressed this particular issue. I also reviewed the glossary definition of yard that you reference but I want to point out that the language concerning the definition of yard is technically, albeit only slightly, different than how it is applied in the report (e.g., you appear to exclude the unoccupied setback areas next to the accessory structures in the yards behind the primary residences in the adjacent lots to the north and south of the lot for this project). To the best of my knowledge and recollection, the City hasn't been excluding those areas from the definition of yard or the protections of 18.42.170 even though there is an unoccupied lot area "gap" that isn't explicitly addressed by the language of the definitions for yard, front yard, rear yard, and side yard (i.e., the setback areas I just mentioned next to accessory structures within rear yards).

Yard. An area between a lot line and a structure, unobstructed and unoccupied from the ground upward, except for projections permitted by this Land Use and Development Code. See also "Setback," and § [18.30.100](#) (Setback Requirements and Exceptions).

- 1. Front Yard.** An area extending across the full width of the lot between the front lot line and the primary structure.
- 2. Rear Yard.** An area extending the full width of the lot between a rear lot line and the primary structure.
- 3. Side Yard.** An area between a side lot line and the primary structure extending between the front and rear yards.

Here, "yard" has a general definition and then specific sub-types of yards are addressed with their own definitions after the general definition. The primary structure on a residential property is the house or multi-unit building itself rather than any accessory structure like garages, other outbuildings, or ADUs. The City's specific definitions for front, rear and side yards do not clearly carry forward the "unobstructed and unoccupied from the ground upward" language from the definition that applies to the yard in general because those definitions only exclude areas occupied by the primary structure rather than accessory structures. These definitions indicate that a lot's "yard" is everything that isn't occupied by the primary structure with front, rear, and side yards being defined in relation to the primary structure and the respective lot lines. (The cross reference to the definition of "setback" complicates things a bit because setbacks are smaller than a lot's "yard" areas but all areas within setbacks are necessarily included as part of a lot's yard.) By inference, front and rear yard areas include those areas occupied by accessory structures, although the code might be viewed as confusing because the general definition excludes areas occupied by structures even though the more

specific definitions for specific types of yards do not exclude anything that isn't occupied by the primary structure. (Although inconsistent with past practices, a very literal reading of 18.42.170 might be interpreted to only prohibit second-story windows that directly overlook the side yard areas next to primary structures in the adjacent parcels and not any part of the rear yards at all; however, I believe that the City has consistently interpreted the ILUDC to prohibit second-story windows in ADUs above accessory garages that directly overlook adjacent side and rear yards and only allow second story windows overlooking rear yards in the lot across the alley or across the rear lot line from the proposed ADU if there is no alley between the rear yards of both lots.)

In fact, a rear yard is defined as the entire area between the primary structure and the rear lot line with no mention of areas occupied by residential accessory structures like garages or ADUs. In the least, that would include any of the yard area within the setbacks where no other structures are obstructing or occupying that area from the ground upward, including the strip next to existing buildings. At most, it would include the entire portion of the lot that is between the primary residence (or other primary structure if it isn't a residential unit) and the rear lot line in or along the alley, including areas occupied by accessory structures. The general definition of yard clearly includes all areas on a lot that aren't occupied by a structure, which would also include portions of the lot within the side and rear setbacks and/or yards that aren't occupied by accessory structures (e.g., the yard area between the side lot line and the existing accessory structures in the rear and side yards of the adjacent parcels). Based on how I read these connected provisions, a lot containing an existing accessory structure doesn't magically exclude the portions of the yard that happen to run along the sides or to the rear of an accessory structure even if some portions of a lot's yard are not protected from overlooking windows by 18.42.170 (i.e., the rear yard of the lot across the alley from the second-story ADU and possibly the portion of a rear yard behind an accessory structure in neighboring lots on the same side of the alley as the proposed second-story ADU, which is usually just dedicated to parking along the alley and the accessory structure). The only time there would be no yard in the adjacent lot directly next to the windows of the proposed ADU is if the adjacent lot has an existing structure (likely non-conforming) that sits right on the lot line within the normal setback area or the ADU is proposed for a corner lot with an adjacent parcel with a yard only on one side of the proposed ADU rather than both sides. Otherwise, there is always a portion of that lot's yard within the side or rear setback, including those areas between the accessory structure and the (common) side lot line that is behind the primary residence between it and that adjacent lot's rear lot line. As such and in line with past practices, it appears that the second story windows on the north and south elevations of the proposed ADU "directly face" the neighboring yards even if the area of the neighboring yard that those windows face is only a narrow strip between the existing accessory structures and the side lot line between the adjacent lots.

Regards,

--Jacob

Gonzalez, Joanna

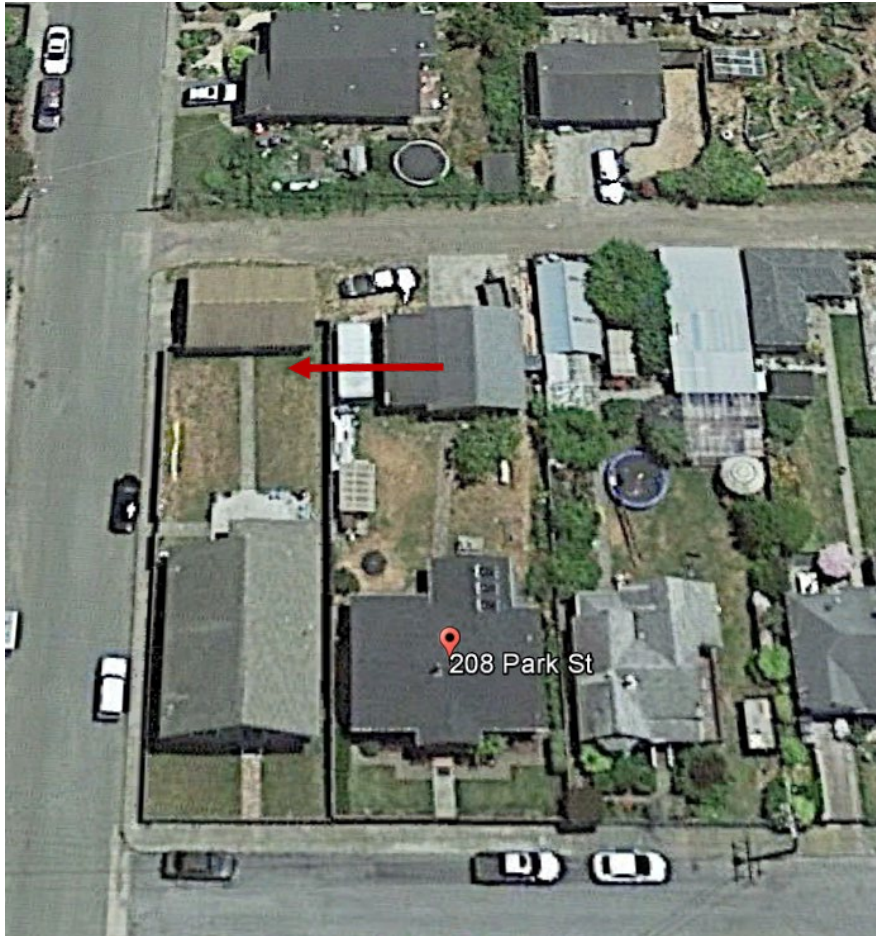
From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Thursday, April 08, 2021 11:30 AM
To: Locke Kevin
Cc: Gonzalez, Joanna
Subject: Public Comment -- MUP 3-21
Attachments: Second Story ADU - 321 S. Whipple and 208 Park Street.pdf

Kevin,

See the attached window analysis from two recent second story ADU MUP applications. This type of visual analysis is missing from the staff report and agenda materials for MUP 3-21. In light of the staff recommendation to further shift the proposed second story ADU eastward five additional feet from the location proposed by the applicant in response to neighborhood compatibility concerns raised in the written request for a public hearing, this type of "neighboring yard" window placement analysis is even more necessary for the review for MUP 3-21 to evaluate the window placement for the northern and southern elevations of the proposed second story ADU. I recommend that it be prepared and presented during the administrative public hearing to ensure that no windows directly overlook any of the rear or side yard areas on the neighboring lots.

Regards,

--Jacob



208 Park Street

Staff determined window placement looked directly into neighboring yard



321 S Whipple Street

Staff determined windows looked directly onto roof of neighboring structure to south, and parking area to the north

From: [Locke Kevin](#)
To: [Gonzalez, Joanna](#)
Subject: FW: 327 N. Corry Public Noticing/Application Materials
Date: Friday, April 09, 2021 1:54:53 PM

Hi Joanna, can you add this comment to the agenda packet?

-----Original Message-----

From: socorro@mcn.org <socorro@mcn.org>
Sent: Friday, April 9, 2021 12:44 PM
To: Locke Kevin <Klocke@fortbragg.com>
Subject: Re: 327 N. Corry Public Noticing/Application Materials

Kevin,

These are our comments to be added to the agenda packet during the public hearing Monday April 12, 2021.

We are concerned about the windows on the Upper Floor East Side and North side both of which have an unobstructed view of our back yard eliminating all privacy.

Next we are concerned about the added traffic and parking in the alley which is already a problem. If they have added vehicles visiting where would they park?

If they are planning on accessing the Unit from Corry street that would add an extra burden for parking on the street.

I also think that because of the late notification that we should be given more time to look over all the details. My Mother who owns the property is 86 years of age, she does not get the local paper and does not have a computer to access the website. The neighbors who are requesting the addition did not communicate this to her. She was shared this by the neighbors on the west side just yesterday afternoon 4/8/2021.

Please also note that if you check your files there have been other mailings from the City sent to 335 N Corry Street which we have responded to immediately. If there have been 2 other mailings on this matter which address were they sent to?

Thank you for your attention on this matter.
Bonnie Cutler on behalf of Ofelia Ybarra
707 734-3300

> Good Morning Bonnie,
> I apologize that you never received any of the public noticing
> letters. We confirmed that you are on the mailing list and your
> address is correct. We mailed out letters to your address on March 18
> and April 1 so we have no idea why you wouldn't have received them. Again, we do apologize for this.
> For future reference, these notifications are also posted in the
> newspaper and on the cities website.
>
> Nevertheless, I have attached the Notice of Public Hearing which
> includes the phone numbers you may call in on for the meeting on
> Monday April 12, at 3PM, the staff report for the ADU, and the stand
> alone application materials (site plan & elevations). Please send over
> any comments in writing and we can add it to the agenda packet, or you
> simply may speak during the public hearing.
>
> Thank you!
>

- > Kevin Locke
- > Assistant Planner
- > City of Fort Bragg
- > 416 North Franklin Street
- > Fort Bragg, CA 95437
- > Phone: 707-961-2823 ext. 114
- >
- > Email correspondence with the City of Fort Bragg (and attachments, if
- > any) may be subject to the California Public Records Act, and as such
- > may therefore be subject to public disclosure unless otherwise exempt
- > under the Act.
- >