

Resolution Number _____

County of Mendocino
Ukiah, California

NOVEMBER 18, 2021

U_2021-0001 CINDY KUNG

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, DENYING CINDY KUNG A MAJOR USE PERMIT FOR A SHORT-TERM RENTAL.

WHEREAS, the applicants, FRANK MA & CINDY KUNG, filed an application for a Major Use Permit to operate a vacation home rental in an existing single family residence, per Mendocino County Code Section 20.164.015 (L): Room and Board, located 1.7± miles east of Albion town center, lying on the west side of Albion Ridge "G" Road (Private), 300± feet south of its intersection with Albion Ridge Road (CR 402), located at 32125 Albion Ridge "G" Road, Albion (APN: 123-232-03); General Plan RR5; Zoning RR:5; Supervisorial District 5; (the "Project"); and

WHEREAS, pursuant to Public Resources Code section 21080(b)(5), the California Environmental Quality Act (Public Resources Code section 21000 et seq.; "CEQA") does not apply to projects which a public agency rejects or disapproves and CEQA Guidelines section 15270 provides that the projects which are disapproved are Statutorily Exempt from CEQA. However, the Project was determined to meet the criteria for a Categorical Exemption from the California Environmental Quality Act (CEQA) under Class 1 and noticed and made available for agency and public review on July 14, 2021 in accordance with CEQA and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on July 14, 2021, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and at which time all existing physical conditions of the project site and its surroundings were considered and, unable to support the Project with the conditions of approval presented for the July 14, 2021 hearing, continued said Project to September 2, 2021, and directed Staff to prepare an alternate resolution for approval incorporating additional conditions of approval; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held the continued public hearing on September 2, 2021, at which time ~~at the applicant~~ Staff requested a continuance of the Project to October 21, 2021. The Planning Commission continued said Project to October 21, 2021; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on October 21, 2021, at which time all relevant testimony and evidence presented orally or in writing was heard and received regarding the Project and closed the continued public hearing. The existing physical conditions of the project site and its surroundings were considered and, unable to support the Project, the Planning Commission took a tentative vote to deny the project, but continued said Project to November 18, 2021, with direction to Staff to prepare a resolution for denial; and

WHEREAS, in accordance with applicable provisions of law, on November 18, 2021, the Planning Commission reviewed the resolution for denial of the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission denies the application for a use permit based on following findings:

1. Use Permit Findings: The project does not fulfill the following Use Permit findings:

- a. Mendocino County Code (MCC) Use Permit Findings Section 20.196.020(C): Contrary to this requirement, the proposed project would be considered *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.*

Certain characteristics of the proposed Project make it incompatible with the surrounding neighborhood and will have effects detrimental to the neighborhood's health, safety, peace, comfort and welfare. The proposed use of the Project for short-term rental housing is incompatible with the surrounding neighborhood. The property is inadequately screened or fenced from surrounding homes. The rural nature of the property and surrounding neighborhood make enforcement mechanisms inadequate for issues such as~~There are enforcement concerns related to~~ noise, traffic and use of the existing private road, and other disruptions to the surrounding rural residential neighborhood resulting from impacts caused by transient habitation use and the lack of any on-site resident, including fire danger, groundwater use, dogs, and potential trespass onto or interference with adjacent properties. It is therefore found that the proposed Project would be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing in the neighborhood.

- b. Mendocino County Code (MCC) Use Permit Findings Section 20.196.020(D): The project is found to be inconsistent with Mendocino County Code Chapter 20.164 Accessory Use Regulations. Accessory uses are required to be necessarily and customarily associated with, appropriate, incidental, and subordinate to the principal use of the site. The proposed "Room & Board" use is defined in section 20.164.015(L), in relevant part, as "The renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit." The Planning Commission finds that this language is intended to mean (1) that the use include no more than two rooms of a dwelling, (2) that use is accessory and incidental only if there is a primary use of long-term occupancy. The proposed Project would consist of the short-term rental use of an entire single-family residence which includes more than 2 rooms, which necessarily means the Room & Board use would not be an accessory use, but the primary use. This proposed use is found to be inconsistent with the Room & Board accessory use and it is therefore found that the Project does not preserve the integrity of the zoning district.

BE IT FURTHER RESOLVED that the denial of the Project is Statutorily Exempt pursuant to CEQA Guidelines section 15270, which states that CEQA does not apply to projects which an agency disapproves.

BE IT FURTHER RESOLVED that the Planning Commission hereby denies the requested Major Use Permit.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: JAMES F. FEENAN
Commission Services Supervisor

By: _____

BY: IGNACIO GONZALEZ
Interim Director

ALISON PERNELL, Chair
Mendocino County Planning Commission
