

**AGENCY:** Planning Commission  
**MEETING DATE:** March 10, 2021  
**PREPARED BY:** Heather Gurewitz  
**PRESENTED BY:** Heather Gurewitz

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** CDP 2-20 DR 5-20  
**OWNER:** Constance Lyons  
**APPLICANT:** Constance Lyons  
**AGENT:** N/A  
**PROJECT:** Construct 96' x 6' fence on western boundary of property  
**LOCATION:** 420 North Harbor Drive, Fort Bragg  
**APN:** 018-130-43  
**LOT SIZE:** 0.59 Acres  
**ZONING:** Coastal Zone -Low Density Residential (RL)

**ENVIRONMENTAL  
DETERMINATION:**

The City of Fort Bragg is Lead Agency for California Environmental Quality Act purposes, and this project is exempt from CEQA per Section 15303(e): accessory structures, including fences and also exempt under 15061(b)3 the "Common Sense Exemption" CEQA because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and therefore the activity is not subject to CEQA.

**SURROUNDING  
LAND USES:**

NORTH: RL - Vacant  
EAST: RH - Residential  
SOUTH: RL – Pump station  
WEST: Mobile Home Park

**APPEALABLE PROJECT:**  Can be appealed to City Council  
 Can be appealed to California Coastal Commission

## **RECOMMENDED ACTIONS:**

The Planning Commission: 1) continue the public hearing; 2) receive staff report; 3) take public comment; 4) close the public hearing deliberate; and 5) Approve Coastal Development Permit 2-20 (CDP 2-20) Design Review (DR 5-20) subject to the Findings and Special and Standard Conditions.

## **BACKGROUND**

The property owner was previously granted an Emergency Permit (EP 1-19) to demolish an existing wooden structure at risk of collapse, on June 17, 2019. The site currently has no structures. After removal of the shed, the property owner noticed a marked increase in illegal dumping and abandoned vehicles on the property.

A Coastal Development Permit application was submitted by Constance Lyons on November 18, 2020 to construct a 96' long and 5' to 6' high fence along the property line in continuation with the existing fence line at the pump station.

Community Development Department staff reviewed the application for completeness and on December 17, 2020, sent a letter by certified mail to the applicant informing them that the application was complete.

The City consulted with the following agencies between December 16, 2020 and January 8, 2021:

- California Coastal Commission – no recommendations
- California Department of Fish and Wildlife – see special conditions
- Mendocino County Planning and Building – no recommendations
- Mendocino County Department of Public Transportation – see special conditions
- Sherwood Valley Band of Pomo Indians – no recommendations
- City of Fort Bragg Public Works Department – see special conditions

After receiving the recommendations from the partner agencies, staff prepared a report and scheduled a public hearing for February 10, 2021. Staff requested a continuance for the public hearing to March 10, 2021 and it was approved by the Planning Commission.

## **PROJECT DESCRIPTION**

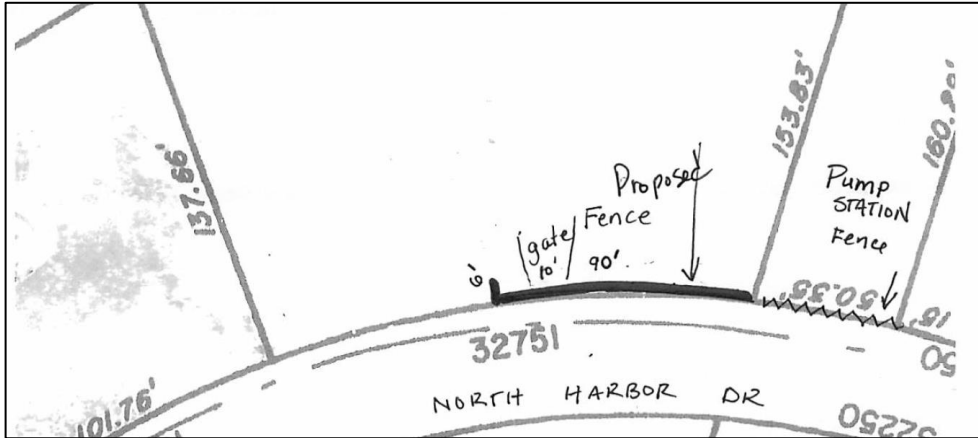
The owner plans to construct a 96' x 5' to 6' fence along the western boundary of the property out of repurposed redwood boards from the demolished shed. It will follow the property line for 96 feet, extending from the south end to the north end of the property on the west (downhill) side of the property. The fence will be five to six feet in height. The purpose is to prevent abandoned vehicles and illegal dumping on the site.

Site Location

The project is located at 420 North Harbor Drive.



Project Location on site plan



**CONSISTENCY WITH PLANNING POLICIES**

Planning Policy	Consistent?	Specific Policy
Coastal General Plan	Yes	Goal OS-1 Preserve and enhance the City’s Environmentally Sensitive Habitat Areas.  The fence will preserve wetland and riparian habitat.
Coastal Land Use Development Code	Yes	Section 17.30.050 Fences Walls and Screening, Table 3-1 – Maximum Height of Fences, Walls and Hedges.  Within front or side setback a View-obscuring fence up to 6ft is allowed outside of traffic visibility area. The fence is not in a traffic visibility area.
Citywide Design Guidelines	Yes	Section 1.45 Landscaping and Fencing: Residential fences should be kept as low as possible while still performing their intended security, screening, or separation functions. Materials and colors should be consistent with the architectural theme of the home on the site. Open, wooden fencing is the preferred fencing material for Fort Bragg neighborhoods.

**CLUDC Analysis**

**Land Use.** This project is located in Coastal Low Density Residential (RL).

**Site Planning and Project Design Standards.** The fence will be no more than six feet in height and will be made of recycled old-growth redwood material from the structure formerly on the site. Construction of the fence is consistent with the standards for the land use and meets the setback requirements in 17.30.050.B.1 Table 3-1 for fences up to six feet that are outside of a traffic safety visibility area.

### **Coastal Development Permit Analysis**

The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources.

**Visual Resources.** The proposed development is not located in a mapped scenic view area, as shown on Map CD-1, "Potential Scenic Views Toward the Ocean or the Noyo River" of the Coastal General Plan.

**Environmentally Sensitive Habitat Area (ESHA).** The area proposed for the fence is located in an ESHA according to map OS-1 Open Space and Environmentally Sensitive Habitat Areas in the City of Fort Bragg Coastal General Plan. In accordance with the Coastal Land Use Development Code Section 17.50.050(B), the applicant was required to perform a biological analysis.

A Limited Biological Scoping Survey was conducted by Spade Natural Resources Consulting on February 26, 2021. The results of the survey concluded that, *"the fence would be built in a weedy area at the bottom of a hillslope where riparian vegetation is present nearby on the hill. The fence is not expected to result in detrimental impacts to natural resources of concern but will be placed within 100 feet of the riparian hillside associated with the Noyo River..... The hillside riparian area is of low quality and does not afford the Noyo River any shading or other protections due to the presence of the working harbor and the distance between the riparian area and the water. The Fence is expected to provide protection to the riparian area from illegal dumping at the bottom of the hill, and is therefore to be considered a protective device for the riparian zone."*

The report states that no special status plants were visible, and while they may be present and observable at other times of year, "it is unlikely that special status vegetation species are present within the area proposed for the fence..."

The report also notes that there are some native species on the hillside which is dominated by Himalayan Blackberry but also includes Red Alder, Coastal Thimbleberry, and Willow.

The report states that the riparian area may be considered wetlands under the Coastal Act, and treats it as such. It says, *"Although fences are not listed as an allowable use in the buffer of a wetland or riparian area, fences are commonly required in the buffer area for*

*wetlands and riparian areas to provide protection of these resources. For this reason the proposed fence is appropriate in the buffer area to the hillside wetland and riparian zone.”*

The report also recommends avoidance measures to prevent adverse impacts to the wetland and riparian areas during fence construction.

Additionally, the biological report states that the project area wetland/riparian hillside has a low potential for habitat for special status bumblebees, migrating northern red-legged frogs, and nesting birds protected under the Migratory Bird Treaty Act. The report provides the following recommended avoidance measures to ensure that there are no detrimental impacts, as follows:

*"No heavy equipment shall be used in the building of the fence. No vegetation removal shall occur within the adjacent riparian/wetland hillside during construction activities, with the exception being that invasive Himalayan blackberry may be removed from the existing temporary fence and flat areas as needed for the fence construction. All materials storage and staging associated with the fence construction shall occur within the flat portions of the property, which are not part of the riparian area.”*

The City of Fort Bragg also requested comments from the California Department of Fish and Wildlife. Special Condition 1 – 3 were established based on the Biological Report and the response from California Department of Fish and Wildlife.

**SPECIAL CONDITION 1:** No heavy equipment shall be used in the building of the fence.

**SPECIAL CONDITION 2:** No vegetation removal shall occur within the adjacent riparian/wetland hillside during construction activities, with the exception being that, invasive Himalayan blackberry may be removed from the existing temporary fence and flat areas as needed for the fence construction *and* Vegetation mowing shall occur only between August 16<sup>th</sup> and January 31<sup>st</sup>, only outside the nesting bird season.

**SPECIAL CONDITION 3:** All materials storage and staging associated with the fence construction shall occur within the flat portions of the property, which are not part of the riparian area.

**Special Review Area.** This parcel is in a Special Review Area. The City of Fort Bragg consulted with Sherwood Valley Band of Pomo Indians to assess whether the construction of the fence might impact any cultural or archaeological resources. The tribe provided the required archaeological report, which indicates that the fence will have no negative impacts on archaeological resources and will help protect any potential resources on the site from adverse effects.

**Geologic Hazards.** The site is not located near any known geological hazards identified on Map SF-1 GEOLOGIC HAZARDS of the Coastal General Plan.

**Flood Hazards.** The site is not located in a Flood Hazard Zone.

**Sensitive Noise Receptors.** The site is not located near a Sensitive Noise Receptor.

**Runoff Sensitive Areas.** The site is not located in a Runoff Sensitive Area.

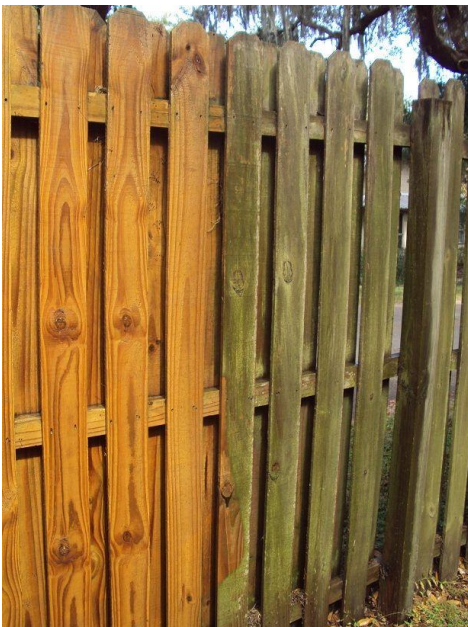
**Least environmentally damaging alternative.** The proposed fence will protect the existing site from current concerns with illegal dumping, vehicle abandonment, and trespassing. The construction of the fence will cause minimal ground disturbance and will recycle the existing material on site. Therefore, building the fence is the least environmentally damaging alternative.

## DESIGN REVIEW

**Coastal Land Use Development Code Design Review.** The project meets the criteria in the Coastal Land Use Development Code 17.71.050(E). It complies with the purpose and requirements of the section. It provides architectural design and scale appropriate to and compatible with the site surroundings and the community. It provides attractive and desirable site layout and design. It does not impact public access, circulation, or parking. It provides appropriate open space and landscaping. It is consistent with the General Plan and the Local Coastal Program, and it complies with the City's Design Guidelines.

**Citywide Design Guidelines.** According to Section 1.45 Landscaping and Fencing of the Citywide Design Guidelines, "Residential fences should be kept as low as possible while still performing their intended security, screening, or separation functions. Materials and colors should be consistent with the architectural theme of the home on the site. Open, wooden fencing is the preferred fencing material for Fort Bragg neighborhoods."

The proposed fence meets the above guideline. The below image demonstrates of what the proposed fence may look like upon completion.



## **ENVIRONMENTAL DETERMINATION**

This project is categorically exempted from California Environmental Quality Act (CEQA) pursuant to section 15303(c) accessory structures, including fences. It is also exempt under the "Common Sense Exemption" pursuant to section 15061(b)3 because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and therefore the activity is not subject to CEQA. Consultations with the Coastal Commission, Department of Fish and Wildlife, a local biologist, and the Sherwood Valley Rancheria Tribe all concur that this fence will be a benefit to any natural or cultural resources on this site. Additionally, there are no possible air quality, traffic, or other impacts that could result from this site. Therefore, it is with certainty that this project is exempt from CEQA based on the "Common Sense Exemption."

## **POSSIBLE PLANNING COMMISSION ACTIONS**

Approve Coastal Development Permit 2-20 (CDP 2-20), Design Review 5-20 (DR 5-20) subject to the Findings and Special and Standard Conditions.

Deny Coastal Development Permit 2-20 and Design Review 5-20 subject to the findings.

## **ATTACHMENTS**

1. Site Map and Proposed Fencing Plan
2. Approval Resolution
3. Staff PowerPoint Presentation

## **NOTIFICATIONS**

1. Constance Lyons, Applicant