

**RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE COUNTY OF HUMBOLDT**

Resolution Number: 23-070

Record Number: PLN-2022-17962

Assessor's Parcel Number: 304-231-019

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Nancy Young Special Permit request.

WHEREAS, Nancy Young submitted an application and evidence in support of approving a Special Permit to allow operation of a bed & breakfast-type establishment using a total of two (2) bedrooms within an existing primary single-family residence serving no more than four (4) guests at a time; and

WHEREAS, the County Planning Division, the lead agency, determined the project is Categorically exempt from CEQA review per Section 15301 of the CEQA guidelines which permits alteration and permitting of existing structures involving negligible expansion of the former use; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on July 20, 2023, and reviewed, considered, and discussed the application for the Special Permit and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** A Special Permit is being requested to allow for a bed & breakfast establishment to be operated out of an existing single-family residence and a detached cottage. A total of two bedrooms within the primary residence will be made available for nightly accommodation serving no more than four (4) guests at a time. Breakfast will not be served to guests. Water is provided by an existing well and sewer service is provided by an existing septic system. Management of the Bed & Breakfast will be performed by the landowner or their designee, who will reside on the property. Note: an unpermitted Bed & Breakfast establishment was operated from the property in recent years, without the benefit of county review. The approximately 1.25-acre parcel is currently developed with the primary residence and a garage/cottage building. No new buildings are proposed.

EVIDENCE: a) Project File: PLN-2022-17962

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with.

EVIDENCE: a) The project has been determined to be categorically exempt pursuant to section 15301 of the CEQA guidelines which permits alteration and permitting of existing structures involving negligible expansion of the former use. The property is already host to both residential structures and no increase in the density of use would result from the proposal.

FINDINGS FOR SPECIAL PERMIT

3. FINDING

The proposed development is in conformance with the County General Plan, Open Space Plan, and Open Space Action Program.

EVIDENCE

- a) The proposed development is consistent with the purposes of the existing Residential Agriculture (RA) plan designation applied to the area in which the site is located. The Residential Agriculture designation applies to large lot residential uses that typically rely upon on-site water and wastewater systems. The proposed project is consistent with the County open Space Plan and Open Space Action program because it involves use of existing structures on a parcel with a history of residential uses. The residences targeted for use are already used by the owner and long-term monthly tenant(s). The property abuts Elk River and is situated. Review of the site plan shows that the closest residence is located approximately 120 feet from the top of bank/riparian drip line of Elk River, consistent with Streamside Management Area and Wetland protections of the General Plan. No new structures or ground disturbance will result from the proposal.

4. FINDING

The proposed development is consistent with the Guiding Principles of the Plan, including Guiding Principle #1 "Ensure that public policy is reflective of the needs of the citizenry of a democratic society as expressed by the citizens themselves."

EVIDENCE

- a) The Bed & Breakfast provisions of the Zoning Regulations have existed for over thirty years, providing a permitting pathway for this land use. Though the regulations predate the advent of the internet and lodging platforms such as AirBnB, the concept remains the same. By requiring a discretionary permit, public notice is performed providing an outlet for feedback and address of localized issues.

5. FINDING

The proposed development is consistent with the Guiding Principles of the Plan, including Guiding Principle #2 "Preserve and enhance the diverse character of Humboldt County and the quality of life it offers."

EVIDENCE

- a) A Bed & Breakfast operated for over a year from the property before a complaint was received and the unpermitted use brought to the attention of the Planning & Building Department. Reviews on the lodging website confirm many guests enjoyed their stay at the property during that period. Through the permitting process, the applicant and staff have worked to address concerns and feedback received from neighboring property owners and occupants, and the Operations Plan and House Rules have been adjusted to institute protocols and procedures tackling these common concerns.

6. FINDING

The proposed development is consistent with the Guiding Principles of the Plan, including Guiding Principle #3 “Promote and facilitate the creation of affordable housing opportunities to meet current and future demands for all income levels.”

EVIDENCE

- a) The Bed & Breakfast proposes utilizing the master bedroom in the owners primary residence as well as a small cottage on the property. Both homes predate the advent of local zoning regulations and are viewed as legal non-conforming. Until recently, the property was not eligible to be permitted for more than one residence due to the size of the parcel and density restrictions. The small cottage can now be considered a legal non-conforming accessory dwelling unit. Authorizing short-term rental of rooms in either dwelling does not permanently preclude them from also being used for long-term rental on a monthly basis, especially during periods of the year where tourist visitation is limited.
- b) Spatial analysis of Department GIS information reveals that approximately 230 parcels in the Elk River watershed are zoned for agricultural or residential uses and host residential development of some sort. Conservatively assuming only one residence per parcel, authorizing the proposed project for short-term occupancy of two bedrooms would affect less than .04% of the total housing stock in this region.

7. FINDING

The proposed development is consistent with the Guiding Principles of the Plan, including Guiding Principle #6 “Encourage, incentivize and support agriculture, timber ecosystem services and compatible uses on resource lands.”

EVIDENCE

- c) Though agriculturally zoned, the parcel is approximately 1.4 acres in size and is located in a neighborhood composed of approximately 15 parcels which are substandard to the 5-acre minimum parcel size specified for the zone. Consequently, little potential for agriculture use exists amongst these properties. The Bed & Breakfast proposal would occupancy of an existing structure so would not result in the conversion or loss of agricultural land in service of other uses.

8. FINDING

The proposed development is consistent with the purposes of the existing zone in which the site is located. Additionally, the proposed development conforms with all applicable standards and requirements of the zoning regulations.

EVIDENCE

- a) The Agriculture General zoning district is intended to be applied in areas in which agriculture is the desirable predominant use and rural residential uses are secondary. Bed & Breakfast establishments are allowed with a Special permit in all zones which permit cottage industries –this includes all residential zones, FR, TPZ, AE, AG, and Unclassified. A maximum of four

- (4) guest bedrooms may be permitted for use by a maximum of eight (8) guests. The owner or operator must reside on the premises. Staff is not aware of any prior Bed & Breakfast proposals being received or approved in the Elk River area. Given the novelty of the proposal, past unpermitted operation, and concerns received in response to the public notice, staff believe it is appropriate to include a Condition foreshadowing the possibility of revocation of the permit should neighborhood compatibility become an issue. A variety of ongoing conditions have been included requiring that the owner/operator implement and enforce parking and noise restrictions, measures to promote safe driving, and requirements that owner/operator contact information be provided to neighboring landowners and occupants and periodically updated as needed.
- b) The applicant has requested permission to host guests of the Bed & Breakfast in bedrooms found within both the primary dwelling and detached cottage/accessory dwelling unit. However, use of a separate detached residence equipped with kitchen and full bathroom does not fully conform to the Bed & Breakfast requirements found in sections 314-44.1 and 314-172.2.1 of the Zoning Regulations, which prohibit guest rooms from including kitchen facilities and require that the structure be occupied with one-family in permanent residence. A Condition of Approval has been included restricting the Bed & Breakfast Operation to a maximum of two (2) bedrooms within the primary dwelling and requiring that the primary dwelling be occupied by the owner-operator or a designated caretaker-operator during all times that the Bed & Breakfast is being operated. The Condition also prohibits use of the cottage/ADU as part of the Bed & Breakfast operation but allows for occupancy by up to two (2) persons and leasing on a monthly or longer-term basis.
- c) Leasing of a fully-equipped detached residential dwelling unit without an on-site resident family more closely conforms to the provisions for Vacation Home Rental currently found in sections 314-37 and 314-157 of the Zoning Regulations, which permit “the transient use of single-family and duplex dwelling units” without an on-site caretaker or operator, but currently only within the inland portion of the Shelter Cove subdivision. On June 16th, 2023 draft amendments to this section of the Zoning Code were introduced for public review. The amendments are intended to further address and expand regulation of Short-Term Rentals (STR’s) of the sort currently regulated under the Vacation Rental “V” Combining zone provisions of the code. The first public meeting was held via zoom on June 28th. On June 6th the Board of Supervisors adopted a temporary moratorium on the establishment and permitting of short-term rentals, to reduce liability and speculation during the legislative process, which will include further public review, and forthcoming consideration by the Planning Commission and action by the Board of Supervisors. Both the moratorium and draft regulations deal exclusively with short-term rentals and distinguish between “Short-Term Rentals” and the separate provisions of the code governing “Bed & Breakfast” establishments. The current limitations of the V combining zone and recently adopted short-term rental moratorium preclude

10. FINDING

The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) A variety of ongoing conditions have been included requiring that the owner/operator implement and enforce parking and noise restrictions, measures to promote safe driving, and requirements that owner/operator contact information be provided to neighboring landowners and occupants and periodically updated as needed. Staff believe that with the incorporation of these recommended conditions, the required findings for approval can be made. A Condition has been included (COA #6) requiring that the applicant establish and enforce standard protocols for guest conduct. The Condition also allows the Planning Department to initiate a revocation proceeding at the Board of Supervisors if five or more complaints are received and verified following issuance of the permit. This will help ensure that guest conduct is carefully monitored and controlled.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permit for Nancy Young, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference,

Adopted after review and consideration of all the evidence on **July 20, 2023**.

The motion was made by Commissioner Lonyx Landry and seconded by Commissioner Sarah West and the following ROLL CALL vote:

AYES: Commissioners: Noah Levy, Thomas Mulder, Lonyx Landry, Sarah West

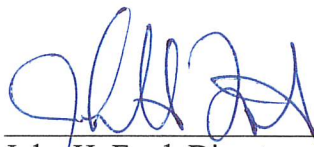
NOES: Commissioners: Brian Mitchell, Iver Skavdal

ABSTAIN: Commissioners:

ABSENT: Commissioners: Peggy O'Neill

DECISION: Motion carries 4/2

I, John H. Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.



John H. Ford, Director,
Planning and Building Department

CONDITIONS OF APPROVAL

APPROVAL OF THE SPECIAL PERMIT IS GRANTED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE USE MAY BE INITIATED AND FOR THE LIFE OF THE PROJECT

A. General Conditions

1. The applicant shall apply for a business license with the Humboldt County Treasurer-Tax Collector.
2. The applicant shall work with the Humboldt County Planning & Building Department – Building Division to determine whether the proposed use of the existing residence as a bed & breakfast will be considered a "Change of Occupancy". The applicant shall complete any required improvements prior to lease of the facility on a transient (less than monthly) basis.
3. The applicant shall submit a detailed parking plan demonstrating that adequate parking facilities exist to concurrently serve the existing residential use and guests of the Bed & Breakfast.
4. The applicant shall submit a plan of operations for the Bed & Breakfast rental use. The report shall be prepared to the satisfaction of the Director of Planning & Building, detailing:
 - A. Seasonal Operational Information
 - B. Minimum Length of stay information
 - C. Routine service Intervals for the rental facility
 - D. Rules for Guests
 - E. Methods and Measures for controlling potential for nuisance to neighboring residential development.
5. The owner or operator of the Bed & Breakfast must reside on the premises. The owner/operator must provide their name, address and telephone number to all occupied residences within a 300-foot radius of the rental unit. The notice shall be mailed to property owners prior to initial rental of rooms and periodically thereafter as contact information changes. The owner/operator or contact person must be available 24 hours a day to respond to tenant and neighborhood questions or concerns and to otherwise be responsible for assuring that the rental unit complies with the requirements of this permit and other applicable provisions of the code.
6. To help ensure all guests of the Bed & Breakfast facility are respectful and considerate of neighboring landowners and occupants during their stay at the property, the owner/operator shall establish and enforce standard protocols for guest conduct which (at minimum) include:
 - driving on Elk River Road and Elk River Court at a safe speed and in a respectful manner
 - not generating noise such that it would unreasonably interfere with the quiet use and enjoyment of any other residence in the area. On weekdays, any noise occurring after 10:00 pm and before 7:00 am should be contained within the residence and shall be kept at levels so that it would not be able to be heard by or offend nearby neighbors.
 - only parking within designated on-site parking areas

All guests shall be notified of these standards of conduct prior to their visit. If the Planning & Building Department receives five (5) or more verified complaints about guests not observing these protocols, the Department reserves the right to initiate a revocation hearing before the Board of Supervisors pursuant to 312-14 of the Zoning Regulations.

7. The Bed & Breakfast operation is restricted to a **daily maximum of two (2) bedrooms and four (4) guests**. Any proposal to increase the number of bedrooms used or guests allowed shall require a modification of the permit.
8. The applicant is required to pay for permit processing on a time-and-materials basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning and Building Department, 3015 H Street, Eureka.
9. The applicant is responsible for obtaining all necessary County and State permits and licenses and for meeting all requirements set forth by other regulatory agencies.
10. Any structure that will be occupied by guests must first be inspected for safety and approved for transient use by the Chief Building Official or their designee.
11. Any structure that will be occupied by guests must first pass an inspection by the Humboldt Bay Fire Protection District. Elements of the inspection will include but are not limited to: review for presence of sufficient and functioning smoke and carbon monoxide detectors, fire extinguishers, and means of egress.
12. Applicant shall contract with a Qualified Professional or Qualified Service Provider to perform a Hydraulic Load Test on the existing onsite wastewater treatment system (OWTS) and submit results to Humboldt County Division of Environmental Health (DEH). If the Hydraulic Load Test results in failure, the Applicant shall obtain a permit for, and install, an approved OWTS repair prior to commencing operation.
13. This permit only authorizes use of two bedrooms within the primary residence as part of the Bed & Breakfast operation. The remaining bedroom in the primary residence must be occupied on a daily basis by the owner-operator or a designated caretaker-operator during all periods of operation. The cottage is prohibited from being made available for transient habitation by guests of the Bed & Breakfast. The structure may still be offered for lease and occupancy by up to two persons on a monthly basis. Note: this restriction is not intended to prevent permitting use of the cottage as a short-term rental should this become possible following future amendments to applicable provisions of the zoning regulations.

B. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:

1. For the life of the operation, the applicant shall maintain a Business license from the Humboldt County Tax Collector. The owner/operator shall collect and remit to the Humboldt County Tax Collector the transient occupancy tax.
2. All new and existing outdoor lighting shall be compatible with the existing setting and directed within the property boundaries. Exterior lighting shall be turned off no later than 10 PM on weekdays and midnight on weekends.
3. Occupants and visitors using the bed & breakfast shall not generate noise such that it would unreasonably interfere with the quiet use and enjoyment of any other residence or business in

the area. On weekdays, any noise occurring after 10:00 pm and before 7:00 am should be contained within the residence and shall be kept at levels so that it would not be able to be heard by or offend nearby neighbors. What is reasonable in terms of noise generated shall be determined under existing legal standards applicable to evaluating alleged nuisances, including any County noise standards and ordinances.

4. The total number of occupants of the residences (including the owner/caretaker) shall not exceed six (6) persons.
5. The number of guests shall not exceed four (4) persons. During weekdays, visitors are not allowed between 11 p.m. and 7 a.m. and shall not stay overnight on the premises. There shall be no more than 8 combined occupants and visitors on the premises at any time.
6. The owner or manager shall maintain an occupant and vehicle register for each tenancy of the bed & breakfast rental. The register shall include the names and vehicle license plate numbers for all occupants as well as the dates of the rental period. The guest registry must be available for inspection by county officials upon request.
7. Vehicles used and traffic generated by the bed & breakfast shall not exceed normal residential levels or unreasonably interfere with the quiet use and enjoyment of any other residences or businesses in the area. What is reasonable in terms of traffic generated shall be determined under existing legal standards applicable to evaluating alleged nuisances.
8. Guests shall be required to sign a contract governing their use of the property during the rental period. Provisions of each contract shall include observing standard protocols for neighborhood compatibility (described in Condition #6) including traveling at a safe speed and in a respectful fashion, only parking in designated areas, and complying with noise restrictions. The contract shall assert the operators' right to cancel the remainder of the reservation if guests violate neighborhood compatibility protocols in violation of the contract. In the event of cancellation, all persons must leave the property within 30 minutes following notification. Vacation of the premises shall be verified by the owner/operator, or designated contact person.
9. The use shall be conducted, operated and maintained in accordance with the approved project description, site plan, and most recently approved plan of operations, as well as these conditions of project approval.
10. The applicant shall submit a request for Agency Review for substantial conformance on any proposed changes of the operation, design or use. The Department shall require a Modification of this permit unless the changes can be processed as a minor deviation; and if all the findings of §312-11.1 can be made.
11. The Bed & Breakfast involves occupancy of existing residences on a transient basis. No ground disturbance is proposed to occur in conjunction with this proposal. In the event that future ground disturbance is required, the applicant shall implement the Inadvertent Discovery Protocol. In the event of the accidental discovery of historical artifacts or human remains, a qualified professional archaeologist shall be contacted immediately, in order to inspect and clear the site for all further activities. If the applicant proposes new development outside of

the area that was surveyed by a certified archaeologist, a new archaeological survey covering the proposed development area will be required.

C. Informational Notes:

1. If cultural resources are encountered during construction activities, the contractor onsite shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.