



*"Placerville, a Unique Historical Past Forging into a Golden Future"*

## Planning Commission Staff Report

**Meeting Date:** March 16, 2021

**Prepared By:** Andrew Painter, City Planner  
Pierre Rivas, Development Services Director

### ITEM 5: ZONING INTERPRETATION (ZON) 21-01 01:

#### Central Business District Zone; and 328 Main Street – Blue Bell Building LLC

#### REQUEST

Consideration of request by property owner Blue Bell Building LLC, of 326, 328 and 330 Main Street (APN 003-121-005), that the Planning Commission render a zoning interpretation to consider transient short-term rental (thirty (30) or fewer consecutive nights) uses within the CBD (Central Business District Zone, Zoning Ordinance Section 10-5-14), including property owned by the Applicant located at 328 Main Street, Placerville.

#### REQUEST LOCATION

Within the Central Business District (CBD) Zone: Boundary of the CBD Zone is U.S. 50 to the north; stretching on both sides of Main Street from the lower westerly end of Main Street to generally the intersection of Main Street and Cedar Ravine Road to the east; stretching south to include portions of Cedar Ravine Road, and Sacramento and Pacific Streets. See Figure 1.

Applicant property is the Blue Bell Building (APN 003-121-005), containing the addresses 326, 328 and 330 Main Street. It's location within the CBD is provided as Figure 2. The applicant proposes to utilize an existing studio apartment (328 Main Street) with approximately 225 square feet of floor area within the second level of the Blue Bell Building to rent out as a transient short-term rental. Access to the second level space is via door opening at Main Street then via staircase to the upstairs apartment. Ground level within the Blue Bell Building contains the existing retail business, The Bookery (326 & 330 Main Street). Applicant Submittal Package is provided as Attachment A.

**Applicant:** Celia Lux, Property Owner Representative  
**Property Owner** Blue Bell Building, LLC (APN 003-121-005) of 326, 328 and 330 Main Street

#### DECISION MAKING AUTHORITY

Per Placerville Zoning Code (PZC) 10-3-1(E), the Planning Commission by resolution, minute order request or on its own initiative, adopt rules implementing the general zoning regulations of this Ordinance by:

1. *Setting forth additional specific uses allowed by right and by use permit which are in the opinion of the Commission similar or accessory to those listed in the Ordinance and conform to the purposes of the zone regulations.*

- 2. Setting forth additional specific uses for which parking space is required which are in the opinion of the Commission similar or accessory to those listed in the Ordinance.

Per the Special Temporary Use Permit provisions under PZC 10-4-7(A) 5, the Planning Commission may by resolution deem uses to be within the intent and purpose of this section which are required for the property functioning of the community, or are temporarily required in the process of establishing a permitted use, or constructing a public facility. Attachment B contains the full-text of PZC 10-4-7.

Figure 1 CBD (Central Business District Zone)

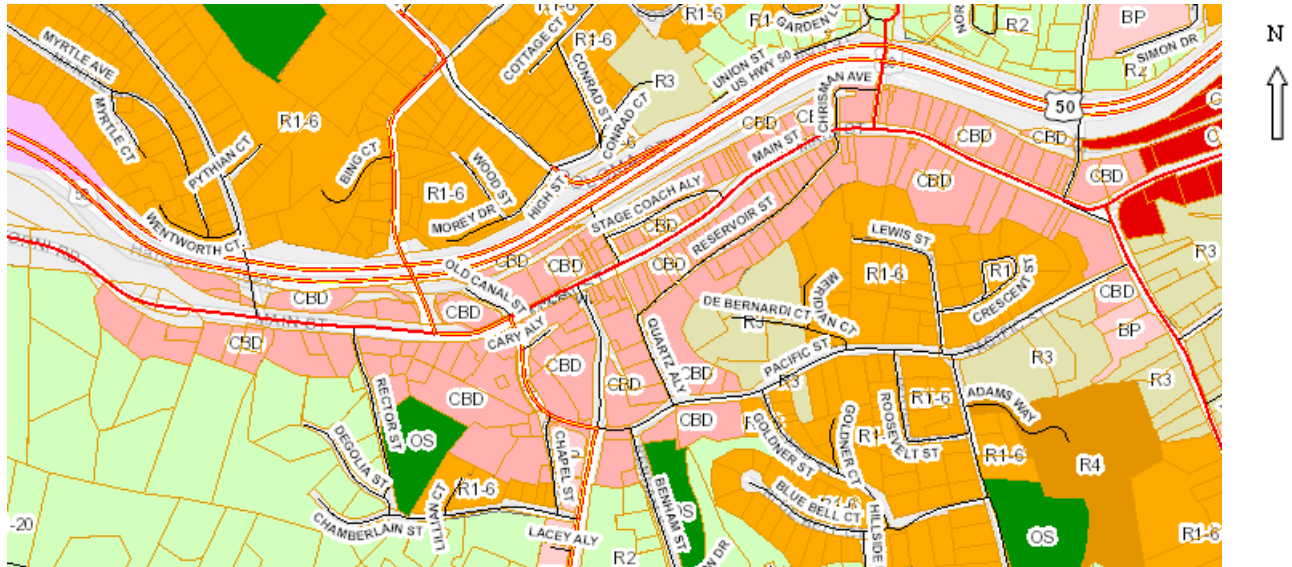


Figure 2 Location of Applicant Property



## DISCUSSION

### Short-Term Rental Regulations

Due to complaints from neighbors and from other interested parties regarding short-term vacation rentals since 2013, and the City's concerns about the potential loss of affordable housing, in 2017 staff requested and received City Council authorization under Resolution No. 8530 to initiate amendments to the Zoning Ordinance regarding definitions of types of lodging facilities, and the regulation of short-term rentals. This work has not been completed. A timeframe for completion is not available at this time.

### City Code Definitions and Regulations for Transient Rental Accommodations

The following sections of the City's PZC are relevant to discussing transient short-term-rental uses. They include definitions of terms used in the PZC, the CBD Zone's purpose and permitted use sections, including the listing of motels and hotels as a permitted use, and for reference the Bed and Breakfast Establishment provisions. Motel and hotel uses are also permitted uses within the Commercial (C) Zone and the Highway Commercial (HWC) Zone.

#### PZC 10-1-4: Definitions

*ACCESSORY: Customarily incidental related and subordinate to the principal legal use of the parcel and located on the same parcel.*

*HOTEL or MOTEL: Building or group of buildings containing six (6) or more rental units with or without meals provided for the guests.*

*ROOMING OR BOARDING HOUSE: Building containing not more than five (5) rental units designed or used for the lodging of three (3) or more persons with or without meals provided.*

#### PZC 10-4-4(E): Parking and Loading

*(E) The following minimum number of parking stalls shall be required, to serve the uses or buildings listed:*

...

*17. Rooming or boarding house, motel, hotel: one for each rental unit.*

#### PZC 10-5-14: Central Business District (CBD) Zone

*(A) Purpose: This Zone is established in order to:*

- 1. Provide for a broad range of pedestrian-oriented commercial, institutional and public uses.*
- 2. Protect the downtown area from encroachment by unrelated and incompatible uses.*
- 3. Differentiate the downtown area from all other land use designations because of its unique character. (Ord. 1487, 14 Jan 1992)*

*(B) Permitted Uses: The following uses and their accessory uses are permitted outright:*

- 1. Business and professional offices.*
- 2. Eating and drinking establishments.*

3. *Government facilities.*
4. *Hotels and motels.*
5. *Institutional uses.*
6. *One or more multi-family dwellings, residential service facilities and employee housing-small when above or below the ground floor. (Ord. 1667, 28 Oct 2014; Ord. 1666, 23 Sept 2014)*
7. *Reconstruction of single-family dwellings provided that the other regulations of this Title are met.*
8. *Retail sales. (Ord. 1487, 14 Jan 1992)*
9. *Antique stores, pawn shops and consignment stores. (Ordinance 1636, 27 Apr 2010)*

#### **PZC 10-4-11: Bed and Breakfast Establishments**

- (A) *General Provisions: This Section shall be known as the Bed and Breakfast Ordinance of the City.*
- (B) *Purpose: This Section is hereby established to allow for the establishment of bed and breakfast establishments within the residential zones of the City upon conforming to set criteria and conditions and upon review and approval by the Placerville Planning Commission...*

#### **Uniform Transient Occupancy Tax Ordinance**

Another section of City Code addresses transient occupancy. It is Title 5, Chapter 16, Sections 1 to 13, known as the Transient Occupancy Tax Ordinance. This Ordinance is administered by the City's Finance Department. The following terms are defined within the Ordinance:

*HOTEL: Any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof.*

*OCCUPANCY: The use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.*

*OPERATOR: The person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.*

*PERSON: Any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.*

*RENT: The consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.*

*TRANSIENT: Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered. (Ord. 951, 7-26-1966)*

### **ANALYSIS**

Apartments like the one within the Applicant's building, along with other residential buildings, do exist with the CBD. The exact number however would require additional research. It is estimated that there are 15 to 20 existing residential units within the CBD. They provide a valuable, affordable, long-term housing opportunity for the community with proximity to shops, restaurants, and employment sources, and that they contribute to the mixed-use vibrancy of the downtown.

As provided above, the CBD Zone permits hotel and motel uses. By PZC definition a hotel or motel use must have six or more rental units, with or without providing meals for guests. The Applicant would like to convert an existing apartment located within the CBD to operate one transient rental unit (30 days or less occupancy). However, this single rental unit proposed would not meet the Code definition of a hotel or motel. Therefore the CBD Zone regulation would not permit the use.

The Zoning Code's *Rooming or Boarding House* definition addresses rental lodging unit counts under five. It also sets a minimum occupancy of three persons within a unit. However, this use is not listed as a permitted or conditional use within any of the City's zone districts. This definition and use are carryovers from the 1963 PZC that was in place prior up to 1991. In 1991, the PZC was comprehensively updated to implement the 1990 General Plan.

Under the pre-1991 PZC, rooming or boarding house uses were permitted uses in several zones that do not exist today. These include the R2 (Limited Multi-Family Residential Zone), the RM (Multi-Family Residential Zone) and the RT (Tourist Residential Zone). Interestingly, the two commercial zones back then, the C (Commercial) Zone that encompassed all of what is now the CBD Zone, along with upper Main Street, Broadway and much of Placerville Drive, and the CG (General Commercial) Zone did not include rooming or boarding house in its list of permitted or conditional uses. The Central Business District Zone (CBD) did not exist under the 1963 PZC. It is a relatively new zone district, established following the adoption of the 1990 General Plan and subsequent 1991 PZC update.

A short-term rental use for transient accommodation within the CBD like what the Applicant would like to do, but not within a hotel or motel use as defined by the PZC, is similar to the transient nature of an accommodation provided in a hotel or motel use, albeit at a reduced unit scale. Should the Commission invoke its authority under PZC 10-3-1(E) 1, to find that the use is similar or accessory to those listed in the CBD Zone, staff suggests the Commission consider an interim administrative process for short-term rentals until completion of changes to the PZC authorized per City Council Resolution No. 8530 regarding definitions of types of lodging facilities and the regulation of short-term rentals.

Under the Commission's authority under PZC 10-3-1(E) 1, along with its authority under the Special Temporary Use Permit regulation of PZC 10-4-7(A)5, the Commission may deem uses permitted subject to a special temporary use permit, those temporary uses that are required for the proper functioning of the community, or are temporarily required in the process of establishing a permitted use. The interim process suggested is the Special Temporary Use Permit (TUP) process under PZC 10-4-7. The current TUP application fee is \$200.00. The TUP process affords the Development Services Department (DSD) the ability to place conditions of approval, such as requirements to obtain a business license, pay appropriate transient occupancy tax, comply with the California Building Code, and limit the maximum occupancy of the unit. The period of time an approved TUP use may be carried out is set by the DSD Director, not to exceed one year from date of issuance of the permit. Attachment B contains the full-text of the TUP City Code section.

Existing PZC parking requirements under 10-4-4(E) would require that the transient occupancy uses, rooming or boarding house, motel or hotel, provide a minimum of one parking space for each rental unit. Should the Commission determine under its authority under PZC 10-3-1(E)1 that short-term rental uses are similar to other transient lodging, then under PZC 10-3-1(E)2, the Commission may set parking space requirements for additional specific uses. To require a transient short-term rental use provide a minimum of one parking space, consistent with other transient occupancy uses, would be appropriate.

### **ENVIRONMENTAL REVIEW**

Conversion of an existing structure from one use to another when the new use is consistent with the current zoning and General Plan land use designation of the site is generally an action that would qualify as a Class 3 categorical exemption pursuant to Guideline 15303 of the California Environmental Quality Act (Conversion of an Existing Structure from One Use to Another).

### **PUBLIC NOTICE**

Notice of Public Hearing for this project was published in accordance with legal requirements and mailed to the owners of record of properties within the project site vicinity, and those who have requested to be notified of public hearings. Notice was also posted on the City's website and in the window at City Hall. No comments have been received as of the deadline of March 10, 2021, to be included in the Agenda packet.

**CONCLUSION/RECOMMENDATION**

Should the Commission find that under PZC 10-3-1(E), short-term rental uses are similar or accessory to the specific uses allowed by right or use permit within the CBD, and are subject to parking requirements, or find that the requested use is temporarily required in the process of establishing a permitted use subject to the Special Temporary Use Permit process under City Code 10-4-7, staff recommends by motion the Commission make this finding then direct staff to return with a draft resolution for consideration and possible adoption.

Should the Commission find that the under PZC 10-3-1(E), short-term rentals are not a use similar or accessory to uses within the CBD Zone, or that the request does not meet the purpose and intent of PZC 10-4-7(A), then the Commission should make a finding that the requested use is not temporarily required in the process of establishing a permitted use. For this action a minute order is sufficient and the adoption of a resolution is not required.

**Attachments:**

- A. Applicant Submittal Package
- B. City Code 10-4-7: Special Temporary Use Permit

**The decision of the Planning Commission is final unless the project or project conditions are appealed to the City Council within ten calendar days.**

## Attachment A

### Applicant Submittal Package

- [Application](#)
- [326, 328 & 330 Main Site Plan, and  
328 Main Street Floor Plan](#)



## Attachment B

**PZC 10-4-7: SPECIAL TEMPORARY USE PERMITS:** Uses permitted subject to a special temporary use permit are those temporary uses which are required for the proper functioning of the community or are temporarily required in the process of establishing a permitted use, or constructing a public facility. Such uses shall be so conducted that they will not be detrimental in any way to the surrounding properties or to the community.

(A) Uses Permitted Subject to Special Temporary Use Permits: The following uses shall be allowed upon the issuance of a temporary use permit:

1. Temporary outside display and sales of merchandise in the C Zone.
2. Christmas tree sales.
3. Carnivals, circuses, special events of not over seventy-two (72) consecutive hours.
4. Parking and storage of materials and earth moving or construction equipment incidental to the carrying on of a public works project, subdivision or construction project.
5. Such other uses as the Planning Commission may, by resolution, deem to be within the intent and purpose of this Section.
6. Caretaker units/night watchman facilities.
7. Temporary parking lots in the C, HWC and HC Zone, as temporary and accessory to an approved use and/or construction project. (PC Res. 2010-01, 17 Aug. 2010)
8. Temporary parking lots in the BP Zone as temporary and accessory to an approved use and/or construction project. (PC Res. 2020-01, 18 Feb 2020)

(B) Special Temporary Use Permit Procedure:

1. Application and filing fee for a special temporary use permit may be made by the property owner or his authorized agent. Such applications shall be filed with the Development Services Department. The Development Services Department shall charge and collect a filing fee for each such applicant, as determined by resolution of the City Council. The Development Services Director may require any information of the applicant which may be necessary to make a determination concerning the proposed use.
2. Determination: Application for special temporary use permit shall be reviewed by the Development Services Department. The Development Services Director shall approve, conditionally approve, or disapprove such application. Approval or conditional approval shall be given only when in the judgment of the Development Services Director, such approval is within the intent and purpose of this Zoning Title.
3. Special temporary use permits shall specify the period of time set by the Development Services Director during which the use may be carried out, not to exceed one year from date of issuance of the permit.
4. Appeals from Determinations: If the applicant is dissatisfied with the decision he may appeal to the Commission within ten (10) days after the decision is rendered. Such appeal shall be in writing and shall be filed with the secretary of the Commission. Upon the receipt of such appeal, the secretary of the Commission will establish the date, time and place to hear such appeal. The Commission, upon receipt of the Development

Services Director's action, may require said determination to be presented at a public hearing before the Commission. No permits shall be issued until the Planning Commission makes a determination. The determination of the Commission may be appealed to the Council per the procedure established in Section 10-3-7 (Ord. 1474, 8 Jan 1991).