

**Minutes
Zoning Administrator Meeting
November 14, 2013**

Staff Present

Charley Stump, Zoning Administrator
Michelle Johnson, Planning Intern
Cathy Elawadly, Recording Secretary

Others Present

Mark Levy
Jennifer Levy

1. CALL TO ORDER

Zoning Administrator Stump called the meeting to order at 11:04 a.m. in Conference Room No. 1, Ukiah Civic Center, 300 Seminary Avenue, Ukiah, California.

2. SITE VISIT VERIFICATION

Zoning Administrator Stump confirmed the site visit.

3. APPROVAL OF MINUTES: August 1, 2013

Zoning Administrator Stump made the following corrections to the August 1, 2013 minutes:

- Page 1, line 37, sentence revised to read, 'Zoning Administrator Stump noted the aforementioned project is a continuation from the July 23, 2013 Zoning Administrator meeting and no one but the applicants and staff are present, therefore he dispensed with the staff report.'
- Page 2, line 17, revise language that reads, 'recommended approval' to read, 'indicated he was inclined to approve'.....
- Page 2, line 22, revise language that reads, 'it may' to read, 'could.'

Zoning Administrator Stump approved August 1, 2013 minutes, as amended.

4. COMMENTS FROM AUDIENCE ON NON-AGENDA ITEMS

No one came forward to speak on non-agenda items.

5. APPEAL PROCESS

Zoning Administrator Stump read the appeal process. For matters heard at this meeting the last day to appeal is November 25, 2013.

6. VERIFICATION OF NOTICE

Planning Intern Johnson verified North State Street Use Permit File No.:13-19-UP-ZA was properly noticed in accordance with the provisions of the UMC.

7. PUBLIC HEARINGS

7A. North State Street Use Permit, 444 North State Street, (File No. 13-19-UP-ZA). Request for approval of a Minor Use Permit to allow one residential unit in an existing commercial building.

Planning Intern Johnson gave a staff report and noted:

- The Project would result in 1,471 square feet of office space on the first floor. 775 square feet of office space on the second floor and a 508 square foot, one bedroom apartment on the second floor. The Project essentially consists of a conversion of professional office space to residential space.
- The proposed parking for the new one unit residential space is proposed on the adjacent lot to the south.
- The aforementioned existing parcel to the south is developed with a four-unit residential dwelling at the rear of the property and has adequate parking to accommodate the four residential units.

- The proposed conversion of upstairs office space into one residential unit requires one parking space for the residential use. There is no room on the Project site to provide the one required parking space in a manner that complies with the zoning ordinance requirements. As such, the applicant has requested the vacant parcel south adjacent parking lot that is owned by the applicant be used to provide one parking space.
- Other than the matter of parking, the Project is consistent with goal/policies of the Ukiah General Plan, the zoning ordinance requirements, and Airport B2 Compatibility Criteria for infill developments.
- Pointed out the a deed notice needs to be recorded on the property to the south to provide notification that the parcel is required to provide one parking space for the apartment building located at 444 North State Street. A copy of the document shall be provided to the Planning Department.
- Staff recommends approval of the Project.

Zoning Administrator Stump:

- Related to the B2 Airport Compatibility Criteria analysis and maximum density per acre of 150 persons where staff determined based on .19 of an acre site, the maximum density is 28 people at one time, noted one factor not addressed in this analysis is how many people would be on the site at any one time based on occupancy.
- Referred to page 4, table 3 of the staff report, Zoning Ordinance and site analysis requested clarification this section should read, 'The total building site area required for five family units is 7,500 which *does not* exceed the total parcel size of 8,125 square feet.'

Planning Intern Johnson:

- Related to the total office area of 2,246 square feet, the Building Code has a maximum occupancy of 22 people based on one person per 100 square feet. The Building Permit plans and Planning Permit application indicate a total of five individual offices. It is likely the individual office space would have an occupancy of three people with a maximum of 15 people. It is also likely on average the one-bedroom unit will house two persons that calculates to a total of 10 people. Adding the 10 persons with the 15 persons between the residential and office space for a total of 25 people is consistent with the maximum 28 persons allowed in the B2 Airport Compatibility Zone (Refer to attachment 1).
- Confirmed the language in table 3 should be changed as recommended by the Zoning Administrator.
- Staff has received no public comments regarding the Project.

PUBLIC HEARING OPENED: 11:12 a.m.

Jennifer Levy, Applicant, referred to an email dated November 13 from Mark Levy that is incorporated into the minutes as attachment 2:

- Related to Condition of Approval 3, would like to make sure the applicant and staff understand the language in that there is a kitchen plan for the commercial unit and the applicant is proposing a kitchen plan for the apartment unit.
- Related to Conditions of Approval 4 and 5, inquired about the process regarding the notice of deed change and how long it will take to get approval of the language?
- Had questions related to the Building Permit process. With winter approaching does not want to defer construction/painting.
- No further questions concerning the staff report and/or process.

Mark Levy, Applicant:

- The title company provided the language for the deed notice.
- No further questions concerning the staff report and/or process.

Zoning Administrator Stump:

- Planning staff understands what language the notice of deed change should contain and it should only take a few days to for Planning staff to review the language prior for recordation.
- Requested the applicants consult with the Building Official concerning their questions regarding the Building Permit process.

PUBLIC HEARING CLOSED: 11:15 a.m.

Zoning Administrator Stump:

- Has reviewed the staff report and agrees with staff's analysis.
- Has visited and is familiar with the site.
- It is a nice mixed-use project and well designed.

Zoning Administrator Stump approved North State Street Use Permit, 444 North State Street (File No. 13-19-UP-ZA) with Findings 1-6 and Conditions of Approval 1-10 with the following modifications:

- Condition of Approval 3, modified to read, 'Plans submitted for building permit shall be consistent with the plans submitted and approved as part of this Use Permit application, except that plans shall include on residential kitchen in the building. More than one residential kitchen is an indicator that more than one residential unit is located within the building, which would be inconsistent with the proposed project.'
- Conditions of Approval 4 and 5, modified the first sentence of the conditions to read, 'A deed notice or similar deed instrument acceptable to the City Departments of Public Works and Planning shall be recorded on the property to the south to provide notification that the parcel is required to provide one parking space for the apartment building located at 444 North State Street.'

7. ADJOURNMENT

There being no further business, the meeting was adjourned at 11:18 a.m.

Charley Stump, Zoning Administrator

Cathy Elawadly, Recording Secretary

**USE PERMIT FINDINGS
TO ALLOW ONE RESIDENTIAL UNIT IN
THE EXISTING COMMERCIAL BUILDING
444 N. STATE STREET, APN 002-184-11
FILE NUMBER: 13-19-UP-ZA**

The following findings are supported by and based on information contained in this staff report, the application materials and documentation, and the public record.

1. The proposed project, as conditioned, is consistent with the goals and policies of the General Plan as described in the staff report.
2. The proposed project, as conditioned, is consistent with the Zoning Ordinance as described in the staff report.
3. The proposed project, as conditioned, is consistent with the Airport Compatibility requirements for the C zone as described in the staff report.

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- 4. The proposed project, as conditioned, is compatible with surrounding land uses and shall not be detrimental to the public's health, safety and general welfare based on the following:
 - A. Surrounding uses to the project site include a variety of office commercial/retail uses and residential all of which would be compatible with the proposed retail use.
 - B. The proposed site contains a mixed use of residential units and office space which is consistent with the surrounding unit's uses of residential, commercial, and retail. The proposed project would not change or intensify the existing residential use. The proposed parking for the residential unit would be located adjacent to the parcel in a parking lot and therefore would not impact the parking for the residential units or impact the driveway for the residential units.
 - C. The proposed residential use would be less intensive than many of the allowed or permitted uses in the Community Commercial (C-1) zone. Such as a motel and retail shops.
 - D. There are four (4) onsite parking spaces. Five (5) parking spaces are required to serve all the uses on the site. The one additional parking space required for the proposed apartment would be located on the adjacent parcel to the south which is also owned by the owner of 444 North State Street.
 - E. The project has been reviewed by the Fire Marshal, Police Department, Building Official, and Public Works comments received have been included as condition of approval.
 - F. The project is required to comply with all federal, state and local laws.
 - G. The project promotes the public health, safety, and welfare by providing a mixed use so that residents do not have to travel far for items or services.

- 5. The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303 Class 3 (c), New Construction and conversion of Small Structures, which allows structures up to 10,000 square feet to be converted from one use to another in urbanized areas when the use does not involve significant amounts of hazardous materials, where all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive based on the following.
 - A. The total building square footage is 2,754 square feet with 508 square feet dedicated to new residential unit.
 - B. The proposed apartment does not use large amounts of hazardous materials.
 - C. The site is developed with two existing buildings, public utilities and services already are available at the site and no expansion of the existing buildings are proposed as part of the project.
 - D. The proposed project is adjacent to Gibson Creek on the north perimeter of the property which is an environmentally sensitive area. Staff has determined the proposed project will not have a significant impact to Gibson Creek. The conversion of office space on the second floor to a new residential unit will not change the size and scope of the existing use.
 - E. The proposed parking for the new residential unit is adjacent to the south perimeter of the property line on the opposite side of the building relative to Gibson Creek. Staff has determined the parking will have no impact to Gibson Creek.

- 1 6. Notice of the proposed project was provided in the following manner as required by the
2 Zoning Ordinance:
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4 A. Posted in three places on the project site on November 1, 2013
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6 B. Mailed to property owners within 300 feet of the project site on November 1, 2013
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8 C. Published in the Ukiah Daily Journal on November 3, 2013
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11 **USE PERMIT CONDITIONS OF APPROVAL**
12 **TO ALLOW ONE RESIDENTIAL UNIT IN**
13 **THE EXISTING COMMERCIAL BUILDING**
14 **444 N. STATE STREET, APN 002-184-11**
15 **FILE NUMBER: 13-19-UP-ZA**
16

- 17 1. Approval is granted for one new residential unit to be added to the second floor of
18 an existing office building at 444 North State Street based on the project description
19 submitted to the Planning and Community Development Department and as shown
20 on the Site Plan date stamped August 9, 2013 except as modified by the following
21 conditions of approval.
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24 2. No additional residential units are allowed on the site. With the additional of this
25 residential unit, the site is at the maximum density allowed by the general plan.
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27 3. Plans submitted for building permit shall be consistent with the plans submitted
28 and approved as part of this Use Permit application, except that plans shall
29 include one residential kitchen in the building. More than one residential kitchen is
30 an indicator that more than one residential unit is located within the building, which
31 would be inconsistent with the proposed project.
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34 4. A deed notice or similar deed instrument acceptable to the City Departments of
35 Public Works and Planning shall be recorded on the property to the south to provide
36 notification that the parcel is required to provide one parking space for the
37 apartment building located at 444 North State Street. Draft language for the deed
38 notice shall be provided to the Planning Department for review and approval prior to
39 recordation. The approved language shall be recorded prior to building permit final
40 and documentation of the recordation provided to the Planning Department.
41
42 5. A deed notice or similar deed instrument acceptable to the City Departments of
43 Public Works and Planning shall be recorded on the 444 North State Street parcel
44 to provide notification that the one parking space required for the apartment is located
45 on the parcel to the south. Draft language for the deed notice shall be provided
46 to the Planning Department for review and approval prior to recordation. The
47 approved language shall be recorded prior to building permit final and documentation
48 of the recordation provided to the Planning Department.
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51 Standard City Conditions of Approval

- 52 6. Business operations shall not commence until all permits required for the approved
53 use, including but not limited to business license, tenant improvement building permit,
54 have been applied for and issued/finished.
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- 7. No permit or entitlement shall be deemed effective unless and until all fees and charges applicable to this application and these conditions of approval have been paid in full.
- 8. The property owner shall obtain and maintain any permit or approval required by law, regulation, specification or ordinance of the City of Ukiah and other Local, State, or Federal agencies as applicable. All construction shall comply with all fire, building, electric, plumbing, occupancy, and structural laws, regulations, and ordinances in effect at the time the Building Permit is approved and issued.
- 9. A copy of all conditions of this Use Permit shall be provided to and be binding upon any future purchaser, tenant, or other party of interest.
- 10. All conditions of approval that do not contain specific completion periods shall be completed prior to building permit final.
- 11. This Use Permit may be revoked through the City's revocation process if the approved project related to this Permit is not being conducted in compliance with these stipulations and conditions of approval; or if the project is not established within two years of the effective date of this approval; or if the established use for which the permit was granted has ceased or has been suspended for 24 consecutive months.
- 12. This approval is contingent upon agreement of the applicant and property owner and their agents, successors and heirs to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the City's action on this application, whether or not there is concurrent passive or active negligence on the part of the City. If, for any reason any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

Table 2: Summary of B2 Compatibility Criteria

B2 Compatibility Criteria	Staff Analysis
Maximum Density: 150 people per acre	<p data-bbox="776 310 1354 415">Based on a .19 an acre site; the maximum density is 28 people at one time (.19 acre site X 150 people/acre).</p> <p data-bbox="776 457 1321 739">The total office area is 2,246 square feet. The building code has a maximum occupancy of 22 people based on 1 person/100 square feet. The building permit application plans and planning permit application plans shows a total of five individual offices. It is likely that the individual office spaces would have occupancy of three people for a total of 15 people.</p> <p data-bbox="776 781 1338 886">The average likely occupancy of a one bedroom apartment is 2 people. Based on five apartments that would be an additional 10 people.</p> <p data-bbox="776 928 1360 1243">The maximum density for the Airport Compatibility Zone is 28. Based on a total of 10 people for residential and 15 people for office uses it is consistent with the Airport Compatibility Zone. It is also likely that the area will not accommodate everyone at one time. The office space will be utilized during the week day office hours 8-5:00PM where residential use is likely weekday evenings after 5:00PM and weekends.</p>

Cathy Elawadly

From: Michelle Johnson
Sent: Thursday, November 14, 2013 11:28 AM
To: Cathy Elawadly
Subject: FW: Use Permit Public Hearing - 444 N State St.

Thank you

Michelle Johnson
Planning Department Intern
City of Ukiah
300 Seminary Ave
Ukiah, Ca 95482
707-467-5797
www.cityofukiah.com

From: Mark Levy [mailto:ms_levy@msn.com]
Sent: Wednesday, November 13, 2013 3:13 PM
To: Michelle Johnson
Cc: Jennifer Faso; Jennifer Levy
Subject: Use Permit Public Hearing - 444 N State St.

Dear Michelle,

I have some questions regarding next steps based on the outcome of Thursday's (tomorrow's) Public Hearing.

1. We understand that we cannot proceed with construction until the appeal period is complete (end of business day Nov. 25). However, is it possible to proceed with painting the exterior? We are anxious about sealing the wood before the rain starts and hope to benefit from the currently favorable weather. We were given permission to "button up" the building before the weather changes and consider sealing the new wood part of that process.

2. In the package we received prior to the public hearing, Attachment 2 lists conditions of approval for the Use permit. More specifically:

- Condition 3 states "Plans submitted for building permit shall be consistent with the plans submitted and approved as part of this Use Permit application, except that plans shall include one kitchen in the building. More than one kitchen is an indicator that more than one residential unit is located within the building." This language is not clear to me so I wanted to be certain that it is understood that we do have a kitchen on the plans for the Commercial unit that is in addition to the kitchen in the Residential unit. Just want to confirm that this will not be an issue.
- Conditions 4 and 5 - Deed Change: My understanding of these conditions is that we will need to provide drafts of the language that we will submit to record deed notices for both parcels prior to recording in order to get Planning Department approval of said language. Once we have approval we can then record these notices but then will have to provide documentation of such to the Planning Department before the Use Permit can be issued. How long will language approval take?

3. My understanding is that we will then have to re-apply for the combined building permit. Some questions around that:

- Do we have to wait to re-apply until the Use Permit has physically been issued?
- Do we need to actually fill out a new application and resubmit the combined plans (commercial + residential)? 5 more copies?
- Since both have already been approved separately (assuming "Use Permit" approval), will this overall approval process be expedited at all? How long can we expect this to take?
- Will there be additional fees?
- Do we have to wait until the permit is physically issued to proceed with any further construction?

Thanks you an advance for you quick reply. Our contractor has been idle for several weeks now and everyone is anxious to proceed!

Regards,

Mark Levy

Mark Levy

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