



# City of Fort Bragg

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## Meeting Minutes Planning Commission

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Wednesday, February 12, 2020

6:00 PM

Town Hall, 363 N.Main Street

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### MEETING CALLED TO ORDER

Chair Logan called the meeting to order at 6:00 PM.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

**Present** 5 - Commissioner Stan Miklose, Vice Chair Jay Andreis, Commissioner Michelle Roberts, Chair Jeremy Logan, and Commissioner Nancy Rogers

### 1. APPROVAL OF MINUTES

#### 1A. 20-616

Approval of the January 8, 2020 Minutes.

**A motion was made by Commissioner Miklose, seconded by Commissioner Roberts, that the Minutes of January 8, 2020 be approved. The motion carried by the following vote:**

**Aye:** 5 - Commissioner Miklose, Vice Chair Andreis, Commissioner Roberts, Chair Logan and Commissioner Rogers

### 2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

### 3. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

### 4. PUBLIC HEARINGS

**4A. 20-590** Receive Report, Conduct Public Hearing and Consider Coastal Development Permit 13-19 and Design Review Permit 2-19 to Authorize Removal of Six Hazard Trees from 100 West Cypress Street (APN 018-030-45 and 015-020-01)

Commissioner Miklose recused himself as he owns property within 1,000 feet of the proposed development.

Chair Logan opened the Public Hearing at 6:03 PM.

Senior Planner Perkins presented the prepared report to the Planning Commission. Senior

Planner Perkins stated that Special Condition 1 should be amended adding the word "bird" prior to the word "survey" to read as no additional bird surveys are required if vegetation removal is to occur during the non-breeding season.

Commissioner Roberts asked clarifying questions regarding the original request to remove 4 trees and asked if the additional 2 trees being requested have been removed. Senior Planner Perkins clarified that those additional trees should have not been removed. Commissioner Roberts requested clarification in the difference between statutorily and categorically exempt from CEQA.

### **Public Comment**

Amy Wynn from Wynn Coastal Planning and Biology addressed the Commission from the podium as the agent for the applicant. Amy stated her agency is available for questions.

Jennifer Bosma, the applicant approached the podium, and stated that she and the other applicants are available for any questions. Jennifer thanked staff and the Commission for their work and being present.

Public Comment:

Leslie Kashiwada asked for clarification on the number of trees that were cut and stated that the trees that were cut look good but change the ecological function of the forest and ask the Commission to hear her recommendation.

Annemarie Weibel read Leslie Kashiwada's recommendation that no further vegetation removal be approved until further surveys are performed. Annemarie Weibel stated that she also endorsed Leslie's recommendation. Annemarie stated that she submitted a map from 1919 showing how the area was covered in trees. Annemarie asked for a full CDP with MND because we have studies.

Gabriel Quinn Maroney stated we are blessed to have to live in an area with such rich local history. Gabriel stated that he would like to see further studies to evaluate the historic value of this site.

### **Deliberation**

Vice Chair Andreis asked the applicant if they are financially responsible if a tree falls. Applicant Jennifer Bosma confirmed that yes they are responsible. Vice Chair Andreis also asked what machinery was used for the tree removal. The applicant confirmed that the trees were cut in sections not fallen to be less invasive. Vice Chair Andreis asked what the reseeding plan is and the applicant Jennifer Bosma stated there is not a reseeding plan at this time and confirmed that the grass is already growing on site.

Commissioner Roberts asked why a Mitigated Negative Declaration was not performed. Senior Planner Perkins reported that per staff's opinion, based on research and requests for

comments from agencies this project was determined to be exempt from CEQA. Commissioner Roberts asked what the difference is between sensitive natural habitat and an ESHA. Senior Planner Perkins explained there is no definition for a sensitive natural habitat per our Land Use and Development Code.

Chair Logan asked the applicants if they have plans to plant more trees, and the applicant Jennifer Bosma stated that they will try to replant however there is no water on site therefore as of now the issue is lack of water.

Chair Logan closed the Public Hearing at 6:36 PM.

Deliberation:

Commissioner Roberts stated she is concerned with staff's opinion of this project being exempt from further studies.

Commissioner Rogers asked who would pay for further studies. Senior Planner Perkins confirmed that the applicant would pay for staff time. Commissioner Rogers asked for more clarity on how staff made the determination to exempt this project. Senior Planner Perkins explained that staff made the determination for the exemption based on agency input and policy interpretation.

Commissioner Rogers stated that she feels that staff did an adequate job and that this is a straight forward project.

Vice Chair Andreis stated that he feels Staff did a great job and understands the need for property owners to maintain their property for public safety. Commissioner Rogers stated that she would not like to have this discussion for anything smaller than a tree.

**A motion was made by Commissioner Rogers, seconded by Vice Chair Andreis, that Coastal Development Permit CDP 13-19 and Design Review be approved based on the following conditions and findings:**

**GENERAL FINDINGS**

- 1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the General Plan, Coastal Land Use and Development Code (CLUDC) and the Fort Bragg Municipal Code;**
- 2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;**
- 3. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located; and**
- 4. For the purposes of the environmental determination, the project is exempt under Section 15303c of the California Environmental Quality Act (CEQA).**

**VISUAL RESOURCE FINDINGS**

The following findings of approval are required for projects in scenic areas listed

in CLUDC Section 17.50.070(B). This project is located west of Main Street.

1. The project minimizes the alteration of natural landforms;
2. The project is visually compatible with the character of the surrounding area;
3. The project is sited and designed to protect views to and along the ocean and scenic coastal areas; and
4. The project restores and enhances visual quality in visually degraded areas, where feasible.

#### **COASTAL DEVELOPMENT PERMIT FINDINGS**

1. 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;
2. The project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code);
3. The proposed use is consistent with the purposes of the zone in which the site is located;
4. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan;
5. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and
6. Services, including but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The resource as identified will not be significantly degraded by the proposed development;
8. There is no feasible less environmentally damaging alternative;
9. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted; and
10. The resource as identified will not be significantly degraded by the proposed development.

#### **STANDARD CONDITIONS**

1. This action shall become final on the 11th working day following the decision unless an appeal to the City Council is filed pursuant to Chapter 17.92.030. This action is appealable to the California Coastal Commission pursuant to Chapter 17.92.040.
2. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
3. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State and Federal agencies having jurisdiction. All plans submitted with required permit applications shall be consistent with this approval.
4. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - (a) That such permit was obtained or extended by fraud.
  - (b) That one or more of the conditions upon which such permit was granted have been violated.
  - (c) That the use for which the permit was granted is so conducted as to be

detrimental to the public health, welfare or safety or as to be a nuisance.

(d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.

5. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

6. This Coastal Development Permit approval shall lapse and become null and void 24 months from the date of approval unless before the passing of 24 months, a Final Map examined and approved by the City Engineer is approved by the City Council and recorded or an extension is requested and obtained.

#### **SPECIAL CONDITIONS**

1. No additional surveys are required if vegetation removal occurs in the non-breeding season (September to January). If development is to occur during the breeding season (February to August), a pre-construction survey is required within 14 days of the onset of construction to ensure that no nesting birds will be disturbed during the effort.

2. If active special status bird nests are observed, no activities with potential to impact the birds or their nesting efforts shall occur within a 100-foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active nest until all young are no longer dependent upon the nest. A biologist shall monitor the nest site weekly during the breeding season to ensure the buffer is sufficient to protect the nest site from potential disturbance.

3. Vegetation removal shall occur during daylight hours to limit disturbing noise and minimize artificial lights.

4. If vegetation removal occurs during the bird breeding season, (February to August) a preconstruction survey shall occur within a maximum of 14 days prior to the start of activities with the potential to impact nesting raptors. Areas within ¼ mile of the vegetation removal activities shall be surveyed, directly if accessible or viewed from accessible areas when in inaccessible areas.

5. An unoccupied nest large enough for raptors was found within the study area. If active raptor nests are present within ¼ mile of the project area, then CDFW shall be consulted to determine an appropriate buffer distance. No activities with potential to impact the raptors or their nesting efforts shall occur within the exclusion zone determined. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active nest until all young are no longer dependent upon the nest. A biologist shall monitor the nest site weekly while vegetation removal activities are occurring during breeding season to ensure the buffer is sufficient to protect the nest site from potential disturbance. If it is necessary to conduct vegetation removal or construction activities within ¼ mile of an active raptor nest, and if deemed appropriate by CDFW, a biological monitor shall make observations during activities to ensure that the raptors' behavior is not affected. The biological monitor shall have the authority to suspend any activities negatively impacting the active nest.

6. Vegetation removal will ideally occur between September 1st and October 31, after young bats have matured and prior to the bat hibernation period. If it is necessary to disturb potential bat roost sites between November 1 and August 31, pre-construction surveys shall be performed by a qualified biologist 14 days prior

to the onset of development activities. If active bat roosts are observed, no vegetation removal or other activities with potential to disturb bats shall occur within a minimum 100-foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active roost until all young are no longer dependent upon the roost.

7. No vegetation removal shall occur within 100ft of the wetland and/or riparian habitat.

8. Within two weeks prior to construction activities, project contractors shall be trained by a qualified biologist in the identification of the frogs and salamanders that occur along the Mendocino County coast. Workers shall be trained to differentiate between special status and common species and instructed on actions and communications required to be conducted in the event that a special status amphibian is observed during construction.

9. During ground disturbing activities, construction crews shall begin each day with a visual search around the staging and impact area to detect the presence of amphibians.

10. During debris removal, any wood stockpiles shall be moved carefully by hand in order to avoid accidental crushing or other damage to amphibians.

11. If a rain event occurs during the ground disturbance period, all ground disturbing activities shall cease for a period of 48 hours, starting after the rain stops. Prior to resuming project activities, trained construction crew member(s) shall examine the site for the presence of special status amphibians. If no special status amphibians are found during inspections, project activities may resume. If a special status amphibian is detected, crews shall stop all ground disturbing work and will contact the California Department of Fish and Wildlife (CDFW) or a qualified biologist. Clearance from CDFW shall be needed prior to reinitiating work. CDFW shall be consulted and shall be in agreement with protective measures needed for any potential special status amphibians.

12. All materials and equipment shall be staged in upland areas greater than 100 feet from all ESHAs. Equipment shall be staged on existing asphalt or concrete pads whenever feasible.

13. No trees shall be removed within 100ft of the Bishop pine and Grand fir forest plant communities. This will preserve canopy microclimate and prevent trees being exposed to wind from directions they were previously not. No standing dead trees shall be removed within 100ft of the Bishop pine and grand fir forests. Vegetation removal within 100ft of the Bishop pine and grand fir forest shall be limited to mowing of herbaceous vegetation, the removal of non-native shrubs, and limbing up of trees only as necessary for ladder fuel removal, fire suppression, and health and human safety.

14. Should ground-disturbing activities be required beyond what is necessary for tree removal and understory vegetation management and beyond the scope in the Project Description, the applicant shall consult with the Community Development Department to review the change in scope and refer the change in scope to the Sherwood Valley Band of Pomo to determine if further archaeological analysis is required.

Planning Staff Report be approved as amended. The motion carried by the following vote:

**Aye:** 3 - Vice Chair Andreis, Chair Logan and Commissioner Rogers

**No:** 1 - Commissioner Roberts

**Recuse:** 1 - Commissioner Miklose

**5. CONDUCT OF BUSINESS****5A. 20-607**

Review Summary Report of the Fort Bragg Planning Commission Work for the Calendar Year of 2019.

Senior Planner Perkins presented the prepared summary of work done by the Fort Bragg Planning Commission, and Perkins asked for feedback on what the Commissioners would like to see for future reports. Commissioner Miklose stated he would like to have an update on the LCP amendment. Commissioner Andreis would like an update to items sent to Council by the Commission. Commissioner Roberts would like a report on developments within the City. Vice Chair Andreis would like to know the status of funding sources yearly or quarterly. Commissioner Miklose stated it would be nice to know who the applicants are. Chair Logan stated he would like a heads up on projects that are coming to the Commission. Senior Planner Perkins reported that he now has a feel for what the quarterly reports should look like.

**6. MATTERS FROM CHAIR/COMMISSIONERS/STAFF**

Chair Logan asked the Commission if Wednesday is still good day for the Planning Commission meetings. The Commissioners agreed to keep Wednesdays as the day of the week. Chair Logan reported that the Mill Site ad hoc committee is meeting and working on the Land Use Map. Chair Logan stated they have been focused on the north side of the Mill Site for the time being. Chair Logan stated he does not have a date for the next ad-hoc committee meeting.

Assistant Planner McCormick stated that next Wednesday MCOG will hold a CEQA workshop to show how traffic impacts development.

Commissioner Miklose asked if staff knows why there are a lot of trucks in town. Senior Planner Perkins stated that PG&F has contracted the companies.

**ADJOURNMENT**

Chair Logan adjourned the meeting at 7:05 PM.

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Jeremy Logan, Chair

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Joanna Gonzalez, Administrative Assistant

IMAGED (\_\_\_\_\_)