



MEMORANDUM

DATE: SEPTEMBER 22, 2021

TO: PLANNING COMMISSIONERS

FROM: PLANNING AND BUILDING SERVICES - PLANNER WALDMAN

SUBJECT: U_2021-0001 – CLARIFICATIONS TO TOPICS, REVISIONS AND ADDITIONAL RECOMMENDED CONDITIONS OF APPROVAL

On July 15, 2021, the Use Permit Application U_2021-0001 was presented to the Planning Commission and was continued to the Planning Commission Hearing scheduled for September 2, 2021.

On August 11, 2021, the Applicant requested an additional continuance of the project with a date uncertain due to being out of the country until after September 2, 2021. Due to the previous continuance and noticing requirements, Planning Commissioner's approved Planning Staff's request for the project be continued to a date certain of October 21, 2021.

At the July 15, 2021 Planning Commission Hearing, Planning Commissioners expressed concern(s) based on the operation of Short Term Rentals and multiple public comments submitted in response to the Use Permit U_2021-0001 request.

Planning Staff has prepared a summary of the topics of concern discussed at the July 15, 2021 Hearing, shown in *Attachment B*.

Summary of Topics discussed at the July 15, 2021 Hearing:

Planning Staff has prepared the following list of each topic with added clarification as needed:

1. Commissioners request for Use Permit Findings.
 - a. Mendocino County Code Section 20.196.020 Findings states:

Before any use permit may be granted or modified, it shall be shown:

- (A) *That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;*
- (B) *That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;*
- (C) *That such use will not, under the circumstances of that particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, the finding shall be to that effect;*
- (D) *That such use preserves the integrity of the zoning district.*

2. The importance of working with neighbors on private roads, prior to requesting a Major Use Permit with Mendocino County Planning and Building Services.
 - a. Planning Staff response: *Concerns from Planning Commissioners and the general public regarding land owners responsibility of working with neighbors and adjacent parcel owners is a broader topic than the required Use Permit Findings per Mendocino County Code (MCC) of Regulations Section 20.196.020 for requests for short term rentals at this time. Mendocino County Planning and Building Services is reviewing Mendocino County Code Title 20 regarding land use regulations, including requests for short term rentals located within Division I (Inland zone Parcels) as described under Accessory Use Regulations per MCC Section 20.164.015(L).*
3. Short Term Rentals is allowing commercial uses in residential uses.
 - a. Planning Staff response: Short Term Rentals are an Accessory Use, not a Commercial Use, such as a Transient Use Type, and is allowed per Mendocino County Code Chapter 20.164.
4. Housing crisis where Professionals cannot find housing to support the community.
 - a. Planning Staff response: *The current housing crisis occurring within Mendocino County is a topic of concern that is broader and outside of the scope for requests for short term rentals as described by Accessory Use Regulations MCC Section 20.164.015(L) and Use Permit Findings Mendocino County Code (MCC) of Regulations Section 20.196.020.*
5. Recommendation for conditions to limit time for Short Term Rental to maintain activities that are subordinate and incidental to a single-family residence.
 - a. Planning Staff response: Mendocino County Code does not have a regulation limiting the number times a short term rental may or may not be let out per year.
6. Noises issues.
 - a. Planning Staff response: Condition 14 is recommended to limit loud noises per Mendocino County Code Exterior Noise Limit Standards Appendix C, as shown on *Attachment M* of the Staff Report.
7. Fire hazards and strict burn ban during CalFire regulations.
 - a. Proposed restriction to not permit property owner to have no burning and no fire pit/ring on parcel.
 - i. Planning Staff response: Condition 4 is recommended to ensure that all necessary permits are required from County, State and Federal agencies having jurisdiction.
 - ii. Planning Staff response: See recommended revision to Condition 15 prohibiting fire pit/ring during operation of the Short Term Rental.
8. Limit to two (2) or three (3) years by requiring a renewal of the subject use permit.
 - a. 50% limit to maintain subordinate and incidental to residential use.
 - i. Planning Staff response: See recommended revision to Condition 17 requiring renewal of the use permit after three (3) years.
9. Encroachment concerns and improvements regarding deeded easements and access rights.
 - a. Impacts to neighbors regarding required improvement per Department of Transportation (DOT).
10. Screening and/or landscaping of parcel from both public and private right of ways.
 - a. Planning Staff response: See recommended Condition 23 to require screening be presented to Planning Commissioners and approved by Director of Mendocino County Planning and Building Services.
11. Add condition log decks and stumps are removed.
 - a. Planning Staff response: See recommended Condition 24 requiring removal of log decks and stumps.

Clarifications to proposed Revisions and Additional Conditions of Approval as stated by Planner Waldman at the July 15, 2021 Planning Commission Hearing:

Planning Staff has prepared the following clarifications and revisions to the conditions of approval which were stated verbatim on the record at the July 15, 201 Hearing, based on review of Mendocino County Code of Regulations, Mendocino County Counsel and the property owner, specifically:

23. *Prior to approval of a Business License or issuance of a Building Permit associated with this Use Permit, the property owner shall furnish evidence of screening and/or landscaping as approved by the Planning Division of the Department of Planning and Building Services, in conjunction with order of the Planning Commission or the Board of Supervisors.*
 - a. Planning Staff response: Condition 23 regarding screening and/or landscaping is a recommended Additional Condition.
24. *Prior to approval of a Business License or issuance of a Building Permit associated with this Use Permit, the property owner shall furnish evidence of all log decks and stumps are removed from the subject property.*
 - a. Planning Staff response: Condition 24 regarding removal of log decks and stumps is a recommended Additional Condition.
25. *The use of the property as VHR shall:*
 - a. *Limited to less than 50% of the year,*
 - b. *Meaning a limitation of no more than twenty-six (26) rental agreements per year with annual reporting to Planning Division of the Department of Planning and Building Services. The goal of this recommendation is limit use to maintain subordinate and incidental to residential use.*
 - i. Planning Staff response: Condition 25 regarding 50% of the year limitations has been omitted from the revised resolution as Mendocino County Code does not have a regulation limiting the number times a short term rental may or may not be let out per year.
26. *The issuance of a Renewal of the subject Use Permit shall be obtained after two (2) or three (3) years of the original issuance Use Permit request.*
 - a. Planning Staff response: Condition 26 regarding required renewal of the use permit will be a requirement added to Condition 17. This is recommended as a renewal after 3 years of approval of the use permit. Condition 17 requires reporting of business licensing renewal.

Revisions to Conditions of Approval 9, 13, 15 and 17, 20 and 21: Planning Staff has prepared the following revisions and additions to the recommended Conditions of Approval in response to the recommendations and comments received from Planning Commission and Public Comments at the July 15, 2021 Planning Commission Hearing. Planning Staff has prepared a complete revised resolution, as shown on *Attachment A*.

9. The use of the property as a vacation home rental shall not include camping and overnight occupancy for paying guests is limited to the residence and detached bedroom.
13. Parking shall be permitted only in designated parking areas accessed from the driveway. No parking shall occur on Albion Ridge "G" Road (private). Parking be limited to no more than two (2) vehicles.
15. No campfires including other than in designated fire rings/pits shall be permitted during the operation of short-term overnight occupancy of the vacation home rental. ~~Fire rings/pits will have at least a 10 foot circumference of clearance with bare mineral soil around them.~~
17. The applicant shall apply for and receive a business license for operation of the vacation home rental in accordance with Chapter 6.04 of the Mendocino County Code. The business license shall not be transferable. Failure to maintain a valid business license shall result in the expiration of this permit. The applicant shall submit to Planning and Building Services a copy of the business license and evidence of the annual renewal(s) within 30 days of issuance of the business license and renewal(s). The

issuance of a Renewal of the subject Use Permit shall be obtained after three (3) years of the original issuance Use Permit request.

20. The applicant shall secure all required permits for the proposed project as required by the Mendocino County Department of Environmental Health. ~~{JA1}{JW2}~~
21. Prior to approval of a Business License or issuance of a Building Permit associated with this Use Permit, the property owner shall furnish evidence of access to the parcel per Department of Transportation regulations, as follows:
 - a. Construct a private road approach onto Albion Ridge Road (CR 402) from Albion Ridge "G" Road South (Private), in accordance with Mendocino County Road and Development Standards No. ~~A51A-A51B~~, or as modified by applicant and approved by Department of Transportation staff during field review, to be paved with asphalt concrete or comparable surfacing to the adjacent road. Concrete driveways shall not be permitted.
 - b. An encroachment permit from the Mendocino County Department of Transportation for any work within County rights-of-way.

Recommended Additional Conditions of Approval 23 and 24:

23. Prior to approval of a Business License or issuance of a Building Permit associated with this Use Permit, the property owner shall furnish evidence of screening and/or landscaping as approved by the Planning Division of the Department of Planning and Building Services, in conjunction with order of the Planning Commission or the Board of Supervisors.
24. Prior to approval of a Business License or issuance of a Building Permit associated with this Use Permit, the property owner shall furnish evidence of all log decks and stumps are removed from the subject property.

Attachment(s): A. U_2021-0001 Kung Revised Resolution
B. U_2021-0001 Kung Summary of 2021 0715 Hearing