



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda City Council

**THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS
THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY**

Monday, October 25, 2021

6:00 PM

Town Hall, 363 N. Main Street

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PLEASE TAKE NOTICE

This City Council meeting is presented in a hybrid format, both in-person at Town Hall and virtually via Zoom. Due to state and county health orders and to minimize the spread of COVID-19, City Councilmembers and staff may be participating in this meeting via video conference. The Governor's executive Orders N-25-20, N-29-20, and N-15-21 suspend certain requirements of the Brown Act and allow the meeting to be held virtually.

The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public Comment regarding matters on the agenda may be made in person at Town Hall or by joining the Zoom video conference and using the Raise Hand feature when the Mayor or Acting Mayor calls for public comment. Any written public comments received after agenda publication will be forwarded to the Councilmembers as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, California. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except those written comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software application. Public comments may be submitted to City Clerk June Lemos at jlemos@fortbragg.com.

ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.
When: Oct 25, 2021 06:00 PM Pacific Time (US and Canada)
Topic: City Council Meeting*

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/87585341613>

Or Telephone:

*US: +1 253 215 8782 or +1 346 248 7799 (*6 mute/unmute; *9 raise hand)*

Webinar ID: 875 8534 1613

TO SPEAK DURING PUBLIC COMMENT PORTIONS OF THE AGENDA VIA ZOOM, PLEASE JOIN THE MEETING AND USE THE RAISE HAND FEATURE WHEN THE MAYOR OR ACTING MAYOR CALLS FOR PUBLIC COMMENT ON THE ITEM YOU WISH TO ADDRESS.

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [21-539](#) Introduction of New Employees: Rory Beak, Police Officer; Nancy Ugrin Bond, Grant Manager; Emma Compa, Police Services Transporter; Erik Filosi, Part-time Laborer; Jarod Frank, Police Officer; Alexandria Frazer, Finance Technician I; Kevin Locke, Assistant Planner; Antoinette Moore, Community Services Officer; Sarah Peters, Administrative Assistant - Community Development; Lacy Peterson, Finance Technician I; Adriana Moreno Ramos, Finance Technician I; Ezra Rinesmith, Maintenance Worker II; Valerie Stump, Code Enforcement Officer; Brandon Wilbur, Maintenance Worker I - Janitor
- 1B. [21-544](#) Presentation of Proclamation Celebrating Soroptimist International for 100 Years of Service to Women and Girls

Attachments: [20-Soroptimist International](#)

2. PUBLIC COMMENTS ON: (1) NON-AGENDA, (2) CONSENT CALENDAR & (3) CLOSED SESSION ITEMS

MANNER OF ADDRESSING THE CITY COUNCIL: All remarks and questions shall be addressed to the City Council; no discussion or action will be taken pursuant to the Brown Act. No person shall speak without being recognized by the Mayor or Acting Mayor. Public comments are restricted to three (3) minutes per speaker.

TIME ALLOTMENT FOR PUBLIC COMMENT ON NON-AGENDA ITEMS: Thirty (30) minutes shall be allotted to receiving public comments. If necessary, the Mayor or Acting Mayor may allot an additional 30 minutes to public comments after Conduct of Business to allow those who have not yet spoken to do so. Any citizen, after being recognized by the Mayor or Acting Mayor, may speak on any topic that may be a proper subject for discussion before the City Council for such period of time as the Mayor or Acting Mayor may determine is appropriate under the circumstances of the particular meeting, including number of persons wishing to speak or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

BROWN ACT REQUIREMENTS: The Brown Act does not allow action or discussion on items not on the agenda (subject to narrow exceptions). This will limit the Council's response to questions and requests made during this comment period.

3. STAFF COMMENTS

4. MATTERS FROM COUNCILMEMBERS

5. CONSENT CALENDAR

All items under the Consent Calendar will be acted upon in one motion unless a Councilmember requests that an individual item be taken up under Conduct of Business.

- 5A. [21-494](#) Appoint Carolyn Schneider to the Mendocino County Library Advisory Board

Attachments: [Att 1 - MADDY ACT NOTICE](#)

- 5B. [21-536](#) Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

Attachments: [RESO Authorize Continued Remote Meetings](#)

- 5C. [21-553](#) Adopt City Council Resolution Approving a First Amendment to Professional Services Agreement with Burlington Associates in Community Development, LLC to Assess Feasibility of Establishing a Community Land Trust and Authorizing City Manager to Execute Same (Amount Not to Exceed \$60,000: \$40,000.00 from Account No. 329-4873-0755 and \$20,000 from Account No. 329-5078-0630)

Attachments: [Att. 1 - RESO Burlington Associates](#)

[Att. 2 - Burlington Asso 1st Amd](#)

[Att. 3 - Ex A - Revised Scope of Work](#)

- 5D. [21-554](#) Adopt City Council Resolution Authorizing the City Manager to Execute the Certificate of Acceptance of an Offer of a 14-Foot-Wide Public Right of Way dedication for South Sanderson Way from Sean Pyorre and Renee Pyorre

Attachments: [RESO Pyorre Dedication](#)

[Grant Deed Pyorre](#)

- 5E. [21-555](#) Adopt City Council Resolution Authorizing Submission of Whale Tail Grant Application Seeking Funding from the California Coastal Commission

Attachments: [RESO Whale Tail Grant](#)

[Whale Tail Grant Application](#)

- 5F. [21-556](#) Adopt City Council Resolution Rescinding the City of Fort Bragg's Stage 2 Water Warning Declaration

Attachments: [RESO Rescinding Water Warning](#)

- 5G. [21-557](#) Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg

Attachments: [RESO Declaring Continuing Local Emergency](#)

- 5H. [21-561](#) Receive and File City Council Report on Actions Following Adoption of Interim Urgency Ordinance Placing a 45-Day Moratorium on the Approval of Applications for a Cannabis Dispensary in the Inland Zoning Area

Attachments: [Cannabis Moratorium Report](#)

- 5I. [21-542](#) Approve Minutes of Special Closed Session of October 4, 2021

Attachments: [CCM2021-10-04 Special](#)

- 5J. [21-545](#) Approve Minutes of October 12, 2021

Attachments: [CCM2021-10-12](#)

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

7. PUBLIC HEARING

When a Public Hearing has been underway for a period of 60 minutes, the Council must vote on whether to continue with the hearing or to continue the hearing to another meeting.

8. CONDUCT OF BUSINESS

- 8A. [21-558](#) Receive Report and Consider Adoption of Urgency Ordinance No. 973-2021 Rescinding Interim Ordinance No. 964-2021 Placing a Moratorium on the Approval of Applications for Formula Businesses

Attachments: [10252021 Rescind Formula Business Moratorium Urgency](#)

[Att 1 - ORD 973 Rescinding FB Moratorium Urgency](#)

[Att 2 - ORD 964 Formula Business Moratorium](#)

- 8B. [21-559](#) Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 974-2021 Rescinding Interim Ordinance No. 964-2021 Placing a Moratorium on the Approval of Applications for Formula Businesses

Attachments: [10252021 Rescind Formula Business Moratorium](#)

[Att. 1 - ORD 974 Rescinding FB Moratorium](#)

- 8C. [21-560](#) Receive Report and Consider Adoption of City Council Resolution Authorizing City Manager to Execute Contract Amendment with DakaDesign, LLC for Network Security Consulting Services, Increasing the Amount of the Contract by \$50,000, Total Contract Amount Not to Exceed \$60,000 (Account No. 521-4394-0384); and Approving Budget Amendment 2022-10 to Appropriate \$110,000 from the I.T. Internal Service Fund for I.T. Network Equipment, Software, Temporary Part-time Assistance and Contract Consulting Services

Attachments: [10252021 DakaDesigns Contract and Budget Amendment](#)

[Att. 1 - RESO Contract & Budget Amendment 2022-10](#)

[Att. 2 - Exhibit A BA 2022-10](#)

[Att. 3 - DakaDesign 1st Amd](#)

- 8D. [21-548](#) Receive Report and Provide Direction to Staff on the Definition of Youth Center and Whether the City Should Establish a Buffer Zone of More or Less Than 600 Feet from Cannabis Dispensaries

Attachments: [10202121 Provide Direction on Youth Center](#)
[Cannabis Dispensary Policies PowerPoint](#)
[Public Comment](#)

- 8E. [21-547](#)** Receive Report and Provide Direction to Staff on Potential Updates to Section 18.42.057 of the Inland Land Use and Development Code to Address the Siting of Cannabis Dispensaries in Relationship to Residential Neighborhoods

Attachments: [10202121 Provide Direction on Cannabis and Residential](#)
[Att 1 - FBMC 18.42.057](#)

- 8F. [21-550](#)** Receive Report and Provide Direction to Staff on Whether the City Should Establish a Limit on the Total Number of Cannabis Dispensaries Allowed in the Central Business District or Other Commercial Districts

Attachments: [10202021 Provide Direction on Limit of Dispensaries](#)

- 8G. [21-546](#)** Receive Report and Provide Direction to Staff on the Process for Potentially Revising Section 18.22.030 Table 2-6 and Section 18.42.057 of the Inland Land Use and Development Code for the Land Use Regulations for Cannabis Dispensaries in the City of Fort Bragg

Attachments: [10202021 Staff Report on Cannabis Dispensary Zoning](#)
[Att 1 - 09272021 Moratorium Cannabis Dispensary in CBD](#)
[Att 2 - Municipal Code Chapter 9.30](#)
[Att 3 - ILUDC Section 18.42.057](#)

- 8H. [21-549](#)** Receive Report and Provide Staff with Clarification on the Proposed Zoning for Cannabis Microbusinesses in the City of Fort Bragg

Attachments: [10202121 Clarification on Microbusiness](#)
[Att 1 - City Council Minutes of 05-20-2021](#)

- 8I. [21-552](#)** Receive Staff Update on the Development of an Ordinance to Amend the Inland Land Use and Development Code to Address Zoning for the Commercial Cultivation of Cannabis in the City of Fort Bragg

Attachments: [10202021 Update on Commercial Cultivation Ordinance](#)

9. CLOSED SESSION

ADJOURNMENT

The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council may continue the meeting upon majority vote.

**NEXT REGULAR CITY COUNCIL MEETING:
6:00 P.M., MONDAY, NOVEMBER 8, 2021**

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on October 21, 2021.

June Lemos, CMC
City Clerk

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection upon making reasonable arrangements with the City Clerk for viewing same during normal business hours.*
- *Such documents are also available on the City of Fort Bragg’s website at <https://city.fortbragg.com> subject to staff’s ability to post the documents before the meeting.*

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



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Text File

File Number: 21-539

Agenda Date: 10/25/2021

Version: 1

Status: Mayor's Office

In Control: City Council

File Type:
Recognition/Announcements

Agenda Number: 1A.

Introduction of New Employees: Rory Beak, Police Officer; Nancy Ugrin Bond, Grant Manager; Emma Compa, Police Services Transporter; Erik Filosi, Part-time Laborer; Jarod Frank, Police Officer; Alexandria Frazer, Finance Technician I; Kevin Locke, Assistant Planner; Antoinette Moore, Community Services Officer; Sarah Peters, Administrative Assistant - Community Development; Lacy Peterson, Finance Technician I; Adriana Moreno Ramos, Finance Technician I; Ezra Rinesmith, Maintenance Worker II; Valerie Stump, Code Enforcement Officer; Brandon Wilbur, Maintenance Worker I - Janitor



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Text File

File Number: 21-544

Agenda Date: 10/25/2021

Version: 1

Status: Mayor's Office

In Control: City Council

File Type: Proclamation

Agenda Number: 1B.

Presentation of Proclamation Celebrating Soroptimist International for 100 Years of Service to Women and Girls

P R O C L A M A T I O N
Celebrating Soroptimist International –
100 Years of Service for Women and Girls

WHEREAS, one hundred and one years ago in 1920, passage of the 19th Amendment to the US Constitution gave women the right to vote, but women could not join fraternal service clubs until 1985; and

WHEREAS, the first Soroptimist club was founded one year later, exactly one hundred years ago on October 3, 1921, in Oakland, CA, originally by eight women who wanted to make a difference by serving their communities; and

WHEREAS, Soroptimist quickly expanded into an international nonprofit organization, now with 72,000 members in 121 countries; and

WHEREAS, the Soroptimist has evolved into “a global volunteer organization with a mission to provide women and girls access to the education and training they need to achieve economic empowerment;” and

WHEREAS, Soroptimist clubs have been an integral part of Fort Bragg’s community now for 46 years, with two local Soroptimist clubs: Soroptimist International of Fort Bragg, chartered in 1975, and Soroptimist International of Noyo Sunrise, chartered in 1991 – two of six clubs in the county; and

WHEREAS, local Soroptimist clubs have given tens of thousands of dollars in scholarships to help local women and girls get the education and training they need to improve their employment prospects and economic standing; and

WHEREAS, local Soroptimist clubs have promoted and sponsored dozens of programs and awards to help women and girls succeed, from Soroptimist Dream programs, to providing local grants for sports, music education, health and wellness, and college programs; and

WHEREAS, local Soroptimist clubs have sponsored many decades of co-educational school events such as Odyssey of the Mind and Youth Forum, which expand team building and problem solving skills in a gender neutral environment; and

WHEREAS, both local Soroptimist clubs have many times partnered with Project Sanctuary, the hospital, and the schools to educate women and girls about career opportunities, setting and achieving goals, overcoming obstacles to success, substance abuse, and domestic violence.

NOW THEREFORE, BE IT RESOLVED, that I, Bernie Norvell, Mayor of the City of Fort Bragg, on behalf of the Fort Bragg City Council and staff, do hereby proclaim October 2021 as the “Soroptimist International Centennial Month,” and we express appreciation to the Fort Bragg and Noyo Sunrise Clubs for their many contributions to our community, and for their positive impact of service to the women and girls in our community.

SIGNED this 25th day of October, 2021

BERNIE NORVELL, Mayor

ATTEST:

June Lemos, CMC, City Clerk



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Text File

File Number: 21-494

Agenda Date: 10/25/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Appointment

Agenda Number: 5A.

Appoint Carolyn Schneider to the Mendocino County Library Advisory Board

The City Council has established a regular, annual procedure for soliciting applications and evaluating candidates to advisory committees, districts and boards. The current term for the City's appointed member to the Mendocino County Library Advisory Board expires on October 31, 2021. The position is currently held by Carolyn Schneider who was appointed to the board by the City Council on November 12, 2019.

A Public Notice was issued on December 18, 2020 calling for all interested persons to apply for the position on the Library Advisory Board (Attachment 1). This notice was published in the Fort Bragg Advocate News twice, on December 24 and December 31, 2020 and has been posted in the City Hall Notice Case and on the City's website from December 18, 2020 to present. No applications have been received to date. The City Clerk contacted Ms. Schneider on September 15, 2021, and she indicated her willingness to continue to serve on the Library Advisory Board, subject to approval by the City Council.

As there are no other applicants and Ms. Schneider is an incumbent, staff recommends that the City Council forego the interview process and appoint Carolyn Schneider to serve another term on the Mendocino County Library Advisory Board. This action can be taken by the Council on the Consent Calendar and will be recorded as a "minute order." If appointed, the two-year term will expire on October 31, 2023.



CITY OF FORT BRAGG

Incorporated August 5, 1880
416 N. Franklin Street
Fort Bragg, CA 95437
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PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the City of Fort Bragg encourages residents to apply for a position on City Boards, Commissions, and Committees that will have vacancies in **2021**.

At the end of each year, the City publishes a list of expiring appointed terms for the coming year, names of incumbents, and the dates of appointments. Following is a list for 2021:

LIBRARY ADVISORY BOARD

The City of Fort Bragg recommends an individual for appointment by the Board of Supervisors to the Mendocino County Library Advisory Board. The Library Advisory Board plays an important role in development of quality improvements in the local library branches by exposing the membership to changes and innovations in the library world. Preference will be given to a City resident. This will be a two-year appointment.

NAME	APPOINTED	TERM ENDS
Carolyn Schneider	11/12/2019	10/31/2021

FORT BRAGG FIRE PROTECTION AUTHORITY

The Joint Powers Authority Agreement that created the Fort Bragg Fire Protection Authority in 1990 provides, in part, that one member of the five member board shall be appointed jointly by the Board of Directors for the Fort Bragg Rural Fire District and the City Council of the City of Fort Bragg. The District Board and City Council shall consult with the Fort Bragg Volunteer Fire Department prior to selecting the jointly-appointed member. At its option, the Fort Bragg Volunteer Fire Department may submit one or more candidates for this position. The appointee must be a resident of the Fire Protection area. Appointment to this Board would be for a two-year term. The Authority meets regularly on the fourth Tuesday of each month.

NAME	APPOINTED	TERM ENDS
Joe Sutphin	07/08/2013	03/31/2021

Persons interested in appointment to the above boards or committees are urged to contact City Clerk June Lemos at 961-1694 to obtain an application form.

Residents of the City of Fort Bragg and persons owning a business or commercial property in the City shall be given preference for appointment to advisory committees. The City Council will review applications and interview applicants for appointment to the Fort Bragg Fire Protection Authority in March and recommendation for appointment to the Mendocino County Library Advisory Board in May.

ADDITIONAL BOARDS AND COMMISSIONS

In addition to those listed above, the following is a list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position:

Planning Commission – Each member of the City Council may submit the name of a resident of the City as a nominee for a seat on the Planning Commission. Each member of the Planning Commission shall be a registered voter of the City at the time of his/her appointment and during his/her incumbency.

Noyo Harbor Commission – Appointees to the Noyo Harbor Commission must reside within the Noyo Harbor District boundaries.

Dated: December 18, 2020

June Lemos

June Lemos, CMC, City Clerk

Published: December 24, 2020 and December 31, 2020

STATE OF CALIFORNIA)
) ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this notice to be posted in the City Hall notice case on December 18, 2020 and delivered to the Mendocino County Public Library, 499 East Laurel Street, Fort Bragg, California.

June Lemos

June Lemos, CMC, City Clerk



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-536

Agenda Date: 10/25/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5B.

Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

RESOLUTION NO. ____-2021

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
MAKING THE LEGALLY REQUIRED FINDINGS TO CONTINUE TO
AUTHORIZE THE CONDUCT OF REMOTE “TELEPHONIC”
MEETINGS DURING THE STATE OF EMERGENCY**

WHEREAS, on March 4, 2020, pursuant to California Gov. Code Section 8625, the Governor declared a state of emergency; and

WHEREAS, on September 17, 2021, Governor Newsom signed AB 361, which bill went into immediate effect as urgency legislation; and

WHEREAS, AB 361 added subsection (e) to Gov. Code Section 54953 to authorize legislative bodies to conduct remote meetings provided the legislative body makes specified findings; and

WHEREAS, as of October 4, 2021, the COVID-19 pandemic has killed more than 69,039 Californians; and

WHEREAS, social distancing measures decrease the chance of spread of COVID-19; and

WHEREAS, this legislative body previously adopted a resolution to authorize this legislative body to conduct remote “telephonic” meetings; and

WHEREAS, Government Code 54953(e)(3) authorizes this legislative body to continue to conduct remote “telephonic” meetings provided that it has timely made the findings specified therein;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Fort Bragg as follows:

1. This legislative body declares that it has reconsidered the circumstances of the state of emergency declared by the Governor and at least one of the following is true: (a) the state of emergency continues to directly impact the ability of the members of this legislative body to meet safely in person; and/or (2) state or local officials continue to impose or recommend measures to promote social distancing.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 25th day of October, 2021, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 21-553

Agenda Date: 10/25/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5C.

Adopt City Council Resolution Approving a First Amendment to Professional Services Agreement with Burlington Associates in Community Development, LLC to Assess Feasibility of Establishing a Community Land Trust and Authorizing City Manager to Execute Same (Amount Not to Exceed \$60,000: \$40,000.00 from Account No. 329-4873-0755 and \$20,000 from Account No. 329-5078-0630)

The State of California allocated SB-2 planning funds to the City, which the City is using to implement several pro-housing policies and programs included in the 2019 Housing Element. One specific program that Council identified for these funds is Program H-2.4.4:

Program H-2.4.4: Consider Community Land Trust: Complete research regarding Community Land Trust and consider working with community partners to establish a Community Land Trust that serves Fort Bragg.

On August 31, 2020, the City Council approved a contract with Burlington Associates in Community Development, LLC - a national consulting cooperative to support community land trusts (CLTs) and other shared equity homeownership strategies. The term of this contract included one year, from October 15, 2020 to October 15, 2021, for an amount not to exceed \$40,000.

In January 2021, Mendocino Council of Governments (MCOG) amended their FY 2020/21 Budget to include Regional Early Action Planning (REAP) grant funds. REAP funds are provided to assist regions implement pro-housing policies. MCOG sub allocated funds to the region as follows: MCOG (\$177,228), City of Ukiah (\$69,536), City of Willits (\$35,365), City of Point Arena (\$16,381) and City of Fort Bragg (\$46,410).

One of the projects the City of Fort Bragg identified for these regional planning funds is to expand the geographic area of the community land trust model to include the coastal region from Westport to Gualala. The proposed contract amendment revises Burlington Associates in Community Development scope of work to include this expanded service area. \$20,000 of REAP funds would be allocated.

Att. 1 - Resolution

Att. 2 - Proposed Contract Amendment with Burlington Associates

Att. 3 - Exhibit A - Scope of Work

RESOLUTION NO. ____-2021

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING A FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
WITH BURLINGTON ASSOCIATES IN COMMUNITY DEVELOPMENT, LLC TO
ASSESS FEASIBILITY OF ESTABLISHING A COMMUNITY LAND TRUST AND
AUTHORIZING CITY MANAGER TO EXECUTE SAME
(AMOUNT NOT TO EXCEED \$60,000: \$40,000 ACCOUNT FROM NO. 329-4873-
0755; AND \$20,000 FROM ACCOUNT NO. 329-5078-0630)**

WHEREAS, the City of Fort Bragg (“City”) received an SB-2 grant allocation of \$160,000 from the State of California to implement several pro-housing policies and programs included in the 2019 Housing Element; and

WHEREAS, one of the programs identified as a grant involves taking steps to establish a Community Land Trust; and

WHEREAS, on July 13, 2020, the City Council approved a scope of work for solicitation of proposals for a Community Land Trust feasibility study; and

WHEREAS, on July 15, 2020, the City issued a Request for Proposals (RFP) for assistance with assessing the feasibility of establishing and operating a Community Land Trust in Fort Bragg (the “Project”); and

WHEREAS, based on the review of proposals and interview with Burlington Associates in Community Development LLC (the “Consultant”), staff determined that the Consultant is qualified to provide the desired services for the Project; and

WHEREAS, City Council approved a Professional Services Agreement with the Consultant on August 31, 2020 in an amount not to exceed \$40,000 of SB-2 funds; and

WHEREAS, the Consultant has proven to provide excellent technical assistance services and expertise over the term of contract; and

WHEREAS, Mendocino Council of Governments (MCOG) sub-allocated Regional Early Action Planning (REAP) grant funds for pro-housing policies and programs in the region: MCOG (\$177,228); City of Ukiah (\$69,536); City of Willits (\$35,365); City of Point Arena (\$16,381); and City of Fort Bragg (\$46,410).

WHEREAS, the City identified a portion of REAP funds to expand the geographic area of the community land trust model to encompass the coast from Westport to Gualala; and

WHEREAS, the Consultant revised scope of work to include this regional focus and extend professional services for an additional year; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The revised scope of work of Burlington Associates in Community Development, LLC meets the requirements of the Request for Proposals and is considered responsive.
2. Sufficient funds are available through the funding sources to cover the needed tasks of the Project.
3. Burlington Associates in Community Development, LLC has the experience in completing similar projects, and is a responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve a Professional Services Agreement with Burlington Associates in Community Development, LLC to assess the feasibility of establishing a Community Land Trust serving the coast from Westport to Gualala and authorizes the City Manager to execute same (amount not to exceed \$60,000: \$40,000 from Account No. 329-4873-0755 and \$20,000 from Account No. 329-5078-0630).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 25th day of October, 2021, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

**BERNIE NORVELL
Mayor**

ATTEST:

**June Lemos, CMC
City Clerk**

**FIRST AMENDMENT
TO PROFESSIONAL SERVICES AGREEMENT WITH
BURLINGTON ASSOCIATES IN COMMUNITY DEVELOPMENT, LLC**

THIS FIRST AMENDMENT is made and entered into this ____ day of October, 2021, by and between the CITY OF FORT BRAGG, hereinafter referred to as "City," and BURLINGTON ASSOCIATES IN COMMUNITY DEVELOPMENT, LLC, hereinafter referred to as "Consultant."

WHEREAS, the City and Consultant entered into a Professional Services Agreement ("Contract") on September 10, 2020 to assess the feasibility of establishing and operating a local Community Land Trust in the City of Fort Bragg; and

WHEREAS, the Contract states that Consultant will provide technical advice and assistance to Fort Bragg in developing and implementing the Community Land Trust program for a total contract amount not to exceed Forty Thousand Dollars (\$40,000.00); and

WHEREAS, the parties desire to amend the contract to increase the scope of work to provide additional services to the City of Fort Bragg, as outlined in **Exhibit A** attached hereto; and

WHEREAS, the City desires to increase the total compensation amount by \$20,000 for a total amount not to exceed Sixty Thousand Dollars (\$60,000.00) to complete the scope of work as outlined in **Exhibit A**; and

WHEREAS, the Time of Completion of the current Contract is October 15, 2021 and the Term of the Contract expires January 15, 2022; and

WHEREAS, the City continues to require these services from Consultant and the parties desire to extend the Term and Time of Completion of the Contract by one year until the estimated completion date of the Project in October of 2022; and

WHEREAS, there are still sufficient funds budgeted for these activities; and

WHEREAS, the legislative body of the City on October 25, 2021 by Resolution No. _____ authorized execution of this First Amendment on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code;

NOW, THEREFORE, for the aforementioned reasons and other valuable consideration, the receipt and sufficiency of which is acknowledged, City and Consultant hereby agree that the Professional Services Agreement between the City and Consultant dated September 10, 2020, is hereby amended as follows:

1. **Scope of Work:**

Paragraph 1.1 (Scope of Work) is hereby amended to include the additional work described in Exhibit A attached hereto and incorporated herein by reference.

2. **Compensation:**

Paragraph 2.1 (Compensation), is hereby amended to state, "Consultant's total compensation shall not exceed **Sixty Thousand Dollars (\$60,000.00)**."

3. **Time of Performance:**

Paragraph 3.1 (Commencement and Completion of Work) is hereby amended to extend the time of completion to **October 15, 2022.**

4. **Term:**

Paragraph 4.1 (Term) is hereby amended to extend the expiration date to **January 15, 2023.**

5. Except as expressly amended herein, the Professional Services Agreement between the City and Consultant dated September 10, 2020, is hereby reaffirmed.

IN WITNESS WHEREOF, the parties have executed this Amendment the day and year first above written.

CITY OF FORT BRAGG:

CONSULTANT:

By: _____
Tabatha Miller
City Manager

By: _____
Devika Goetschius
Partner

ATTEST:

APPROVED AS TO FORM:

June Lemos, CMC
City Clerk

Keith F. Collins
City Attorney

EXHIBIT A

E. Scope of Work

Assist the City of Fort Bragg with evaluation of its business plan and related program planning including identifying and evaluating the CLT model, partnering with the nonprofit thus establishing a safety net for the future, weighing benefits of establishing a CLT, creating a permanent legacy and exploring the impact on the CLT regarding staffing/outsourcing land lease administration.

Facilitate discussion on homeownership models to help Staff and City Council members understand the long-term impact of choices in initial project financing and resale formulas. Demonstrate how the resale formula tied to the AMI index works in a CLT unit.

Assist in educating key stakeholders about the land trust/ground lease model and common practices of other Housing Land Trusts.

Part 1: Burlington Associates shall provide technical advice and assistance to the City of Fort Bragg in developing a replicable framework for implementation of the Community Land Trust program. Specific tasks include those listed below and with additional tasks as mutually agreed upon on an ongoing basis. Burlington Associates will work directly with the City's Housing & Economic Development Coordinator by providing professional services and technical assistance to assess the feasibility of establishing and operating a municipally-sponsored CLT serving the City of Fort Bragg. Burlington Associates shall deliver the following:

- Determine short- and mid-term goals and develop a work plan.
- Develop recommendations for an organizational model for the City of Fort Bragg.
- Provide an introduction to CLTs to City Council and community at public meeting.

Part 2: Work directly with the City's Assistant to City Manager by providing professional services and technical assistance to develop an organizational strategy and pilot project to be implemented by a municipally-sponsored CLT in the City of Fort Bragg that would serve the coastal region – Westport to Gualala.

- Develop an Organizational Structure for a CLT serving the Mendocino Coastal Region – Westport to Gualala.
- Explore financing strategies
- Develop pilot project for implementation of CLT

Burlington Associates will assist in educating key stakeholders on the land trust/ground lease model and common practices of other Community Land Trusts and will help educate CLT staff and board regarding:

- Subsidy retention, community wealth, personal wealth creation and recruiting & retaining the workforce, as UCs have done by employing the CLT model affecting city and county housing policy to support the CLT's mission.
- Provide Education of appraisers and title companies and lenders on CLT purchase transactions (off site at a date TBA).
- Design a First Time Homeownership Program with an emphasis on stewardship.
- Provide on-going consultation and assistance, to establish 501(c)3 and start up guidance including reviewing business plan, contracts with funders and strategic planning for the first 3 years of implementation of CLT model using the ground lease to ensure permanent affordability of units in program portfolio, unless this has already been completed.

Burlington Associates is excited to have the opportunity to serve to the City of Fort Bragg. The work we have done nationally and internationally translates well into any community that seeks to deliver housing that is safe, healthy and permanently affordable. The Community Land Trust model is effective and it focuses on two things: creating community wealth and creating personal wealth. Community wealth is created by setting land/units aside in perpetuity that serves a targeted AMI sale after sale, a one-time public investment to create an affordable unit is designed and in fact is a proven working model, to remain affordable forever and serves as a community asset. Personal wealth is created by allowing persons previously in precarious housing situations to have the opportunity to be in a permanently affordable home, the risk of eviction or high cost that will displace that household is significantly diminished by the implementation of the Community Land Trust model. The security of place is a vehicle to improved quality of life that has a long term impact of the success of a household. The Community Land Trust model centers on stewardship of home and people served: the staff are a resource to identify property, take it through entitlement in partnership with the developer and public partner, qualify households, deliver homebuyer education, secure financing and legal documents, all pre-housing. During the time the family is housed, the staff continue to deliver stewardship maintaining monthly contact, providing a network of support, linking the householders to needed services in the community and when the time comes, to transition from the home to repeat the process with the next household.

A local reference is the work we have done to assist in Sonoma County to establish Housing Land Trust of Sonoma County, which was a client of Burlington Associates in 2003 to establish a program to serve families through the Community Land Trust model. That nonprofit has since created permanently affordable homeownership opportunities for extremely low to moderate income families throughout Sonoma County in partnership with various developers, nonprofits, local cities and the county. All homes are stewarded by the staff and projects managed from concept to delivery of home through sale and resale. To date the organization has served 100 families, 16 resales where the homes have remained affordable to the same income level without additional subsidy, 30 units under construction and 82 in the planning stages and expanding to Napa County.

F. Budget

PART 1: Compensation for professional services provided by Burlington Associates shall be at the rate of two hundred fifty dollars (\$250.00) per hour, with a maximum of this contract time (For ONE YEAR for PART 1 – DATES TO BE DETERMINED) **not to exceed \$40,000**. Travel time is included in the professional hours billed, to a *maximum* of eight (8) hours per day.

PART 2: Compensation for professional services provided by Burlington Associates shall be at the rate of two hundred fifty dollars (\$250.00) per hour, with a maximum of this contract time (For ONE YEAR for PART 2 – DATES TO BE DETERMINED) **not to exceed \$20,000**. Travel time is included in the professional hours billed, to a *maximum* of eight (8) hours per day.

In addition to compensation for professional services, Burlington Associates will be reimbursed by at cost for documented expenses paid by Burlington Associates in carrying out the Scope of Work specified in Part 1 and then Part 2 of the herein, including: copying, postage, food, lodging, plane travel, and ground transportation. It is anticipated that the only expenses will be for on-site visits and will be included in the not to exceed annual contract. Approximate budget for a maximum of 3 site visits will not exceed \$1,500 per year, for Part 1 and for Part 2 respectively. Please see per trip budget for site visit below.

Burlington Associates will submit invoices identifying personnel and the time worked, the general service(s) that were performed, the total compensation being requested for time worked, and the reimbursable expenses that are due.

Anticipated Expenses for up to 3 on site meetings per year:

1. Mileage – as per the IRS rate from Petaluma, CA to Fort Bragg

268 miles Round Trip – 3 times per year at the most.

2. Hotel \$250.000 per night – 3 times per year at most

3. Food \$75 per day – 3 times per year at most

Approximate budget for a **maximum of 3 site visits will not exceed \$1,500 per year**, for Part 1 and for Part 2 respectively.

PER SITE VISIT BUDGET:

Travel	268 Miles RT @ .57 per mile	\$152.76
Lodging	1 night	\$250.00
Food	Per day	\$75.00
Total Expenses	Per Site Visit Total	\$477.76

Job Description of Personnel:

Devika Goetschius

Relationship to Bidder: Partner at Burlington Associates in Community Development, LLP

Job Title: Partner Years: 9



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-554

Agenda Date: 10/25/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5D.

Adopt City Council Resolution Authorizing the City Manager to Execute the Certificate of Acceptance of an Offer of a 14-Foot-Wide Public Right of Way dedication for South Sanderson Way from Sean Pyorre and Renee Pyorre

The existing lands of Pyorre extend 14 feet westerly into the normal Right of Way for South Sanderson Way. Acceptance of this dedication will bring the easterly line of South Sanderson Way in alignment with the neighboring parcels and allow Public access to existing and future City facilities located within South Sanderson Way.

RESOLUTION NO. ____-2021

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE THE ACCEPTANCE OF OFFER OF A 14-FOOT-WIDE PUBLIC RIGHT OF WAY DEDICATION FOR SOUTH SANDERSON WAY FROM SEAN PYORRE AND RENEE PYORRE

WHEREAS, the existing western boundary of the lands of Sean and Renee Pyorre currently extends into the normal Right of Way of South Sanderson Way; and

WHEREAS, a portion of said roadway and public utilities lies within said lands of Pyorre; and

WHEREAS, the City is required to obtain access to portions of privately owned property where public infrastructure exists in order to maintain the roadway and utilities lying therein; and

WHEREAS, the conveyance of the Right of Way will bring the South Sanderson Way Right of Way into alignment with the neighboring parcels; and

WHEREAS, the conveyance of the Right of Way will allow City and City Contractors to access, maintain, and improve the facilities in perpetuity;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby:

1. Approve the conveyance of the 14-foot-wide Public Right of Way dedication at APN 018-281-19.
2. Authorize the City Manager to execute a Certificate of Acceptance for the dedication and direct the City Clerk to cause the same to be sent to the Mendocino County Recorder's Office for recording.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 25th day of October, 2021, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

RECORDED AT THE REQUEST OF:

CITY OF FORT BRAGG

When recorded, please mail this instrument to:

CITY OF FORT BRAGG
416 NORTH FRANKLIN STREET
FORT BRAGG, CA 95437
Attention: June Lemos,
City Clerk

The City is exempt from recordation fees per Government Code 27383.
Conveyance to public agency; R&T 11922

AP #018-281-19

GRANT DEED

- The undersigned declares that the documentary transfer tax is \$ -0-,
- computed on the full value of the interest or property conveyed, or is
 - computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenements or realty is located in
 - unincorporated area
 - City of FORT BRAGG and COUNTY OF MENDOCINO, STATE OF CALIFORNIA

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledge,
Sean Pyorre and Renee Pyorre, husband and wife as joint tenants

hereby GRANT(S) to

CITY OF FORT BRAGG, a municipal corporation

the following described real property in the County of Mendocino, State of California:

See Exhibits "A" and "B" attached

Dated: September 17, 2021.

S-B
Sean Pyorre

Renee Pyorre
Renee Pyorre

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Shasta

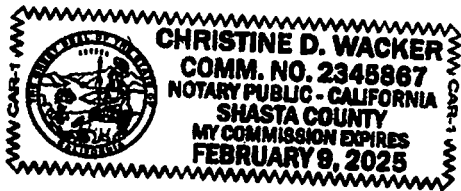
On September 17, 2021 before me, Christine D. Wacker, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Renee Lynn Pyorke
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) was subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature Christine D. Wacker
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer – Title(s): _____ Corporate Officer – Title(s): _____

Partner – Limited General Partner – Limited General

Individual Attorney in Fact Individual Attorney in Fact

Trustee Guardian of Conservator Trustee Guardian of Conservator

Other: _____ Other: _____

Signer is Representing: _____ Signer is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of SAN MATEO }

On SEPT. 21, 2021 before me, MAULIK ANIL PANDIT, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared SEAN PYORRE
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Mandit
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: GRANT DEED

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer – Title(s): _____ Corporate Officer – Title(s): _____

Partner – Limited General Partner – Limited General

Individual Attorney In Fact Individual Attorney In Fact

Trustee Guardian of Conservator Trustee Guardian of Conservator

Other: _____ Other: _____

Signer is Representing: _____ Signer is Representing: _____

Exhibit A

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF FORT BRAGG, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, BEING PORTIONS OF SECTION 7, TOWNSHIP 18 NORTH, RANGE 17 WEST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A ¾ INCH REBAR TAGGED L.S. 3184 ON THE NORTH LINE OF PARCEL TWO AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD APRIL 19, 1978 IN MAP CASE 2, DRAWER 32, PAGE 33, MENDOCINO COUNTY RECORDS; THENCE ALONG THE BOUNDARIES OF SAID PARCEL TWO AS FOLLOWS: NORTH 89° 43' 00" EAST, 14.00 FEET; THENCE SOUTH 01° 31' 00" WEST, 100.00 FEET; THENCE SOUTH 89° 43' 00" WEST, 14.00 FEET; THENCE LEAVING THE BOUNDARIES OF SAID PARCEL TWO, NORTH 01° 31' 00' EAST, 100.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.03 ACRES, MORE OR LESS

**DESCRIPTION PREPARED BY: FORREST FRANCIS
LAND SURVEYOR
P. O. BOX 1162
MENDOCINO, CA. 95460
PHONE: (707) 937-9900**


**FORREST FRANCIS, L. S. 5121
LICENSE EXPIRES 6/30/23**

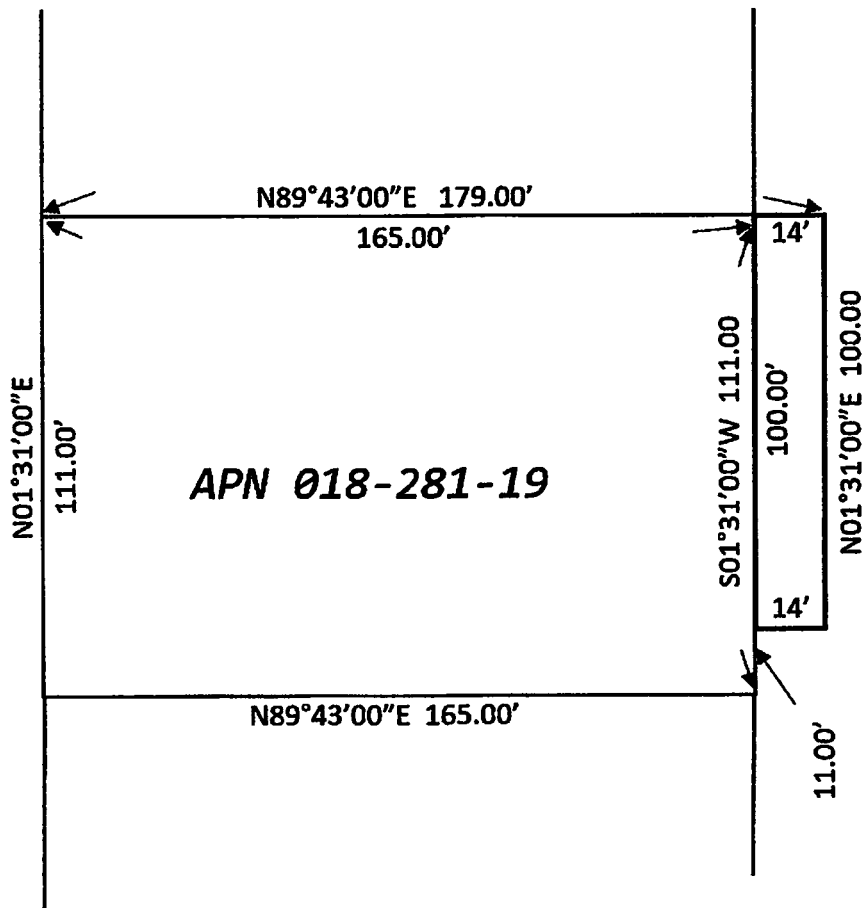


Exhibit B

South Sanderson Way Dedication



Not to Scale



S. Sanderson Way

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the interest in real property conveyed by Grant Deed dated _____, from **Sean Pyorre and Renee Pyorre, husband and wife as joint tenants**, to **City of Fort Bragg**, a municipal corporation, is hereby accepted by the City Council of the City of Fort Bragg, pursuant to authority conveyed by Resolution of the City Council of the City of Fort Bragg (Resolution ____-2021) adopted _____, and the grantee consents to the recordation thereof.

CITY OF FORT BRAGG

By: _____
Tabatha Miller, City Manager

ATTEST:

June Lemos, CMC, City Clerk
(S E A L)



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-555

Agenda Date: 10/25/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5E.

Adopt City Council Resolution Authorizing Submission of Whale Tail Grant Application Seeking Funding from the California Coastal Commission

RESOLUTION NO. ____-2021

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING APPLICATION FOR FUNDING FROM THE
CALIFORNIA COASTAL COMMISSION**

WHEREAS, the California Coastal Commission (the “Commission”) awards grants for projects that it determines are consistent with Division 20 of the Public Resources Code and with the Commission’s objective of protecting and enhancing California’s coast and ocean for present and future generations; and

WHEREAS, the Commission requires the governing body of the grantee to certify through resolution approval to submit application for Commission grant funding and authorizes the execution by a representative of the grantee of a grant agreement on terms and conditions required by the Commission; and

WHEREAS, the City of Fort Bragg is exploring how a strategic focus on the sustainable development of Fort Bragg’s ocean resources could transform our regional economy and drive economic growth, while nurturing our environment and protecting coastal resources; and

WHEREAS, scientists, experts, decision makers, entrepreneurs, workforce, students and community members desire to learn and share knowledge about our marine ecosystems in terms of ocean resiliency and/or economic development – including topics related to climate change, fisheries, aquaculture, renewable energy, bio-tech, tourism, etc.; and

WHEREAS, the City is working with regional partners to plan a three-day, city-wide event with multiple tracks to engage all segments of the community as well as local/state/regional leadership; and

WHEREAS, the event would take place on May 19, 20, and 21, 2022 and include activities to engage in hands-on marine science, on the water education, guided tours and science talks, restoration activities, activities promoting stewardship of coastal resources, citizen science and community building to nurture a shared vision for a Blue Economy on the Mendocino Coast; and

WHEREAS, there are costs associated with the event and the City is seeking funding to support this public outreach, and engagement effort.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the Whale Tail Application for funds from the California Coastal Commission and authorizes the City Manager to execute the same.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 25th day of October, 2021, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**

**ABSTAIN:
RECUSED:**

**BERNIE NORVELL
Mayor**

ATTEST:

**June Lemos, CMC
City Clerk**

WHALE TAIL® Grant Program Cover Sheet

1. **Name of Applicant Organization:** City of Fort Bragg
2. **Name and Title of Contact Person:** Sarah McCormick, Assistant to City Manager
3. **Mailing Address:** 416 N Franklin Street, Fort Bragg, CA 95437
4. **Telephone:** 707-961-2827 x113
5. **Email:** smccormick@fortbragg.com
6. **Website:** city.fortbragg.com and visitfortbraggca.com
7. **Project Title:** A Blue Economy for Fort Bragg & The Mendocino Coast
8. **Brief Project Summary:** 3-day event with multiple tracks tailored to engage all segments of the community as well as local/regional/state leadership. Activities would take place throughout town, offering varied opportunities to engage in hands-on marine science, on the water education, guided tours and science talks, restoration activities, activities promoting stewardship of coastal resources, citizen science, and community building to nurture a shared vision for a Blue Economy on the Mendocino Coast.
9. **Number of people who will be directly reached by the project:** 7,200
Number of people indirectly reached by project, if applicable: 10,000
10. **Requested Grant Amount:** \$35,000
11. **Total Project Budget:** \$50,000+ donations (most activities will be sponsored by individual organizations)
12. **Project Start Date:** March 15, 2022
Project End Date: June 15, 2022
13. **Which describes your organization?** (Circle or underline all that are applicable.)
 - a non-profit corporation
 - a government entity: City
 - a California Native American Tribe
 - a school
 - a project of a non-profit fiscal sponsor
14. **How did you find out about this grant program?** CA Coastal Commission e-notification

Name _____ Signature _____ Date _____

WHALE TAIL® Grants Application

1. **Cover Sheet.** See previous page.
2. **Organization's History.** Indigenous people, mostly belonging to the Pomo tribe, lived along this area of California's coast long before Western expansion. The area served as a small military outpost and the site of the Mendocino Indian Reservation between 1855 and 1867 before being abandoned. In 1889, the City of Fort Bragg was incorporated and the economy was driven by the logging industry with commercial fishing also playing an important role. Since the decline of lumber and fishing industries, which led to the eventual closing of Georgia Pacific's lumber mill in 2002, Fort Bragg's economy has suffered.

Fort Bragg serves as the primary commercial center for Mendocino County's coastal communities, and the City, along with regional partners that include Sherwood Valley Band of Pomo, Noyo Harbor District, Mendocino County, Mendocino Community College, West Business Development Center and Noyo Center for Marine Science are taking a strategic focus on new opportunities emerging within the "Blue Economy" as an economic driver for the region.

3. **Project Background/History.** The U.S. Department of Commerce's Economic Development Agency (EDA) invested CARES Act funding to help the City of Fort Bragg develop a strategy for economic diversification. Because coastal resources are one of our region's largest assets, we are exploring how opportunities within an emerging Blue Economy could transform our economy, while nurturing our coastal environment.

The World Bank defines the Blue Economy as "the sustainable use of ocean resources for economic growth, and improved livelihoods and jobs, while preserving the health of marine and coastal ecosystems." This is an innovative sector encompassing a broad range of activities related to climate change, fisheries, renewable energy, transport and tourism within the context of healthy marine ecosystems.

In May 2021, City staff Sarah McCormick coordinated an all-day stakeholder meeting to initiate a conversation about what a blue economy might look like on the Mendocino Coast. It was a great success! McCormick immediately began planning the next meeting with the generous support of California Sea Grant specialists – Fort Bragg & A Blue Economy Symposium. The objective of the October event was to hold an in-person meeting under the Brown Act for local/regional/state leadership to receive the same baseline information.

Invitees included Fort Bragg City Council, Sherwood Valley Band of Pomo Tribal Council, Noyo Harbor District Commission, Mendocino County Board of Supervisors, along with representatives from organizations like CA Coastal Commission, CA Department of Fish & Wildlife, CA State Lands Commission, NOAA, and Ocean Protection Council – and we were fortunate to have State Controller Betty Yee accept our invitation to be the keynote speaker. 😊

Unfortunately, due to a rise in COVID-19 cases, the October event was postponed. When setting new dates, we opted to spread our agenda over two days, Thursday, May 19th and Friday, May 20th. Following the Local/Regional/State Leadership meeting, beginning Friday evening, the conversation will expand to the entire community – a citywide event with two and a half days of activities tailored to engage all segments of the population. This community event would be scheduled Friday, May 20th, Saturday, May 21st, and Sunday, May 22nd. Activities would take place throughout town and throughout the day, offering varied experiences to engage in hands-on

marine science, on the water education, expert-led guided tours, science talks, restoration activities, education pertaining to stewardship of coastal resources, citizen science opportunities. Community engagement to foster public understanding and garner support for efforts to transform our regional economy into a “Blue Economy.”

4. **Issue, interest, or need for the proposed project.** Since May 2021, the City of Fort Bragg, Sherwood Valley Band of Pomo, Noyo Harbor District, Mendocino Community College, West Business Development Center, Noyo Center for Marine Science, and Housing Mendocino Coast have met on a regular basis to establish a regional coalition focused on a blue economy for our region. The interest for the proposed project is IMMENSE.

The time is now to broaden the conversation and engage the larger community. We are committed to partnering and collaborating with local nonprofit organizations and businesses to ensure outreach efforts make it to all segments of the community. Financial support provided by the Whale Tail Grant would facilitate truly valuable experiences that inspire and motivate, such as free scientist-led charter boat excursions to get folks out on the water and hands-on marine science activities to get toes sandy.

5. **Project Description.**

- (a) **A concise list of the goals and objectives of your project.**

- Goal 1: Public Engagement.** Public understanding and support related to a Blue Economy for the Mendocino Coast – the sustainable use of ocean resources for economic growth, improved livelihoods and jobs, and healthy marine ecosystems.

- 1.1 Hold a public meeting under the Brown Act to include Fort Bragg City Council, Sherwood Valley Band of Pomo Tribal Council, Noyo Harbor District Commission and Mendocino County Board of Supervisors.
 - 1.2 Link local non-profit organizations and businesses to scientists/experts in order to develop activities tailored to the needs of special populations they serve (i.e. youth, seniors, families, developmentally disabled, citizen scientists, artists, indigenous, etc.).

- Goal 2: Knowledgeable Community.** Provide varied and broad opportunities for community members to engage and learn about coastal resources, stewardship, climate change, and economic development opportunities within a Blue Economy.

- 2.1 **Print Outreach.** Offer educational printed material to individuals and businesses for display and to share. Develop Fort Bragg specific literature, as well as utilize existing resources from trusted agencies and organizations.
 - 2.2 **On the Water Experiences.** Create opportunities for community members to learn while experiencing the Pacific Ocean and local rivers by boat and kayak.
 - 2.3 **Hands-on Marine Science.** An array of educational activities with our ever talented team at Noyo Center for Marine Science.
 - 2.4 **Guided Tours.** Engage with local experts and scientists to share knowledge with community groups about our marine environment.

- 2.5 Community Science. Promote citizen scientist opportunities, such as collecting data related to: shorebirds (Mendocino Coast Audubon Society), coastal vegetation (Dorothy Young Chapter of CA Native Plant Society), and projects related to urchin barrens and kelp recovery efforts (Noyo Center for Marine Science & Reef Check).
- 2.6 Museum Exhibits. The Noyo Center for Marine Science has two locations with marine exhibits – the downtown Discovery Center and the Crow’s Nest located on the Noyo Headlands near the 11 acres secured for a future marine science museum and research station.
- 2.7 Presentations/Lectures. Coordinate presentations and lectures by subject experts and scientists throughout the event – from the podium, the trail, boat dock and boat decks.
- 2.8 Ecological Restoration. Coordinate with Mendocino Land Trust to offer restoration and stewardship opportunities (removing invasive species, debris, and trash) from Hare Creek Trail and Beach.
- 2.9 Public Art. Engage with local artists to develop and showcase work related to our marine environment. Specifically, work with our local organization, Art Explorers, a nonprofit creative arts program that primarily serves adults with developmental disabilities, and Alleyway Art Project, focused on working with local artists to bring murals downtown.

Goal 3: Foster Entrepreneurship. Highlight entrepreneurial opportunities within the blue economy to spark innovation and new businesses.

- 3.1 Explore Blue Economy Opportunities. Showcase commercial opportunities within the blue economy through presentations delivered by entrepreneurs in the field.
- 3.2 Collaborate with West Business Development Center to harness local potential and foster entrepreneurial spirit.

Goal 4: Strong Social Networks. Nurture a robust network of individuals and organizations that inspire collaboration and partnerships.

- 5.1 Regularly meet with Regional Coalition (City of Fort Bragg, Sherwood Valley Band of Pomo, Noyo Harbor, Mendocino Community College, West Business Center, Noyo Center for Marine Science) on shared blue economy vision for our region.
- 5.2 Collaborate with local nonprofits and organizations to develop marine focused activities to be showcased on shared Event Program.
- 5.3 Engage with scientists and local experts with knowledge of the marine environment and sprinkle them throughout the event.

(b) Description of the project participants and recruitment plan.

- 1. **Presenters & Attendees.**

According to information available through the U.S. Census Bureau’s current American Community Survey, the City of Fort Bragg has a population of 7,291 – 80% of people identify as white, and 34% identify as Hispanic or Latino. Fort Bragg is a Severely Disadvantaged Community with 73% of students in the Fort Bragg Unified School District considered to be Socioeconomically Disadvantaged.

Thursday and Friday are scheduled for Brown Act meetings tailored to local, regional and state leadership. Basically, the one-day October Symposium spread out over two days (see table with agenda, below). Attendees include local/regional leadership: Fort Bragg City Council, Noyo Harbor Commission, Sherwood Valley Band of Pomo, and Mendocino County Supervisors. Invitees include staff and leadership from CDFW, CA Fish & Game, NOAA, CA State Lands Commission, CA Coastal Commission, Natural Resources Agency, Ocean Protection Council, California Aquaculture Association, well as experts from all over specializing in fields related to California’s working waterfronts, climate change, the importance of kelp restoration, responsible aquaculture practices and practitioners.

POSTPONED October Blue Economy Symposium Agenda <i>...to be scheduled Thursday/Friday of May event</i>			
Topic	Facilitator	Presentation	Presenter
Welcome	Sarah McCormick	Introduction to Blue Economy	State Controller Betty Yee
City Infrastructure	Vice Mayor Morsell Haye Melanie Rafanan, Tribal Chair	Ocean Water Intake/Discharge	City Consultant
Noyo Harbor Infrastructure	Noyo Harbor Commission	Community Sustainability Plan	Noyo Harbor Commission
		Mooring Bay improvements	Noyo Harbor Consultant
Sustainable Fishing Economies	Carrie Pomeroy, UC Santa Cruz Laurie Gardner, Humboldt State	Panel discussion with local commercial/recreational fishermen & associated business operators about the state of working waterfront, their visions for a vibrant blue economy in Fort Bragg, and potential synergies with other ocean industries/businesses	Joe Caito Scott Hockett Grant Downie Heather Sears Tim Gillespie Dan Platt
Aquaculture		Pathways to Responsible Aquaculture in California 101	Randy Lovell, State Aquaculture Specialist, CDFW
Commercial Aquaculture	Kevin Johnson, CA Sea Grant Specialist	Existing Seaweed Business	Mike Graham, Monterey Bay Seaweeds

		Aspiring Seaweed Business	Torre, Sunken Seaweeds
		Hatcheries/Shellfish/Abalone	Doug Bush, Cultured Abalone Farm, LLC
		Urchin	Urchinomics
Restorative to Mitigate Environmental Issues	Luke Gardner, CA Sea Grant Specialist	Kelp & Effects on Climate Change	Gina Contolini, CDFW and CA Sea Grant Specialist
		Sunflower Sea star	Norah Eddy, The Nature Conservancy
		Species Recovery	Kristin Aquilano, CA Sea Grant Specialist
Education, Community Outreach & Job Force Training	Dave Turner, President Noyo Center for Marine Science	Mendocino Coast Center	Tim Karas, President Mendocino-Lake Community College District
		Noyo Center for Marine Science	Shelia Semans, Executive Director
		CA Sea Grant Job Force Training	Carolyn Culver, CA Sea Grant Specialist
Conclusion	Tess Albin-Smith, Councilmember	Closing Remarks	Tess Albin-Smith, Councilmember
		Happy Hour Mixer	Noyo Center for Marine Science

Following the Brown Act meeting, Friday evening through Sunday is the community oriented, city-wide event. The target audience is local residents. This includes folks of all ages, grade levels, ethnicity, socioeconomic status, etc. According to information available through the U.S. Census Bureau’s current American Community Survey, the City of Fort Bragg has a population of 7,291 – 80% of people identify as white, and 34% identify as Hispanic or Latino. Fort Bragg is a Severely Disadvantaged Community with 73% of students in the Fort Bragg Unified School District considered to be Socioeconomically Disadvantaged.

To ensure that we reach everybody, event partners will collaborate with nonprofit organizations and businesses so that the special populations they serve are represented. For example, Art Explorers works with developmentally disabled adults, Mendocino Children’s Fund advocates for low income and at-risk children and their families, Redwood Coast Senior Center provides services to our elderly. Fort Bragg Unified School District can facilitate student participation, and Sherwood Valley Band of Pomo can help involve indigenous people.

2. **Plan for recruiting participants.** Leaders from the City, Noyo Harbor District, Sherwood Valley Band of Pomo, Mendocino Community College, Noyo Center for Marine Science, and West Business Development Center are committed to collaborating to host and plan

this citywide, community-oriented event. And each organization is ready to utilize their organizational resources to make this event a success. Furthermore, event partners will connect with local nonprofits and businesses to plan activities and recruit participants through their networks. Print and electronic outreach materials will be developed, and intend to coordinate a regular column in the local newspaper that will focus on blue economy matters.

3. **City of Fort Bragg.** The City is well positioned to bring the community together. Leadership is committed to public engagement and input; City staff is dedicated to public service and coordinating planning discussions. The key staff person identified is Sarah McCormick who serves as Assistant to City Manager. McCormick is responsible for the May stakeholder meeting, as well as the October symposium. McCormick has taken the lead to foster a regional coalition focused on a blue economy for the Mendocino Coast, is committed to social justice and equity, and has a deep respect for coastal resources.

(c) Project details.

1. **What will participants do and experience during your project?** The table below is illustrative of proposed activities. All will be showcased on a single program and timing of events will overlap, offering multiple options. Please note that the table reflects ideas of the planning committee, and not all organizations have been notified, nor confirmed participation. Outreach has been done, has received positive responses.

There would be no costs for participating – open to the public. All organizations will be supported with resources and/or experts. For example, Charter Boat excursions would be partnered with scientist/expert presenting specific a topic, like The Nature Conservancy and urchin diver Grant Downie presenting their latest work related to kelp recovery efforts.

Friday Evening through Sunday May 20, 21, 22, 2022	
Proposed Activity	Identified Organization
Run Coastal Trail	FBHS Track & Field Team
Walk/Stroller Coastal Trail	Adventist Health "Blue Zone" & FB Historical Society
Cycle Coastal Trail to Ten Mile	Seniors on Bikes Club
Specimen Collection & Science Talk	Mendocino Community College
Night Skies & Telescopes from the Coastal Trail	Out of This World
Ocean Boat Excursions	Kraken, Hooked on Mendo, Seahawk, Telstar Charters
Noyo River Kayak Excursions	Liquid Fusion
Habitat Restoration Project	Mendocino Land Trust
Guided Coastal Bird Walk	Audubon Society
Guided Coastal Plant Walk	CA Native Plant Society
Stewardship Talk & Picnic at Virgin Creek	Mendo Chapter - Surfrider Foundation
Habitat Restoration, Coho Salmon & Pudding Creek	Trout Unlimited
MacKerricher Ranger Station Talk	CA State Parks

Noyo Center Crow's Nest	Noyo Center for Marine Science
Noyo Center's Discovery Center	Noyo Center for Marine Science
Noyo Harbor Dock Tour	Harbor Entrepreneurs & Locals
Special Menu Offerings	Local Restaurants & Bars
Smores & Stories at Beachcomber	FB Historical Society & Beachcomber
Wooden Boat Show	Lost Coast Rowing Club
Noyo Station Open House	U.S. Coast Guard
Family Fry Bread	Sherwood Valley Band of Pomo
Live Music	Princess Seafood, Piaci, Golden West Saloon
Marine Focused Film and Puppet Show	Larry Spring Museum
Dogs, Leashes and Stewardship of Coastal Resources	Mendocino Coast Humane Society
Coastal Resources Art Opening	Art Explorers
Kelp Restoration Efforts	The Nature Conservancy & Grant Downie
Ocean Inspired Dance	Mendocino Dance Project
Brass Band on the High Dock	Symphony of the Redwoods
	Mendocino Mermaids
	Mendo Area Parks Assoc.
	Latino Outdoors
Free shuttle North Harbor <>Downtown	Mendocino Transit Authority
	+ others we are missing that want to participate 😊

2. **Existing curriculum, handbook, or other program material.** Existing materials will be sourced to assist for activity development and general education. Examples include CDFW materials related to CA Marine Protected Areas and Keep It Wild Campaign, resources available on the CA Coastal Commission website such as the Save Our Seas Curriculum, resources through CA Sea Grant, along with materials developed by our local Noyo Center for Marine Science, Mendocino Chapters of Trout Unlimited, Audubon Society, Native Plant Society. The list is sure to grow over the following weeks/months.
3. **New program materials.** Educational outreach and publicity materials will be developed specifically for the event and include:
 - Program schedule
 - Posters
 - Tent Cards
 - Branded “hello, my name is...” stickers
 - Web-based program
4. **Partnerships integral to the project.** Blue Economy Regional Coalition: City of Fort Bragg, Sherwood Valley Band of Pomo, Noyo Harbor District, Mendocino County, Mendocino-Lake Community College District, West Business Development Center, and Noyo Center for Marine Science.

5. **Sharing results.** Participating nonprofits and businesses will document who participated in sponsored activity and return information, along with any feedback/insights to City staff to be compiled/assessed in a report. This report will be presented to City Council and the community during a public meeting and be made available through the City’s website.
6. **Project design considerations.** Numerous design considerations have been made in the planning of this event to ensure all segments of the population can participate. Activities will be specifically targeted to specific populations – youth, families, entrepreneurs, citizen scientists, developmentally disabled, folks with mobility issues, seniors, etc. The project overall is concentrating on outdoor activities in consideration of the COVID-19 pandemic.
7. **Continuing the conversation.** The regional blue economy coalition will continue regular meetings over the coming months and years in order to develop the infrastructure and capacity necessary to prosper. It is likely that a successful event will inspire an annual community outreach event.
8. **WHALE TAIL® Grant.** The City of Fort Bragg has not applied for, nor received a Whale Tail® Grant in the past.

(d) Key staff. Assistant to the City Manager, Sarah McCormick oversees economic development activities and special projects for the City and is the key staff identified to implement this project. McCormick identified, applied, and managed the EDA grant that initially considered opportunities for a blue economy in the region. McCormick coordinated and facilitated the stakeholder outreach meeting of May 2021, the October symposium that has been postponed, is taking the lead to facilitate regular meetings of the Mendocino Coast Regional Coalition focused on transforming the local economy into a blue economy, and would facilitate efforts for May’s citywide event.

(e) Statement of need for the requested funding. Financial support would provide opportunities for community-wide engagement in on-water experiences, expert-led guided tours, hands-on marine science, lectures, presentations, art, and more, at no cost. Most activities would be sponsored by organizations; however, some activities, such as boat excursions to learn about kelp deforestation and urchin barrens, need financial support.

6. **Tracking and assessing your impact.** Participating organizations and businesses will track participants of each activity. This information will be collected, along with any feedback/recommendations/insights from participating organizations and businesses. Sarah McCormick, the responsible person for drafting the final grant report, will compile/assess information. The report will be presented to the City Council and community at a public meeting.
7. **Permits required (if any).** Some activities may trigger a Limited Term Permit, which the City will process at no cost to the applicant.
8. **Tasks and timeline.** The symposium planned for October 8 and 9, 2021 needed to be rescheduled due to a rise in COVID-19 cases. Dates have been changed to May 19 and 20, 2022. October presenters and attendees will transition to May, so several presentations will not need to be planned. Costs associated with this meeting will be covered by the City of Fort Bragg and the generous support of CA Sea Grant.

The city-wide, community oriented event is scheduled beginning Friday evening, May 20, Saturday, May 21 and Sunday, May 22, 2022. We have already initiated conversations with several local nonprofits and businesses to get folks thinking of what activity they might contribute and will continue to do so over the coming weeks. Responses have been positive.

We understand that the earliest date Whale Tail Grant funds would be available is mid-March. We will wait to initiate projects that rely on grant funding, such as print/electronic materials, commitment to charter boats and kayaks, and exploration kits, until awarded.

March – May 2022: Reserve boats, kayaks, heat lamps, firewood, s’mores, etc.
Finalize Program Agenda
Develop educational outreach (print/electronic)
May 2022: Hold Event
June 2022: Compile Report and Present to City Council at Public Meeting

9. **Budget and details.** See attached.

10. **City Council Resolution.** See attached.

11. **A project site list and/or map.** See attached.

12. **Organizational Information:**

- The organization’s current annual budget, including sources of funds. **N/A**
- City Leadership:
Bernie Norvell, Mayor
Jessica Morsell-Haye, Vice Mayor
Tess Albin Smith, Councilmember
Lindy Peters, Councilmember
Marcia Rafanan, Councilmember
Tabatha Miller, City Manager
- Optional: Any other supporting material you would like to provide such as newsletters, press clippings, or letters of support from project partners or others (such as partner schools that are already identified, or landowners where ecological restoration will occur). Any letters of support may be addressed to “California Coastal Commission” or “Whale Tail Grants Review Panel.” **Please see attached.**



City of Fort Bragg

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Text File

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In Control: City Council

File Type: Resolution

Agenda Number: 5F.

Adopt City Council Resolution Rescinding the City of Fort Bragg's Stage 2 Water Warning Declaration

RESOLUTION NO. ____-2021

RESOLUTION OF THE FORT BRAGG CITY COUNCIL RESCINDING THE CITY OF FORT BRAGG'S STAGE 2 WATER WARNING DECLARATION

WHEREAS, the City of Fort Bragg experienced significantly less rainfall in the last twenty-four (24) months than would be considered normal; and

WHEREAS, the water flow in the Noyo River in the summer and early fall of 2021, declined to and below water levels in the summer of 1977, which is the worst drought on record for the City of Fort Bragg; and

WHEREAS, historically, in the months of August, September and October, the Noyo River experiences high tides, where the gravitational pull between the sun and the moon increase tide levels to a foot or two higher than normal tide levels. High tides during periods of low flow levels on the Noyo River increase salinity content and shorten pump run times, impairing the City's ability to replenish water supply from the Noyo River; and

WHEREAS, on March 5, 2021, the USDA declared that 50 counties in California, including Mendocino County, were designated as primary natural disaster areas due to recent drought; and

WHEREAS, on April 21, 2021, Governor Newsom declared a state of emergency in Mendocino County due to drought conditions; and

WHEREAS, on August 9, 2021, after a properly noticed public hearing, the City Council declared a Stage 3 Water Emergency and implemented Stage 3 Water Conservation Restrictions for the Fort Bragg Water System; and

WHEREAS, on September 13, 2021, after a properly noticed public hearing, the City Council declared a Stage 4 Water Crisis and implemented Stage 4 Water Conservation Restrictions for the Fort Bragg Water System water supply; and

WHEREAS, during the second half of September 2021 the region received several days of rain which resulted in increased flows in the Noyo River allowing the City to replenish water storage in the Summers Lane Water Reservoir; and

WHEREAS, the City received the Desalination-Reverse Osmosis Treatment System on September 24th which is operational and able to treat brackish salt water during high tide cycles; and

WHEREAS, the City has negotiated a Well Use Agreement with the Fort Bragg Unified School District, to allow the City to use well water to supplement its water supply, if necessary; and

WHEREAS, the City has received the Water Treatment System to allow it to utilize Fort Bragg Unified School District's irrigation well water to further supplement the City's water supply and has determined that it is not necessary for the current season but will be utilized next year for a well to be installed on the City's CV Starr Community Center property; and

WHEREAS, on October 12, 2021 the City Council downgraded the Stage 4 Water Crisis to a Stage 2 Water Warning; and

WHEREAS, Fort Bragg and the region has received additional rainfall since October 12, 2021, and the Noyo River flows have increased from just above one (1) cubic feet per

second (cfs) to over ten (10) cfs from October 15, 2021 to October 20, 2021 and are expected to continue to rise with the additional predicted rain; and

WHEREAS, the weather forecast from the National Weather Service for October 20, 2021 through October 26, 2021 includes rain and showers every day with the chance of precipitation between 40 and 100% each day with October 21st and 22nd at 100% chance of rainfall; and

WHEREAS, the City Manager, after considering all the relevant factors impacting the City’s potable water sources per Section § 14.06.020 (WATER CONSERVATION STAGES), recommends that the City Council rescind the Stage 2 Water Warning.

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The foregoing recitals are true and correct and are made a part of this Resolution.
2. The City Manager’s evaluation of the City of Fort Bragg’s current water supply, future rainfall predictions, reduced temperatures inland of Fort Bragg in the water shed, projected water demand, projected water source levels, supply available from Desalination-Reverse Osmosis Treatment System and Well Use Agreement with the Fort Bragg Unified School District resulted in a recommendation that the City Council rescind the Stage 2 Water Warning.
3. The City Manager determined Water Conservation Restrictions are no longer necessary and are not currently in the best interests of the City of Fort Bragg Water Customers.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby rescind the Stage 2 Water Warning pursuant to Chapter 14.06 of the Fort Bragg Municipal Code and removes and terminates the mandatory Stage 2 Water Conservation Measures, as set forth in Fort Bragg Municipal Code section 14.06.050 B.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 25th day of October, 2021, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk



City of Fort Bragg

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Text File

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Agenda Number: 5G.

Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg

At a special meeting on March 24, 2020, the Fort Bragg City Council ratified the City Manager's Proclamation declaring a local emergency due to COVID-19 in its Resolution No. 4242-2020.

Since that date, the Council has adopted the following resolutions reconfirming the existence of a local emergency:

Date Resolution No.

April 6, 2020	4245-2020
April 20, 2020	4247-2020
May 11, 2020	4250-2020
May 26, 2020	4253-2020
June 8, 2020	4266-2020
June 22, 2020	4270-2020
July 13, 2020	4284-2020
July 27, 2020	4289-2020
August 10, 2020	4294-2020
August 31, 2020	4300-2020
September 21, 2020	4304-2020
October 13, 2020	4317-2020
October 26, 2020	4319-2020
November 9, 2020	4323-2020
November 23, 2020	4329-2020
December 14, 2020	4333-2020
December 22, 2020	4340-2020
January 11, 2021	4343-2021
January 25, 2021	4347-2021
February 22, 2021	4358-2021
March 8, 2021	4363-2021
March 22, 2021	4366-2021
April 12, 2021	4376-2021
April 26, 2021	4381-2021
May 10, 2021	4385-2021
May 24, 2021	4391-2021
June 14, 2021	4396-2021
June 28, 2021	4405-2021
July 12, 2021	4418-2021
July 26, 2021	4422-2021
August 9, 2021	4427-2021
August 30, 2021	4434-2021
September 20, 2021	4447-2021
October 12, 2021	4451-2021

The City is required to reconfirm the existence of a local emergency every 21 days pursuant to Fort Bragg Municipal Code Section 2.24.040.

RESOLUTION NO. ____-2021

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
CONFIRMING THE CONTINUED EXISTENCE OF A LOCAL
EMERGENCY IN THE CITY OF FORT BRAGG**

WHEREAS, California Government Code section 8630 empowers the Fort Bragg City Council to proclaim the existence of a local emergency when the City is threatened or likely to be threatened by the conditions of extreme peril to the safety of persons and property that are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City; and

WHEREAS, California Government Code section 8558(c) states that a “local emergency” means the duly proclaimed existence of conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city; and

WHEREAS, COVID-19, a novel coronavirus causing infectious disease, was first detected in China in December 2019 and has spread across the world and to the United States. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and, in some cases, death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a tremendous public health threat; and

WHEREAS, on March 13, 2020, the President of the United States issued a proclamation declaring the COVID-19 outbreak in the United States as a national emergency, beginning March 1, 2020; and

WHEREAS, the Governor of the State of California and the Public Health Officer of the County of Mendocino have both issued Shelter-in-Place orders to combat the spread of COVID-19; and

WHEREAS, on March 17, 2020 the City Manager, as the City’s Director of Emergency Services, issued Proclamation No. CM-2020-01 declaring a local emergency as authorized by Government Code section 8630 and Fort Bragg Municipal Code section 2.24.040(B); and

WHEREAS, at a special meeting on March 24, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4242-2020, ratifying the City Manager’s Proclamation declaring the existence of a local emergency; and

WHEREAS, at a special meeting on April 6, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4245-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on April 20, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4247-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 11, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4250-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 26, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4253-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 8, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4266-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 22, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4270-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 13, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4284-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 27, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4289-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on August 10, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4294-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on August 31, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4300-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on September 21, 2020, the City Council of the City of Fort Bragg adopted Resolution 4304-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 13, 2020, the City Council of the City of Fort Bragg adopted Resolution 4317-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 26, 2020, the City Council of the City of Fort Bragg adopted Resolution 4319-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 9, 2020, the City Council of the City of Fort Bragg adopted Resolution 4323-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 23, 2020, the City Council of the City of Fort Bragg adopted Resolution 4329-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on December 14, 2020, the City Council of the City of Fort Bragg adopted Resolution 4333-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on December 22, 2020, the City Council of the City of Fort Bragg adopted Resolution 4340-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 11, 2021, the City Council of the City of Fort Bragg adopted Resolution 4343-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 25, 2021, the City Council of the City of Fort Bragg adopted Resolution 4347-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 8, 2021, the City Council of the City of Fort Bragg adopted Resolution 4351-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 22, 2021, the City Council of the City of Fort Bragg adopted Resolution 4358-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on March 8, 2021, the City Council of the City of Fort Bragg adopted Resolution 4363-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on March 22, 2021, the City Council of the City of Fort Bragg adopted Resolution 4366-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on April 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4376-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on April 26, 2021, the City Council of the City of Fort Bragg adopted Resolution 4381-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 10, 2021, the City Council of the City of Fort Bragg adopted Resolution 4385-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 24, 2021, the City Council of the City of Fort Bragg adopted Resolution 4391-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 14, 2021, the City Council of the City of Fort Bragg adopted Resolution 4396-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 28, 2021, the City Council of the City of Fort Bragg adopted Resolution 4405-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4418-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 26, 2021, the City Council of the City of Fort Bragg adopted Resolution 4422-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on August 9, 2021, the City Council of the City of Fort Bragg adopted Resolution 4427-2021 by which it continued the local emergency; and

WHEREAS, at a special meeting on August 30, 2021, the City Council of the City of Fort Bragg adopted Resolution 4434-2021 by which it continued the local emergency; and

WHEREAS, at a special meeting on September 20, 2021, the City Council of the City of Fort Bragg adopted Resolution 4447-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4451-2021 by which it continued the local emergency;

NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED by the City Council of the City of Fort Bragg that for reasons set forth herein, said local emergency shall be deemed to continue to exist until the City Council of the City of Fort Bragg, State of California, proclaims its termination; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg will review the need for continuing the local emergency at least once every 21 days until the City Council terminates the local emergency; and

BE IT FURTHER RESOLVED that this resolution confirming the continued existence of a local emergency shall be forwarded to the Director of the Governor's Office of Emergency Services and the Governor of the State of California, as well as the Mendocino County Office of Emergency Services.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 25th day of October, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk



City of Fort Bragg

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Text File

File Number: 21-561

Agenda Date: 10/25/2021

Version: 1

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File Type: Report

Agenda Number: 5H.

Receive and File City Council Report on Actions Following Adoption of Interim Urgency Ordinance Placing a 45-Day Moratorium on the Approval of Applications for a Cannabis Dispensary in the Inland Zoning Area

Under [California Government Code Section 65858](#)

[https://leginfo.ca.gov/faces/codes_displaySection.xhtml?](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65858)

[lawCode=GOV§ionNum=65858](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65858), a city or county may adopt an interim ordinance to temporarily prohibit certain land uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the City Council and/or Planning Commission is considering or studying. The temporary prohibition or moratorium provides municipalities time to study the impact of certain activities and develop appropriate regulations, if deemed necessary.

On September 27, 2021, the City Council adopted Urgency Ordinance No. 972-2021, placing a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zoning Area. Urgency Ordinances require four of five Councilmembers to approve and also to extend.

Ten days prior to the expiration of the urgency ordinance or any extension, City Council must issue a written report describing the measures taken to alleviate the condition that led to the adoption. The City's current Moratorium will expire on November 12, 2021. Government Code Section 65858(d) provides:

(d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.



CITY OF FORT BRAGG

416 N. FRANKLIN, FORT BRAGG, CA 95437
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**REPORT ON MEASURES TAKEN TO ALLEVIATE THE CONDITIONS THAT LED TO
THE ADOPTION OF ORDINANCE NO. 972-2021, AN UNCODIFIED
URGENCY ORDINANCE ESTABLISHING A 45-DAY MORATORIUM ON
APPROVAL OF APPLICATIONS AND PERMITS FOR CANNABIS
DISPENSARIES IN THE INLAND ZONING AREA**

MEETING DATE: OCTOBER 25, 2021
TO: GENERAL PUBLIC
**FROM: MAYOR AND CITY COUNCIL MEMBERS OF THE CITY
 OF FORT BRAGG**

On September 27, 2021, the Fort Bragg City Council adopted Urgency Ordinance No. 972-2021 that placed a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the City's Inland Zoning Area. The moratorium was established to allow the City the opportunity to study and possibly revise the existing cannabis dispensary ordinance regulations in order to address the unique health, safety and welfare impacts of such businesses.

Ordinance No. 972-2021 was adopted pursuant to California Government Code Section 65858 and provides that the ordinance shall expire 45 days from its date of adoption, unless the ordinance is extended by the Fort Bragg City Council after additional notice and a public hearing.

The noticed public hearing will be held on November 8, 2021, and the Fort Bragg City Council will be asked to consider extending the interim moratorium by adopting a new ordinance, as authorized by Government Code Section 65858. Staff will recommend an extension of the moratorium for a period of three to four months, as provided for in Government Code Section 65858. However, completion of and possible adoption of the revised Cannabis Dispensary Ordinance may take less time. In which case, staff will request that the City Council terminate the temporary moratorium prior to its expiration date.

California Government Code Section 65858(d) requires that at least ten (10) days prior to the expiration (November 1, 2021) of the moratorium or any extension, the City Council issue a written report describing the measures taken to alleviate the conditions which led to the adoption of the ordinance. This memo serves as the required report.

Since the adoption of the moratorium, the Community Development Department staff has researched options and possible revisions that can address the possible health, safety and welfare impacts of Cannabis Dispensaries on the City. The City Council will meet on October 25, 2021 to review the elements of the current Cannabis Dispensary Ordinance and will discuss possible revisions and/or additions. Based on those discussions and direction provided to staff, revisions to the existing ordinance may be proposed and adopted.

As set forth above, staff continues to work diligently on addressing the health, safety and welfare impacts of Cannabis Dispensaries' locations and operations but the work is not complete. Staff anticipates that the City Council will have an opportunity to review and consider revisions to the existing ordinance before the end of the calendar year (December 31, 2021) and it could be adopted and effective as early as January, 2022.

Respectfully submitted,

Mayor, Vice Mayor and City Council
Fort Bragg, California



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-542

Agenda Date: 10/25/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5I.

Approve Minutes of Special Closed Session of October 4, 2021



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes Special City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS
THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY*

Monday, October 4, 2021

6:00 PM

Via Video Conference

Special Closed Session

CALL TO ORDER

Mayor Norvell called the meeting to order at 6:00 p.m., all Councilmembers appearing via video conference.

ROLL CALL

Present: 5 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith, Councilmember Lindy Peters and Councilmember Marcia Rafanan

1. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

None.

2. CLOSED SESSION

Mayor Norvell recessed the meeting at 6:02 PM. The meeting reconvened to Closed Session at 6:03 PM.

2A. [21-523](#)

CONFERENCE WITH REAL PROPERTY NEGOTIATORS FOR POSSIBLE ACQUISITION OF REAL PROPERTY, Pursuant to Government Code Section 54956.8: Real Property: APN 008-430-21, APN 008-430-22, APN 018-040-61, APN 018-430-22, APN 018-040-61, APN 018-120-50, APN 008-171-07, APN 008-161-08, APN 008-151-26, APN 008-161-27 and the Southern portion of former APN 008-020-15, Fort Bragg, CA 95437; City Negotiator: Tabatha Miller, City Manager; Negotiating Party: Dave Massengill, Environmental Affairs, Georgia Pacific Corporation; Under Negotiation: Terms of Acquisition, Price

Mayor Norvell reconvened the meeting to Open Session at 7:04 PM and reported that no reportable action was taken on the Closed Session Item.

ADJOURNMENT

Mayor Norvell adjourned the meeting at 7:04 PM.

BERNIE NORVELL, MAYOR

June Lemos, CMC, City Clerk

IMAGED (_____)



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-545

Agenda Date: 10/25/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5J.

Approve Minutes of October 12, 2021



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS
THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY*

Tuesday, October 12, 2021

6:00 PM

Via Video Conference

CALL TO ORDER

Mayor Norvell called the meeting to order at 6:00 PM, all Councilmembers appearing via video conference.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 4 - Mayor Bernie Norvell, Councilmember Tess Albin-Smith, Councilmember Lindy Peters and Councilmember Marcia Rafanan

Absent: 1 - Vice Mayor Jessica Morsell-Haye

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [21-530](#) Presentation of Proclamation Proclaiming October 11, 2021 as Indigenous Peoples Day

Mayor Norvell read a Proclamation honoring Indigenous Peoples' Day. Sherwood Valley Band of Pomo Tribal Chair Melanie Rafanan accepted the Proclamation from the Mayor and gave brief remarks regarding the importance of the contributions of indigenous peoples.

- 1B. [21-535](#) Presentation of Proclamation Recognizing October as Domestic Violence Awareness Month

Mayor Norvell read a Proclamation recognizing the month of October as Domestic Violence Awareness Month. Project Sanctuary representative Michelle Roberts accepted the Proclamation.

- 1C. [21-541](#) Presentation from the Economic Development & Financing Corporation

Robert Gernert of the Economic Development & Financing Corporation gave a presentation to the City Council on the important work of EDFC.

2. PUBLIC COMMENTS ON: (1) NON-AGENDA, (2) CONSENT CALENDAR & (3) CLOSED SESSION ITEMS

- (1) Jay McMartin-Rosenquist, Jacob Patterson.

- (2) None.
- (3) N/A.

3. STAFF COMMENTS

City Manager Miller gave an update on the biosolids dryer for the Wastewater Treatment Facility. She also reported that grants totaling \$21M are in the works. The City surplus is up over the prior year by \$221k or a 32% increase from FY 18/19. Visit Fort Bragg has an event on October 30, the Magic Alley, offering goodies and entertainment. Trunk or Treat program at CV Starr Center will be held on October 31, 5:30-7:30 PM. The City Council has a work session on October 20 to evaluate the cannabis dispensary ordinance. Miller asked Councilmembers to weigh in regarding whether or not they want the meeting to be virtual or in person. She noted that City staff are working on a website upgrade, scheduled to be launched in mid-January 2022. The City's new digital kiosk should be up and running by then as well. City Manager Miller reported on the ribbon-cutting ceremony at the City's water plant for the new desalination unit. The new unit processed 270k gallons over the weekend.

4. MATTERS FROM COUNCILMEMBERS

Mayor Norvell mentioned that the ad hoc committee received approval from County Supervisors for Measure B funds to help manage a four-bed crisis respite facility in Fort Bragg. The Mayor reported that he participated in a Police Department BoloWrap training. Councilmember Peters reported on the Sonoma Clean Power board meeting last week. Peters presided over the ribbon-cutting ceremony for the desalination unit last weekend, stating that all locals should be proud of this accomplishment. **Vice Mayor Morsell-Haye joined the meeting at 6:40 PM.** Councilmember Albin-Smith requested a joint meeting with the Planning Commission on cannabis. She recommended that the Police Chief give a report to the City Council. She noted that MTA is obtaining five electric buses including one for Fort Bragg. Councilmember Rafanan said tourists are still coming to town and transient occupancy tax should still be coming in. All Councilmembers stated their preference to have the cannabis ordinance workshop in person at Town Hall on October 20.

ROLL CALL

Present: 5 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith, Councilmember Lindy Peters and Councilmember Marcia Rafanan

5. CONSENT CALENDAR

Approval of the Consent Calendar

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Peters, to approve the Consent Calendar. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

- 5A.** [21-516](#) Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 4451-2021

5B. [21-521](#) Approve Minutes of September 27, 2021

These Minutes were approved on the Consent Calendar.

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

7. PUBLIC HEARING

7A. [21-518](#) Receive Report, Conduct Public Hearing, and Consider Adoption of City Council Resolution Approving Coastal Development Permit Amendment 3-17/19/21, Design Review Amendment 5-17/19/21, and Lot Merger 1-21 of APN 018-340-04-00 and APN 018-340-06-00 for the Danco Mixed-Income Senior, Multi-family, and Permanently Supportive Housing Project Located at 441 South Street

Mayor Norvell opened the public hearing at 6:50 PM.

Assistant Planner Locke presented the staff report on this agenda item.

Public Comment: None.

Mayor Norvell closed the public hearing at 6:53 PM.

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Peters, that this Resolution be adopted. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

Enactment No: RES 4452-2021

7B. [21-538](#) Receive Report, Conduct Public Hearing and Consider Adoption of City Council and Financing Authority Resolutions Authorizing Series 2021 Lease Revenue Bonds to Pay Off a Portion of the City's Unfunded Accrued Liability with CalPERS and Fund the Site Acquisition at the Southern Portion of the Mill Site

Mayor Norvell opened the public hearing at 6:56 PM.

City Manager Miller gave the staff report on this agenda item, with support from Mike Meyer and Leslie Bloom of NHA Advisors (financial advisors), David Fama and James Wawrzyniak of Jones Hall (legal counsel), and Jeff Land of Oppenheimer (underwriters).

Public Comments were received from:

- Andrew Jordan spoke about the risk of this sophisticated financial transaction and asked if local individuals can purchase some of the bonds to support the city.
- Paul Clark said the City's economic development strategy is not being followed. He asked what the ramifications would be if the City defaults on this debt.
- Jacob Patterson, local attorney, said the City should be able to afford the payments but it is

not wise to spend \$3.5M on the Mill Site property. He thinks the City waited too long to do this and now the interest rates are higher than they should be.

Mayor Norvell closed the public hearing at 7:47 PM.

Discussion: The City Council held discussion concerning the need to move forward with authorizing the lease revenue bonds, saying that it can be viewed as a refinancing to get a better interest rate. If the \$3.5M is not used to acquire the southern portion of the Mill Site property, it can be used for something else or given back. Councilmembers agreed that the language in Section 3 of the City Council resolution should be amended to change the not to exceed amount of the interest cost of the Bonds to 4.0%.

A motion was made by Vice Mayor Morsell-Haye, seconded by Councilmember Albin-Smith, that this Resolution be adopted as amended. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

Enactment No: RES 4453-2021 / RES JPFA 10-2021

Councilmembers agreed that the language in Section 4 of the Joint Powers Financing Authority resolution should be amended to change the not to exceed amount of the interest cost of the Bonds to 4.0%.

A motion was made by Vice Mayor Morsell-Haye, seconded by Councilmember Albin-Smith, that this JPFA Resolution be adopted as amended. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

Enactment No: RES 4453-2021 / RES JPFA 10-2021

8. CONDUCT OF BUSINESS

8A. [21-537](#) Receive Report and Consider Adoption of City Council Resolution Downgrading Water Conservation Stage from Stage 4 Water Crisis to a Stage 2 Water Warning

Mayor Norvell recessed the meeting at 8:03 PM; the meeting reconvened at 8:15 PM.

City Manager Miller presented the staff report on this agenda item.

Public Comment was received from Andrew Jordan.

Discussion: None.

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Peters, that this Resolution be adopted. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

Enactment No: RES 4454-2021

8B. [21-533](#) Receive Report and Consider Adoption of City Pension Funding Policy

City Manager Miller summarized the staff report on this agenda item.

Public Comment: None.

Discussion: None.

A motion was made by Councilmember Peters, seconded by Vice Mayor Morsell-Haye, that the City Pension Funding Policy be approved. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

9. CLOSED SESSION

ADJOURNMENT

Mayor Norvell adjourned the meeting at 8:38 PM.

BERNIE NORVELL, MAYOR

June Lemos, CMC, City Clerk

IMAGED (_____)



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-558

Agenda Date: 10/25/2021

Version: 1

Status: Business

In Control: City Council

File Type: Ordinance

Agenda Number: 8A.

Receive Report and Consider Adoption of Urgency Ordinance No. 973-2021 Rescinding Interim Ordinance No. 964-2021 Placing a Moratorium on the Approval of Applications for Formula Businesses



AGENCY: City Council
MEETING DATE: October 25, 2021
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
EMAIL ADDRESS: tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of Urgency Ordinance No. 973-2021 Rescinding Interim Ordinance No. 964-2021 Placing a Moratorium on the Approval of Applications for Formula Businesses

ISSUE:

The City Council discussed regulating formula businesses on October 24, 2019 and February 24, 2020. After the second discussion, the City Council directed staff to bring the matter to the Planning Commission to draft an ordinance that would apply to the inland area of the City and then bring back to City Council for adoption. After delays related to the COVID-19 pandemic, staffing reductions and staff turnover in the Community Development Department, the Planning Commission began working on developing a complete Ordinance in October 2020.

On April 12, 2021, the City Council adopted Urgency Ordinance No. 964-2021, which placed a 45-day moratorium on the approval of applications and permits for Formula Businesses. The 45-day moratorium was to expire on May 27, 2021 and the Council extended it for ten months and fifteen days to allow ample time for the City Council to approve a Formula Business Ordinance and time for the Ordinance to become effective. The City Council adopted the Formula Business Ordinance on September 13 and it became effective on October 13, 2021.

Staff recommends that the Council rescind the Formula Business Moratorium by adopting the proposed urgency ordinance, so that the termination of the moratorium is effective immediately. The urgency ordinance requires four-fifths vote of the City Council. Staff is also recommending introduction of a second ordinance which will perform the same task of rescinding the Formula Business Moratorium but will follow normal ordinance adoption procedures. If introduced tonight and adopted by a majority of City Councilmembers at the November 8, 2021 meeting, the ordinance would be effective on December 8, 2021.

Adoption of the second ordinance is a best practice for urgency ordinances. An urgency ordinance requires a finding that the ordinance is necessary to protect against a threat to public safety, health and welfare related to zoning uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal. Because urgency ordinances compact the time the public has to consider the impact of the ordinance, an urgency ordinance is more likely to be legally challenged. Rescinding the moratorium immediately allows the businesses impacted by the moratorium to continue forward more quickly subject to the new zoning laws which are in place to protect public safety, health and welfare.

ANALYSIS:

Urgency Ordinances

Under [California Government Code Section 65858](#), a city or county may adopt an interim ordinance to temporarily prohibit certain land uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the City Council and/or Planning Commission is considering or studying. The temporary prohibition or moratorium provides municipalities time to study the impact of certain activities and develop appropriate regulations, if deemed necessary.

The Government Code section does not detail the method for rescinding early an urgency ordinance establishing a moratorium. However, using an urgency ordinance which is effective immediately limits the harm and protects the welfare of the businesses or developments that may have been temporarily paused in the application or approval process. One reason to use an urgency ordinance for a moratorium is that it allows for a relatively quick response to land uses that pose a threat to public safety, health and welfare. By removing the moratorium through an urgency ordinance, the City shortens the time the moratorium would impact development and potential businesses. The moratorium is no longer needed to protect against a threat to public safety, health and welfare related to zoning uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal.

Formula Businesses

In late summer 2020, a completed application was received for a Dollar General to be located at 251 S. Franklin Street, which is regulated by the City's Inland Code. The Dollar General Project was undergoing environmental review when the moratorium was enacted. No entitlements have been issued for this project and extension of the moratorium on approving applications and permits for Formula Businesses delayed action on the Dollar General application and as of October 13, 2021 the project is subject to the Formula Business regulation.

The City has also received an application for improvements to the existing Ebb Tide Inn at 250 S. Main Street. The current application does not include a Formula Business use but the new owner of the property has shared their plans for a Baymont Franchise at that location. Staff anticipates that an application for a formula business use for the Baymont Franchise will be submitted soon after the moratorium is lifted.

RECOMMENDED ACTION(S):

1. Waive the reading of the Ordinance and adopt by title only Urgency Ordinance No. 973-2021 of the City of Fort Bragg rescinding Interim Ordinance No. 964-2021 which placed a moratorium on the approval of applications for Formula Businesses in the Inland Zoning District of Fort Bragg.
2. Please note that a four-fifths vote is required for adoption of the Interim Urgency Ordinance.

ALTERNATIVE ACTION(S):

1. Do not adopt the Urgency Ordinance rescinding Interim Ordinance No. 964-2021 which placed a moratorium on the approval of applications for Formula Businesses in the Inland Zoning District of Fort Bragg.
2. Provide staff alternative direction.

FISCAL IMPACT:

The impact of rescinding the temporary moratorium on formula businesses to the City's revenue is likely minimal.

GREENHOUSE GAS EMISSIONS IMPACT:

Adoption of the urgency ordinance rescinding the moratorium on formula businesses will have little if any impact on greenhouse gas emissions.

CONSISTENCY:

The Community Design Element of the City's Inland General Plan provides support for regulating Formula Businesses. The intent of the Community Design Element is to establish goals, policies and programs to preserve and enhance Fort Bragg's authentic, small town character, and is concerned primarily with the visual quality of the City.

Adoption of the Formula Business Regulations was consistent with numerous goals and policies in place to ensure that development within the City maintains and enhances the unique coastal character of our rural small town. Rescinding the Formula Business moratorium effective immediately by way of the Urgency Ordinance is consistent with the goals and policies below which support application of regulations on Formula Business uses. Rescinding the moratorium allows those developments to be processed more quickly under the new regulations.

Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.

Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).

Policy LU-3.6 Re-Use of Existing Buildings: Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.

Goal LU-4 Promote the economic vitality of the City's existing commercial areas.

Policy LU-4.1 Formula Businesses and Big Box Retail: The location, scale, and appearance of formula businesses and big box retail shall not detract from the economic vitality of established commercial businesses, and shall be consistent with the small town, rural character of Fort Bragg.

Policy LU-4.2 Large-Scale Commercial Development: To maintain scenic views along Main Street and to ensure that building sizes at the City's gateways are in scale with the community, no commercial building shall exceed the following limitations on the gross floor area: a) between the Noyo River and Pudding Creek Bridges - maximum 50,000 square feet; b) east of Highway One and north of Pudding Creek Bridge - maximum 30,000 square feet.

Policy LU-4.3 Standards for Commercial Uses in Residential Areas: Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.

Policy C-5.1 Community Priorities for Transportation Improvements: Place a higher priority on maintaining a sense of place and enhancing the attractiveness of the Central Business District than on efficient traffic flow and movement.

Policy CD-1.5 Strip Development: Discourage strip development along Main Street.

Goal CD-2 Preserve the Central Business District as the commercial, civic, historic, and cultural center of the community.

Policy CD-2.1 Adaptive Reuse: Facilitate the adaptive reuse of existing older buildings in the Central Business District.

Policy CD-2.3 Economic Vitality: Continue to support the economic diversity and vitality of downtown businesses.

Policy CD-2.5 Strengthen the Distinctive Identity of the Central Business District: Strengthen the distinctive identity and unique sense of place of the Central Business District.

Policy CD-3.2 Gateway Development: Encourage a higher quality of development at the City's gateways.

Policy CD-6.1 Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community.

Central Business District Frontage and Façade Standards

Section 18.22.060 applies to new development in the Central Business District. The policies limit the uses allowable on the ground floor (pedestrian-oriented uses, such as retail), prescribe requirements on pedestrian entrances (shall be recessed from the sidewalk), and prohibit formula design.

The following policy regulates formula design:

E. Formula design prohibited. *The architectural style and exterior finish materials of each proposed structure shall be designed based upon the architectural traditions*

of Fort Bragg and Mendocino County, and the architectural styles prevalent in the site vicinity. Buildings proposed with architectural features substantially similar to those found in other communities on buildings occupied by the same corporate or franchise entity that will occupy the proposed building are strongly discouraged.

IMPLEMENTATION/TIMEFRAMES:

If approved by a four-fifths vote of City Council, the moratorium on Formula Businesses is rescinded immediately.

ATTACHMENTS:

1. Proposed Ordinance No. 973-2021
2. Urgency Ordinance No. 964-2021

NOTIFICATION:

1. Economic Development Planning, **Notify Me subscriber list**
2. Tourism and Marketing, **Notify Me subscriber list**
3. Fort Bragg Downtown Businesses, **Notify Me subscriber list**
4. Mike Bhatt
5. Dollar General
6. Chelsea Haskins

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN UNCODIFIED UGENCY ORDINANCE
RESCINDING INTERIM ORDINANCE NO.
964-2021 THAT PLACED A
MORATORIUM ON THE APPROVAL OF
APPLICATIONS FOR FORMULA
BUSINESS IN THE INLAND ZONING
AREA**

**URGENCY ORDINANCE
NO. 973-2021**

WHEREAS, on April 12, 2021, the City Council adopted Urgency Ordinance No. 964-2021 (“Moratorium”), which established a forty-five (45) day moratorium on approval of applications for Formula Businesses, as defined in Ordinance No. 964-2021, in the Inland Zoning Area; and

WHEREAS, on May 24, 2021, the City Council extended the Moratorium on approval of applications for Formula Businesses for an additional 315 days to provide for sufficient time to adopt Formula Business regulations; and

WHEREAS, on September 13, 2021 the City Council approved Ordinance No. 970-2021 adopting regulations on formula businesses in the inland zoning area; and

WHEREAS, Government Code Sections 36937 and 36934 authorize the City Council to adopt an urgency ordinance by a four-fifths vote that is effective immediately when necessary to preserve public peace, health or safety; and

WHEREAS, given that the City has now enacted regulations governing formula businesses, the City Council finds that immediately terminating the Moratorium so formula businesses can quickly obtain the necessary City approvals will preserve the public peace, health, and welfare; and

WHEREAS, this Ordinance is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14 of the California Code of Regulations (“CEQA Guidelines”) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

The City Council ordains as follows:

Section 1. The above findings are true and correct and incorporated into this Ordinance.

Section 2. Ordinance No. 964-2021 is hereby rescinded, and the Moratorium terminated.

Section 3. **Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the

Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. This Ordinance shall take effect immediately to preserve the public peace, health and welfare as set forth in this Ordinance.

The foregoing Urgency Ordinance was introduced by Councilmember _____ and adopted by no less than the required 4/5 vote at a regular meeting of the City Council of the City of Fort Bragg held on October 25, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

Bernie Norvell
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: November 4, 2021.
EFFECTIVE DATE: October 25, 2021.

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN UNCODIFIED INTERIM URGENCY
MEASURE OF THE CITY COUNCIL OF
FORT BRAGG PLACING A 45-DAY
MORATORIUM ON THE APPROVAL OF
APPLICATIONS AND PERMITS FOR
FORMULA BUSINESSES IN THE INLAND
ZONING AREA**

**URGENCY ORDINANCE
NO. 964-2021**

WHEREAS, Government Code section 65858 allows a city to adopt, as an urgency measure, an interim ordinance for the immediate preservation of the public safety, health and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

WHEREAS, the City of Fort Bragg is in the process of developing an amendment to its Inland Land Use and Development Code and to the Inland General Plan in order to preserve its one-of-a-kind distinct small town character by placing land use restrictions on businesses which, along with ten (10) or more other business locations outside of Fort Bragg, are required by contractual or other arrangement to maintain at least two standardized features: an array of merchandise/menu, decor, uniforms, façade, color scheme, exterior signage including a trademark or service mark as signage; and

WHEREAS, the City Council finds that the approval of applications for formula businesses in the Inland Zoning Areas while a possible amendment to Inland Land Use and Development Code and to the Inland General Plan are being developed could result in conflicts with any proposed amendments and could undermine the purpose of studying and developing such amendments, thereby reducing the quality of life within the Inland Zoning Areas to the extent that overall public health, safety and welfare are detrimentally affected; and

WHEREAS, it is the intent of the City of Fort Bragg City Council to consider and possibly adopt amendments to the Inland Land Use and Development Code and to the Inland General Plan that address concerns with formula businesses; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the City Council ordains as follows:

Section 1: Recitals. The City Council finds that all the recitals facts, findings, and conclusions set forth above in this Ordinance are true and correct.

Section 2: Findings. Many unique local businesses and brands have made Fort Bragg distinct in its natural beauty and laid-back commercial character. Maintaining the economic health and one-of-a-kind distinction is vital to preserving Fort Bragg’s commercial character while meeting the needs of its visitors and residents.

As the City continues to rely on its reputation as an emerging destination, to sustain and grow its tourism industry, Fort Bragg must deter those commercial uses which detract from the City’s

unique character. Commercial uses should not detract from or dilute what makes Fort Bragg stand out from other cities in California. Formula retail businesses are, by their nature, not unique.

An abundance of formula retail establishments hinders the City's ability to promote its unique one-of-a-kind experience and to promote a diverse and balanced retail base within the City. A diverse retail base includes unique character that avoids overwhelming familiarity and sameness. The City Council finds that an overabundance of formula retail establishments in the non-coastal areas will unduly limit or possibly eliminate the availability of businesses that tend to be unique or project the history and character of Fort Bragg.

The increase of formula retail establishments may hinder the City's goal of promoting economic vitality in existing commercial areas, maintain community identity, and the continued support of economic diversity and vitality in the downtown (Inland General Plan Goal LU-4, Goal C-5, and CD-2.3). A balanced and diverse retail base in the Inland Zoning Areas should be comprised of a balanced mix of businesses, small, medium and large, familiar and unique, and offering a good variety of goods and services. The City strives to ensure that goods and services available locally, meet the regular needs of residents and visitors. The City Council finds that unregulated establishment of additional formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and results in decreasing the diversity of goods and services available to residents and visitors.

The City Council finds that the approval of applications for formula businesses in the Inland Zoning Areas could result in conflicts with any proposed amendments to the code. Furthermore, such approvals would allow a formula business, which itself is a threat to the public health, safety, and welfare. Moreover, such approval would undermine the purpose of studying and developing such amendments thereby reducing the quality of life within the Inland Zoning Areas to the extent that overall public health, safety and welfare are detrimentally affected.

Furthermore, the Council finds that the approval of an entitlement of use is imminent in that the City has received one application to establish a formula business in the Inland Zoning Area.

In sum, for all of the above reasons, the Council finds that new formula businesses constitute a current and immediate threat to the public health, safety, and welfare. The Council further finds that approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use for such businesses would result in that threat.

Section 3: Definition of Formula Business. For the purposes of this Ordinance, "formula business" shall be defined as "businesses which, along with ten (10) or more other business locations outside of Fort Bragg, are required by contractual or other arrangement to maintain at least two of the following standardized features: an array of merchandise/menu, decor, uniforms, façade, color scheme, exterior signage including a trademark or service mark."

Section 4: Moratorium on Formula Businesses. The City of Fort Bragg declares a moratorium on the approval of applications to establish any formula business on any parcel, which is, in whole or in part, in the Inland Zoning Area. However, the City will continue to accept and process applications for such businesses.

Section 5: Exempt from CEQA. This Ordinance is exempt from the California Environmental Quality Act ("CEQA") because it preserves the status quo. CEQA does not apply where it can be seen with certainty that the action will not have a significant effect on the environment. See 14 C.C.R. § 15061(b)(3). This proposed Ordinance does not authorize any additional uses nor does it change the uses allowed in the City or their intensity or density.

Section 6: Inconsistencies. Any provision of the City of Fort Bragg Municipal Code thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 7: Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, state, or federal law, regulation, or codes dealing with life safety factors.

Section 8: Uncodified Ordinance. This Ordinance is to be uncodified.

Section 9: Immediately Effective. This Ordinance shall become effective immediately and shall remain in effect for a period of 45 days unless extended or prematurely terminated.

Section 10: Written Report. Pursuant to Government Code Section 65858(d), ten days prior to the expiration of this Ordinance or any extension of such, the City Manager shall issue a written report on behalf of the City Council describing the measures taken to date to alleviate the condition, which led to the adoption of this Ordinance.

Section 11: Certification. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted or published in the manner as required by law.

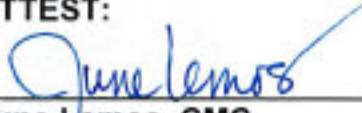
The foregoing Urgency Ordinance was introduced by Councilmember Peters and adopted by no less than the required 4/5 vote at a regular meeting of the City Council of the City of Fort Bragg held on April 12, 2021 by the following vote:

AYES: Councilmembers Albin-Smith, Morsell-Haye, Peters and Rafanan.
NOES: Mayor Norvell.
ABSENT: None.
ABSTAIN: None.
RECUSED: None.



Bernie Norvell
Mayor

ATTEST:



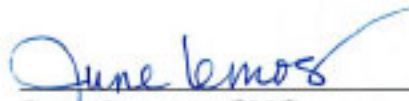
June Lemos, CMC
City Clerk

PUBLISH: April 22, 2021
EFFECTIVE DATE: April 12, 2021

STATE OF CALIFORNIA)
COUNTY OF MENDOCINO) ss.
CITY OF FORT BRAGG)

I, JUNE LEMOS, CMC, City Clerk of the City of Fort Bragg, California, do hereby certify the attached to be a true and correct copy of Ordinance No. 964-2021, duly adopted by the City Council on April 12, 2021, and that it was published, in its entirety, in the Fort Bragg Advocate News on April 22, 2021, pursuant to State Law (G.C. §40806).

Dated: 04.22.2021



June Lemos, CMC
City Clerk

Fort Bragg Advocate-News

690 S. Main Street
Fort Bragg, California 95437
707-964-5642

2114123

CITY OF FORT BRAGG
416 N FRANKLIN STREET
FORT BRAGG, CA 95437

PROOF OF PUBLICATION (2015.5 C.C.P.)

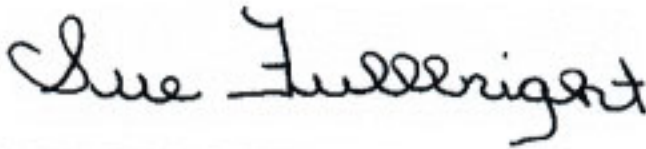
STATE OF CALIFORNIA COUNTY OF MENDOCINO

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the Office Clerk of the Fort Bragg Advocate-News, a newspaper of general circulation by the Superior Court of the County of Mendocino, State of California under the date of May 9, 1952 - Case Number 9151, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been printed in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates:

04/22/2021

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Fort Bragg, California,
April 22th, 2021



Sue Fullbright, LEGAL CLERK

Legal No. 0006569805

A21-091 BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN UNCODIFIED INTERIM URGENCY MEASURE OF THE CITY COUNCIL OF FORT BRAGG PLACING A 45-DAY MORATORIUM ON THE APPROVAL OF APPLICATIONS AND PERMITS FOR FORMULA BUSINESSES IN THE INLAND ZONING AREA

URGENCY ORDINANCE NO. 964-2021

WHEREAS, Government Code section 65858 allows a city to adopt, as an urgency measure, an interim ordinance for the immediate preservation of the public safety, health and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

WHEREAS, the City of Fort Bragg is in the process of developing an amendment to its Inland Land Use and Development Code and to the Inland General Plan in order to preserve its one-of-a-kind distinct small town character by placing land use restrictions on businesses which, along with ten (10) or more other business locations outside of Fort Bragg, are required by contractual or other arrangement to maintain at least two standardized features: an array of merchandise/menu, decor, uniforms, façade, color scheme, exterior signage including a trademark or service mark as signage; and

WHEREAS, the City Council finds that the approval of applications for formula businesses in the Inland Zoning Areas while a possible amendment to Inland Land Use and Development Code and to the Inland General Plan are being developed could result in conflicts with any proposed amendments and could undermine the purpose of studying and developing such amendments, thereby reducing the quality of life within the Inland Zoning Areas to the extent that overall public health, safety and welfare are detrimentally affected; and

WHEREAS, it is the intent of the City of Fort Bragg City Council to consider and possibly adopt amendments to the Inland Land Use and Development Code and to the Inland General Plan that address concerns with formula businesses; and

WHEREAS, all legal prerequisites

prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the City Council ordains as follows:

Section 1: Recitals. The City Council finds that all the recitals facts, findings, and conclusions set forth above in this Ordinance are true and correct.

Section 2: Findings. Many unique local businesses and brands have made Fort Bragg distinct in its natural beauty and laid-back commercial character. Maintaining the economic health and one-of-a-kind distinction is vital to preserving Fort Bragg's commercial character while meeting the needs of its visitors and residents.

As the City continues to rely on its reputation as an emerging destination, to sustain and grow its tourism industry, Fort Bragg must deter those commercial uses which detract from the City's unique character. Commercial uses should not detract from or dilute what makes Fort Bragg stand out from other cities in California. Formula retail businesses are, by their nature, not unique.

An abundance of formula retail establishments hinders the City's ability to promote its unique one-of-a-kind experience and to promote a diverse and balanced retail base within the City. A diverse retail base includes unique character that avoids overwhelming familiarity and sameness. The City Council finds that an overabundance of formula retail establishments in the non-coastal areas will unduly limit or possibly eliminate the availability of businesses that tend to be unique or project the history and character of Fort Bragg.

The increase of formula retail establishments may hinder the City's goal of promoting economic vitality in existing commercial areas, maintain community identity, and the continued support of economic diversity and vitality in the downtown (Inland General Plan Goal LU-4, Goal C-5, and CD-2.3). A balanced and diverse retail base in the Inland Zoning Areas should be comprised of a balanced mix of businesses, small, medium and large, familiar and unique, and offering a good variety of goods and services. The City strives to ensure that goods and services available locally, meet the regular needs of residents and visitors. The City Council finds that unregulated establishment of additional formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and results in decreasing the diversity of goods and services available to residents and visi-

tors.

The City Council finds that the approval of applications for formula businesses in the Inland Zoning Areas could result in conflicts with any proposed amendments to the code. Furthermore, such approvals would allow a formula business, which itself is a threat to the public health, safety, and welfare. Moreover, such approval would undermine the purpose of studying and developing such amendments thereby reducing the quality of life within the Inland Zoning Areas to the extent that overall public health, safety and welfare are detrimentally affected.

Furthermore, the Council finds that the approval of an entitlement of use is imminent in that the City has received one application to establish a formula business in the Inland Zoning Area.

In sum, for all of the above reasons, the Council finds that new formula businesses constitute a current and immediate threat to the public health, safety, and welfare. The Council further finds that approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use for such businesses would result in that threat.

Section 3: Definition of Formula Business. For the purposes of this Ordinance, "formula business" shall be defined as "businesses which, along with ten (10) or more other business locations outside of Fort Bragg, are required by contractual or other arrangement to maintain at least two of the following standardized features: an array of merchandise/menu, decor, uniforms, façade, color scheme, exterior signage including a trademark or service mark."

Section 4: Moratorium on Formula Businesses. The City of Fort Bragg declares a moratorium on the approval of applications to establish any formula business on any parcel, which is, in whole or in part, in the Inland Zoning Area. However, the City will continue to accept and process applications for such businesses.

Section 5: Exempt from CEQA. This Ordinance is exempt from the California Environmental Quality Act ("CEQA") because it preserves the status quo. CEQA does not apply where it can be seen with certainty that the action will not have a significant effect on the environment. See 14 C.C.R. § 15061(b)(3). This proposed Ordinance does not authorize any additional uses nor does it change the uses allowed in the City or their intensity or density.

Section 6: Inconsistencies. Any provision of the City of Fort Bragg Municipal Code thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further is hereby repealed or modifi-

...to that extent necessary to affect the provisions of this Ordinance.

Section 7: Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, state, or federal law, regulation, or codes dealing with life safety factors.

Section 8: Uncodified Ordinance. This Ordinance is to be uncodified.

Section 9: Immediately Effective. This Ordinance shall become effective immediately and shall remain in effect for a period of 45 days unless extended or prematurely terminated.

Section 10: Written Report. Pursuant to Government Code Section 65858(d), ten days prior to the expiration of this Ordinance or any extension of such, the City Manager shall issue a written report on behalf of the City Council describing the measures taken to date to alleviate the condition, which led to the adoption of this Ordinance.

Section 11: Certification. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted or published in the manner as required by law.

The foregoing Urgency Ordinance was introduced by Councilmember Peters and adopted by no less than the required 4/5 vote at a regular meeting of the City Council of the City of Fort Bragg held on April 12, 2021 by the following vote:

AYES:

Councilmembers Albin-Smith, Morsell-Haye, Peters and Rafanan.

NOES: Mayor Norvell.

ABSENT: None.

ABSTAIN: None.

RECUSED: None.

Bernie Norvell
Mayor

ATTEST:
June Lemos, CMC
City Clerk

PUBLISH: April 22, 2021
EFFECTIVE DATE: April 12, 2021



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-559

Agenda Date: 10/25/2021

Version: 1

Status: Business

In Control: City Council

File Type: Ordinance

Agenda Number: 8B.

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 974-2021 Rescinding Interim Ordinance No. 964-2021 Placing a Moratorium on the Approval of Applications for Formula Businesses



AGENCY: City Council
MEETING DATE: October 25, 2021
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
EMAIL ADDRESS: tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 974-2021 Rescinding Interim Ordinance No. 964-2021 Placing a Moratorium on the Approval of Applications for Formula Businesses

ISSUE:

The City Council discussed regulating formula businesses on October 24, 2019 and February 24, 2020. After the second discussion, the City Council directed staff to bring the matter to the Planning Commission to draft an ordinance that would apply to the Inland area of the City and then bring back to City Council for adoption. After delays related to the COVID-19 pandemic, staffing reductions and staff turnover in the Community Development Department, the Planning Commission began working on developing a complete Ordinance in October 2020.

On April 12, 2021, the City Council adopted Urgency Ordinance No. 964-2021, which placed a 45-day moratorium on the approval of applications and permits for Formula businesses. The 45-day moratorium was to expire on May 27, 2021 and the Council extended it for ten months and fifteen days to allow ample time for the City Council to approve a Formula Business Ordinance and time for the Ordinance to become effective. The City Council adopted the Formula Business Ordinance on September 13 and it became effective on October 13, 2021.

Staff recommends that in addition to adopting the urgency ordinance to rescind the Formula Business Moratorium, the City Council introduce the attached second ordinance which will perform the same task of rescinding the Formula Business Moratorium but will follow normal ordinance adoption timetables. As discussed in the prior staff report, adoption of the second ordinance is a best practice for urgency ordinances by ensuring that if an urgency ordinance is challenged and found inconsistent with [California Government Code Section 65858](#), the second ordinance following standard adoption process may be adopted by City Council on November 8, 2021 and become effective on December 8, 2021. Without the adoption of the second standard ordinance, rescinding of the Formula Business Ordinance would be further delayed by a successful challenge to the City's Urgency Ordinance.

ANALYSIS:

The City's Formula Business moratorium impacted the Dollar General application. In late summer 2020, a completed application was received for a Dollar General to be located at 251 S. Franklin Street, which is regulated by the City's Inland Code. The Dollar General Project is currently undergoing environmental review. No entitlements have been issued for this project and extension of the moratorium on approving applications and permits for

formula businesses could delay action on the Dollar General application and subject it to formula business regulation.

The City has also received an application for improvements to the existing Ebb Tide Inn at 250 S. Main Street. The current application does not include a Formula Business use but the new owner of the property has shared its plans for a Baymont Franchise at that location. Staff anticipates that an application for a formula business use for the Baymont Franchise will be submitted soon after the moratorium is lifted.

RECOMMENDED ACTION(S):

1. Receive report and consider introducing by title only and waiving the first reading of Ordinance No. 974-2021 rescinding Interim Ordinance No. 964-2021 which placed a moratorium on the approval of applications for Formula Businesses in the Inland Zoning District of Fort Bragg.

ALTERNATIVE ACTION(S):

1. Do not introduce by title only Ordinance No. 974-2021 rescinding Interim Ordinance No. 964-2021 which placed a moratorium on the approval of applications for Formula Businesses in the Inland Zoning District of Fort Bragg.
2. Provide staff alternative direction.

FISCAL IMPACT:

The impact of rescinding the temporary moratorium on formula businesses to the City's revenue is likely minimal.

GREENHOUSE GAS EMISSIONS IMPACT:

Adoption of the ordinance rescinding the moratorium on formula businesses will have little if any impact on greenhouse gas emissions.

CONSISTENCY:

The Community Design Element of the City's Inland General Plan provides support for regulating Formula Businesses. The intent of the Community Design Element is to establish goals, policies and programs to preserve and enhance Fort Bragg's authentic, small town character, and is concerned primarily with the visual quality of the City.

Adopting Formula Business Regulations is consistent with numerous goals and policies because these regulations are in place to ensure that development within the City maintains and enhances the unique coastal character of our rural small-town. The proposed Ordinance regulating Formula Business is consistent with the following Inland General Plan Goals and Policies:

Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.

Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).

Policy LU-3.6 Re-Use of Existing Buildings: Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.

Goal LU-4 Promote the economic vitality of the City's existing commercial areas.

Policy LU-4.1 Formula Businesses and Big Box Retail: The location, scale, and appearance of formula businesses and big box retail shall not detract from the economic vitality of established commercial businesses, and shall be consistent with the small town, rural character of Fort Bragg.

Policy LU-4.2 Large-Scale Commercial Development: To maintain scenic views along Main Street and to ensure that building sizes at the City's gateways are in scale with the community, no commercial building shall exceed the following limitations on the gross floor area: a) between the Noyo River and Pudding Creek Bridges - maximum 50,000 square feet; b) east of Highway One and north of Pudding Creek Bridge - maximum 30,000 square feet.

Policy LU-4.3 Standards for Commercial Uses in Residential Areas: Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.

Policy C-5.1 Community Priorities for Transportation Improvements: Place a higher priority on maintaining a sense of place and enhancing the attractiveness of the Central Business District than on efficient traffic flow and movement.

Policy CD-1.5 Strip Development: Discourage strip development along Main Street.

Goal CD-2 Preserve the Central Business District as the commercial, civic, historic, and cultural center of the community.

Policy CD-2.1 Adaptive Reuse: Facilitate the adaptive reuse of existing older buildings in the Central Business District.

Policy CD-2.3 Economic Vitality: Continue to support the economic diversity and vitality of downtown businesses.

Policy CD-2.5 Strengthen the Distinctive Identity of the Central Business District: Strengthen the distinctive identity and unique sense of place of the Central Business District.

Policy CD-3.2 Gateway Development: Encourage a higher quality of development at the City's gateways.

Policy CD-6.1 Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community.

Central Business District Frontage and Façade Standards

Section 18.22.060 applies to new development in the Central Business District. The policies limit the uses allowable on the ground floor (pedestrian-oriented uses, such as retail), prescribe requirements on pedestrian entrances (shall be recessed from the sidewalk), and prohibits formula design.

The following policy regulates formula design:

***E. Formula design prohibited.** The architectural style and exterior finish materials of each proposed structure shall be designed based upon the architectural traditions of Fort Bragg and Mendocino County, and the architectural styles prevalent in the site vicinity. Buildings proposed with architectural features substantially similar to those found in other communities on buildings occupied by the same corporate or franchise entity that will occupy the proposed building are strongly discouraged.*

Rescinding the Formula Business moratorium is consistent with the above listed policies which support application of regulations on formula business uses. Rescinding the moratorium allows those developments to be processed under the new regulations.

IMPLEMENTATION/TIMEFRAMES:

If introduced on October 25, 2021 and adopted by the City Council on November 8, 2021, the moratorium on Formula Businesses will be effective December 8, 2021.

ATTACHMENTS:

1. Proposed Ordinance

NOTIFICATION:

1. Economic Development Planning, **Notify Me subscriber list**
2. Tourism and Marketing, **Notify Me subscriber list**
3. Fort Bragg Downtown Businesses, **Notify Me subscriber list**
4. Mike Bhatt
5. Dollar General
6. Chelsea Haskins

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN UNCODIFIED ORDINANCE
RESCINDING INTERIM ORDINANCE NO.
964-2021 THAT PLACED A
MORATORIUM ON THE APPROVAL OF
APPLICATIONS FOR FORMULA
BUSINESS IN THE INLAND ZONING
AREA**

ORDINANCE NO. 974-2021

WHEREAS, on April 12, 2021, the City Council adopted Urgency Ordinance No. 964-2021 (“Moratorium”), which established a forty-five (45) day moratorium on approval of applications for Formula Businesses, as defined in Ordinance No. 964-2021, in the Inland Zoning Area; and

WHEREAS, the City Council extended the Moratorium on approval of applications for Formula Businesses for an additional 315 days on May 24, 2021 to provide for sufficient time to adopt Formula Business regulations; and

WHEREAS, on September 13, 2021 the City Council approved Ordinance No. 970-2021 adopting regulations on formula businesses in the Inland Zoning Area; and

WHEREAS, the City Council now desires to terminate the Moratorium; and

WHEREAS, this Ordinance is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14 of the California Code of Regulations (“CEQA Guidelines”) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

The City Council ordains as follows:

Section 1. The above findings are true and correct and incorporated into this Ordinance.

Section 2. Ordinance No. 964-2021 is hereby rescinded, and the Moratorium terminated.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on October 25, 2021 and adopted at a regular meeting of the City of Fort Bragg held on November 8, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

Bernie Norvell
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: October 28, 2021 and November 18, 2021 (by summary).
EFFECTIVE DATE: December 8, 2021.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-560

Agenda Date: 10/25/2021

Version: 1

Status: Business

In Control: City Council

File Type: Resolution

Agenda Number: 8C.

Receive Report and Consider Adoption of City Council Resolution Authorizing City Manager to Execute Contract Amendment with DakaDesign, LLC for Network Security Consulting Services, Increasing the Amount of the Contract by \$50,000, Total Contract Amount Not to Exceed \$60,000 (Account No. 521-4394-0384); and Approving Budget Amendment 2022-10 to Appropriate \$110,000 from the I.T. Internal Service Fund for I.T. Network Equipment, Software, Temporary Part-time Assistance and Contract Consulting Services



AGENCY: City Council
 MEETING DATE: October 25, 2021
 DEPARTMENT: City Manager
 PRESENTED BY: Tabatha Miller
 EMAIL ADDRESS: tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of City Council Resolution Authorizing City Manager to Execute Contract Amendment with DakaDesign, LLC for Network Security Consulting Services, Increasing the Amount of the Contract by \$50,000, Total Contract Amount Not to Exceed \$60,000 (Account No. 521-4394-0384); and Approving Budget Amendment 2022-10 to Appropriate \$110,000 from the I.T. Internal Service Fund for I.T. Network Equipment, Software, Temporary Part-time Assistance and Contract Consulting Services

ISSUE:

The City’s I.T. Network is aging and with the exponential increase in security threats from all over the world, it is necessary to evaluate the strength of the City’s system and replace and upgrade hardware and software in order to protect against security breaches and other malware threats.

DakaDesign, LLC is a local consultant who has provided consulting service on an as-needed basis for well over a year and has recommended a full network assessment of the City’s systems followed by implementation of appropriate improvements to increase the safety and reliability of the City’s network systems. Staff is recommending the City Council approve a \$50,000 amendment to DakaDesign, LLC for the consulting services and expenditures of \$50,000 for necessary hardware and software to improve and secure the City’s network systems. Further, staff is recommending funding in the amount of \$10,000 for a part-time temporary position to assist with I.T. helpdesk requests and tasks.

The expenditures totaling \$110,000 would be charged to the City’s I.T. Internal Service Fund. The total costs of the City’s internal service funds are allocated out to the other funds through the City’s Cost Allocation Plan (CAP).

RECOMMENDED ACTION:

Adopt Resolution Authorizing the City Manager to Execute Contract Amendment with DakaDesign, LLC, for Consulting Services and Approving Budget Amendment 2022-10 to appropriate \$110,000 for network security services, hardware and software, and I.T. services.

ALTERNATIVE ACTION(S):

1. Do not adopt Resolution.
2. Provide alternative direction to staff.

FISCAL IMPACT:

The I.T. Internal Service Fund has an estimated ending FY 2021-22 Fund Balance of \$126,114. Staff recommends use of the current Fund Balance for the network security

upgrades. Costs of the City's three internal service funds (I.T., Fleet and Facilities) are reallocated annually as part of the City's CAP. The consulting services will be charged to account #521-4394-0384, hardware to account #521-4394-0382, software to account #521-4394-0383 and temporary staff costs to #521-4394-0100.

GREENHOUSE GAS EMISSIONS IMPACT:

The consulting services, hardware and software will have little or no impact on greenhouse gas emissions.

CONSISTENCY:

N/A

IMPLEMENTATION/TIMEFRAMES:

The initial security assessment will be initiated following approval of the contract amendment.

ATTACHMENTS:

1. Resolution approving contract amendment and Budget Amendment 2022-10
2. Exhibit A – Budget Amendment
3. Amendment to DakaDesign, LLC Contract

NOTIFICATION:

Deb Smith, DakaDesign, LLC

RESOLUTION NO. ____-2021

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING CONTRACT AMENDMENT WITH DAKADESIGN, LLC, FOR NETWORK SECURITY CONSULTING SERVICES, INCREASING THE AMOUNT OF THE CONTRACT BY \$50,000, TOTAL CONTRACT AMOUNT NOT TO EXCEED \$60,000 (ACCOUNT NO. 521-4394-0384); AND APPROVING BUDGET AMENDMENT 2022-10 TO APPROPRIATE \$110,000 FROM THE I.T. INTERNAL SERVICE FUND FOR I.T. NETWORK EQUIPMENT, TEMPORARY ASSISTANCE, SOFTWARE AND CONTRACT CONSULTING SERVICES

WHEREAS, the City of Fort Bragg (“City”) recognizes the increasing number of worldwide cyber threats against organizations of all sizes and types; and

WHEREAS, the City’s IT Department has consulted with DakaDesign, LCC for IT backup, network administration and network security; and

WHEREAS, DakaDesign is well qualified, familiar with the City’s network, and located in the Fort Bragg area; and

WHEREAS, the \$110,000 budget amendment to appropriate the funds in the current fiscal year is identified in Exhibit A attached hereto; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The foregoing recitals are true and correct and are made a part of this Resolution.
2. Certain adjustments to the FY 2021-22 Budget are necessary as shown in Exhibit A.
3. There is sufficient fund balance in the IT Internal Service Fund to fund the allocation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby authorize the City Manager to execute the Contract Amendment with DakaDesign, LLC and approves Budget Amendment 2022-10 amending the previously adopted FY 2021-22 Budget to incorporate the changes enumerated in Exhibit A.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 25th day of October 2021, by the following vote:

**AYES:
NOES:**

**ABSENT:
ABSTAIN:
RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

Exhibit A

BUDGET AMENDMENT

Budget Adjustment #: 2022-10

Budget FY: FY 2021/22

Account Description	Account #			FY 21/22 Current Budget	Increase (+) Budget Amt	Decrease (-) Budget Amt	Revised Total Budget Amt
Expenditures							
I.T. Network Security	521	4394	0384	\$ 273,262.50	\$ 50,000.00		\$ 323,263
I.T. Network Security	521	4394	0383	\$ 8,100.00	\$ 25,000.00		\$ 33,100
I.T. Network Security	521	4394	0382	\$ 107,100.00	\$ 25,000.00		\$ 132,100
I.T. Help Desk Temporary Assistance	521	4394	0100	\$ 71,438.85	\$ 10,000.00		\$ 81,439
							\$ -
							\$ -
							\$ -
							\$ -
							\$ -
							\$ -
							\$ -
							\$ -
							\$ -
Total Expenditures				\$ 459,901	\$ 110,000	\$ -	\$ 569,901
Revenue							
Total Revenue				\$ -	\$ -	\$ -	\$ -

Reason for Amendment:	RESOLUTION # :
Increase I.T. Internal Service Fund Expenditure Budget for I.T. Security Upgrades	
Authorization:	Signature: _____ Date: _____
Requested By: _____	_____
Approval: _____	_____
Finance Use: _____	_____
<i>Attach copies of Resolution or other documentation</i>	

**FIRST AMENDMENT
TO PROFESSIONAL SERVICES AGREEMENT WITH
DAKADESIGN, LLC**

THIS FIRST AMENDMENT is made and entered into this 26th day of October, 2021, by and between the CITY OF FORT BRAGG, hereinafter referred to as "City," and DAKADESIGN, LLC, hereinafter referred to as "Consultant."

WHEREAS, the City and Consultant entered into a Professional Services Agreement ("Contract") on June 30, 2021 to utilize the services of Consultant for on-call backup IT services as needed; and

WHEREAS, the Contract states that Consultant will provide on-call backup IT services for a total contract amount not to exceed Ten Thousand Dollars (\$10,000.00); and

WHEREAS, the parties desire to amend the contract to increase the scope of work to prioritize network security and safe network and application practices at the City of Fort Bragg, as outlined in **Exhibit A** attached hereto; and

WHEREAS, at this time, the City desires to increase the total compensation amount by \$50,000 for a total amount not to exceed Sixty Thousand Dollars (\$60,000.00) to cover some of the more immediate security and network needs as outlined in **Exhibit A**; and

WHEREAS, the legislative body of the City on October 25, 2021 by Resolution No. _____ authorized execution of this First Amendment on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code;

NOW, THEREFORE, for the aforementioned reasons and other valuable consideration, the receipt and sufficiency of which is acknowledged, City and Consultant hereby agree that the Professional Services Agreement for IT services between the City and Consultant dated June 30, 2021, is hereby amended as follows:

1. **Scope of Work:**

Paragraph 1.1 (Scope of Work) is hereby amended to include the additional work described in Exhibit A attached hereto and incorporated herein by reference, subject to project-by-project approval by the City Manager.

2. **Compensation:**

Paragraph 2.1 (Compensation), is hereby amended to state, "Consultant's total compensation shall not exceed **Sixty Thousand Dollars (\$60,000.00)**."

3. Except as expressly amended herein, the Professional Services Agreement between the City and Consultant dated June 30, 2021, is hereby reaffirmed.

IN WITNESS WHEREOF, the parties have executed this Amendment the day and year first above written.

CITY OF FORT BRAGG:

CONSULTANT:

By: _____
Tabatha Miller
City Manager

By: _____
Deborah Smith
Principal

ATTEST:

APPROVED AS TO FORM:

June Lemos, CMC
City Clerk

Keith F. Collins
City Attorney

Key: P1 items in Red, P2 in Blue, P3 in Black.

City of Fort Bragg:

Prioritized Network & Network Security Items

It's a scary time to be responsible for network security. Endless headlines tell of yet more enterprises, hospitals, government entities, etc. being hit with ransomware, customer credit card data theft, and other serious (and expensive) breaches. Yes, *effective* network security is expensive...but it's far less expensive than the oh-so-painful impacts of not doing everything possible to protect enterprise and customer data!

For many years, my focus as a Network Architect was in creating high performing, highly available networks to give the best possible uptime and performance to support Voice over IP and all other critical enterprise traffic (both wired and WiFi). With the rise of ever more sophisticated malware in recent years, my primary focus areas have grown to encompass security: a network environment that is not as secure as possible *will* eventually be breached...if it has not been already! Without a multi-layered approach, network security (and, hence, availability) is a temporary illusion, at best.

However, it is *essential* to prioritize implementing the *basics* of network management and security! Without ensuring safe network and application practices at the most basic levels are addressed first, security holes large enough for a truck to drive through may remain in place without anyone knowing this is the case!

Goal 1: Provide overall direction and strategy for implementing industry recognized Best Practices

- 1.1 Assess which international or national processes and security standard it would be best for the City of Fort Bragg to follow (e.g., NIST, ISO 27001/2).
- 1.2 Work with M. Ortiz to assess CFB current position with respect to industry standards (e.g., ISO 27001/2 or other chosen standard).
- 1.3 Assess which areas of discovered weaknesses place the City at the highest risk levels, and adjust the prioritized lists in Goals 2 and 3 below as necessary.

[All of Goal 1: This is the most urgent set of items under consideration. We need to determine if there are as-yet-to-be-discovered, yet well-known in the industry, security holes.

Estimate: DDLCC: \$5000, and 20 hours of M. Ortiz time.]

Goal 2: Improve Network Performance, Availability, and Manageability (in suggested order):

Key: P1 items in Red, P2 in Blue, P3 in Black.

- 2.1 Provide troubleshooting services as-needed on a continuing basis. [Already covered under separate contract.]
- 2.2 Begin creation of detailed physical and logical network infrastructure drawings and related documentation. [Estimate is listed on related item below.]
- 2.3 Implement new wireless or VPN link between Corporate Yard and Police Dept. [Already in process.]
- 2.4 Eliminate extra hop for City Hall outbound traffic caused by the default gateway being the Adtran router that connects to the Corporate Yard / Water Treatment plant. (The default gateway should be the Firewall.) [Note: Making this change first requires implementing routing on the City Hall main switch, which will occur after switch upgrades as in 2.10.]
- 2.5 Test UPS capability at PD and elsewhere, and modify as necessary for the hours of support deemed critical by City management. (Recent power glitch dropped power to the Firewall and to AD server.) [DDLLC: \$1500.]
- 2.6 Upgrade current PD Comcast Internet circuit to one using Public IPs (/28) and BGP routing, or implement other backup method that will survive a Comcast outage. [Approach TBD]
- 2.7 Modify network design to incorporate a secondary Internet connection (with auto-failover).
- 2.8 Acquire new Internet circuit from a second provider (not Comcast), and that uses divergent/ separate provider infrastructure if possible. This secondary provider will need also to run BGP, and to agree to advertise the public IPs (/28) of the primary circuit.
- 2.9 Implement new wireless or VPN link for failover connection between City Hall and Police Dept. [Already in process.]
- 2.10 Replace all EOS and/or unmanaged / insecure network infrastructure equipment (i.e., entire switch infrastructure) with current models that support 10G where needed. [Estimate: Hardware \$48k, DDLLC \$5500 configuration and after-hours installation, \$5500 / 3 yrs licensing and support.]
- 2.11 Complete detailed physical network infrastructure drawing. [DDLLC Estimate: \$7500 - \$10k]
- 2.12 Implement 10G connectivity for server connectivity to switches, and for internal PD switch connections.
- 2.13 Limit trunking on uplinks only to VLANs required in connected location.
- 2.14 Configure all switch end device access ports to a standard Access Port configuration. [Included in switch replacement costs in 2.10.]
- 2.15 Assess need for new wireless link (or not) between Town Hall and City Hall.
- 2.16 Assess current server backup software and determine if better solution exists. [Better solutions exist. Cost to choose and implement one included in 2.17.]
- 2.17 Implement true off-site backup storage that incorporates protection from Ransomware. [Initial sizing Estimate: \$12k annually.]
- 2.18 Consider implementing Cisco WiFi network equipment for enhanced performance, capabilities, manageability, and security.
- 2.19 Where possible (i.e., within budget constraints), eliminate single points of failure in the network. Where not possible, stock on-site spares or have 2-4 hr response contracts with vendors.
- 2.20 Implement SNMP server / network infrastructure logging (history and alerting for network infrastructure issues). [Estimate \$5000 annually for on-site – may be possible to add to 3.2.2.]

Key: P1 items in Red, P2 in Blue, P3 in Black.

- 2.21 Once new network infrastructure equipment is in place, implement Quality of Service for excellent Voice over IP call quality, as well as protecting bandwidth for other critical network applications.

Goal 3: Implement multi-layered infrastructure security:

Sub-Goal 3.1: Implement Multi-Factor Secure Access

3.1.1 On-site Wired and Wireless Access:

3.1.1.1 Ensure that City legal team review and approve network login banner language. [Estimate: 1 hr legal team cost.]

3.1.1.2 Until switched infrastructure can be replaced, improve security on it by requiring encrypted protocols for access, different user and privileged passwords, and eliminating shared passwords. [Estimate: \$500]

3.1.1.3 Consider implementing Cisco ISE (Identity Services Engine). ISE identifies users and devices, and supplies network access policies to the network infrastructure equipment based on that identification, no matter where on the network they connect.

Note: ISE is THE modern way to control network access, AND access to all resources. It is somewhat expensive to set up initially, but makes *everything* automatically more secure, and many other security policies and features easier to implement (including all physical connections, wireless connections, BYOD, Rapid Threat Containment, etc). To get an actual estimate will require engaging experts in installing ISE. [DDLLC is very capable of using it on a daily basis, and training M. Ortiz.] Based on past experience, however, \$50k would be a good budget number.

3.1.1.4 If ISE will not be implemented, set up port security on all switches (requires replacing non-Cisco hubs/dumb switches with Cisco). [Estimate: \$1000 for port security, monitoring for one week, and training M. Ortiz]. Cost for switch replacement is in 2.10.]

3.1.2 Remote access:

3.1.2.1 Remove all shared VPN accounts and replace with personally-identifiable, user-specific ones. [Estimate: DDLLC \$2500]

3.1.2.2 Implement NPS on AD servers, and then use Group membership to control who can log into each F/W VPN group. [Estimate: DDLLC \$1500]

3.1.2.3 Implement DUO for Multi-Factor Authentication. [Estimate: \$7200 annually for service, DDLLC \$3000 to implement]

Sub-Goal 3.2: Complete Network Flow Visibility and Alarms

Key: P1 items in Red, P2 in Blue, P3 in Black.

- 3.2.1 Integrate the Cisco FTD Firewalls with Cisco Defense Orchestrator (inexpensive Firewall tools) or with Cisco FirePower Management Center. [Estimate: \$3500 for Cisco FMC Virtual machine on VMWare, \$840 annual support. DDLLC \$2500 to configure and integrate two firewalls.
- 3.2.2 **Once network infrastructure is upgraded to Full Flexible Netflow-capable devices, implement Cisco StealthWatch Cloud for full Network traffic flow visibility. [Estimate: Unknown. We will need to run a trial to see the amount of traffic and associated cost.]**

Sub-Goal 3.3: Internal Segmentation / Firewalling

- 3.3.1 Implement additional IP address subnetting (e.g., so WiFi users, City Hall wired connections, and Waste Water are not all on 192.168.211.0/24). [Estimate: DDLLC \$2500. Also will require M. Ortiz time and WW device management time.]
- 3.3.2 Implement a DMZ so that connections initiated from the Internet that must be permitted inbound (i.e., mail), do not terminate on the internal Servers subnet! [This risk is what led to the recent incident. Estimate: DDLLC \$500.]
- 3.3.3 Modify network design so that Granicus encoder at Town Hall does not provide a non-firewalled, back-door entry from the Internet. [This item now covered by 3.3.4.]
- 3.3.4 Determine location of other Internet access points discovered by Kroll, and either remove them or secure with a firewall. [Estimate: DDLLC \$1500 to locate other Internet access points, and if possible, simply remove or use current firewall to protect the connections. If additional firewall equipment is found to be required, that will be an additional cost to acquire and to implement.]
- 3.3.5 Determine best method for internal security segmentation that City can afford, and implement (such as Cisco ISE integrated with Cisco switches). [DDLLC \$250 to work with ISE experts to get accurate quote. Implementation costs will be determined as part of that process.]
- 3.3.6 Unless another solution is implemented (such as ISE), isolate parts of the network one from the other by Firewalling them one from the other with only *necessary* traffic permitted through the firewall (i.e., Waste Water Treatment, Water Treatment, City Hall, Police Department). [Estimate: DDLLC \$5000]

Sub-Goal 3.4: Threat Protection

- 3.4.1: Integrate new Cisco FTD (Firepower Threat Defense) Firewall with Cisco SecureX, and monitor the web-based SecureX console for detected threats. (Integrate other Cisco security products with SecureX as well, if / when they are implemented.) [DDLLC \$1k to integrate both the existing Cisco FTD1120 main firewall with SecureX, as well as the newly ordered Cisco FTD1010 firewall for CY, and to monitor weekly for two months.]

Key: P1 items in Red, P2 in Blue, P3 in Black.

3.4.2: Set up new Cisco FTD Firewall with URL category filtering (new capability that was not available on previous ASA Firewall), according to the City's network security policy (if one exists). [Estimate: DDLLC \$1000]

3.4.3: Assess current in-use application CrowdStrike, and compare with Cisco AMP For Endpoints (Advanced Malware Protection) capabilities. (The combination of Cisco Umbrella and AMP For Endpoints has proven to be extremely capable of protecting devices from most malware, including Ransom Ware.) [Estimate: DDLLC \$1000]

3.4.4: Either purchase and use Penetration testing software internally to detect known security "holes" (e.g., due to missing server Operating System patches), or hire a service to perform this service on a regular basis. [Estimate: TBD]

3.4.5: Create network security policy, if one does not already exist, and train employees. [DDLLC: \$5000]

3.4.6: Strongly suggest implementing Cisco Umbrella DNS-layer protection on all supported endpoints. This is inexpensive, extremely effective protection against browsing to Internet locations that host malware (such as Ransom Ware). [Estimate: \$6500/yr Subscription, \$650/yr support. DDLLC \$3500 to implement.]

3.4.7: Move Windows Server environment to modern version (instead of 2012). [M. Ortiz to complete.]

3.4.8: Modify Windows Server environment to use more secure protocols. [M. Ortiz to complete. If DDLLC assistance is needed, existing general support contract may be utilized.]

Sub-Goal 3.5: Effective Forensics

3.5.1: Unless item 3.4.3 results indicate otherwise, implement Cisco AMP For Endpoints (Advanced Malware Protection). AMP for Endpoints gives visibility into what the malware did, exactly: how it arrived, what processes it started, files it may have modified, etc. It has many protective engines built-in that detect malware actions and block them, real-time. This way, the endpoint is not only protected from most malware up-front, but also can provide critical information on remediation required in case of a brand new "Day 0" attack that was not detectable as malware at the time it entered the network. This can save a lot of time by letting staff know if a device should be re-imaged, or just a few files need to be removed. AMP for Endpoints also includes an effective Anti-Virus. [Note: Cisco Secure Endpoint (formerly AMP For Endpoints") can replace all other endpoint security products presently in use. Estimate: \$29k for Annual Subscription and (hopefully) initial installation services, \$4455 for annual support contract, DDLLC internal setup assistance: \$2500]

3.5.2: Implement Cisco SAL: Security Analytics and Logging (previously StealthWatch Cloud). Not only is SAL critical for Network Visibility, but the logging function is *critical* for having network data available for analyzing security events after-the-fact. [Estimate: \$9k/yr for

Key: P1 items in Red, P2 in Blue, P3 in Black.

Annual subscription, with 90 days event storage, \$1100/yr for Cisco support, DDLLC integration / configuration: \$2250]

Assumed Most Likely Path Forward for The City of Fort Bragg:

P1 Items:

Estimate of initial implementation and annual costs: ~ \$162,617

Estimate of annual subscriptions/support contracts after first year: ~ \$60k

Note: The annual subscription / support cost of certain other endpoint security (i.e., CrowdStrike, Symantec, Carbon Black) products would end and so not all of this annual figure would be “new” costs.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 21-548

Agenda Date: 10/25/2021

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8D.

Receive Report and Provide Direction to Staff on the Definition of Youth Center and Whether the City Should Establish a Buffer Zone of More or Less Than 600 Feet from Cannabis Dispensaries



AGENCY: City Council
MEETING DATE: October 25, 2021
DEPARTMENT: Community Development
PRESENTED BY: H. Gurewitz
EMAIL ADDRESS: HGurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on the Definition of Youth Center and Whether the City Should Establish a Buffer Zone of More or Less Than 600 Feet from Cannabis Dispensaries

ISSUE:

On Monday, September 27, 2021, the City Council approved an urgency ordinance placing a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zone of Fort Bragg. In the City Manager's staff report, one purpose of the moratorium was to allow Council to consider several issues including, "define what constitutes a 'youth center' and if a buffer of more or less than 600 feet is appropriate for Fort Bragg." The purpose of this agenda item is to request direction from Council on this matter.

ANALYSIS:

There was an initial discussion about whether the City should identify a buffer between "youth centers" and cannabis dispensaries prior to the adoption of the 2019 ordinance that provided zoning regulations for cannabis dispensaries. There was an understanding at that time, that by not identifying a buffer, the City could consider each dispensary application on a case-by-case basis. Two dispensaries were approved based on this guidance and another applicant was advised by staff that a dispensary could be sited in proximity to a youth center, but their application is in process and impacted by the current moratorium.

In the process of developing the ordinance for Commercial Cannabis Cultivation, staff became aware of a different interpretation of how the buffer zones work. While the intention appeared to be to have no buffer required, by not providing a local definition of a youth center or a buffer zone, the City defaults to the State of California's requirements. In Municipal Code 9.30 Section 9.30.100(A), the following is grounds for denial, "*The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation.*"

The California Business and Professions Code Section 26054(b) states:

"A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, daycare center, or youth center that is in existence at the time the license is issued, unless the department or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law."

Subdivision (c) of Section 11362.768 of the Health and Safety Code states:

“The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.”

Section 26001(ax) of the Business and Professions Code gives the following “definition” of a youth center: *“‘Youth center’ has the same meaning as in Section 11353.1 of the Health and Safety Code.”*

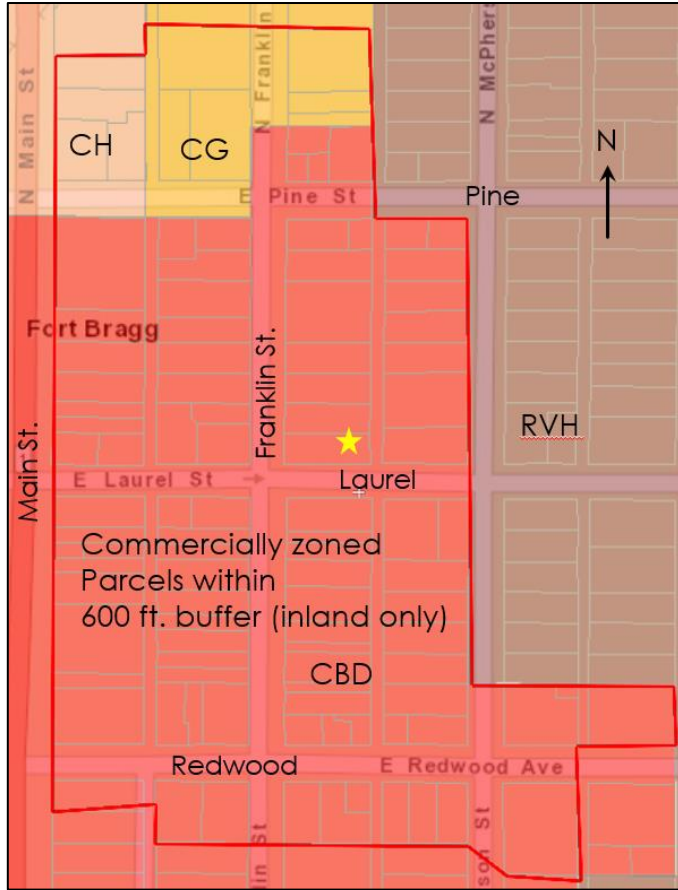
Section 11353.1(a)(2) of the Health and Safety Code says that a *“‘youth center’ means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.”*

The Bureau of Cannabis Control has officially stated that they will not deny an application if the local jurisdiction approves the location. However, a strict interpretation of the law says that a local jurisdiction cannot reduce the buffer because the 600-foot buffer was written in Proposition 64 Adult Use of Marijuana Act, and because Section 26201 of the Business and Professions Code states:

“Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.”

The City Council has the authority to create a local definition and determine if a use qualifies as “primarily” a youth center. Additionally, the City Council can establish a different buffer zone and method of measuring a buffer than that stated in state law.

Currently the City of Fort Bragg has ownership of one particular location that may be considered a youth center under the above definition from the state. However, it is subject to interpretation. The “old gym” located at 213 E. Laurel Street has been a community center since 1922 when the original building was completed as part of City Hall. The gym is owned by the City and rented out on a first-come, first-served basis. Currently, the gym is mostly utilized by the Parks and Recreation District for drop-in volleyball, basketball clinics, and skate night. If the Council uses the current interpretation of the code and state law, the area outlined in red shows the parcels where a cannabis dispensary would be prohibited in commercial zones in the Inland zone of the City:



Staff is requesting direction from Council on whether they wish to do one or more of the following:

- 1) Establish a local definition for a youth center that is different from the state;
- 2) Establish a local buffer zone around a youth center;
- 3) Establish a local method of measuring buffer distance that is different from the state; and/or
- 4) Continue to use existing state law in evaluating the allowable location(s) of a cannabis business.

RECOMMENDED ACTION:

Provide direction to staff.

ALTERNATIVE ACTION(S):

Postpone issue to a future date and request additional information.

FISCAL IMPACT:

Minimal if any.

GREENHOUSE GAS EMISSIONS IMPACT:

Not applicable.

CONSISTENCY:

Any updates to the Inland Land Use and Development Code must be consistent with the Inland General Plan.

IMPLEMENTATION/TIMEFRAMES:

To be determined.

ATTACHMENTS (LINKS ONLY):

1. California BPC Division 10 Cannabis Chapter 5 Licensing Section 26054:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=BPC§ionNum=26054.

2. California Health and Safety Code Division 10, Uniform Controlled Substances Act, Chapter 6 Offenses and Penalties, Article 1 Offenses Involving Controlled Substances Formerly Classified as Narcotics:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11353.1.

3. California Health and Safety Code Division 10, Uniform Controlled Substances Act, Chapter 6 Offenses and Penalties, Article 2.5 Medical Marijuana Program:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=11362.768.

4. Bureau of Cannabis Control California Code of Regulations Title 16, Division 42 Medicinal and Adult-Use Cannabis Regulation - Final Statement of Reasons Appendix A – Bureau Summary and Response to 45-Day Comments – Page 108

https://bcc.ca.gov/law_regs/cannabis_fsor.pdf

NOTIFICATION:

1. Brandy Moulton
2. Hrant Ekmekjian
3. Chelsea Haskins
4. Danny Schultz
5. Brittany Biesterfeld
6. Cannabis Notify Me subscriber list



Zoning for Cannabis Dispensaries in the City of Fort Bragg

HEATHER GUREWITZ, MCRP
ASSOCIATE PLANNER
COMMUNITY DEVELOPMENT DEPARTMENT



Cannabis Dispensaries



- ▶ Regulated by Section 9.30 of the Municipal Code
- ▶ Regulated by Section 18.42.057
- ▶ Two Dispensaries approved
- ▶ Three dispensary applications denied
- ▶ Three pending dispensary applications
- ▶ Moratorium began on September 27, 2021

Discussion Points

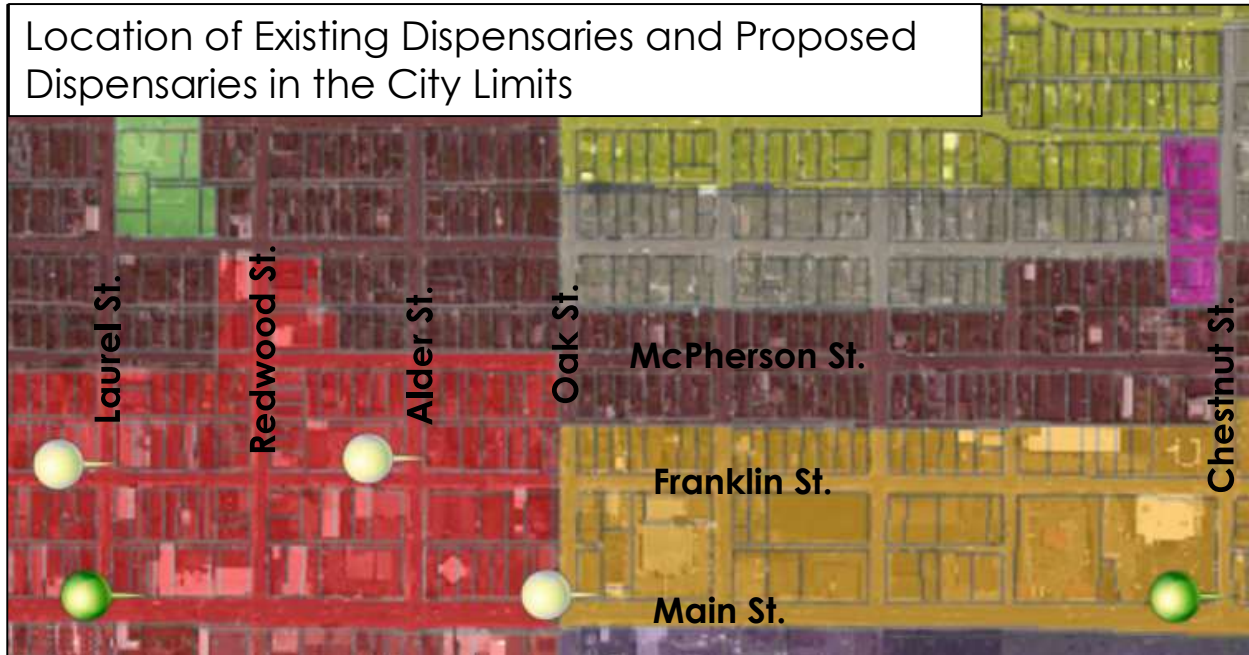


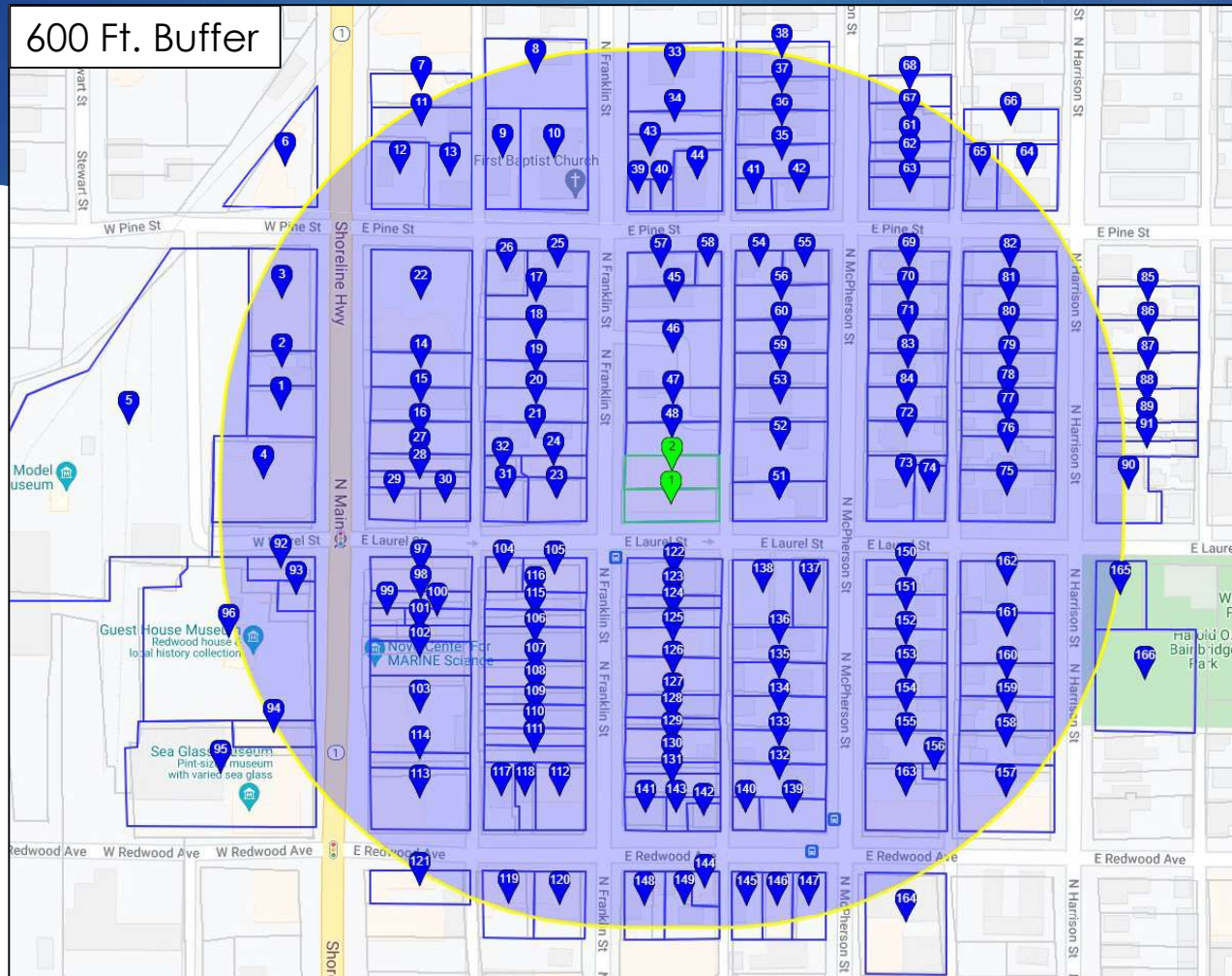
- ▶ Resolve potential conflicts with residential uses;
- ▶ Define what constitutes a “youth center” and if a buffer of more or less than 600 feet is appropriate for Fort Bragg;
- ▶ Clarify the previous direction given on zoning for cannabis microbusinesses;
- ▶ Resolve concerns about overconcentration of cannabis dispensaries in the CBD (a limit on the number allowed or a required buffer between dispensaries);
- ▶ Consider whether cannabis dispensaries should be limited in where they are allowed in the CBD or any other district where allowed; and
- ▶ Provide direction on establishing a tax on cannabis cultivated, manufactured, or sold in the City limits.

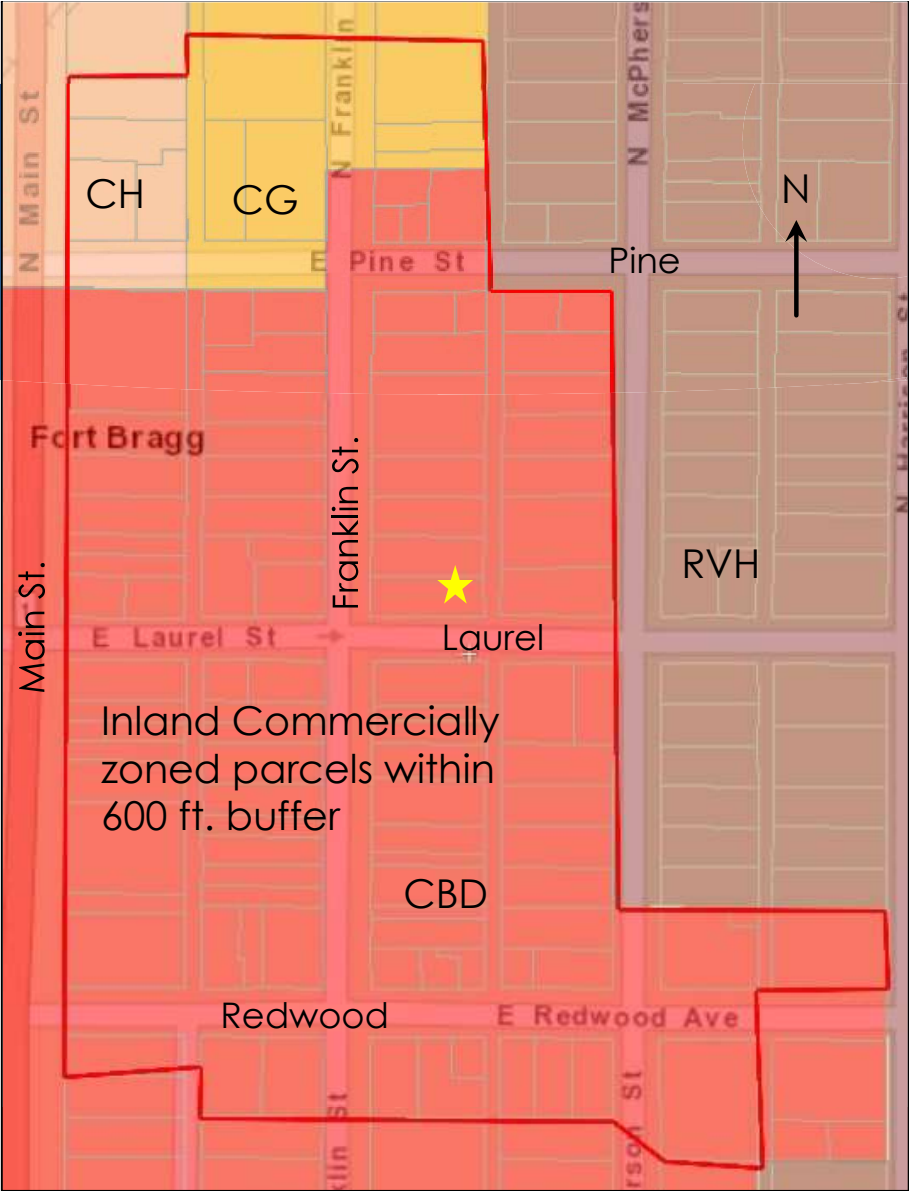
Limiting the Number of Dispensaries



Location of Existing Dispensaries and Proposed Dispensaries in the City Limits



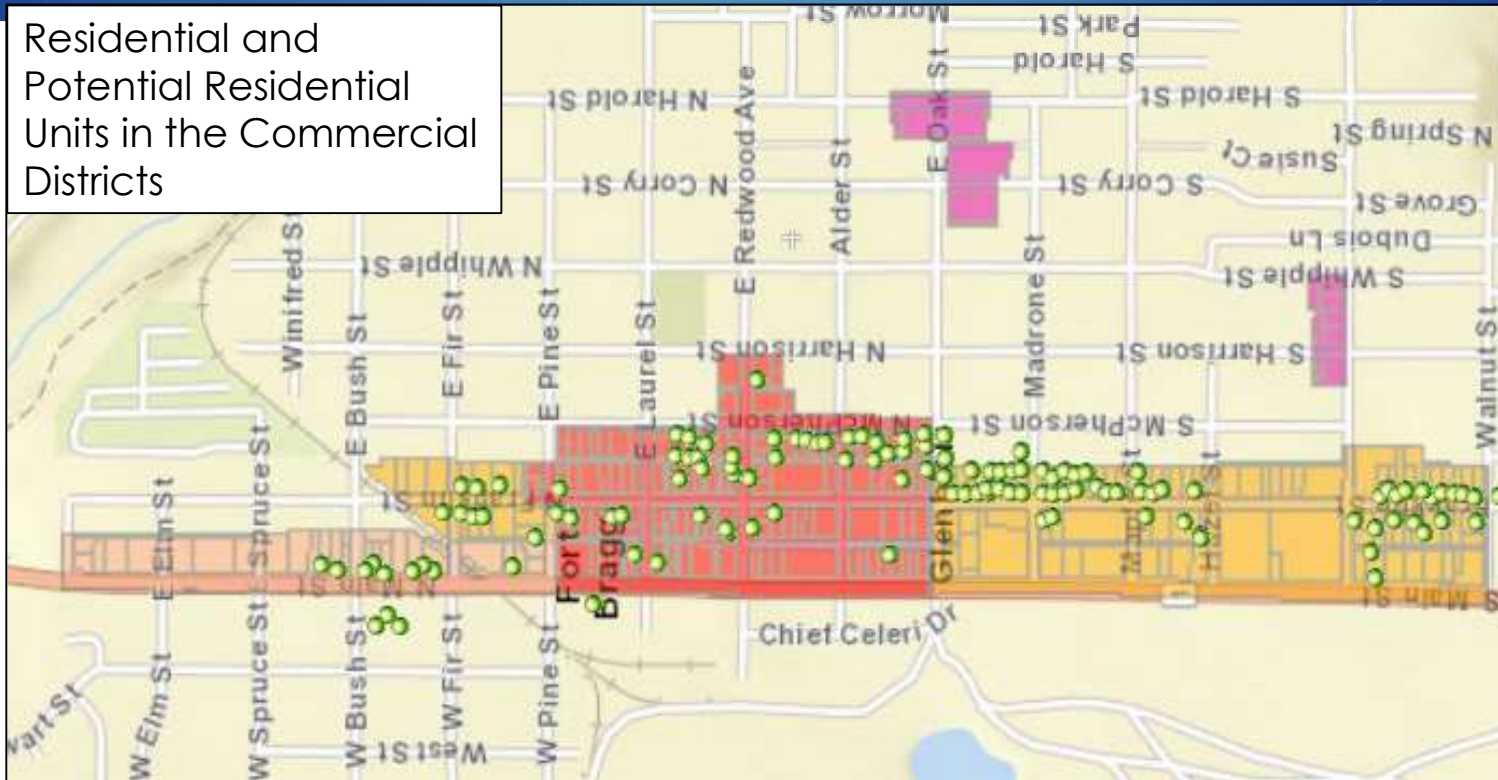




Residential Proximity



Residential and Potential Residential Units in the Commercial Districts



From: [Jacob Patterson](#)
To: [Lemos, June](#); [Miller, Tabatha](#)
Cc: [O'Neal, Chantell](#)
Subject: Public Comment -- 10/25/21 CC Mtg., Cannabis Agenda Items
Date: Saturday, October 23, 2021 11:37:43 AM
Attachments: [California's legal weed industry can't compete with illicit market - POLITICO.pdf](#)

[https://link.edgepilot.com/s/829b7b56/peok7KTSv0y-Gmx4n92wuQ?
u=https://www.politico.com/news/2021/10/23/california-legal-illicit-weed-market-516868](https://link.edgepilot.com/s/829b7b56/peok7KTSv0y-Gmx4n92wuQ?u=https://www.politico.com/news/2021/10/23/california-legal-illicit-weed-market-516868)

City Council,

Please read the attached article (also linked above) to review the practical realities that demonstrate how this might be a fun academic exercise for planning staff and some law students, it isn't a prudent use of our local resources. I know you all have the best intentions but the cannabis ordinance revisions under discussion tonight are likely an impractical waste of time because the effort is unlikely to result in significant tangible benefits to the town. It is also quite clear that the proposals are way more complicated, and unnecessarily so, compared to what we need.

There is nothing fundamentally wrong with the current ordinance and it only needs a few simple tweaks, which could be accomplished in a much shorter period of time and with less complexity than trying to revisit the entire regulatory scheme. The source of our recent issues has been with CDD planning staff not being competent or capable of doing their jobs and applying our current regulations, not significant problems with the existing ordinance. The only changes that are advisable are adding in an explicit buffer zone with a smaller distance (e.g., 150 feet or 1/2 a City block) for the state default buffer zones. There is no need to craft a different local definition for youth center and there is no need to complicate anything further by crafting a special microbusiness definition, which is not even a land use category but a type of stare (not local) cannabis business license type.

All we need is a simple amendment that does three things:

1. Determine the zoning districts where cultivation is permitted without any (illegal and unenforceable) local preference and without an unnecessary "equity" component.
2. Add in an explicit buffer zone that is greater than zero but less than 600 feet.
3. Get rid of the unnecessary prohibition on retail storefronts in the industrial zoning districts so the City has appropriate zoning districts (i.e., heavy and light industrial) where a business using the microbusiness model can locate without introducing the industrial manufacturing or processing activities to non-industrial zoning districts where they do not belong.

These objectives are minor adjustments to our current regulatory scheme and don't require an extended process. The drafting could easily be accomplished in a day or two, not months. Once that is accomplished, the CEQA review can proceed based on the fully-crafted ordinance that is simple. The more complicated you make things, the more complicated and expensive the CEQA process will take unless you put the zoning ordinance on the ballot and avoid the CEQA requirement that way.

Regards,

--Jacob

CALIFORNIA

California's legal weed industry can't compete with illicit market

Local government opposition, high taxes and competition from unlicensed businesses are complicating the state's push to build a thriving legal market.



California's cannabis law lets local officials decide whether to open the door to cannabis or slam it shut. So far, most are opting for the latter. | Justin Sullivan/Getty Images

By **ALEXANDER NIEVES**

10/23/2021 07:00 AM EDT



LOS ANGELES — California’s cannabis market is booming nearly five years after voters legalized recreational weed. But there’s a catch: the vast majority of pot sales are still underground.

Rather than make cannabis a Main Street fixture, California’s strict regulations have led most industry operators to close shop, flee the state or sell in the state’s illegal market that approaches \$8 billion annually, twice the volume of legal sales.

Advertisement

Local government opposition, high taxes and competition from unlicensed businesses are complicating California’s push to build a thriving legal market. Many of those factors are baked into California law, including rules allowing city leaders to shut out licensed cannabis enterprises. Meanwhile, the state has relaxed penalties against illegal operations in the name of racial justice.

Infighting between industry groups and lobbying dysfunction in Sacramento have stalled potential legislative fixes, with no clear end in sight. The scale of those problems has California’s iconic cannabis industry — the legal side, at least — lagging behind other states that have regulated the market.

“You don't have a real cannabis industry if the dominant portion of it has no interest in being legal,” said Adam Spiker, executive director of the Southern California Coalition, a cannabis trade association. “There's no other regulated industry in the world that I know of that operates like that.”

Licensed cannabis shops offering legal goods are sparsely scattered across the state — there are roughly 2 per 100,000 people, one of the lowest rates in the nation among states that support legal recreational sales.

By comparison, Oregon has 17.9 retail shops for every 100,000 residents. Colorado boasts a similar ratio, and Washington state’s rate is more than triple California’s.

California lags behind other states in pot shops per capita

Dispensaries per 100,000 residents in Western states with recreational sales, October 2021

Alaska		20.3
Oregon		17.9
Colorado	14.2	
Washington	6.6	
Nevada	2.8	
California	2.1	

California has just 823 licensed brick-and-mortar cannabis shops, but close to 3,000 retailers and delivery services operate in the state without a permit, a February 2020 market analysis by Marijuana Business Daily found.

The unchecked cannabis ecosystem has caused major economic and environmental damage in California. Many of the state's estimated 50,000 illegal cultivation sites [have been found to use banned pesticides](#) that can poison wildlife and water supplies and are believed to account for hundreds of millions of gallons in water stolen from farms and neighboring communities each year.

Law enforcement agencies in the last few months alone have broken up sprawling grow operations in the arid Antelope Valley and urban Alameda County, discovering around 50 tons of processed cannabis goods and more than 100,000 plants, a haul valued well above \$1 billion.

California Attorney General Rob Bonta announced earlier this week that the state had seized 165 weapons and more than 33 tons of infrastructure like water lines and toxic chemicals after conducting close to 500 raids this year.

“The victims of illegal marijuana cultivation are many and the toll is severe,” he said during a news conference. “Families whose water supply is polluted by outlawed pesticides, exploited labor exposed to dangerous and illegal working conditions, farmers deprived of clean soil and water.”

California, like many states, has lowered its penalties on illegal marijuana businesses, a response to a disproportionate number of arrests targeting communities of color under drug criminalization. Many in the industry say they generally support criminal justice reforms, but that the current penalty of a misdemeanor and \$500 fine is simply too low to dissuade illicit activity.

Unlicensed dispensaries shuttered for city code enforcement violations often pop up again, sometimes right down the street. And cultivation sites like the one raided in Antelope Valley often resume operations just days later, law enforcement officials concede.

Every state establishing a legal market has had to contend with illicit operations, but the underground market in California is far more entrenched. Many of today's unlicensed businesses legally served customers for decades under the state's medical marijuana laws that passed in 1996 but went underground after voters approved the recreational pot initiative Proposition 64 passed in 2016. Some operated in cities that banned weed sales, while others balked at the new regulatory fees and taxes.

The new law forced longtime business owners to make tough decisions, said Elizabeth Ashford, vice president of communications at cannabis delivery company Eaze.

"They were totally allowed under the law just minutes ago," she said looking back to when the new regulations were established. "Did anybody really think those folks would just be like, 'Well okay, we're just going to close our doors'?"

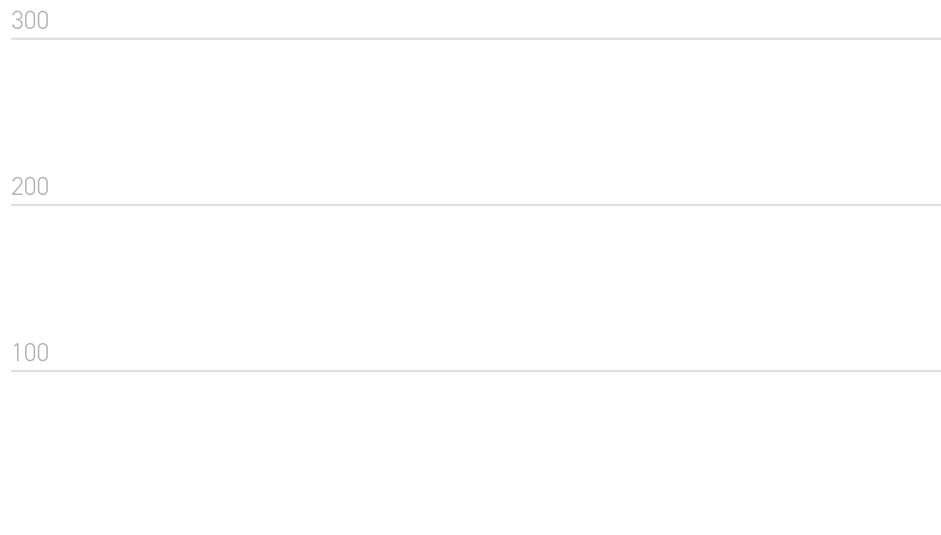
AD

California's cannabis law lets local officials decide whether to open the door to cannabis or slam it shut. So far, most are opting for the latter.

A whopping 68 percent of California cities ban cannabis retail, including wide swaths of the Central Valley. Other areas have imposed strict caps on the number of available licenses, limiting market growth.

Most California cities still ban cannabis sales

Data collected October 2021



Cities that have opened dispensaries

Chart: Alexander Nieves / POLITICO • Source: Hirsh Jain / Ananda Strategy

San Diego has just 25 pot shops for a population of 1.4 million; San Jose has 16 stores for 1 million people.

Some local officials say the industry harms children or argue dispensaries would attract crime. Others point to the difficulty of drafting ordinances, complying with strict environmental reviews and dealing with potential lawsuits from applicants who aren't awarded licenses.

Public meetings in places like Mountain View in the Silicon Valley and Anaheim have devolved into hours-long marathons filled with protests and name calling when the topic of allowing cannabis shops comes up.

Spiker, who helps develop local cannabis regulations, said some elected officials fear a pro-cannabis stance could cost them their seats.

“Just because Prop. 64 passed in a community at say 60 percent, it doesn't mean that the 40 percent that voted ‘no’ won't organize a recall effort or a strenuous bid to get you thrown out of office your next election,” he said.

The dearth of retail stores — and legal shelf space — gives unlicensed businesses a large, unserved consumer base. It also contributes to an oversupply of goods produced by the state's [6,000 licensed cultivators](#) that has caused the price of wholesale cannabis to plummet, hurting legal growers.

“Local control has, let's just be honest, crippled the California market and prevented it from reaching its potential,” said Hirsh Jain, founder of cannabis consulting firm Ananda Strategy.

Industry leaders say there is little chance state lawmakers will take away that power, largely due to fierce support for local control from law enforcement and city and county officials.

Citizen initiatives and [Covid-related budget deficits have spurred](#) some jurisdictions to open their arms to weed. By Jain's count, 28 cities will open their first dispensaries in 2022 and 37 more that will pass a retail ordinance.

Businesses that manage to secure a license have another problem: competing with their unregulated competitors.

The price of cannabis products sold in legal dispensaries can be two to three times higher than nearly identical items sold in unlicensed shops, which aren't subject to cultivation or excise taxes that drive up costs for retailers.

Some buyers see little incentive to pay more for a legal product.

“Price is the biggest motivator for consumer choice,” Ashford said. “We know that from our own data, there's no question that if you make things less expensive people will buy them.”

The difference between the legal and the illegal is not always obvious. Underground dispensaries are often indistinguishable from licensed shops and sell similar-looking items that may be counterfeit or diverted from the legal market. Illicit delivery services are also listed right next to legitimate operators on platforms like Google and Yelp.

AD

regulators warn that products purchased from unlicensed retailers pose a public health risk, pointing to a rash of lung illnesses related to untested vape cartridges that killed 68 people and hospitalized more than 2,800 nationwide in 2019.

Pro-cannabis state lawmakers have tried unsuccessfully to slash the tax burden in the face of opposition from SEIU, the powerful union that helped bankroll the 2016 ballot measure. The union disagrees with the industry argument that reducing tax rates will spur growth and eventually boost tax revenue, said Robert Harris, a lobbyist for SEIU.

“I’ve never heard of an industry that didn’t say, ‘Reduce our taxes, we’ll sell more and you’ll make more,’” he said.

Leaders within the cannabis industry say finding a solution for the tax problem is their top priority for next year. Nicole Elliott, director of the state Department of Cannabis Control, telegraphed that they might get support from Gov. Gavin Newsom, who championed Prop. 64 while running for office in 2016.

“I imagine that the administration will be very happy to partner with the Legislature on those discussions,” she said.

But finding consensus on a tax plan will be challenging. There is disagreement, for instance, about whether a tax cut should happen on the cultivation or retail side.

Lawmakers and Capitol staffers say this disunity makes legislative fixes nearly impossible to pass and perpetuates the status quo. That’s a scenario the industry can’t afford, given “the overhead costs that the illegal guy doesn’t do,” Spiker warned.

“The divide between legal and illegal is too big a gap to overcome.”

October 25, 2021 Re: City Council Cannabis Moratorium, Oct./Nov./Dec. 2021

Agenda Items: 5H-21-557; 8E-21-547; 8F-21-550; 8G-21-546; 8H-21-549; and 8i-21-552

Mayor, Council, Manager, Staff:

As you gather to discuss potential changes to the City's cannabis ordinances, please be mindful that you have been tinkering with the Sunshine Holistic permit (144 N. Franklin Street) languages since at least December 8, 2019. During that time the applicant has sought permit in the CBD and in our Neighborhood for every aspect of the cannabis trade. Cultivation, Nursery, Manufacturing, Distribution, and Retail. On each occasion and variation of permit application Sunshine has been pushed back. Twice at the Planning Commission level and twice by the City Council. Given the failure of Sunshine to prevail, it is understood that the voting ties also represented voting rejections. All of the above (including erratic scheduling and last minute cancellations of key meetings) have depleted excessively applied administrative resources, salaried tax dollars, and whatever faith in transparent government existed at the beginning of this marathon. That failure to be transparent includes certain Public Noticing defects which have previously been brought to your attention. Meanwhile other dispensary applications are beginning to flood the CBD. Notoriously you discriminately notified the 144 N. Franklin St. Applicant and other CBD Cannabis Dispensary Applicants of this cannabis related agenda before you, but *not* the impacted neighborhoods. This is particularly disconcerting by the fact that tonight's October 25 Agenda Packet explicitly outlines your intention to discuss (possibly legislate) the elimination of Buffer Zone distances designed to protect residential neighborhoods from certain incompatible businesses which threaten to negatively impact those neighborhoods.

Now in the form of a Moratorium comes *more* potential ordinance/regulation language pertaining to the "where and how" cannabis businesses can come into the City. As those of us who have not been paid to participate in this revolving ordinance rodeo know too well – newly proposed cannabis projects are required to pass minor use permit review. Please acknowledge that *this is not the time* to even consider changing the existing Permit Application Review language to "Permit By Right," which will effectively eliminate public hearings and other opportunities for citizen/merchant/ residential neighborhood objections designed to democratically occur within the case-by-case approach to permitting. Changing the language to Permit By Right would cancel *all* of the neighborhood concerns expressed by the hundreds of Petition Signers and Public Meeting Protestors and Neighborhood Impact Speakers who passionately opposed non-compatible residential land uses adjacent to cannabis retail uses. (Like the failed 144 N. Franklin St. cannabis applications and appeals since December of 2019). Imagine: suddenly the houses along McPherson; the Alleyway west of McPherson; both sides of Franklin from Oak St. to City Hall; and the core businesses lining Laurel and Redwood, *all* having the right to convert to a sort of Cannabis Coney Island and ultimately becoming the primary attraction to Fort Bragg. We strongly urge you to consider the disruptive neighborhood and community price tag of this. With its deep pocketed abilities to displace existing businesses, tenants, and homeowners - the cannabis industry is uniquely positioned to devour Fort Bragg's current path. The current path leads to an exciting regionally unique Arts and Culture District fed by local artisan incubated retailers, galleries, restaurants, and crafts people. *That path* leads directly to a very sustainable lodging industry (more successful than we already have) that keeps visitor interest to stays of longer than two days. Do you as our political leaders really want to dismantle and destroy all the good work done by our Chamber, Visit Fort Bragg, Economic Development Department, Lodging Industry Promoters, Arts Councils, Mural Coordinators,

and energetic individual promoting done daily by the people of Fort Bragg? Do you wish to lose this vibrant vision and end up like Eureka or Crescent City, or the mish mash of other coastal towns that have lost their way?

Then please stop this new alternative Wild West distorted vision which seems to be germinating in the minds of certain Council member(s), as a mission statement that “cannabis is like and should be treated like any other business.” We would stomp on that fire by reminding you that even the most benign dispensaries and legal grows run parallel to a much larger, illegal supply chain that law enforcement throughout the Triangle are now acknowledging has a very dark side to it. The dark side of precious water diversion, fish, deer, bear destruction, pesticide abuse, clear cutting of redwood forests, human trafficking, cash and product problems that attract criminal elements and serious crimes. Fort Bragg and its neighborhoods (though miles away from the source of these problems), do not have built in immunities from these far reaching effects. Cannabis task forces and law enforcement agencies are vigorously attempting to protect and support the legal, small legacy growers and the dispensaries at the retail end of their supply chains, in places like Fort Bragg. To effectively do so (and to protect our natural resources along with it) - state, county, and local authorities have expressed the belief that it is first necessary to eradicate the illegal, black market side of the cannabis industry. These urgent public safety documents add to the reasons why we ask you not to eliminate the language of Permit Review, or to declare all neighborhoods to be the same. It is why our police will tell you they need more resources. Our police will also likely tell you that the complexities of cannabis do a lot to explain why 90% or more of other communities (large and small presently reportable to 2019) are confirmed to be safer from crime than Fort Bragg.

Which partially explains why cannabis is still a controlled substance; and why it is more closely associated with liquor stores and gun shops, than clothing and stationary stores. *All retail businesses are not alike.* And which is why we urge you, our City Government to review dispensary applications applicant- by- applicant. This is the meaning of impact, and the reason why Neighborhood Impact Studies generally precede aggressive changes in policy, regulation, and ordinance.

Because of its unique composition, *our* neighborhood including its business interests, banks, pedestrian activities, major grocery store, and post office – has soundly rejected the idea of making it a given right to locate a retail cannabis dispensary in that neighborhood. Please respect this history and the thoughts we have provided when considering the topic, and before jamming us through the process *again*.

PROPOSAL: To show proper restraint from becoming an autocratic regime, create a CITIZEN’S BALLOT INITIATIVE TO FIX AND REPLACE THE CITY’S CANNABIS REGULATIONS.

We look forward to a new, creative, resourceful era of inclusive community planning in wonderful Fort Bragg. How appropriate that October is National Community Planning Month! Please let us know how we can assist you with human resources dedicated to a plan that will sustain Fort Bragg, while making all of us proud.

Sincerely,

Bill Mann

Susanne Rogers

From: [Jacob Patterson](#)
To: [Lemos, June](#); [Munoz, Cristal](#)
Subject: Public Comment -- 10/25/21 CC Mtg., Item Nos. 8E, 8F, 8G, 8H
Date: Monday, October 25, 2021 4:46:40 PM
Attachments: [MUP 8-21 CDP 5-21 Application-redacted.pdf](#)

City Council,

Please see the attached application for a redux of the Sunshine-Holistic MUP application at 144 N. Franklin Street. The new similar application wasn't highlighted in the agenda materials or staff reports for the cannabis ordinance agenda items tonight but the fact that this application is back is certainly relevant to the discussions. In fact, it is even possible the new application is one of the primary reasons for these agenda items and their timing. Although these potential ordinance changes are in general and apply to all pending and future applications, the particular very controversial series of applications for this location should certainly be considered and acknowledged along with the other applications that were mentioned.

I am also troubled that none of the other participants for the earlier unsuccessful applications, including the neighbors, was provided special notice of these very important agenda items tonight but the applicant and other cannabis permit applicants were provided special notice of the agenda items. Does the City only want to hear from applicants and business owners or do you think it important to ensure that all affected parties are notified they might want to participate and have their voices heard?

Regards,

--Jacob

CITY OF FORT BRAGG
COMMUNITY DEVELOPMENT DEPARTMENT
416 North Franklin Street
Fort Bragg, CA 95437
Tel: (707) 961-2827
Fax: (707) 961-2802
http://city.fortbragg.com



RECEIVED

OCT 20 2021

BY:

Case No(s) _____
Date Filed... #0...
Fee _____
Receipt No. _____
Received by _____

MUP 8-21 CBPS-21

Office Use Only - June 2020

PLANNING APPLICATION FORM

Please complete this application thoroughly and accurately, and attach the required exhibits as indicated in the applicable brochure available from the Community Development Department. Incomplete applications cannot be processed until they are complete. Please note that administrative permits may require additional fees if an interested party requests a public hearing. Public hearing expenses are borne by the applicant, owner, or agent.

APPLICANT

Name: Sunshine Holistic / Brandy Moulton
Mailing Address: 18601 N HWY 1 #166 Phone: 707-223-1129
City: Fort Bragg State: CA Zip Code: 95437 Email: brandy@sovereign707.com

PROPERTY OWNER

Name: Lyndia Pycott
Mailing Address: 30600 HWY 20, Phone: 707-972-7724
City: Fort Bragg State: CA Zip Code: 95437 Email: lyndiapycott@gmail.com

AGENT

Name: same as applicant
Mailing Address: _____ Phone: _____
City: _____ State: _____ Zip Code: _____ Email: _____

STREET ADDRESS OF PROJECT 144 N Franklin St

ASSESSOR'S PARCEL NUMBER(S) 0081643900

PROPERTY SIZE _____ Square Feet or 0.35 Acres

TYPE OF APPLICATION (Check all applicable boxes)

- | | |
|--|--|
| <input type="checkbox"/> Design Review/Site & Architectural Review | <input type="checkbox"/> General Plan Amendment |
| <input checked="" type="checkbox"/> Use Permit/Minor Use Permit | <input type="checkbox"/> Local Coastal Program Amendment |
| <input type="checkbox"/> Coastal Development Permit | <input type="checkbox"/> Rezoning |
| <input type="checkbox"/> Variance/Administrative Variance | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> Lot Line Adjustment | <input type="checkbox"/> Pre-application Conference |
| <input type="checkbox"/> Subdivision (no. of parcels) _____ | <input type="checkbox"/> Limited Term Permit |
| <input type="checkbox"/> Certificate of Appropriateness (COA) | <input type="checkbox"/> Permit Amendment (list permits) _____ |
| <input type="checkbox"/> Planned Development Permit | <input type="checkbox"/> Fee Deferral |
| <input type="checkbox"/> Certificate of Compliance | |

PROJECT DESCRIPTION

Briefly describe project as shown on proposed plans _____
retail cannabis dispensary.

CERTIFICATION

I hereby certify that I have read this completed application and that, to the best of my knowledge, the information in this application and all attachments is complete and accurate. I understand that failure to provide requested information or misstatements submitted in support of the application shall be grounds for either refusing to accept the application, for denying the permit, for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the City.

[Signature]
Signature of Applicant/Agent

10.12.21
Date

Discussed by: Lyndia Beatt
Signature of Property Owner

10/18/2021
Date

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

Ordinance No. 771, adopted by the Fort Bragg City Council on September 26, 1994, requires applicants for discretionary land use approvals to sign the following Indemnification Agreement. Failure to sign this agreement will result in the application being considered incomplete and withheld from further processing.

As part of this application, the applicant agrees to defend, indemnify, release and hold harmless the City of Fort Bragg, its agents, officers, attorneys, employees, boards and commissions, as more particularly set forth in Fort Bragg Municipal Code Chapters 17.70.060 and 18.70.060 from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attach, set aside, void or annul the approval of this application or adoption of the environmental document which accompanies it. The indemnification shall include, but not be limited to, damages, costs, expenses, attorneys 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 approval of this application, whether or not there is concurrent, passive [or active], but not sole, negligence on the part of the City, its agents, officers, attorneys, employees, boards and commissions.

[Signature]
Signature of Applicant

10.12.21
Date

SITE VIEW AUTHORIZATION

I hereby grant permission for City staff and hearing bodies to enter upon and site view the premises for which this application is made in order to obtain information necessary for the preparation of required reports and render its decision.

[Signature]
Property Owner/Authorized Agent

10.12.21
Date

NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

DECLARATION OF POSTING

At the time the application is submitted for filing, the applicant must complete and post the "Notice of Pending Permit" form at a conspicuous place, easily read by the public and as close as possible to the project site. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Community Development Department cannot process the application.

I hereby certify that I or my authorized representative posted the "Notice of Pending Permit" form in a conspicuous place, easily seen by the public and as close as possible to the project site for:

front window - next to front door.
(Describe location where notice is posted)

[Signature]
Property Owner/Authorized Agent

10.12.21
Date

NOTE: If signed by agent, owner must sign "Authorization of Agent" below.

AUTHORIZATION OF AGENT

I hereby authorize Brandy Moulton to act as my representative and to bind me in all matters concerning this application.

Discussed by: Lyndia Beatt
Property Owner

10/18/2021
Date





NOTICE OF PENDING PERMIT

THE CITY OF FORT BRAGG IS PROCESSING AN APPLICATION
FOR DEVELOPMENT ON THIS SITE

PROPOSED DEVELOPMENT:

STREET ADDRESS: 144 N Franklin St

ASSESSOR PARCEL NUMBER(S): 0081643900

APPLICANT'S NAME: Sunshine Holistic / Brandy Moulton

DATE NOTICE POSTED: 10.14.21

For further information, please contact:
City of Fort Bragg

Community Development Department
416 North Franklin Street
Fort Bragg, CA 95437

Tel: 707-961-2827

NOTE: At the time an application is submitted for filing, the applicant must complete and post this notice in a conspicuous place, easily read by the public and as close as possible to the project site. A notice of the public hearing will be mailed 10 days prior to the public hearing to property owners within 300 feet of the project site and all other parties requesting notification.

CITY OF FORT BRAGG
416 North Franklin Street
Fort Bragg, CA 95437
Tel: (707) 961-2827
Fax: (707) 961-2802
http://city.fortbragg.com



RECEIVED	
OCT 20 2021	
Case No(s)	_____
Date Filed	_____
Fee	_____
Receipt No.	_____
Received by	_____
Office Use Only - August 2016	

CANNABIS BUSINESS PERMIT APPLICATION FORM

Please complete this application thoroughly and accurately as possible using the application checklist. Incomplete applications cannot be processed until they are complete. This application will be processed along with a City Business License and will remain pending until all required licenses and permits are approved. Public hearing expenses are borne by the applicant, owner, or agent.

APPLICANT

Name: Sunshine Holistic / Brandy Moulton
Mailing Address: 18601 N Hwy 1 #166 Phone: 707 223 1129
City: Fort Bragg State: CA Zip Code: 95437 Email: brandy@sovereign707.com

PROPERTY OWNER

Name: Lyndia Pycott
Mailing Address: 30600 HWY 20 Phone: 707-972-7724
City: Fort Bragg State: CA Zip Code: 95437 Email: _____

AGENT

Name: Same as applicant
Mailing Address: _____ Phone: _____
City: _____ State: _____ Zip Code: _____ Email: _____

STREET ADDRESS OF PROJECT 144 N Franklin St

ASSESSOR'S PARCEL NUMBER(S) 0081643900

PROPERTY SIZE _____ Square Feet or 0.35 Acres

TOTAL SQUARE FOOTAGE OF ALL STRUCTURES AND BUILDINGS TO BE USED BY THE APPLICANT: _____ Square Feet

PROPOSED HOURS OF OPERATION: 9am - 9pm

PROJECT DESCRIPTION

Briefly describe project as shown on proposed plans retail cannabis dispensary

TYPE OF CANNABIS BUSINESS ACTIVITIES TO BE CONDUCTED AT THE PROJECT ADDRESS (Check all applicable boxes and indicate square footage of activity)

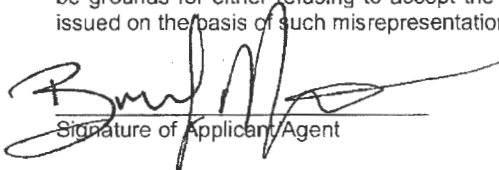
Type of Activity	CA State License Type/ Number	License Dates valid (MM/DD/YY – MM/DD/YY)	Total Sq. Footage for Use
PROCESSING			
MANUFACTURING Level 1 or 2 (circle)			
WHOLESALE/ DISTRIBUTION			
RETAIL	✓		1560 sf
RETAIL – DELIVERY ONLY			

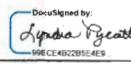
Attach a copy of all current/pending licenses specific to the project site to this application.

If required to register for California Cannabis Track-and-Trace System, have you done so? Yes No

CERTIFICATION

I hereby certify, under penalty of perjury that all the information contained in this application is true and correct. I understand that failure to provide requested information or misstatements submitted in support of the application shall be grounds for either refusing to accept the application, for denying the permit, for suspending or revoking a permit issued on the basis of such misrepresentations, or for seeking of such further relief as may seem proper to the City.

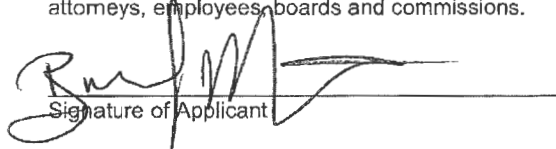

10.12.21

DocuSigned by:
Lynna Byatt
996CE4B228564E9

10/18/2021

Signature of Applicant/Agent Date Signature of Property Owner Date

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

As part of this application, the applicant agrees to defend, indemnify, release and hold harmless the City of Fort Bragg, its agents, officers, attorneys, employees, boards and commissions, as more particularly set forth in Fort Bragg Municipal Code Chapters 17.70.060 and 18.70.060 from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attach, set aside, void or annul the approval of this application or adoption of the environmental document which accompanies it. The indemnification shall include, but not be limited to, damages, costs, expenses, attorneys 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 approval of this application, whether or not there is concurrent, passive [or active], but not sole, negligence on the part of the City, its agents, officers, attorneys, employees, boards and commissions.


10.12.21

Signature of Applicant Date

SITE VIEW AND INVESTIGATION AUTHORIZATION

I hereby grant permission for City staff and hearing bodies to enter upon and site view the premises for which this application is made in order to obtain information necessary for the preparation of required reports and render its decision. Additionally, I grant permission for City staff and hearing bodies to seek verification of the information contained within the application.


10/18/2021

Property Owner/Authorized Agent Date

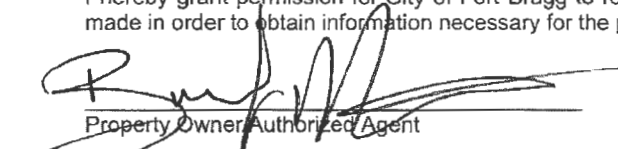
NOTE: If signed by agent, **owner** must sign "Authorization of Agent" below.





PUBLIC SAFETY REVIEW AUTHORIZATION

I hereby grant permission for City of Fort Bragg to review the application and premises for which this application is made in order to obtain information necessary for the preparation of required reports and render its decision.



Property Owner/Authorized Agent

10.12.21
Date

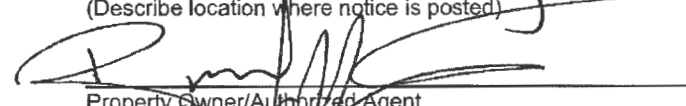
NOTE: If signed by agent, **owner** must sign "Authorization of Agent" below.

DECLARATION OF POSTING

At the time the application is submitted for filing, the applicant must complete and post the "Notice of Pending Permit" form at a conspicuous place, easily read by the public and as close as possible to the project site. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Community Development Department cannot process the application.

I hereby certify that my authorized representative or I posted the "Notice of Pending Permit" form in a conspicuous place, easily seen by the public and as close as possible to the project site for:

front (west facing window)
(Describe location where notice is posted)


Property Owner/Authorized Agent

10.12.21
Date

NOTE: If signed by agent, **owner** must sign "Authorization of Agent" below.

AUTHORIZATION OF AGENT

I hereby authorize Brandy Moulton to act as my representative and to bind me in all matters concerning this application.

Designated by:


Property Owner

10/18/2021
Date



CITY OF FORT BRAGG
COMMUNITY DEVELOPMENT DEPARTMENT
416 North Franklin Street
Fort Bragg, CA 95437
Tel: (707) 961-2827
Fax: (707) 961-2802
<http://city.fortbragg.com>

Cannabis Business Application Checklist

- City of Fort Bragg Cannabis Business Application, completed and signed
- Copy of all current/pending California State cannabis business licenses specific to the project site
- A list of the previous addresses for the past 5 years immediately prior to the present address of the applicant
- Copy of a valid California Drivers' License or Identification Card, US Passport, or birth certificate to verify the applicant is over 21 years of age.
- Photographs for identification purposes (will be taken at the Police Department)
- LiveScan and background check form for all management, employees, and anyone who will access non-public areas of the business
- A description of the applicant's prior cannabis business history, including whether the applicant, in previously operating in any city, county, or state under permit, has had a permit revoked or suspended and, if so, the reason therefor.
- All names of all persons having the management or supervision of the applicant's business
- Security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;
- A sketch or diagram showing the interior configuration of the premises, including the area and proposed security of each room.
- A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions; include public and non-public area designations
- Notarized statement by the property owner certifying under penalty of perjury that he or she has given consent to the applicant to operate a cannabis business at the location, or providing proof that the applicant owns the property.
- Operating procedures including the following:
 - Product safety and quality assurance
 - Record Keeping procedures
 - Product recall procedures
 - Solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business
 - Product supply chain information (cultivation, testing, transport, manufacturing, packaging, and labeling, etc.)
 - Odor prevention plan which may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity
- If required, copy of CA Cannabis Track-and-Trace System Registration



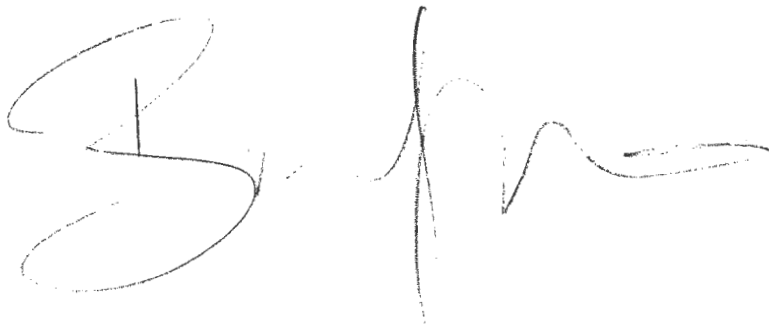
Brandy Moulton, CEO
Sunshine Holistic
18601 N HWY 1 PMB 166
Fort Bragg, CA 95437

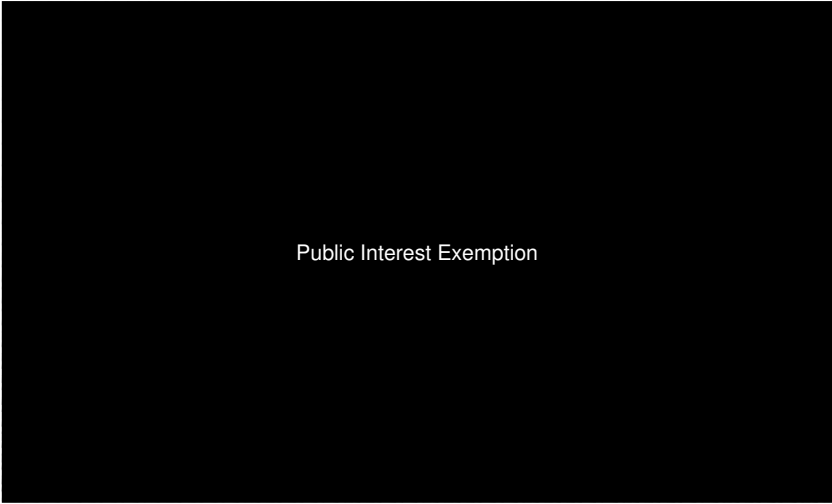
Address History

Tenant turned Owner of 17501 Jade Court, Fort Bragg, CA 95437 (2012-current)

Commercial Tenant of 17555 E Kirtlan Way, Fort Bragg, CA (2016-current)
Landlord: John Kilgour: johnkilgour2002@yahoo.com

Residential Tenant of 33150 Church School Lane, Fort Bragg, CA 95437 (2017-current)
Landlord: Irene Romero: imromero@me.com

A handwritten signature in black ink, appearing to read 'Brandy Moulton', is written across the middle of the page.



Public Interest Exemption

RECEIVED
OCT 20 2021
BY:.....

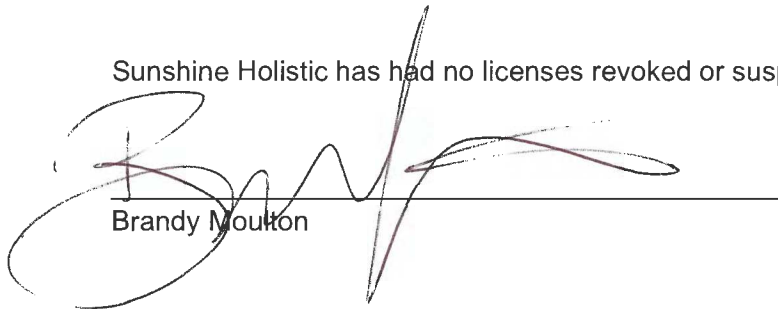
Sunshine Holistic

Cannabis Business History

Sunshine Holistic/Brandy Moulton owns and operates the following licenses:

- Retail: C10-0000271
- Distribution: C11-0000020
- Cultivation
 - CCL19-0004425
 - CCL19-0000839
 - CCL18-0003428
- Non-storefront retail: C9-0000130
- Microbusiness: C12-0000328

Sunshine Holistic has had no licenses revoked or suspended.

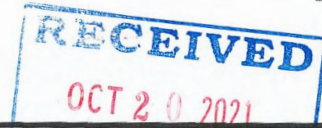


Brandy Moulton



REQUEST FOR LIVE SCAN SERVICE

BCII 8016 (3/07)



Applicant Submission

Public Interest Exemption

Agency Address Set Contributing Agency:

Fort Bragg Police Department

Agency authorized to receive criminal history information

04867

Mail Code (five-digit code assigned by DOJ)

250 Cypress Street

Street No. Street or PO Box

Lesley Bryant

Contact Name (Mandatory for all school submissions)

Fort Bragg

CA

95437

(707) 961-2800

City

State

Zip Code

Contact Telephone No.

Public Interest Exemption

Your Number:

OCA No. (Agency Identifying No.)

Level of Service: DOJ

FBI

If resubmission, list Original ATI

Number:

Employer: (Additional response for agencies specified by statute)

Employer Name

Street No.

Street or PO Box

Mail Code (five digit code assigned by DOJ)

City

State

Zip Code

Agency Telephone No. (optional)

Live Scan Transaction Completed By:

Jennifer

Name of Operator

3.19.2021

Date

Certifix (FN8)

Transmitting Agency

F078M0B185

ATI No.

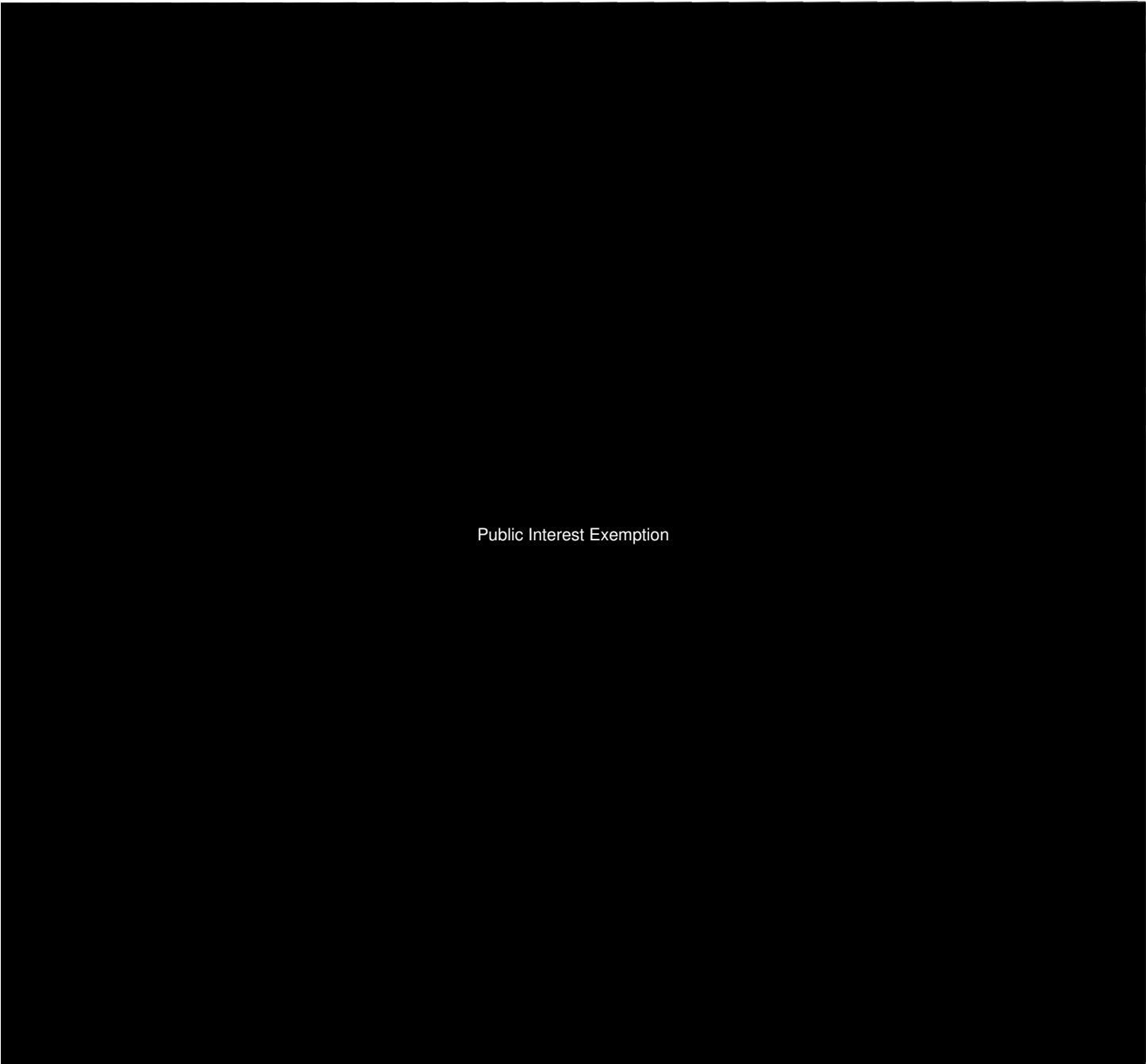
79.-

Amount Collected/Billed

Sunshine Holistic
18601 N HWY 1 PMB 166
Fort Bragg, CA 95437



Security Plan

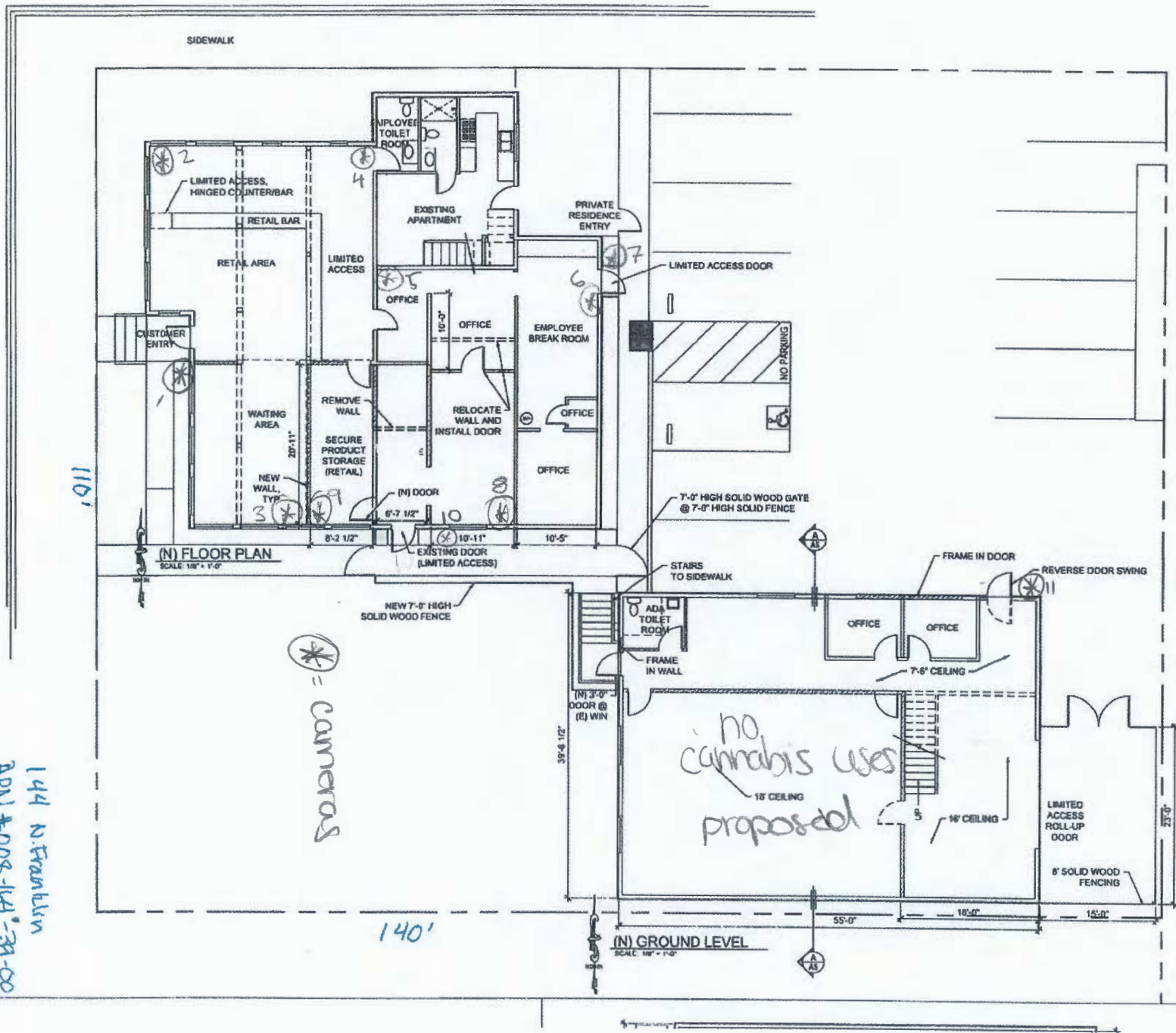


Public Interest Exemption

Mider St.

Alley

Franklin St.



* = cameras

no cannabis uses proposed

RECEIVED
OCT 20 2021
BY:

144 N. Franklin
APN #008-161-31-00
MAP 1-21
Sunshine Holistic Dispensary
Brandy Newton



CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

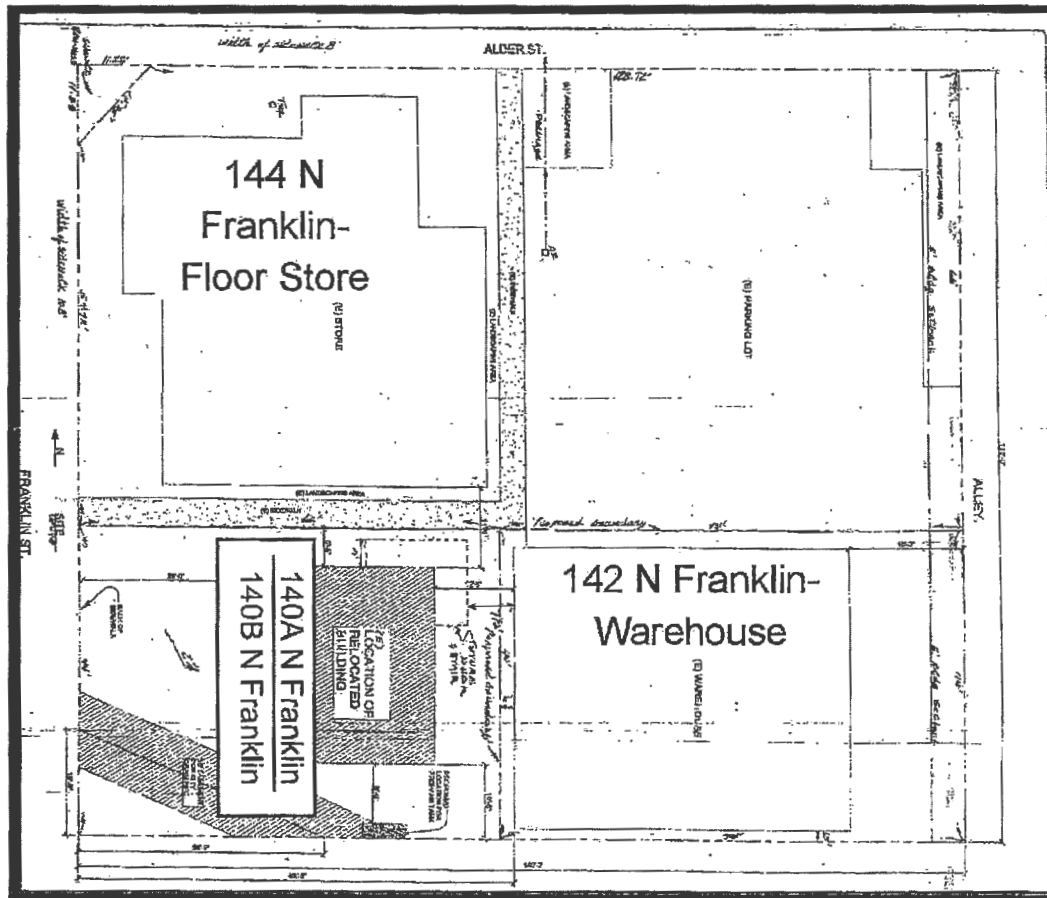


December 6, 2016

RE: ADDRESS ASSIGNMENT FOR ASSESSOR PARCEL NO. 008-164-39

This letter is written to assign addresses to the commercial structures located on the Fort Bragg parcel of property known as Assessor Parcel No. 008-164-39, currently known as 144 N Franklin St. The Community Development Department has assigned the following addresses:

Parcel 008-164-39	
Existing Structure	Address Assigned
Floor Store-144 N Franklin St.	144 N Franklin Street
Warehouse-on alley	142 N Franklin Street
Relocated Building-Top Floor	140 A N Franklin Street
Relocated Building- Ground Floor	140 B N Franklin Street



December 5th, 2019

RECEIVED
OCT 20 2021
BY:

To whom it may concern,

I, Lyndia Pyeatt, certify under penalty of perjury that I am the owner of the property located at 144 N Franklin St. Fort Bragg CA. parcel number 00816439. I hereby give consent to Sunshine Holistic and all associated parties to engage in commercial cannabis operations as followed by the city of Fort Bragg and the State of California.

Signed

Lyndia Pyeatt
Lyndia Pyeatt

12-11-2019
Date

ACKNOWLEDGMENT

RECEIVED

OCT 20 2021

BY:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Mendocino

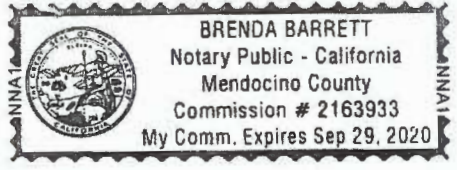
On Dec 11, 2019 before me, Brenda Barrett Notary Public
(insert name and title of the officer)

personally appeared Lyndia P. Pratt
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Brenda Barrett (Seal)



Cannabis Facility Application
Applicant: Sunshine Holistic
Address : 144 N Franklin St Fort Bragg, CA 95437
APN: 008-164-39
Building Size: 5600 square feet
Lot Size : 0.35 Acres



Proposed Use : Cannabis Retail facility

PROJECT NARRATIVE

SUMMARY

Sunshine Holistic proposes to operate a Commercial Cannabis Micro-business facility within the site at 144 N Franklin Rd in Fort Bragg. The entire facility is approximately 5000 square feet, and the division of space will be:

Retail Space will occupy approximately 1560 square feet, with large well-lit display cabinets.

Office, employee, and administration space will approximately occupy approximately 2000 square feet.

Vacant or overflow storage space will occupy 1439 square feet.

The proposed project will include activities permitted by a retail dispensary licensed for Medicinal & Adult use, which allows retail sales of cannabis and cannabis products to consumers, either at a brick-and-mortar dispensary or via delivery. The new dispensary planned for 144 N Franklin St will offer a unique combination of retail and delivery as customers will be able to shop in store and then have the products delivered on a daily, weekly or monthly basis. Sunshine Holistic will work diligently to provide unmatched service to each person that walks through their doors and ensure that a sense of community is built within their customer base and neighborhood.

LOCATION REQUIREMENT

Distance to sensitive sites

Sunshine Holistic complies with all applicable provisions of the Zoning Code and the City Code. Sunshine Holistic is not located within 600 feet of a school. "School" means any public or private school providing instruction in kindergarten or grades 1 to 12.

Storefront Entrance

Storefront entrance will be in a visible location with an unobstructed view from the public right of way

EMPLOYEE REGISTER

Sunshine Holistic will maintain employee files on site, whether in physical form or digital.

Required by law to report the following:

Employers:

California employer payroll tax account number

Federal employer identification number

Business name and address

Contact person and phone number

Employees:

First name, middle initial, and last name.

Social Security number

Livescan

Start-of-work date



RECORDKEEPING

Sunshine Holistic has a record-keeping plan in place to maintain, update, and store records related to its operations. The record-keeping plan will allow Sunshine Holistic to comply with the City of Fort Bragg audits and inspections.

Sunshine Holistic will monitor and track inventory. Inventory will be monitored with a real-time, web-based inventory control system, which will track information for each piece of inventory from seed to sale or disposal.

The general manager will implement and strictly oversee the real-time, web-based inventory control system, which will be accessible by the City of Fort Bragg during business hours, seven days per week, unless an emergency is identified. This system will keep meticulous track of every bit of cannabis onsite until the product is either purchased or Sunshine Holistic disposes of it. All cannabis will be entered into the inventory system immediately with all identifying information. This includes the registration number of the agent making the entry, date/time, quantity, strain, and batch number.

ACCESS PROTOCOL

Public Interest Exemption

PURCHASES AND DENIALS OF SALES

Purchases will be recorded in Sunshine Holistic's inventory tracking system. The system will document the date a Dispensing Associate makes a sale of medical cannabis or MCIP, how much product was sold, the strain, the identity of the patient, and which Associate sold the product. Associates will also document in the event a patient is denied the sale of medical cannabis. Documentation will include the date of the denial, the identity of the patient, the Associate who denied the sale, and the reason for the denial. Sunshine Holistic anticipates

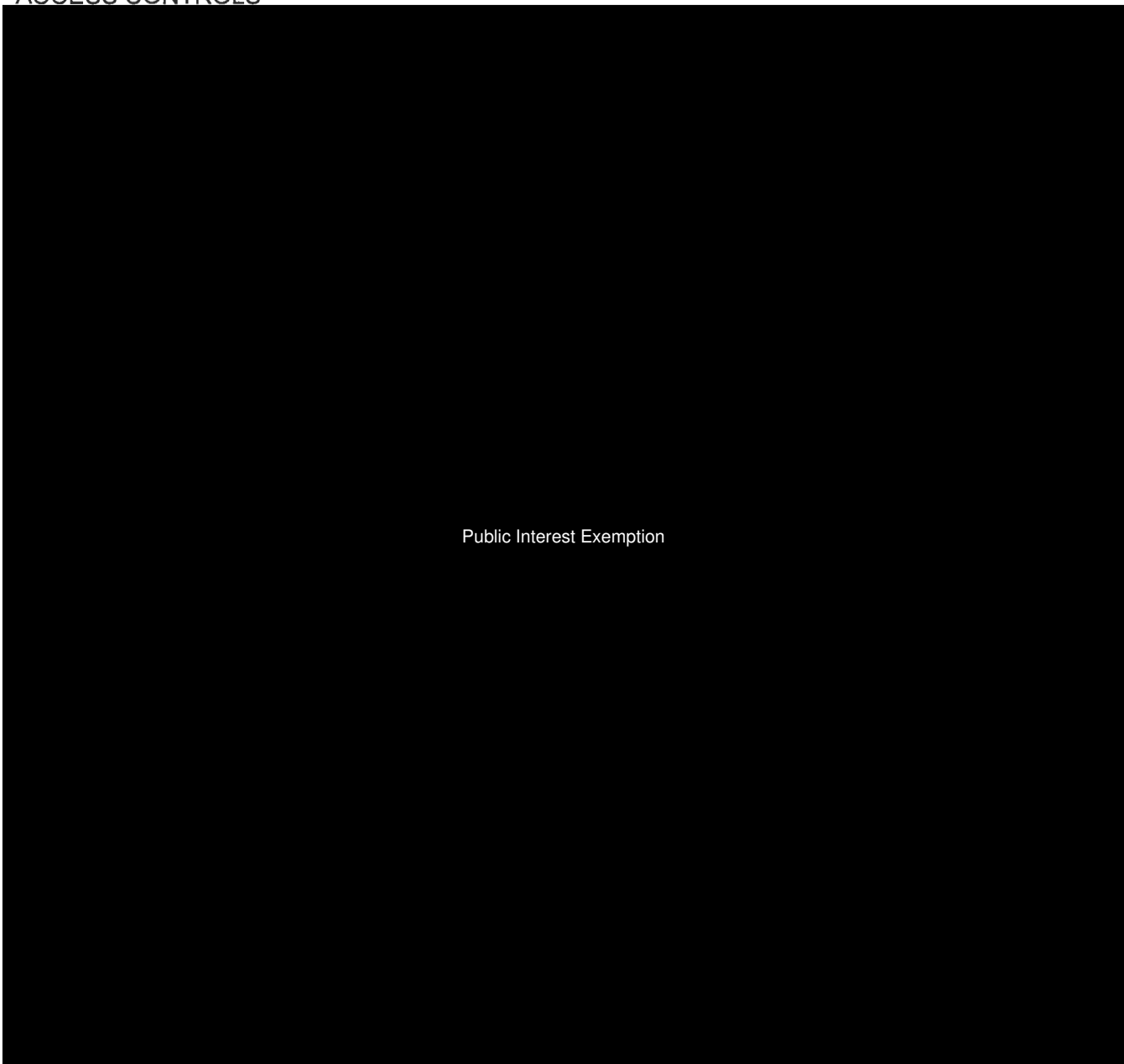


that denials will typically occur when the product requested is not available or medical cards are deemed expired. The manager will review denials of sale to confirm that the dispensary has an adequate supply to meet patient requests.

CONFIDENTIALITY

Sunshine Holistic's associates will be trained to meet California state regulations and HIPAA requirements regarding patient confidentiality. Sunshine Holistic's inventory information and all other records are subject to strict confidentiality requirements. Upon employment, associates are required to complete training and to sign a non-disclosure agreement. Associates who violate confidentiality or allow unqualified persons to view records will be terminated immediately.

ACCESS CONTROLS



Public Interest Exemption

[REDACTED]

Public Interest Exemption

SECURITY SURVEILLANCE SYSTEM

[REDACTED]

Public Interest Exemption

ELECTRONIC SECURITY SYSTEM

[REDACTED]

Public Interest Exemption

Public Interest Exemption



FAILURE NOTIFICATION SYSTEM

Public Interest Exemption

ELECTRICAL BACKUP SYSTEMS

Sunshine Holistic will use a battery with sufficient power to supply a minimum of twenty (20) minutes of backup power to video cameras, alarms, sensors, panic buttons and computers in the event of a total power outage. This power backup system will deter theft or diversion by individuals who want to create or take advantage of a power outage.

SURVEILLANCE RECORDING ACCESS CONTROLS

Public Interest Exemption

STATE LICENSE

A copy of issued State License will be displayed per state regulations.

DELIVERY

Sunshine Holistic plans to deliver Cannabis and Cannabis Products to patients located outside the Cannabis Retail facility in Mendocino County pursuant to Cal. Code Regs. Tit. 16 § 5415. All deliveries of cannabis goods will be performed by a delivery employee (over the age of 21) of a retailer in a new model hybrid vehicle, as to minimize noise and pollution from delivery operations. All deliveries of cannabis goods shall be made in between the operating hours of 9am-9pm and will not be made using an unmanned vehicle. Employees delivering cannabis will carry a copy of the retailer's current license, the employee's government-issued identification, and an identification badge provided by the employer and maintain an accurate list of the retailer's delivery employees. Delivery will only be offered to a physical address in California, not to an address located on publicly owned land or any address on land or in a building leased by a public agency. Delivery employees, carrying cannabis goods for delivery, shall only travel in an enclosed motor vehicle operated by a delivery employee of the licensee and ensure the cannabis goods are not visible to the public.

RECEIVED

ACT 21 2021

BY: the delivery vehicle

The vehicle(s) used for the delivery of cannabis goods will be outfitted with a dedicated Global Positioning System (GPS) device for identifying the geographic location of the delivery vehicle. The device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle at all times during delivery. At all times, the retailer shall be able to identify the geographic location of all delivery vehicles that are making deliveries for the retailer and shall provide that information to the Bureau upon request. Upon request, the retailer will provide the California Cannabis Control Bureau with information regarding any motor vehicles used for the delivery of cannabis goods, while making deliveries, Sunshine Holistic's delivery employee shall not carry cannabis goods worth in excess of \$3,000 at any time. This value shall be determined using the current retail price of all cannabis goods. All pertinent info will be recorded including the vehicle's make, model, color, Vehicle Identification Number, license plate number and Department of Motor Vehicles registration.

The delivery service will have a menu available on their website and customers can either place their orders over the phone or online if they are already and established customer of theirs. In order to set up a delivery they will require a photo or scan of the customers Government issued ID be sent to us prior to the ordering process. The customer will send over all necessary information and will have a profile created within the point of sale system. The order will go into the system and be pulled by an employee at the retail facility. Once the order is filled it will be placed in an exit bag with a receipt affixed to the bag. The receipt will include, the name of the customer, their assigned ID number, delivery address, description of the cannabis items, total amount paid by the customer including all taxes, name and address of the facility making the delivery, the name and id number of the employee making the delivery, and the name and id number of the employee who prepared the delivery. The driver will retain an additional copy of the receipt to be signed by the customer upon receipt of the delivery. There will be space provided to have the date and time written in of when the delivery was made.

While Making deliveries of cannabis goods, Sunshine Holistic's employees shall only travel from the licensed premises to the delivery address; from one delivery address to another delivery address; or from a delivery address back to Sunshine Holistic's licensed premises. Sunshine Holistic's delivery employee will not deviate from the delivery paths described in this section, except for necessary rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route unsafe, impossible, or impracticable.

ON-SITE CONSUMPTION:

No On-site Consumption activities proposed at this time.

SPECIAL EVENTS:

Special events will not be held on-site.

SITE MANAGEMENT PLAN/OPERATOR QUALIFICATIONS

CEO, CFO, COO Brandy Moulton:

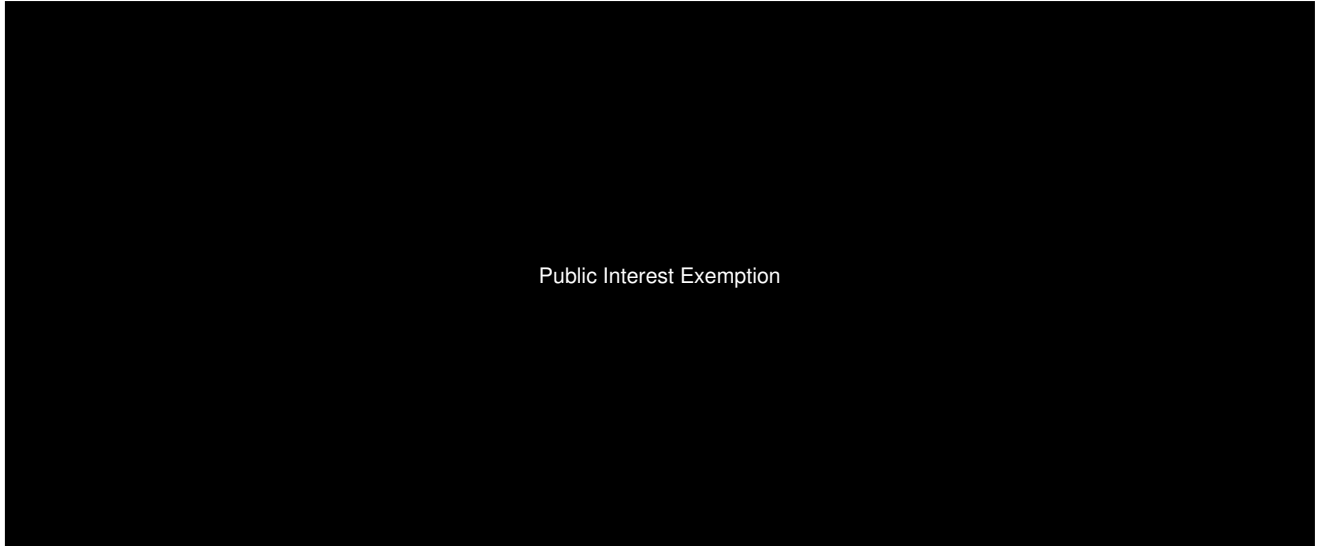
Military Veteran,

Prior EMT and Paramedic certification,

Accounting experience,
Holds 9 State Issued Cannabis Facilities Licenses,
Proprietary Patrol Operator certified
Valid Guard card
10 years of Cannabis experience.



SECURITY PLAN



Public Interest Exemption

SURVEILLANCE



Public Interest Exemption

ALARM SYSTEM



Public Interest Exemption

ACCESS CONTROLS



Public Interest Exemption

INVENTORY CONTROLS

Sunshine Holistic will at all times operate in a manner to prevent diversion of Cannabis and shall promptly comply with any track and trace program established by the state to ensure that no diversion or loss occurs. In the event of any inventory discrepancies, Sunshine Holistic will immediately notify regulators and law enforcement within the required time periods. In addition, Sunshine Holistic will perform a reconciliation of its inventory at least once every 14 days and shall be made available to the California Cannabis Bureau upon request. In addition, Sunshine Holistic proposes to maintain an accurate record of sale for every sale made to a customer and include the information required. Sunshine Holistic will only display cannabis goods for inspection and sale in the retail area, and not be visible from outside the licensed premises. Sunshine Holistic will not make any cannabis goods available for sale or delivery to a customer unless: The cannabis goods were received from a licensed distributor, the retailer has verified that the cannabis goods have not exceeded their expiration or sell-by date if one is provided; and In the case of manufactured cannabis products, the product complies with all requirements of Business and Professions Code section 26130 and all other relevant laws.

Sunshine Holistic will operate according to CAL. CODE REGS. tit. 16 § 5408, and only sell, only live, immature cannabis that are not flowering, and purchased from a nursery that holds a valid Type-4 license under the Act, and a label is affixed to the plant or package containing any seeds which states "This product has not been tested pursuant to Medicinal and Adult-Use Cannabis Regulation and Safety Act." Sunshine Holistic will also strictly follow the daily limits pursuant to (CAL. CODE REGS. tit. 16 § 5409).

STORAGE AND WASTE

Solid waste will be separated into Compost, Recycling and Household Waste. A representative from Waste Management has confirmed that waste produced by this cannabis facility will be accepted in the weekly collection routes. All hazardous materials will be stored on site and transported to a hazardous materials collection event. All cannabis products and any cannabis waste will be stored in an area secured with commercial-grade non-residential locks, that is not visible to the public and that prevents diversion, theft, loss, hazards and nuisance. All storage and handling of hazardous materials will occur in code compliant control areas. All vendors will be pre-scheduled in advance and must present valid identification. Vendors will only be granted access to the areas required for removal of waste. All waste removal vendors will be required to document and track all waste materials removed from the Site.

TRAINING AND RECORDS

Management will require that employees follow necessary procedures to ensure that cannabis and any related by-products from the project site are not visible or accessible to the



public. Every employee will be required to participate in training to learn Sunshine Holistic's security and safety protocols required for continuous employment. Sunshine Holistic will mandate that all employees be well versed in all security procedures and provide the means to obtain a Guard Card from the Bureau of Security and Investigative Services. As required by state rules, Sunshine Holistic will maintain up-to-date and current records related to the cannabis operation. Those records will be stored in a secure manner onsite and will include surveillance vendor contracts with schematics of the security zones, name of vendors and monitoring company, and a list of all currently authorized employees with access to the surveillance and/or alarm systems. All surveillance equipment, records and recordings will be stored in a secure area that is only accessible to Applicant's management. Finally, Sunshine Holistic will update the security plan to comply with any new local or state laws and regulations for cannabis licensing.

ODOR

Sunshine Holistic shall incorporate and maintain adequate odor control measures such that the odors of Cannabis cannot be detected from outside of the structure in which the Business operates. Operational processes and maintenance plan, including activities undertaken to ensure the odor mitigation system will be kept up to date and functional. This will include staff training procedures and engineering controls, which may include carbon filtration or other methods of air cleansing, and evidence that such controls are sufficient to effectively mitigate odors from all odor sources. All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry-specific technologies designed to effectively mitigate cannabis odors.

LIGHTING

Interior and exterior lighting shall utilize best management practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties and the following standards.

Exterior lighting systems shall be provided for security purposes in a manner sufficient to provide illumination and clear visibility to all outdoor areas of the premises, including all points of ingress and egress. Exterior lighting shall be stationary, fully shielded, directed away from adjacent properties and public rights of way, and of an intensity compatible with the neighborhood. All exterior lighting shall be Building Code compliant and comply with Section 20-30.080 (Outdoor Lighting.)

Interior light systems shall be fully shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.

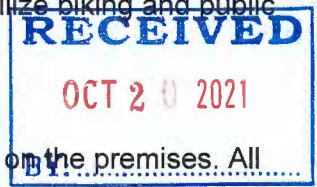
NOISE

Use of air conditioning and ventilation equipment shall comply with the Noise regulations of the City of Fort Bragg.

PARKING

The proposed project has 6 dedicated parking spaces, including one ADA space. The current parking stalls provided are consistent with the City's requirements. Parking areas will be

regularly monitored by staff for safety and security. Employee shifts will be staggered to accommodate onsite parking, and employees will be encouraged to utilize biking and public transportation options.



MINORS

Sunshine Holistic will not allow any person who is under the age of 18 on the premises. All guests and visitors will be required to present identification for security and age determination Purposes.

OPERATIONAL PLAN

HOURS OF OPERATION

Storefront - Retail operations shall be open to the public between 9am and 9pm seven days a week.

Delivery - All deliveries within the City of Fort Bragg shall be done between 9am and 9pm.

STAFFING PLAN

All staff will receive thorough training on workplace safety, operations, track and trace, and security protocols. In addition to state licensing requirements related to staffing, Sunshine Holistic will diligently follow all applicable labor and employment laws. The employees will likely be full time and will work staggered shifts to accommodate customer flows. All employees hired by Sunshine Holistic will be over 21 years of age. Sunshine Holistic is committed to hiring employees locally. Mendocino County and Fort Bragg have a wealth of experienced and dedicated cannabis workforce. Sunshine Holistic plans to consider residency when making hiring decisions, will promote the job posting locally, and will use local connections in the cannabis industry to discover new local talent.

REGULATORY LAWS AND PROCEDURES

Sunshine Holistic will follow Cal. Code Regs. tit. 16 § 5410 & 5411 pertaining to allowing returns of purchased cannabis and giving away free under certain restrictions. Applicant will package or label cannabis goods and not accept, possess or sell cannabis goods that are not packaged as they will be sold at final sale. Cannabis goods purchased at applicants site by a customer shall not leave the retailer's premises unless goods are placed in an opaque exit package. Applicants will not have on-site or on-staff physicians to evaluate patients and provide a recommendation for Cannabis; the goods are placed in an opaque exit package. Applicants will not have on-site or on-staff physicians to evaluate patients and provide a recommendation for Cannabis packages. Applicants will not have on-site or on-staff physicians to evaluate patients and provide a recommendation for Cannabis. Applicant will not have on-site or on-staff physicians to evaluate patients and provide a recommendation for Cannabis. In addition to the retail operations established in this section, the consumption of Cannabis and Cannabis Products on-site shall not be permitted by patients or customers.

DUAL STATE LICENSING

Sunshine Holistic, prior to occupancy, will apply for and receive a Micro-business license from



the Bureau of Cannabis Control. Additionally, all software and staff training to comply with the Track and Trace system regulated by the California Department of Food and Agriculture will be implemented with ongoing training occurring to ensure up to date knowledge of the staff.

NEIGHBORHOOD COMPATIBILITY

The location provides an ideal setting for this type of land-use. This project will feature an understated storefront with no advertising that will ensure neighborhood integration and minimize disruptions. Pursuant to Health and Safety Code Section 11362.768 and the site is set back over 600 feet from any K-12 school, or other Cannabis retail operation. This site is discrete yet has plenty of square foot and dedicated parking to service customers without creating an impact on other business or traffic flow in the neighborhood.

The proposed facility is well-suited to house dispensary operations. The building will be upgraded where necessary to meet ADA compliance standards for persons with disabilities. The existing entrance is visible and there is no existing landscape or adjacent structure that would impact visibility, lighting, or security requirements.

NEIGHBORHOOD ENHANCEMENT

Sunshine Holistic will maintain the exterior building, replacing any damaged physical features of the building and keeping up with paint schedules. We will also maintain the existing rose bushes and incorporate more green, indigenous plants to the allotted garden space around the building. Employees will be allotted time every day to patrol the perimeter of the building and remove any waste that may have been dropped from all sidewalks, parking lots and streets, public and private. The use of remote monitored security cameras and the on site security guard provides a safer environment for all businesses, residents and consumers that may be in the area. The business is projected to create an additional 10 jobs at above minimum wage for our community. Sunshine Holistic will provide training to the projected employees at no cost to the individual. This is supported by the existing business model, no employee is paid less than 15 dollars an hour, all security and retail training is paid for by Sunshine Holistic.

COVID-19 Addendum

Accommodations will be made to ensure the safety of our employees and consumers. Personal protective equipment will be provided and required at all times, 6 foot diameter between employees will be provided. Sunshine Holistic will comply with any and all laws put forth by the City of Fort Bragg and the State of California.

Redaction Log

Reason	Page (# of occurrences)	Description
	10 (1)	
	12 (2)	
	13 (1)	
Public	19 (1)	Portions of the attached record are exempt from disclosure and are redacted pursuant to Government Code Section 6255(a). This determination is made by the City's Custodian of Records.
Interest	20 (1)	
Exemption	21 (3)	
	22 (3)	
	24 (4)	
	25 (1)	



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 21-547

Agenda Date: 10/25/2021

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8E.

Receive Report and Provide Direction to Staff on Potential Updates to Section 18.42.057 of the Inland Land Use and Development Code to Address the Siting of Cannabis Dispensaries in Relationship to Residential Neighborhoods



AGENCY: City Council
MEETING DATE: October 25, 2021
DEPARTMENT: Community Development
PRESENTED BY: H. Gurewitz
EMAIL ADDRESS: HGurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on Potential Updates to Section 18.42.057 of the Inland Land Use and Development Code to Address the Siting of Cannabis Dispensaries in Relationship to Residential Neighborhoods

ISSUE:

On Monday, September 27, 2021, the City Council approved an urgency ordinance placing a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the inland zoning area. In the City Manager's staff report, the purpose of the moratorium was to allow Council to consider several issues including, "resolve potential conflicts with residential uses." The purpose of this agenda item is to request direction from Council on whether there needs to be a change in the Inland Land Use and Development Code (ILUDC) to address the siting of cannabis dispensaries in relation to residential uses.

ANALYSIS:

Much of the City of Fort Bragg's development pre-dates the City's first Zoning Ordinance which was adopted in 1971. This is why there are many historic residential structures in commercial zones. In the most recent update to the ILUDC, a provision was added to allow a historic house in a commercial zone to be turned back into a residence with a Use Permit. The map below (Figure 1) shows the commercial districts in the Inland Zone of Fort Bragg south of Pudding Creek. The green dots represent residences or potential residences in the three inland commercial zones.

The Inland General Plan has the following provision:

Page 2-10 Commercial Land states:

"The goals and policies in this section ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community. There are also policies encouraging mixed use and infill development to strengthen the other commercial areas of the City."

Additionally, the Inland General Plan's Land Use Element Policy LU-3.2 states, *"Mixed Uses: Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area."*

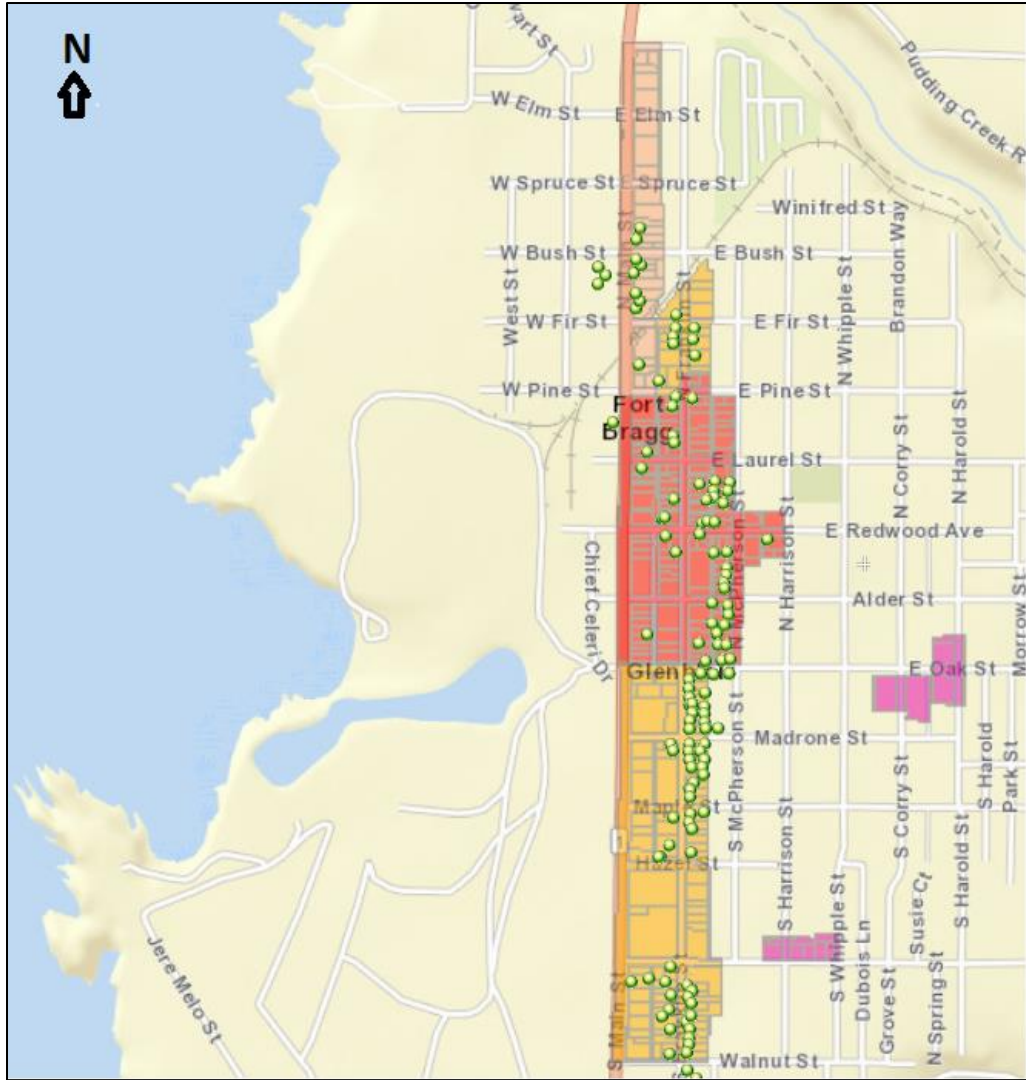


Figure 1. Existing/Potential Residences in Commercial Areas

The Planning Commission’s decision to deny Minor Use Permit 1-21 on June 23, 2021 was clarified by the subsequent resolution adopted on August 5, 2021 which stated that the use [Cannabis Dispensary] “was not compatible with existing and future land uses.”

The City Council did not have a consensus on this matter at the appeal hearing on September 1, 2021 and the decision of the Planning Commission was not overturned or upheld. The interpretation of the Planning Commission that the use needs to be compatible with residential, and that cannabis dispensaries are not compatible with residential requires that either staff now use this as policy guidance for future applications, or that Council provide clarification and direction to ensure equal processing of applications on the matter.

RECOMMENDED ACTION:

Provide direction to staff on whether the ILUDC Section 18.42.057 should be updated to provide a separation between cannabis dispensaries and residential uses, and whether any other commercial uses in commercial zones will need to be compatible with residential uses.

ALTERNATIVE ACTION(S):

Provide different direction.

FISCAL IMPACT:

None.

GREENHOUSE GAS EMISSIONS IMPACT:

Not applicable.

CONSISTENCY:

Any updates to the Inland Land Use and Development Code must be consistent with the Inland General Plan.

IMPLEMENTATION/TIMEFRAMES:

To be determined.

ATTACHMENTS:

1. ILUDC Section 18.42.059

NOTIFICATION:

1. Brandy Moulton
2. Hrant Ekmekjian
3. Chelsea Haskins
4. Danny Schultz
5. Brittany Biesterfeld
6. Cannabis Notify Me subscriber list

18.42.057 - Cannabis Retail

In addition to the operating requirements set forth in Chapter 9.30, this Section provides location and operating requirements for cannabis retail. Chapter 9.30 contains definitions of terms used herein.

A. Conditional use. A Minor Use Permit shall be required to operate cannabis retail in accordance with Table 2-6 of Article 2.

B. Delivery services. The primary use of a cannabis retail use shall be to sell products directly to on-site customers. Sales may also be conducted by delivery. Cannabis retail uses engaging in delivery in addition to on-site sales shall be subject to the following requirements:

1. Commercial delivery to locations outside a permitted cannabis retail facility shall only be permitted in conjunction with a permitted cannabis retail facility that has a physical location and a retail storefront open to the public. A cannabis retail use shall not conduct sales exclusively by delivery. Delivery of cannabis without a storefront component shall be considered cannabis retail - delivery only, and subject to the requirements of § 18.42.059, in addition to Chapter 9.30.
2. Minor Use Permit applications for cannabis retail shall include a statement as to whether the use will include delivery of cannabis and/or cannabis products to customers located outside the cannabis retail facility. If a permitted cannabis retail use without a delivery component chooses to provide delivery services at a later date, an amendment to the Minor Use Permit shall be required.
3. If delivery services will be provided, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in Chapter 9.30, this Section, and State law.

C. Drive-through services. Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.

D. Operational requirements. In addition to project specific conditions of approval and the requirements set forth in Chapter 9.30, cannabis retail shall comply with the following operational requirements:

1. **Employees.** The cannabis operator shall maintain a current register of the names of all employees employed by the cannabis retailer, and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this Section and/or any project specific conditions of approval prescribed in the Minor Use Permit.
2. **Recordkeeping.** The cannabis operator shall maintain patient and sales records in accordance with State law.

3. Photo identification. No person shall be permitted to enter a cannabis retail facility without government issued photo identification. Cannabis businesses shall not provide cannabis or cannabis products to any person, whether by purchase, trade, gift or otherwise, who does not possess a valid government issued photo identification card.

4. Hours of operation. Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.

E. Accessory uses. As defined in Article 10, accessory uses are customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Uses accessory to cannabis retail facilities may be allowable pursuant to the permitting requirements in Article 2. Accessory uses may include activities that require multiple State cannabis licenses, including, but not limited to, manufacturing, distribution, cultivation and/or processing. In no instance shall cannabis manufacturing using volatile solvents be allowable as uses accessory to cannabis retail uses.

(Ord. 952, § 2, passed 11-12-2019)



City of Fort Bragg

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Text File

File Number: 21-550

Agenda Date: 10/25/2021

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8F.

Receive Report and Provide Direction to Staff on Whether the City Should Establish a Limit on the Total Number of Cannabis Dispensaries Allowed in the Central Business District or Other Commercial Districts



AGENCY: City Council
MEETING DATE: October 25, 2021
DEPARTMENT: Community Development
PRESENTED BY: H. Gurewitz
EMAIL ADDRESS: HGurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on Whether the City Should Establish a Limit on the Total Number of Cannabis Dispensaries Allowed in the Central Business District (CBD) or Other Commercial Districts

ISSUE:

On Monday, September 27, 2021, the City Council approved an urgency ordinance placing a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zone of Fort Bragg. In the City Manager's staff report, the purpose of the moratorium was to allow Council to consider several issues which included whether cannabis dispensaries should be limited in total number or location throughout the commercial districts in the City.

ANALYSIS:

Currently, there is no limit on the number of cannabis dispensaries allowed in the City, though the use is limited to locations only in the Central Business District, General Commercial, and Highway Visitor Commercial districts in the Inland Zone of the City. If the Council would like to consider further limiting the number of cannabis dispensaries, it could consider some of the following options:

- Place an overall total limit on the number of cannabis dispensaries allowed in the City;
- Place a limit on the number of cannabis dispensaries allowed in a particular district;
- Limit how close a cannabis dispensary can be to another cannabis dispensary;
- Create a cannabis overlay zone that identifies specific areas of town where cannabis dispensaries can be allowed.

If the Council wishes to establish a limit, some methods to consider include:

1. Population
2. Geographic location
3. Local knowledge

An example of a **population based limit** would be the California Department of Alcohol and Beverage Control (ABC) limit, used for off-sale alcohol licenses. The ABC has a limit of one off-sale (consumption off-site) license for every 2,500 people. According to the 2020 US Census, the City of Fort Bragg's population is approximately 7,200 people within the City limits. This would translate to a total of 3 dispensaries allowable. However, licenses from the ABC are based on the census tract not the City population. Using just the City's population does not take into account the outlying areas that are served by the City resulting in this lower number because it doesn't take into account the whole population that shops, eats, and works in Fort Bragg.

Geographically, Council could decide to create an overlay zone that limits where dispensaries can be located based on the existing constraints of youth centers and residential uses. An overlay zone would show exact locations where dispensaries could be allowed. Based on the Planning Commission’s interpretation of the existing code, and taking into account the 600-foot buffer required around potential youth centers an overlay zone may look similar to the map below:



Note that the map only relates to inland commercial zones, because cannabis retail is currently not a permitted use in the coastal zone within the City limits. The red highlighted areas indicate the areas of the commercial district that are not across the street or alley from residential use and that are not within 600 feet of anything that may be considered a youth center, to the best of staff’s knowledge.

A limit could also be placed based on the **location** of dispensaries. For example, “no more than one dispensary within 300 linear feet of another dispensary or within one city block of another dispensary.”

Local Knowledge. Alternatively, the Council may elect to choose a set total number of allowable dispensaries based on local expertise in an effort to prevent the overconcentration of cannabis dispensaries city-wide or in one particular zone. While this may not be a scientific way of determining the number of allowable dispensaries, it recognizes that the City Council represents the people of Fort Bragg and that the members of the Council have valuable knowledge and insight.

RECOMMENDED ACTION:

Provide direction to staff on how Council would like to proceed with determining if a limit should be placed on the number or location of dispensaries allowed in the City.

ALTERNATIVE ACTION(S):

Provide alternative direction.

FISCAL IMPACT:

No significant fiscal impact.

GREENHOUSE GAS EMISSIONS IMPACT:

Not applicable.

CONSISTENCY:

Any updates to the Inland Land Use and Development Code must be consistent with the Inland General Plan.

IMPLEMENTATION/TIMEFRAMES:

To be determined.

NOTIFICATION:

1. Brandy Moulton
2. Hrant Ekmekjian
3. Chelsea Haskins
4. Danny Schultz
5. Brittany Biesterfeld
6. Cannabis Notify Me subscriber list



City of Fort Bragg

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Text File

File Number: 21-546

Agenda Date: 10/25/2021

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8G.

Receive Report and Provide Direction to Staff on the Process for Potentially Revising Section 18.22.030 Table 2-6 and Section 18.42.057 of the Inland Land Use and Development Code for the Land Use Regulations for Cannabis Dispensaries in the City of Fort Bragg



AGENCY: City Council
MEETING DATE: October 25, 2021
DEPARTMENT: Community Development
PRESENTED BY: H. Gurewitz
EMAIL ADDRESS: HGurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on the Process for Potentially Revising Section 18.22.030 Table 2-6 and Section 18.42.057 of the Inland Land Use and Development Code for the Land Use Regulations for Cannabis Dispensaries in the City of Fort Bragg

ISSUE:

On Monday, September 27, 2021, the City Council approved an urgency ordinance placing a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zoning Area. The purpose of the moratorium was to allow the City Council to revisit the current policies and regulations for cannabis dispensaries in the commercial zones of the City. Staff is seeking direction from Council on the process for reviewing and potentially revising Section 18.22.030 Table 2-6 and Section 18.42.057 of the Inland Land Use and Development Code (ILUDC).

In the City Manager's September 27, 2021 Staff Report, the moratorium was proposed to allow Council to consider the following updates to the City's Cannabis Code:

- Resolve potential conflicts with residential uses;
- Define what constitutes a "youth center" and if a buffer of more or less than 600 feet is appropriate for Fort Bragg;
- Clarify the previous direction given on zoning for cannabis microbusinesses;
- Resolve concerns about overconcentration of cannabis dispensaries in the CBD (a limit on the number allowed or a required buffer between dispensaries); and consider whether cannabis dispensaries should be limited in where they are allowed in the CBD or any other district where allowed; and
- Provide direction on establishing a tax on cannabis cultivated, manufactured, or sold in the City limits.

Staff is requesting that City Council provide direction on how they would like to move forward to address these issues. The City Council may wish to consider the following options:

- Discuss one or all of the above topics as listed on tonight's agenda.
- Postpone one or more of the items listed on tonight's agenda until a future meeting and provide direction to staff on what information or input the Council would like prior to a discussion. This may include current updates on cannabis research, collecting more empirical data on dispensaries, or soliciting public input on cannabis.
- Postpone the discussion and direct staff to organize a stakeholder group that might include members of the business community, neighbors, and representatives of other groups to review the existing cannabis regulations and make recommendations to the City Council on potential changes.

- Provide alternative direction.

ANALYSIS:

The legislation adopted by City Council in 2019 was supported by the analyses that were conducted at the time. A comparison between the requirements for a cannabis dispensary and other uses such as a bar or tavern, or even a convenience store, demonstrate that the Council provided a number of safeguards to ensure that dispensaries would not have negative impacts on the neighboring properties. For example, the excerpts from Section 18.22.030 Table 2-6 is a comparison of these uses:

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	Permitted use, Zoning Clearance required					Specific Use Regulations
	P	UP	S	—		
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
	Minor Use Permit required (see MUP § 18.71.060)					
	UP Use Permit required (see § 18.71.060)					
	Permit requirement set by Specific Use Regulations					
	Use not allowed					

RETAIL TRADE

Bar/tavern	—	—	UP	MUP	MUP	
Cannabis retail	—	—	MUP	MUP	MUP	18.42.057 Chapter 9.30
Cannabis retail - Delivery only	—	—	—	MUP	MUP	18.42.057 Chapter 9.30
Convenience store	P	—	P	P	P	
Retail, general - 10,000 sf or larger	—	—	UP	UP	UP	
Retail, general - 5,000 sf – 9,999 sf	—	—	P	P	P	
Retail, general - Less than 5,000 sf	P	P	P	P	P	
Groceries, specialty foods	P	—	P	P	P	
Night club	—	—	UP	UP	UP	
Restaurant, café, coffee shop	UP	P	P	P	P	18.42.165

As can be seen in the “Special Use Regulations” column of the above table, a convenience store which may sell both alcohol and cigarettes is permitted with no additional restrictions.

A grocery or specialty food store may sell alcohol as part of their inventory but there are no additional regulations, and a bar/tavern is allowable with a minor use or use permit but has no additional requirements. A restaurant, which may also sell alcohol is the only use that is permitted but that has any requirements and they are limited to the following:

18.42.165 - Restaurants

The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment:

A. Operating standards. Restaurants shall comply with the following operating standards:

1. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City’s Food Service Establishment Wastewater Discharge Permit and the City’s Municipal Code section regarding fats, oil and grease control.

2. Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

On the other hand, a retail cannabis dispensary has to meet the requirements of Municipal Code Section 9.30 and the ILUDC Section 18.42.057 (see Attachment #2 & Attachment #3).

The City Council has placed a moratorium on the establishment of dispensaries until the concerns that have arisen as a result of implementing the 2019 legislation can be resolved. Staff is now requesting Council to provide feedback on how they would like to move forward on making changes to the City’s cannabis related codes.

RECOMMENDED ACTION:

Discuss the items on tonight’s agenda and provide direction to staff on changes to zoning regulations for cannabis dispensaries.

ALTERNATIVE ACTION(S):

Provide alternative direction on how the council would like to move forward with updating the zoning regulations for cannabis dispensaries.

FISCAL IMPACT:

Fiscal impact depends on the direction of council to determine the extent of the review/revisions necessary.

GREENHOUSE GAS EMISSIONS IMPACT:

Not applicable.

CONSISTENCY:

The final policies must be consistent with the Inland General Plan.

IMPLEMENTATION/TIMEFRAMES:

The Council may decide to discuss and provide direction to staff tonight. Staff could have a revised ordinance proposed to the Planning Commission within 30 days and then back to City Council within another 30 days with the final ordinance requiring two readings and then a 30-day waiting time for implementation. A best case scenario would allow for new regulations to take effect sometime between March and April of 2022.

A public engagement process could add anywhere from 30 days to 6 months to the above timeline depending on the process that is used.

ATTACHMENTS:

1. September 27, 2021 Staff Report for Urgency Ordinance No. 972-2021
2. Municipal Code Chapter 9.30
3. Inland Land Use Development Code Section 18.42.057

NOTIFICATION:

1. Brandy Moulton
2. Hrant Ekmekjian
3. Chelsea Haskins
4. Danny Schultz
5. Brittany Biesterfeld
6. Cannabis Notify Me subscriber list



AGENCY: City Council
MEETING DATE: September 27, 2021
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
EMAIL ADDRESS: miller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of Urgency Ordinance No. 972-2021 Placing a 45-Day Moratorium on the Approval of Applications and Permits for Cannabis Dispensaries in the Inland Zoning Area

ISSUE:

On January 25, 2021, the City Council conducted a public hearing and considered the appeal of the Planning Commission's denial of Minor Use Permit 4-20 (MUP 4-20) on the proposed Sunshine Holistic Cannabis Microbusiness at 144 N. Franklin Street. Because a majority of the Councilmembers presiding over the appeal were unable to reach consensus, the Council failed to take action to either uphold the Planning Commission's denial of MUP 4-20 or to overturn the denial and approve MUP 4-20 as requested by the appeal.

On September 1, 2021, the City Council conducted a public hearing and considered the appeal of the Planning Commission's denial of MUP 1-21 on the proposed Sunshine Holistic Cannabis Dispensary at 144 N. Franklin Street. Similar to the January hearing, the City Council failed to take action on the matter because a majority consensus was not reached and the Planning Commission denial of the MUP stood.

During the Administrative, Planning Commission, and the City Council public hearings, Commissioners, Councilmembers and members of the public raised issues regarding residential uses near the proposed cannabis businesses. The Planning Commission found that the proposed cannabis dispensary for MUP 1-21 was incompatible with the mixed-use neighborhood and therefore was not compatible with the existing or future land uses. Two Councilmembers made similar comments during the deliberations on the appeal on September 1, 2021.

During the appeal proceedings and other discussions about cannabis regulation in the City, Councilmembers raised the issue of whether a maximum number of cannabis dispensaries should be revisited. The concern appears to stem from public comments on whether an overconcentration of cannabis dispensaries could result from the lack of regulation on the number allowed in the Central Business District (CBD) or the lack of regulation on proximity to other cannabis dispensaries.

Additionally, the proximity to a potential "youth center" at the City Hall Gymnasium at 213 East Laurel Street was raised during the September 1, 2021 proceedings. As the dispensary regulations are currently written, this is an unaddressed issue. The Planning Commission's recommendation on August 28, 2019 to the City Council on the ordinance allowing and regulating cannabis dispensaries struck any reference to sensitive uses such as schools, day care centers, or youth centers. There was an indication that the minor use permit

process would provide a case-by-case evaluation of a dispensary's proximity to a youth center, although youth center was not defined. Instead of removing a buffer, this action resulted in the ordinance adopted by the City Council defaulting to the state requirement for a 600-foot buffer between schools, day care centers, or youth centers, as measured from parcel line to parcel line.

The concerns with residential uses in close proximity to cannabis uses, concerns with possible future overconcentration of cannabis dispensaries, and the lack of a definition for "youth center" to clearly establish when the 600-foot buffer would apply raises considerations for protecting the public health, safety, and welfare. Staff is recommending that the City Council consider initiating a review of the City's existing Cannabis Business Regulations and allowable land uses to ensure consistency with the intent of City Council and public health, safety and welfare.

To protect the public health, safety, and welfare, while a review is conducted and potential revisions made to the City's existing cannabis ordinance, staff is recommending that the City Council issue a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zoning District.

ANALYSIS:

Urgency Ordinances

Under [California Government Code Section 65858](#), a city or county may adopt an interim ordinance to temporarily prohibit certain land uses that may be in conflict with a contemplated general plan, specific plan or zoning proposal that the City Council and/or Planning Commission is considering or studying. The temporary prohibition or moratorium provides municipalities time to study the impact of certain activities and develop appropriate regulations, if deemed necessary.

An urgency ordinance can be passed without advance notice to the public and is effective immediately for up to 45-days but must be approved by a four-fifths vote of the legislative body. The urgency ordinance may be extended for a total period of two years as set forth in the IMPLEMENTATION/TIMEFRAMES section of this report. Any extension of the moratorium must also be approved by a four-fifths vote of City Council.

Current Application for Cannabis Dispensary in the CBD

The City has received a completed application for a cannabis dispensary located at 362 N. Franklin Street, also known as the "old Sears building." This location is across the street from the City Hall Gymnasium at 213 East Laurel Street. Whether or not the City Hall Gymnasium is a "youth center" has not been determined but a review of the rented use of that facility in 2019 indicates that 79% of the rental use was for youth-oriented activities. If you look at the whole facility including City Hall, the youth-oriented activities account for only an estimated 19% of the activities in the building.

A review of the August 28, 2019 Planning Commission meeting indicates that the intention in eliminating the reference to "sensitive uses" and more specifically the "youth center" was to eliminate the 600-foot buffer requirement and instead rely on the case-by-case review of

each minor use permit application. While a use permit is arguably the most effective way to determine if uses are incompatible, it may lead to a more expensive and lengthy process for the applicant as demonstrated in the Sunshine Holistic appeals. Defining the buffer that the City Council would like to apply, further defining “youth center,” and more specifically the City Hall Gymnasium, would make it more predictable for potential permit applicants. This is potentially more “business friendly” than the more unpredictable case-by-case approach, especially since a Minor Use Permit does not get a hearing unless requested and thus may slip through the public process. The ability to inform an applicant prior to a public hearing that the proposed business will not be allowed is certainly preferred by staff and the applicant.

Proposed Ordinance

Similar to the Moratorium on Formula Businesses in the Inland Zoning Area, the proposed ordinance would place a hold on the approval of any cannabis dispensary in the Inland Zoning Area. This would allow staff and the City Council to study and consider updates to the existing Cannabis Business Regulations to:

- resolve potential conflicts with residential uses;
- define what constitutes a “youth center” and if a buffer of more or less than 600 feet is appropriate for Fort Bragg;
- clarify cannabis microbusinesses;
- resolve concerns about overconcentration of cannabis dispensaries in the CBD (a limit on the number allowed or a required buffer between dispensaries); and
- consider whether cannabis dispensaries should be limited in where they are allowed in the CBD or any other district where allowed.

Although not included in Cannabis Business Regulations, the City Council could also revisit whether or not to propose a tax on cannabis businesses to the City’s voters.

In researching this potential Council action, it became apparent that a number of California cities have passed cannabis ordinances allowing businesses and then revisited those ordinances to refine the regulations after more information is gained on the actual impacts or lack of impacts from cannabis businesses.

POSSIBLE ACTION(S):

1. City Council, upon four-fifths vote, may waive the reading and adopt by title only an Urgency Ordinance of the City of Fort Bragg placing a temporary moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zoning Area.
2. Do not adopt an Urgency Ordinance of the City of Fort Bragg placing a temporary moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zoning Area.
3. Provide staff a proposed definition of “youth center” and/or in the alternative, provide staff direction on an alternative to the 600-foot buffer required by state law.
4. Provide staff alternative direction.

FISCAL IMPACT:

The impact of the 45-day temporary moratorium on cannabis dispensaries to the City's revenue is likely minimal.

GREENHOUSE GAS EMISSIONS IMPACT:

N/A

CONSISTENCY:

The City's current Inland General Plan provides support for regulating cannabis businesses. The current purpose statement from Element 6 of the Inland General Plan:

A. Purpose

The Community Design Element establishes goals, policies, and programs to preserve and enhance Fort Bragg's authentic, small town character. The community is defined in part by its isolated location on the magnificent coastline of Mendocino County. Its sense of place derives from its heritage as a regional center for the timber and fishing industries. As the economy evolves to a more tourism and service-based economy, the community has acknowledged the importance of maintaining the historic identity of downtown and the integrity of the residential neighborhoods, while enhancing views and access to the coastline and planning for continued growth and development.

The Community Design Element is concerned primarily with the visual quality of the City, or what residents and visitors see. The City's appearance is essential to the quality of life in Fort Bragg. Visual quality and amenities go hand-in-hand with long-term economic development strategies, and strengthen the stability and desirability of the community. To be attractive to residents, visitors, and businesses, the City must be concerned about its appearance, physical character, and livability. Existing residential real estate values and the desirability of businesses that depend on tourism are closely tied to the visual character of the community.

Policies and Goals from the City's General Plan include:

Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).

Policy LU-3.2 Mixed Uses: Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area.

Policy LU-3.4 Encourage Infill Development: Encourage infill development of vacant and underdeveloped land in the Central Business District and adjacent commercial areas before amending the Inland General Plan and rezoning to obtain additional commercial land elsewhere.

Policy LU-3.6 Re-Use of Existing Buildings: Encourage the adaptive re-use and more

complete utilization of buildings in the Central Business District and other commercial districts.

Policy LU-4.3 Standards for Commercial Uses in Residential Areas: *Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.*

Goal C-5 *Regard the quality of life in Fort Bragg and maintaining community identity as more important than accommodating through-traffic.*

Policy C-5.1 Community Priorities for Transportation Improvements: *Place a higher priority on maintaining a sense of place and enhancing the attractiveness of the Central Business District than on efficient traffic flow and movement.*

Policy CD-2.1 Adaptive Reuse: *Facilitate the adaptive reuse of existing older buildings in the Central Business District.*

Policy CD-2.2 Pedestrian Activity: *Encourage increased pedestrian movement and activity in the Central Business District.*

Policy CD-2.3 Economic Vitality: *Continue to support the economic diversity and vitality of downtown businesses.*

Policy CD-2.5 Strengthen the Distinctive Identity of the Central Business District: *Strengthen the distinctive identity and unique sense of place of the Central Business District.*

Policy CD-6.1 Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community.

IMPLEMENTATION/TIMEFRAMES:

An urgency ordinance may remain in effect for only 45 days, unless it is extended by another four-fifths vote. Ten days prior to the expiration of the urgency ordinance or any extension, City Council will need to issue a written report describing the measure taken to alleviate the condition that led to the adoption. After notice and a hearing, a local government can extend the ordinance for either ten months and 15 days, with the option to extend it once more for an additional one-year, or once for 22 months and 15 days. Either option equates to an extension of up to two years and requires the four-fifths vote. The legislative body may rescind the urgency ordinance prior to its stated termination.

ATTACHMENTS:

1. Proposed Ordinance

NOTIFICATION:

1. Economic Development Planning, **Notify Me subscriber list**
2. Cannabis Legislation, **Notify Me subscriber list**

3. Hrant Ekmekjian
4. Danny Schultz
5. Brandy Moulton
6. Brittany Biesterfeld
7. Chelsea Haskins

CHAPTER 9.30 CANNABIS BUSINESSES

Section

- [9.30.010 Purpose and intent](#)
- [9.30.020 Definitions](#)
- [9.30.030 Limitations on use](#)
- [9.30.040 Cannabis businesses permit](#)
- [9.30.050 Applications](#)
- [9.30.060 Time limit for filing application for permit](#)
- [9.30.070 Term of permits and renewals](#)
- [9.30.080 Fees](#)
- [9.30.090 Public safety review and action on application](#)
- [9.30.100 Grounds for denial of application](#)
- [9.30.110 Appeal from Community Development Department decision to deny application](#)
- [9.30.120 Processing of cannabis business permit](#)
- [9.30.130 Operating requirements](#)
- [9.30.140 Commercial cannabis cultivation](#)
- [9.30.150 Minors](#)
- [9.30.160 Display of permit](#)
- [9.30.170 Registration of new employees](#)
- [9.30.180 Transfer of permits](#)
- [9.30.190 Suspension and revocation – notice](#)
- [9.30.200 Suspension and revocation – grounds](#)
- [9.30.210 Suspension and revocation – appeals](#)
- [9.30.220 Suspension or revocation without hearing](#)
- [9.30.230 Separate offense for each day](#)
- [9.30.240 Public nuisance](#)
- [9.30.250 Criminal penalties](#)
- [9.30.260 Civil injunction](#)
- [9.30.270 Administrative remedies](#)
- [9.30.280 Severability](#)

9.30.010 PURPOSE AND INTENT.

It is the purpose and intent of this chapter to regulate cannabis businesses in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

APPLICANT. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other agent of a cannabis business.

CANNABIS. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means cannabis as defined by § [11018](#) of the Health and Safety Code and by other state law. “Cannabis” does not mean “industrial hemp” as defined by § [11018.5](#) of the Health and Safety Code.

CANNABIS BUSINESS. An entity engaged in the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes.

CANNABIS MANUFACTURING. The production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

CANNABIS OPERATOR or **OPERATOR.** The person or entity that is engaged in the conduct of any commercial cannabis business.

CANNABIS PRODUCT. Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

CANNABIS RETAIL. A cannabis business where cannabis or cannabis products are offered, either individually or in any combination, for retail sale directly to customers. The primary use of a cannabis retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also known as a cannabis “dispensary.”

CANNABIS RETAIL – DELIVERY ONLY. A cannabis business that is closed to the public and conducts sales exclusively by delivery.

CHIEF OF POLICE. The Chief of Police of the City of Fort Bragg or the authorized representatives thereof.

CLONE. A portion of a stem that is cut from a parent plant and induced to form roots by chemical, mechanical, or environmental manipulations.

COMMERCIAL CANNABIS CULTIVATION. The planting, growing, and harvesting of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold.

COMMUNITY DEVELOPMENT DIRECTOR. The Director of the Community Development Department of the City of Fort Bragg or the authorized representatives thereof.

EDIBLE CANNABIS PRODUCT. A cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with § [32501](#)) of the Food and Agricultural Code.

FULLY ENCLOSED AND SECURE STRUCTURE (FESS). A building or a space within a building that complies with the California Building Code, that has a complete roof enclosure supported by

connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through 1 or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with all applicable building, electrical, and fire codes.

GREENHOUSE. A completely enclosed structure whose structure members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material, often glass, that is fixed in place and which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.

HOOP HOUSE. A structure with structure members made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

IMMATURE PLANT or IMMATURE. A cannabis plant that has a first true leaf measuring greater than one-half (0.5) inch long from base to tip (if started from seed) or a mass of roots measuring greater than one-half (0.5) inch wide at its widest point (if vegetatively propagated), but which is not flowering.

INDOORS or INDOOR CULTIVATION. The cultivation of cannabis within a fully enclosed and secure structure. This includes mixed-light or greenhouse cultivation within a fully enclosed and secure structure.

MATURE PLANT or MATURE. A cannabis plant that is flowering.

MULTI-TIER CULTIVATION. A cultivation that uses interior fixtures or shelving to cultivate multiple levels of plants within a FESS.

NURSERY. All activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

OUTDOOR or OUTDOOR CULTIVATION. Any cultivation that is not within a fully enclosed and secure structure. This includes hoop houses, and other structures that do not meet the definition of a fully enclosed and secure structure.

PERMITTEE. A person who holds an effective and current permit under this chapter.

PROCESS and PROCESSING. All activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or non-manufactured cannabis products.

RETAIL CANNABIS – DELIVERY ONLY. The commercial transfer of cannabis or cannabis products to a consumer. “Delivery” also includes the use of any technology platform owned and controlled by a cannabis business operator that enables customers to arrange for or facilitate the commercial transfer by a permitted cannabis retail facility.

VOLATILE SOLVENT. Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.030 LIMITATIONS ON USE.

A. *Compliance with City Code.* Cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations promulgated by the City of Fort Bragg, including but not limited to all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.

B. *Compliance with State Laws and Regulations.* Cannabis businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over cannabis and/or cannabis businesses. All cannabis businesses shall comply with the rules and regulations for cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.

C. Cannabis businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance.

D. Cannabis business permits are only valid for 1 year from date of issue but may be renewed as set forth in this chapter.

E. Cannabis business permits are discretionary and valid only for the cannabis business activities specified on the approved permit.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.040 CANNABIS BUSINESSES PERMIT.

A. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the commercial cultivation, processing, manufacture, distribution or retail sale of cannabis without a valid cannabis business permit from the City and a license from the State of California as herein required.

B. Cannabis businesses shall not be established or maintained except as authorized by the Inland Land Use and Development Code and/or the Coastal Land Use and Development Code, as applicable.

C. *Dual Licensing.* State law requires dual licensing at the state and local level for cannabis businesses. All cannabis operators shall therefore be required to obtain a cannabis license from the State of California, and shall comply at all times with all applicable state licensing requirements and conditions. Cannabis businesses shall not be allowed to commence operations until the cannabis business can demonstrate that all necessary state licenses and agency permits have been obtained.

D. Failure to demonstrate dual licensing in accordance with this chapter shall be grounds for revocation of City approval. Revocation of a local permit and/or a state license shall terminate the ability of the cannabis business to operate until a new permit and/or state license is obtained.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.050 APPLICATIONS.

Any application for a cannabis business permit shall be filed with the Community Development Department and may be filed concurrently with an application for a conditional use permit or a business license application. The application shall be made under penalty of perjury. Any application for a cannabis business permit shall include the following information:

- A. The full name, present address, and telephone number of the applicant;
- B. The address to which notice of action on the application and all other notices are to be mailed;
- C. Previous addresses for the past 5 years immediately prior to the present address of the applicant;
- D. Written proof that the applicant is over 21 years of age;
- E. Photographs for identification purposes (photographs shall be taken by the Police Department);
- F. A copy of all the applicant's valid state cannabis license(s) or copy of the complete pending cannabis application(s) related to the permit;
- G. The cannabis business history of the applicant, including whether the applicant, in previously operating in any city, county, or state under permit, has had a permit revoked or suspended and, if so, the reason therefor;
- H. The name or names of the person or persons having the management or supervision of the cannabis business;
- I. Whether the person or persons having the management or supervision of the cannabis business have been convicted of a crime(s), the nature of the offense(s), and the sentence(s) received therefor;
- J. A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;
- K. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the cannabis business and the purpose and security of each room or area of operation;
- L. A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions;

M. A notarized statement by the property owner certifying under penalty of perjury that he or she has given consent to the applicant to operate a cannabis business at the location, or providing proof that the applicant owns the property;

N. Detailed operating procedures, which shall include the following:

1. Proposed hours of operation;
2. How the business will comply with applicable state regulations;
3. Product safety and quality assurances;
4. Record keeping procedures;
5. Product recall procedures;
6. A solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business;
7. Product supply chain information (cultivation, testing, transportation, manufacturing, packaging and labeling, etc.);
8. An odor prevention plan, illustrating how the cannabis business will be consistent with § [17.30.080](#)(J) and/or § [18.30.080](#)(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; and
9. Other information as required by the Community Development Director or the Chief of Police as necessary to ensure the project's compliance with local, state and federal regulations;

O. Applications for a permit to conduct commercial cannabis cultivation shall include the following additional elements:

1. Drawings and plan specifications for the exact location and exact size of the fully enclosed and secure structure where any cannabis will be cultivated including seeds, clones, immature, and mature plants. Specifications shall include any plans for multi-tier cultivation;
2. A water usage plan that indicates the planned source of water, month by month annual usage in gallons, and any plans for water conservation which may include water recycling, on-site water storage, development of a well, or use of reclaimed City water;
3. An energy plan that indicates the estimated monthly energy usage in kilowatt-hours, the source(s) of energy, and any planned energy conservation practices including plans that utilize natural sunlight, solar panels, LED lighting, a community choice aggregate energy provider, or other methods to reduce energy consumption; and
4. Any other information required by the Community Development Department;

P. Authorization for the City, its agents and employees to seek verification of the information contained within the application; and

Q. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.060 TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

If the applicant has completed the application improperly, or if the application is incomplete, the Community Development Director shall, within 30 days of receipt of the original application, notify the applicant of the fact and, on request of the applicant, grant the applicant an extension of time of 30 days or more to submit a complete application.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.070 TERM OF PERMITS AND RENEWALS.

Cannabis business permits issued under this chapter shall expire 1 year following their issuance. Cannabis business permits may be renewed by the Community Development Director for additional 1-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § [9.30.190](#). Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in § [9.30.080](#). When made less than 45 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for permits. The Chief of Police may recommend to deny an application for renewal based on any of the grounds referenced in §§ [9.30.100](#) and [9.30.190](#). An applicant aggrieved by the Community Development Director's decision to deny a renewal of a cannabis business permit may appeal pursuant to § [9.30.110](#).

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.080 FEES.

Every application for a cannabis business permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

A. The fee schedule is intended to allow recovery of all costs incurred by the City in processing permit applications to the maximum extent allowed by the law.

B. *Timing of Payment.* No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit.

C. *Refunds and Withdrawals.* Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refund due to a disapproval shall be allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the prorated costs to date and the status of the application at the time of withdrawal.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.090 PUBLIC SAFETY REVIEW AND ACTION ON APPLICATION.

After the application is deemed complete and the fees or deposits have been collected, the Community Development Director will send the completed application to the Chief of Police for public safety review. The Chief of Police or his designee shall conduct a background check of the applicant and conduct a public safety review of the proposed project. After the background checks and public safety review are complete, the Chief of Police or his designee shall formally recommend either approval or denial of the application.

If an application is recommended for denial by the Chief of Police or his designee, the Community Development Director shall not approve the application. The applicant will be notified by a letter sent by certified mail and will have 30 days to modify the existing application. If the application is not modified within 30 days and the applicant has not requested more time, it will be denied by the Community Development Director.

The Chief of Police or his designee may recommend conditional approval of an application with specific requirements that the applicant shall meet. The Community Development Director will require the fulfillment of the conditions prior to final issuance of the permit.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.100 GROUNDS FOR DENIAL OF APPLICATION.

The grounds for a denial of a cannabis business permit application shall be 1 or more of the following:

- A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;
- B. The applicant has violated any local or state law, statute, rule, or regulation respecting a cannabis business;
- C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;
- D. The applicant, owner, or permittee has a criminal history that falls under the Business and Professions Code § [26057](#)(b)(4), (5), (6) or (7) with the exception of criminal activity that falls under Business and Professions Code § [26059](#);
- E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;

- F. The applicant is under 21 years of age;
- G. The cannabis business does not comply with Title [17](#), Coastal Land Use Development Code, or Title [18](#), Inland Land Use and Development Code;
- H. The required application or renewal fees have not been paid; or
- I. The applicant's plan fails to comply with § [9.30.130](#) and, if applicable, § [9.30.140](#).

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.110 APPEAL FROM COMMUNITY DEVELOPMENT DEPARTMENT DECISION TO DENY APPLICATION.

The Community Development Director shall cause a written notice of decision to deny a cannabis business permit application to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested, to the address provided by the applicant for sending of notices. An applicant aggrieved by the decision to deny an application may appeal the decision in accordance with the procedures described in Chapter [1.08](#). If an appeal is not taken within such time (15 days), the Community Development Director's decision shall be final.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.120 PROCESSING OF CANNABIS BUSINESS PERMIT.

If an application is recommended for approval by the Chief of Police, it shall be reviewed by the Community Development Director for:

- A. Compliance with other required permits or licenses necessary prior to operation;
- B. Compliance with all rules, regulations, ordinances and requirements of the City, including but not limited to § [9.30.130](#) and, if applicable, § [9.30.140](#); and
- C. Compliance with the California Environmental Quality Act.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.130 OPERATING REQUIREMENTS.

A cannabis business shall meet the following operating requirements for the duration of the use:

- A. The design, location, size and operating characteristics of the cannabis business shall comply with the findings and conditions of any applicable discretionary permit obtained for its operation;
- B. A cannabis business use shall maintain a current register of the names of all current owners and all current employees who will be on the premises;

C. Individuals not listed as employees, owners, or managers of the business shall not be permitted in nonpublic areas of the business;

D. The building entrance to a cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian;

E. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cannabis business use;

F. A cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry; and

G. A cannabis business shall provide the Chief of Police and Fire Chief with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there is an emergency or there are operating problems associated with the cannabis business. The cannabis business management shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police or Community Development Department.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021)

9.30.140 COMMERCIAL CANNABIS CULTIVATION.

A. Commercial cannabis shall be cultivated only in a fully enclosed and secured structure (FESS). Commercial cannabis cultivation that occurs within a greenhouse that meets the criteria for a FESS shall not be visible from any public right-of-way.

B. Commercial cannabis cultivation shall be reviewed for compliance with the California Environmental Quality Act.

C. Commercial cannabis cultivation shall utilize on-site water recycling practices.

D. Commercial cannabis cultivation shall either enroll in a community choice aggregate energy provider or install solar panels.

(Ord. 966, § 2, passed 05-24-2021)

9.30.150 MINORS.

A. It shall be unlawful for any permittee, operator, or other person in charge of any cannabis business to employ any person who is not at least 21 years of age.

B. Persons under the age of 21 shall not be allowed on the premises of a cannabis business unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.140.)

9.30.160 DISPLAY OF PERMIT.

Every cannabis business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for cannabis businesses in a conspicuous place so that the same may be readily seen by all persons entering the cannabis business.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.150.)

9.30.170 REGISTRATION OF NEW EMPLOYEES.

A. As a further condition of approval of every cannabis business permit issued pursuant to this chapter, every owner or operator shall register every employee with the Police Department within 10 business days of the commencement of the employee's period of employment at the cannabis business.

B. The owner or operator will submit a color copy of the new employee's photo identification card as part of the registration process. Upon request from the Police Department, the employee shall provide their original photo identification card for review.

C. The Police Department shall be notified within 10 business days of any employee no longer employed by the business and the owner shall provide an updated roster of all current employees. The roster shall be dated and signed by the owner or operator declaring that it is complete.

D. Failure to register each new employee within 10 days of the commencement of employment or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.160.)

9.30.180 TRANSFER OF PERMITS.

A. A permittee shall not operate a cannabis business under the authority of a cannabis business permit at any place other than the address or parcel of the cannabis business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a cannabis business or transfer a cannabis business permit to another person unless and until the transferee obtains an amendment to the permit from the Community Development Director or Chief of Police stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Community Development Director in accordance with § [9.30.050](#), accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with § [9.30.090](#) that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the Community Development Director has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.170.)

9.30.190 SUSPENSION AND REVOCATION – NOTICE.

A. Any permit issued under the terms of this chapter may be suspended or revoked by the Chief of Police or the Community Development Director when it appears to them that the permittee has committed any 1 or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.

B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held by the City. Written notice of the time and place of the hearing shall be served upon the person to whom the permit was granted at least 5 days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the permittee at the address provided by the permittee for sending of notices.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.180.)

9.30.200 SUSPENSION AND REVOCATION – GROUNDS.

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

A. Does any act which violates any of the grounds set forth in § [9.30.100](#), which sets forth the grounds for denial of an application for a permit for the cannabis business;

B. Violates any other provision of this chapter or any local or state law, statute, rule, or regulation relating to his or her permitted activity;

C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public;

D. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business;

E. Violates any provision of Title [15](#); or

F. Violates or fails to comply with the terms and conditions of any required discretionary permit.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.190.)

9.30.210 SUSPENSION AND REVOCATION – APPEALS.

Any permittee aggrieved by the decision of the City in suspending or revoking a permit may, within 15 calendar days, appeal the decision in accordance with the procedures described in Chapter [1.08](#). If a decision of the City to suspend or revoke a permit is not appealed within 15 calendar days, the decision of the City shall be final.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.200.)

9.30.220 SUSPENSION OR REVOCATION WITHOUT HEARING.

If any person holding a permit or acting under the authority of the permit under this chapter is convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the Chief of Police shall revoke the permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. If a permit is summarily revoked pursuant to the provisions of this section, a permittee may, within 15 calendar days, appeal the revocation in accordance with the procedures described in Chapter [1.08](#). During the pendency of the appeal, the permit shall be deemed suspended. If the appeal is not taken within 15 days, the decision of the Chief of Police shall be final.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.210.)

9.30.230 SEPARATE OFFENSE FOR EACH DAY.

Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.220.)

9.30.240 PUBLIC NUISANCE.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to Chapter [6.12](#).

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.230.)

9.30.250 CRIMINAL PENALTIES.

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.240.)

9.30.260 CIVIL INJUNCTION.

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.250.)

9.30.270 ADMINISTRATIVE REMEDIES.

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City ordinance.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.260.)

9.30.280 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City hereby declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that 1 or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.

(Ord. 953, § 2, passed 11-12-2019; Am. Ord. 966, § 2, passed 05-24-2021. Formerly 9.30.270.)

18.42.057 - Cannabis Retail

In addition to the operating requirements set forth in Chapter [9.30](#), this Section provides location and operating requirements for cannabis retail. Chapter [9.30](#) contains definitions of terms used herein.

A. Conditional use. A Minor Use Permit shall be required to operate cannabis retail in accordance with Table 2-6 of Article [2](#).

B. Delivery services. The primary use of a cannabis retail use shall be to sell products directly to on-site customers. Sales may also be conducted by delivery. Cannabis retail uses engaging in delivery in addition to on-site sales shall be subject to the following requirements:

1. Commercial delivery to locations outside a permitted cannabis retail facility shall only be permitted in conjunction with a permitted cannabis retail facility that has a physical location and a retail storefront open to the public. A cannabis retail use shall not conduct sales exclusively by delivery. Delivery of cannabis without a storefront component shall be considered cannabis retail - delivery only, and subject to the requirements of § [18.42.059](#), in addition to Chapter [9.30](#).
2. Minor Use Permit applications for cannabis retail shall include a statement as to whether the use will include delivery of cannabis and/or cannabis products to customers located outside the cannabis retail facility. If a permitted cannabis retail use without a delivery component chooses to provide delivery services at a later date, an amendment to the Minor Use Permit shall be required.
3. If delivery services will be provided, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in Chapter [9.30](#), this Section, and State law.

C. Drive-through services. Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.

D. Operational requirements. In addition to project specific conditions of approval and the requirements set forth in Chapter [9.30](#), cannabis retail shall comply with the following operational requirements:

1. **Employees.** The cannabis operator shall maintain a current register of the names of all employees employed by the cannabis retailer, and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this Section and/or any project specific conditions of approval prescribed in the Minor Use Permit.
2. **Recordkeeping.** The cannabis operator shall maintain patient and sales records in accordance with State law.
3. **Photo identification.** No person shall be permitted to enter a cannabis retail facility without government issued photo identification. Cannabis businesses shall not provide cannabis or cannabis products to any person, whether by purchase, trade, gift or otherwise, who does not possess a valid government issued photo identification card.

4. Hours of operation. Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.

E. Accessory uses. As defined in Article [10](#), accessory uses are customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Uses accessory to cannabis retail facilities may be allowable pursuant to the permitting requirements in Article [2](#). Accessory uses may include activities that require multiple State cannabis licenses, including, but not limited to, manufacturing, distribution, cultivation and/or processing. In no instance shall cannabis manufacturing using volatile solvents be allowable as uses accessory to cannabis retail uses.

(Ord. 952, § 2, passed 11-12-2019)



City of Fort Bragg

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Text File

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In Control: City Council

File Type: Staff Report

Agenda Number: 8H.

Receive Report and Provide Staff with Clarification on the Proposed Zoning for Cannabis Microbusinesses in the City of Fort Bragg



AGENCY: City Council
MEETING DATE: October 25, 2021
DEPARTMENT: Community Development
PRESENTED BY: H. Gurewitz
EMAIL ADDRESS: HGurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Staff with Clarification on the Proposed Zoning for Cannabis Microbusinesses in the City of Fort Bragg

ISSUE:

On Monday May 20, 2021, the City Council provided direction to staff on updating the Inland Land Use and Development Code (ILUDC) Section 18.22.030 and Section 18.42.057 as it relates to accessory uses to retail and cannabis microbusinesses. On Monday, September 27, 2021, the City Council approved an urgency ordinance placing a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the Inland Zone of Fort Bragg. In the City Manager's staff report, the purpose of the moratorium was to allow Council to consider several issues which included clarifying the direction given to staff regarding cannabis microbusinesses.

ANALYSIS:

At the previous City Council meeting on May 20, the Council provided the following policy direction to staff:

Manufacturing of cannabis products and the cultivation of flowering plants are to be restricted to the industrial zones in the City.

In the Central Business District, retail cannabis is to be allowed with accessory nursery cultivation that is clearly subordinate and only for the retail sale of the plants on site. The Council did not recommend any changes to the type of permission, Minor Use Permit, for a dispensary.

Council directed staff to develop a microbusiness definition which may or may not be the same as the State's definition which is as follows:

"Microbusiness" means a licensee that is authorized to engage in cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

This definition may work as a basic definition to be added to chapter 18.100.020, however, updates to ILUDC Section 18.22.030 Table 2-6, Section 18.42.057 and/or 18.42.059 would be necessary to clarify Council's direction that:

- A microbusinesses in the Commercial General and Highway Visitor Commercial must have a primary retail frontage with a public entrance from the primary public right of way. Other allowable activities with retail may include:
 - nursery stock production
 - cannabis processing
 - cannabis wholesale and distribution.
 Retail does not have to be the primary use as long as it is the primary frontage.
- Microbusinesses will not be allowed in the Central Business District.
- A microbusiness in the industrial zone may have retail delivery only (no in-person).

At the May 20, 2021 meeting, Council did not discuss what level of conditional use permit (Minor Use Permit or a Use Permit) might be required for a microbusiness. Staff would like clarification on this matter as well.

RECOMMENDED ACTION:

Provide clarification to staff on the above policies regarding accessory uses and microbusinesses in the City limits.

ALTERNATIVE ACTION(S):

Provide alternative direction.

FISCAL IMPACT:

None at this time.

GREENHOUSE GAS EMISSIONS IMPACT:

Not applicable.

CONSISTENCY:

Any updates to the Inland Land Use and Development Code must be consistent with the Inland General Plan.

IMPLEMENTATION/TIMEFRAMES:

To be determined.

ATTACHMENTS:

1. Meeting minutes from City Council Meeting on May 20, 2021

NOTIFICATION:

1. Brandy Moulton
2. Hrant Ekmekjian
3. Chelsea Haskins
4. Danny Schultz
5. Brittany Biesterfeld
6. Cannabis Notify Me subscriber list



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Meeting Minutes Special City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY AS
THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1
AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY*

Thursday, May 20, 2021

6:00 PM

Via Video Conference

Cannabis Ordinance

CALL TO ORDER

Mayor Norvell called the meeting to order at 6:00 PM, all Councilmembers appearing via video conference.

ROLL CALL

Present: 5 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith, Councilmember Lindy Peters and Councilmember Marcia Rafanan

1. CONDUCT OF BUSINESS

- 1A. [21-243](#) Receive Report and Provide Direction to Staff on Where Commercial Cannabis Cultivation, Should be Allowed as a Primary Use.

Associate Planner Gurewitz presented the staff report on this agenda item.

Public Comment : None.

Direction: Council directed that cannabis businesses may be allowed in the Light Industrial (IL) and Heavy Industrial (IH) zoning districts with an administrative permit, and in the Highway and Visitor Commercial (CH) and General Commercial (CG) zoning districts with a use permit. It was reported that the attorney recommended that the "should's" need to be "shall's" in the verbiage. Council also provided updates to the ordinance to include "alternative water sources" and for "Community Choice Clean energy" to be added.

This Staff Report was referred to staff

- 1B. [21-248](#) Receive Report and Provide Direction to Staff on Whether to Create a Cannabis Microbusiness Category or Enhance the Accessory Use Definition in Inland Land Use and Development Code Section 18.42.057

Associate Planner Gurewitz gave the staff report for this agenda item.

Public Comment: None.

Direction:

Council directed staff to create a "Cannabis Microbusiness" that does not allow manufacturing or cultivation as an accessory use in the Central Business District (CBD). Nursery accessory is allowed with retail only if it is clearly subordinate to the primary use. In addition, they agreed to allow nursery, processing and retail in the General Commercial (CG) as accessory uses,

but not manufacturing. Also the General Commercial must include retail as the primary frontage. Limiting wholesale distribution, manufacturing and processing to the Heavy Industrial district (IH) and Light Industrial (IL). Highway Commercial (CH) should have the same stipulations as General Commercial.

This Staff Report was referred to staff

ADJOURNMENT

Mayor Norvell adjourned the meeting at 7:23 PM.

BERNIE NORVELL, MAYOR

June Lemos, CMC, City Clerk

IMAGED (_____)



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File Number: 21-552

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Agenda Number: 8I.

Receive Staff Update on the Development of an Ordinance to Amend the Inland Land Use and Development Code to Address Zoning for the Commercial Cultivation of Cannabis in the City of Fort Bragg



AGENCY:	City Council
MEETING DATE:	October 25, 2021
DEPARTMENT:	Community Development
PRESENTED BY:	H. Gurewitz
EMAIL ADDRESS:	HGurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Staff Update on the Development of an Ordinance to Amend the Inland Land Use and Development Code to Address Zoning for the Commercial Cultivation of Cannabis in the City of Fort Bragg

ISSUE:

On May 3, 2021 and May 20, 2021, the City Council held two workshops and provided direction to staff on the development of zoning and land use regulations for commercial cannabis cultivation in the City of Fort Bragg. This report is meant to provide a status update to City Council on that process.

ANALYSIS:

In July of this year, City staff were made aware of and took advantage of a program through the Cannabis Law Clinic at Golden Gate University (GGU) that is providing support to the Community Development Department in developing the land use regulations for commercial cannabis cultivation.

The Cannabis Law Clinic at GGU is a semester long program with approximately eight (8) students. They agreed to provide up to 60 hours of pro-bono work for the City in developing the ordinance beginning with the fall term on August 20, 2021. There are two students who are assigned specifically to the project, Michelle Garcilazo and Joseph Roberts. They are working under the direction of Professor Luis Alejandro Rodriguez and Professor John Heredia. We expect to have a draft of the ordinance prior to November 30, 2021.

As part of that process, GGU students/staff have requested feedback on some of the following:

1. Many jurisdictions are creating equity programs that are designed to ensure that legalization economically benefits low income/minority communities or communities that have been adversely impacted by the War on Drugs. This is typically done by setting aside an allotment of the total available licenses for these individuals. Is this something that the City would like to consider?
2. Does the City Council want to consider some certain number of licenses that are only available for local residents?
3. Does the City Council want to consider allowing cultivation sites to have a "tasting room?"

Simultaneously, the Community Development Department is working on the initial study to determine if adding this new use to the list of allowable uses could result in significant environmental impacts. The Initial Study will result in either a Negative Declaration, a Mitigated Negative Declaration, or a determination that a full Environmental Impact Report is needed. If possible, we hope to complete the Initial Study and circulate it for public comments in the winter of 2022 (January/February).

Once the draft ordinance is complete and the Initial Study has been completed, there will be a public hearing with the Planning Commission who will make a recommendation to City Council to adopt or not adopt the ordinance. The Planning Commission may also recommend changes to the proposed ordinance.

The current plan is that the new ordinance will be ready for adoption in the Spring of 2022.

RECOMMENDED ACTION:

Accept report and provide feedback to staff.

ALTERNATIVE ACTION(S):

Provide alternative direction.

FISCAL IMPACT:

N/A

GREENHOUSE GAS EMISSIONS IMPACT:

N/A

CONSISTENCY:

N/A

IMPLEMENTATION/TIMEFRAMES:

The project is currently projected to be completed in Spring of 2022.

ATTACHMENTS:

N/A

NOTIFICATION:

1. Cannabis Notify Me subscriber list