



City of Fort Bragg

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

Meeting Agenda Planning Commission

Wednesday, February 10, 2021

6:00 PM

Via Video Conference

AMENDED

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PLEASE TAKE NOTICE

DUE TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20 WHICH SUSPEND CERTAIN REQUIREMENTS OF THE BROWN ACT, AND THE ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MENDOCINO TO SHELTER IN PLACE TO MINIMIZE THE SPREAD OF COVID-19, PLANNING COMMISSIONERS, AND STAFF WILL BE PARTICIPATING BY VIDEO CONFERENCE IN THE PLANNING COMMISSION MEETING OF WEDNESDAY FEBRUARY 10, 2021.

In compliance with the Shelter-in-Place Orders of the County and State no in-person meeting will be held and the public is invited to attend virtually. The meeting will be live-streamed on the City's website at city.fortbragg.com and on Channel 3. Public Comment regarding matters on the agenda may be made in any of the following ways: (1) By joining the Zoom video conference, (2) Through the City's online eComment agenda feature, (3) Emailed to Community Development Department at CDD@fortbragg.com, (4) Written comments delivered through the drop-box for utility payments to the right of the front door at City Hall, 416 N. Franklin Street, or (5) Voice mail comments called in to (707) 961-2827 ext 111 by 5:00 PM on the day of the meeting.

Comments can be made at any time prior to the meeting, in real-time while the item is being considered by the Planning Commission. All eComments or emails received before or during the meeting that have not been published with the agenda packet will be read aloud into the record. Public comments are restricted to three minutes. Written comments on agenda items and those exceeding three minutes will be included in the public record as part of the agenda packet the next business day after the meeting.

We appreciate your patience and willingness to protect the health and wellness of our community and staff. If you have any questions regarding this meeting, please contact Community Development at (707)961-2827 ext 111.

ZOOM WEBINAR INVITATION

You are invited to a Zoom webinar.

When: Feb 10, 2021 06:00 PM Pacific Time (US and Canada)

Topic: Planning Commission

Please click the link below to join the webinar:

<https://zoom.us/j/99429604294?pwd=QmVlemo0RFBDWEJvcUFQWVZKaTQrUT09>

Passcode: 231086

Or iPhone one-tap :

US: +16699009128,,99429604294#,,,,*231086# or +12532158782,,99429604294#,,,,*231086#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or +1 301 715 8592
or +1 312 626 6799

Webinar ID: 994 2960 4294

Passcode: 231086

International numbers available: <https://zoom.us/u/alrLJucXm>

1. APPROVAL OF MINUTES

- 1A. [21-006](#) Approve the Planning Commission Minutes of December 9, 2020

Attachments: [12092020 PC Min](#)

- 1B. [21-007](#) Approve the Planning Commission Minutes of December 17, 2020

Attachments: [12172020 PC Min](#)

- 1C. [21-008](#) Approve the Planning Commission Minutes of January 6, 2021

Attachments: [01062021 PC Minutes](#)

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

3. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

4. PUBLIC HEARINGS

- 4A. [21-017](#) Conduct a Public Hearing and Consider Approval of Coastal Development Permit 2-20 (CDP 2-20) and Design Review 5-20 (DR 5-20) to construct a fence at 420 N. Harbor Drive

Attachments: [02102021 CDP 2-20 DR 5-20 Lyons Fence Report](#)

[Att 1 - Site Map and Proposed Fencing Plan](#)

[ATT 2 - Staff Power Point Presentation](#)

[Att 4 - Misc. Correspondence Coastal Commission](#)

[Att 3 - Public Comments](#)

5. CONDUCT OF BUSINESS

- 5A. [20-973](#) Receive Report and Consider Adopting a Resolution to Update the Planning Commission Bylaws

Attachments: [20210113 Planning Commission By Law changes](#)

[Att 1 - Planning Commission Bylaws Redline](#)

[Att 2 - PC Resolution PC01-2021 Planning Commission Bylaws](#)

- 5B. [20-971](#) Discuss and Adopt a Work Schedule for the 2021 Year (Ord. 740 §1,

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).



City of Fort Bragg

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Text File

File Number: 21-006

Agenda Date: 2/10/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Minutes

Agenda Number: 1A.

Approve the Planning Commission Minutes of December 9, 2020



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Meeting Minutes Planning Commission

Wednesday, December 9, 2020

6:00 PM

Via Video Conference

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

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

PLEASE TAKE NOTICE

ZOOM WEBINAR INVITATION

1. APPROVAL OF MINUTES

The minutes were approved as amended to show Commissioner Rogers as recused.

1a. [20-929](#) Approve the Planning Commission Minutes of November 12, 2020

4. MATTERS FROM CHAIR/COMMISSIONERS/STAFF

Assistant Director O'Neal introduced the new Associate Planner Heather Gurewitz. Chair Logan opted to participate in the meeting being that he has no financial conflict. Commissioner Miklose and Vice Chair Andreis recused themselves due to their proximity to the proposed project.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

3. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

Commissioner Miklose disclosed that he was approached by a gentleman who identified himself as a business owner regarding the proposed project being heard tonight.

5. PUBLIC HEARINGS

5a. [20-946](#) Receive Report, Conduct Public Hearing and Consider Approval of Minor Use Permit 4-20 to Establish a Storefront Cannabis Dispensary With Delivery and Accessory Micro Business in Distribution, Processing, Nursery, and Non-Volatile Manufacturing, and a Residential Unit Within Two Existing Commercial Buildings

Chair Logan opened the Public Hearing at 6:13 PM.

Administrative Assistant Gonzalez presented the prepared report. Assistant Director O'Neal and Administrative Assistant Gonzalez answered clarifying questions from the Planning Commissioners. The applicant addressed the Planning Commissioners via webinar and provided further application clarity.

Public Comment received from:

- * Jude Tillman
- *Jacob Patterson
- *Jay Koski
- *Cassandra Roberts
- *Simeone Evans
- *John Smith
- *Jacob Patterson
- *Jamie Peters
- *Jacob Patterson
- *John Smith
- *John N
- *Brandy Moulton
- *Jen Brown

Chair Logan closed the Public Hearing at 8:10 PM.

Discussion:

The Commission deliberated extensively regarding accessory uses to Cannabis retail, crop production and cannabis cultivation. The Planning Commission would like clarity from the City Council regarding the proposed accessory uses being subordinate, and verification on if the City can regulate the legal carrying of a concealed weapon when entering the proposed project.

A motion was made by Commissioner Roberts, seconded by Commissioner Rogers, Minor Use Permit (MUP 4-20) be denied. The motion carried by the following vote:

Aye: 3 - Commissioner Roberts, Chair Logan and Commissioner Rogers

Recuse: 2 - Commissioner Miklose and Vice Chair Andreis

6. CONDUCT OF BUSINESS

None.

ADJOURNMENT

Chair Logan closed the meeting at 8:15 PM.

Jeremy Logan, Chair

Joanna Gonzalez, Administrative Assistant

IMAGED (_____)



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Text File

File Number: 21-007

Agenda Date: 2/10/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Minutes

Agenda Number: 1B.

Approve the Planning Commission Minutes of December 17, 2020



City of Fort Bragg

416 N Franklin Street
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Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes Planning Commission

Thursday, December 17, 2020

6:00 PM

Via Video Conference

SPECIAL MEETING

MEETING CALLED TO ORDER

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

ROLL CALL

Present 4 - Nancy Rogers, Commissioner Stan Miklose, Commissioner Michelle Roberts, and
Chair Jeremy Logan
Absent 1 - Vice Chair Jay Andreis

PLEASE TAKE NOTICE

ZOOM WEBINAR INVITATION

1. APPROVAL OF MINUTES

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public Comments on non agenda items received by:

- *Paul Clark
- *Dannika Dudley
- *Kristine Hendricks
- *Marina Rose
- *Linda Jupiter
- *Irene Malone
- *Deborah Fulmore

3. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

4. PUBLIC HEARINGS

None.

5. CONDUCT OF BUSINESS

[20-958](#)

Receive Report and Make Recommendations for Preparation of an

Ordinance to Regulate Formula Business to Amend Title 18 of the Fort Bragg Municipal Code [Inland Land Use and Development Code (ILUDC)]

City Manager Miller presented the prepared report. Seeing that 2 of the Commissioners needed to be reconfirmed the meeting was continued to a date certain of January 6, 2021

6. MATTERS FROM CHAIR/COMMISSIONERS/STAFF

ADJOURNMENT

Chair Logan adjourned the meeting at 7:06 PM.

Jeremy Logan, Chair

Joanna Gonzalez, Administrative Assistant

IMAGED (_____)



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Text File

File Number: 21-008

Agenda Date: 2/10/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Minutes

Agenda Number: 1C.

Approve the Planning Commission Minutes of January 6, 2021



City of Fort Bragg

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Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes Planning Commission

Wednesday, January 6, 2021

6:00 PM

Via Webinar

Special Meeting

MEETING CALLED TO ORDER

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

ROLL CALL

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

PLEASE TAKE NOTICE

ZOOM WEBINAR INVITATION

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

none.

3. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

none.

5. CONDUCT OF BUSINESS

5A. [20-961](#)

Select Chair and Vice-Chair of the Planning Commission (Ord. 740 §1,1992; Fort Bragg Municipal Code §2.20.050; PC Bylaws § III.B.)

Commissioner Miklose made a motion to keep Chair Logan and Vice Chair Andreis. Commissioner Roberts seconded and the vote was taken

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

5B. [20-958](#)

Receive Report and Make Recommendations for Preparation of an Ordinance to Regulate Formula Business to Amend Title 18 of the Fort Bragg Municipal Code [Inland Land Use and Development Code (ILUDC)]

City Manager Miller presented the prepared report and Powerpoint. The Commissioners asked clarifying questions.

Public Comments

- *Jamie Peters
- *Erin
- *Madeline Force
- *Annemarie Weibel

Discussion:

The Commission went over each slide in the Powerpoint and gave feedback to City Manager Miller. The Commission came to the consensus that they would like to have another meeting to continue the conversation, possibly have City Attorney feedback on what has been discussed and more definition of the term facade, fast food and big box vs Formula business. Vice Chair Andreis would like to discuss a more defined "core" within the Central Business District at the next meeting.

6. MATTERS FROM CHAIR/COMMISSIONERS/STAFF

Commissioner Rogers inquired on the future of virtual meetings, City Manager Miller reports that there is a possibility of continuing virtual meetings when the pandemic is over. Commissioner Rogers and Chair Logan inquired on the role of the Chair during virtual meetings, especially when the public comments get inappropriate or disruptive. City Manager Miller states that she will seek guidance from the City Attorney regarding the City's ability to censor public comments.

ADJOURNMENT

Chair Logan adjourned the meeting at 9:51 PM.

 Jeremy Logan, Chair

 Joanna Gonzalez, Administrative Assistant

IMAGED (_____)



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Text File

File Number: 21-017

Agenda Date: 2/10/2021

Version: 1

Status: Public Hearing

In Control: Planning Commission

File Type: Staff Report

Agenda Number: 4A.

Conduct a Public Hearing and Consider Approval of Coastal Development Permit 2-20 (CDP 2-20) and Design Review 5-20 (DR 5-20) to construct a fence at 420 N. Harbor Drive

AGENCY:	Planning Commission
MEETING DATE:	February 10, 2020
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.

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) open 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' – 6' high fence along the property line in continuation with the existing fence line at the pump station to the south of the property.

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.

PROJECT DESCRIPTION

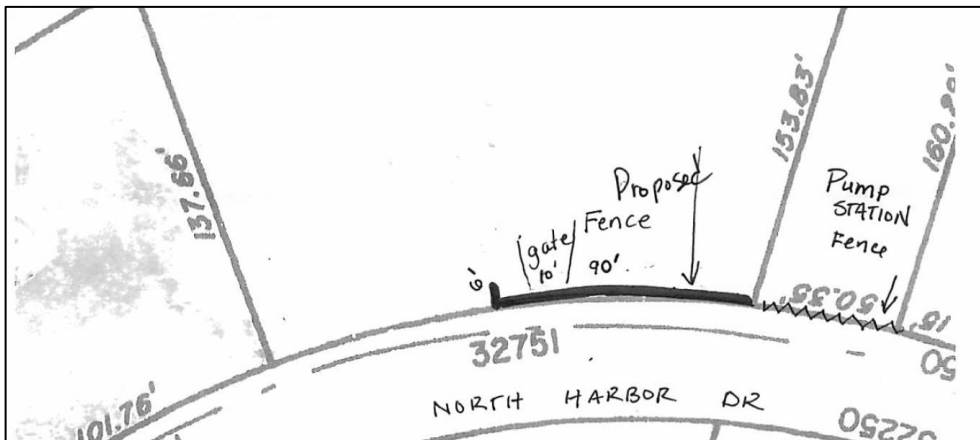
The owner plans to construct a 96' x 6' fence along the western boundary of the property out of repurposed redwood boards from the demolished shed. It will follow the property line for 96 feet, extending from the south end to the north end of the property on the west (downhill) side of the property. 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 CD-2: Ensure that new development demonstrates excellence of design and sensitivity to the character of the surrounding neighborhood.
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.
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 ESHA according to map OS-1 Open Space and Environmentally Sensitive Habitat Areas in the City of Fort Bragg Coastal General Plan. In consultation with the California Department of Fish and Wildlife, Special Condition 1 was established. There were no recommendations from the Coastal Commission regarding the fence.

SPECIAL CONDITON 1: Vegetation mowing shall occur between August 16th and January 31st, only outside the nesting bird season.

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. No recommendations or comments were provided.

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.

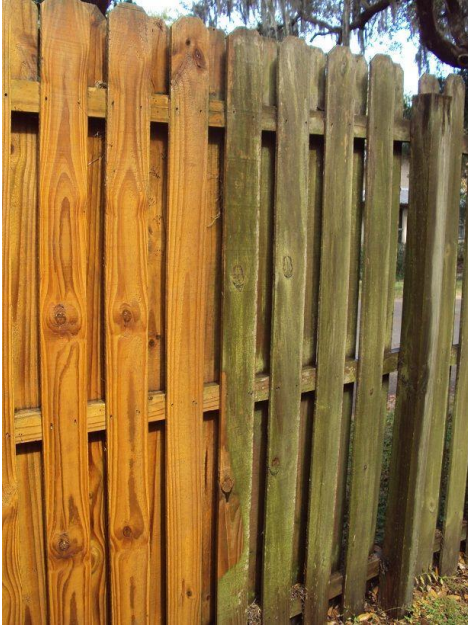
Least environmentally damaging alternative. The proposed fence will protect the existing site from current concerns with illegal dumping, vehicle abandonment, and trespassing. The construction of the fence will cause minimal ground disturbance and will recycle the existing material on site. The fence may also serve to protect habitat from illicit activities on the site.

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 applicant provided the following image as a demonstration 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.

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.

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 15303(c) of the California Environmental Quality Act (CEQA).

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 because the fence will be wooden and will not exceed six feet in height;
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) because the fence parallels the road and does not block any standard location for foot traffic;
3. The proposed use is consistent with the purposes of the zone in which the site is located because a wooden fence at a bottom of a hill will increase the beauty of the neighborhood;
4. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan because the fence is wooden, will not block access, and will not exceed 6 feet in height;
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 because the size, design and location of the fence is consistent with all legal standards; 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 because a fence will not have any impact on such services, and no responsible agencies had any concerns;
7. The resource as identified will not be significantly degraded by the proposed development because the fence will deter erosion and will be of high quality;
8. There is no feasible less environmentally damaging alternative because the fence will be constructed of repurposed wood;
9. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted because the fence will not have a significant impact on the environment, will be of high quality and will not exceed 6 feet; and
10. The resource as identified will not be significantly degraded by the proposed development because the fence will not deter coastal access, views, but rather generally increases the beauty of the neighborhood.

DESIGN REVIEW FINDINGS

Staff reviewed and evaluated the application to ensure that the project meets the criteria under Section 17.71.050 Design Review;

1. The proposed project complies with the purpose and requirements of section 17.71.050(E) in that the fence does not exceed 6 feet, and is made of repurposed wood materials;
2. Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community in that the wooden fencing does not exceed six feet in height;
3. Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc. in that the fencing materials are the city's preferred materials;
4. Provides efficient and safe public access, circulation, and parking in that the fence will have no impact on public access, circulation and parking, nor any impact on coastal access;
5. Provides appropriate open space and landscaping, including the use of water efficient landscaping in that the fencing will not increase the need for landscaping or water usage;
6. Is consistent with the General Plan, any applicable specific plan, and the certified Local Coastal Program; and
7. Complies and is consistent with the City's Design Guidelines because the fence is wooden and does not exceed six feet.

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

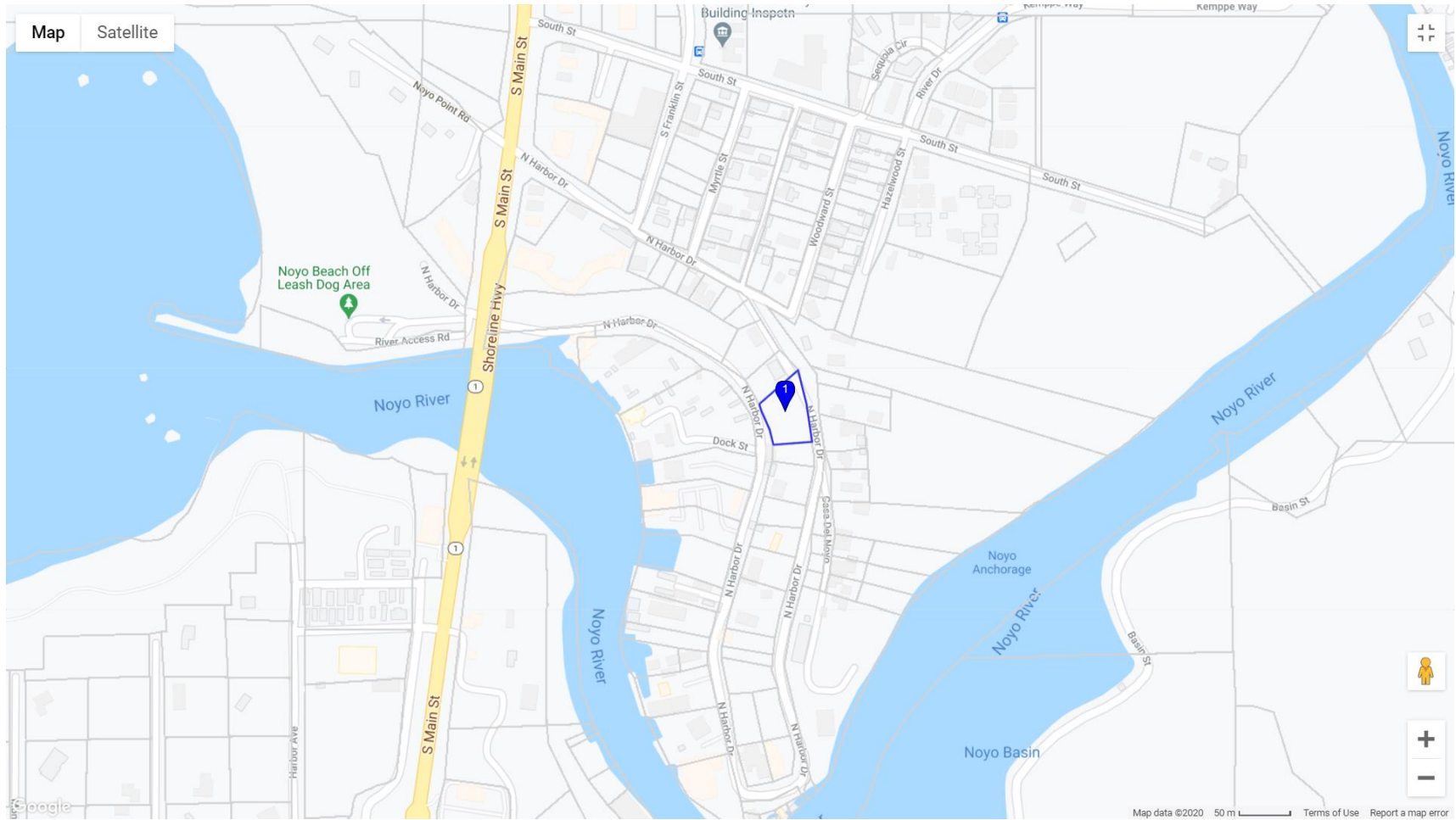
1. Vegetation mowing shall only occur between August 16th and January 31st.
2. The Applicant is responsible for ensuring that the fence is within the parcel boundary and that it does not encroach on the City of Fort Bragg or Mendocino County Right of Way.
3. Full road closure of N. Harbor Drive is not allowed. Work shall be planned in advance to minimize impacts to visitors of the harbor area. No work requiring an encroachment on N. Harbor Drive shall be performed during any weekend or Holiday to minimize disruptions. Applicant shall be mindful of roadway and vehicular constraints (e.g. narrow road, sharp turns) when planning types of vehicles/equipment to use in the demolition activities.
4. Applicant shall notify affected residents and businesses in the project area at least 72 hours prior to any lane closures.
5. If work is to occur in the Right of Way, the applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation and include a Traffic Control Plan (TCP), and insurance at least two (2) weeks prior to anticipated construction date.
6. All work shall be done in compliance with all conditions required by the City of Fort Bragg Grading Ordinance; Land Use Code Chapter 17.60-17.64 – Grading and Stormwater runoff Requirements and Procedures.
 1. Applicant must comply with the Construction Site Storm Water Runoff Control Plan and Checklist submitted to the Public Works Department for approval.
 2. If construction is to be conducted between October and April (the rainy season) approval from the Public Works Department and additional construction BMP's will be required.
 3. All construction debris/soil shall be properly disposed in accordance with the City's Construction Waste Recycling Ordinance. It is not permitted for construction debris and soil to be placed in the City right-of-way.

ATTACHMENTS

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

NOTIFICATIONS

1. Constance Lyons, Applicant





LOCATION MAP Plot MAP

NORTH HARBOR DRIVE
(formerly State Hwy 11)

420 N. Harbor Dr.
APN 018-130-45

137.66'

164.46'

93.26'

89.92'

153.83'

160.90'

Proposed
gate Fence
6' | 10' | 90'

Pump
STATION
Fence

50.55'

18.51'

32751

NORTH HARBOR DR

32250

101.76'

32781

32200

383.77'

Trailer
Park

110'

120'

30'

100.04'

Lyon's Fence
420 N. Harbor Dr

Proposed Fence Design



Material - old growth redwood lumber

Length 96'

height 5'-6'

post set at 6' intervals

post set 2' deep w/ 6" gravel at bottom of hole

post set in quickrete

CDP 2-20 DR 5-20
420 N. Harbor Dr.
Application to Build Fence

Project Details

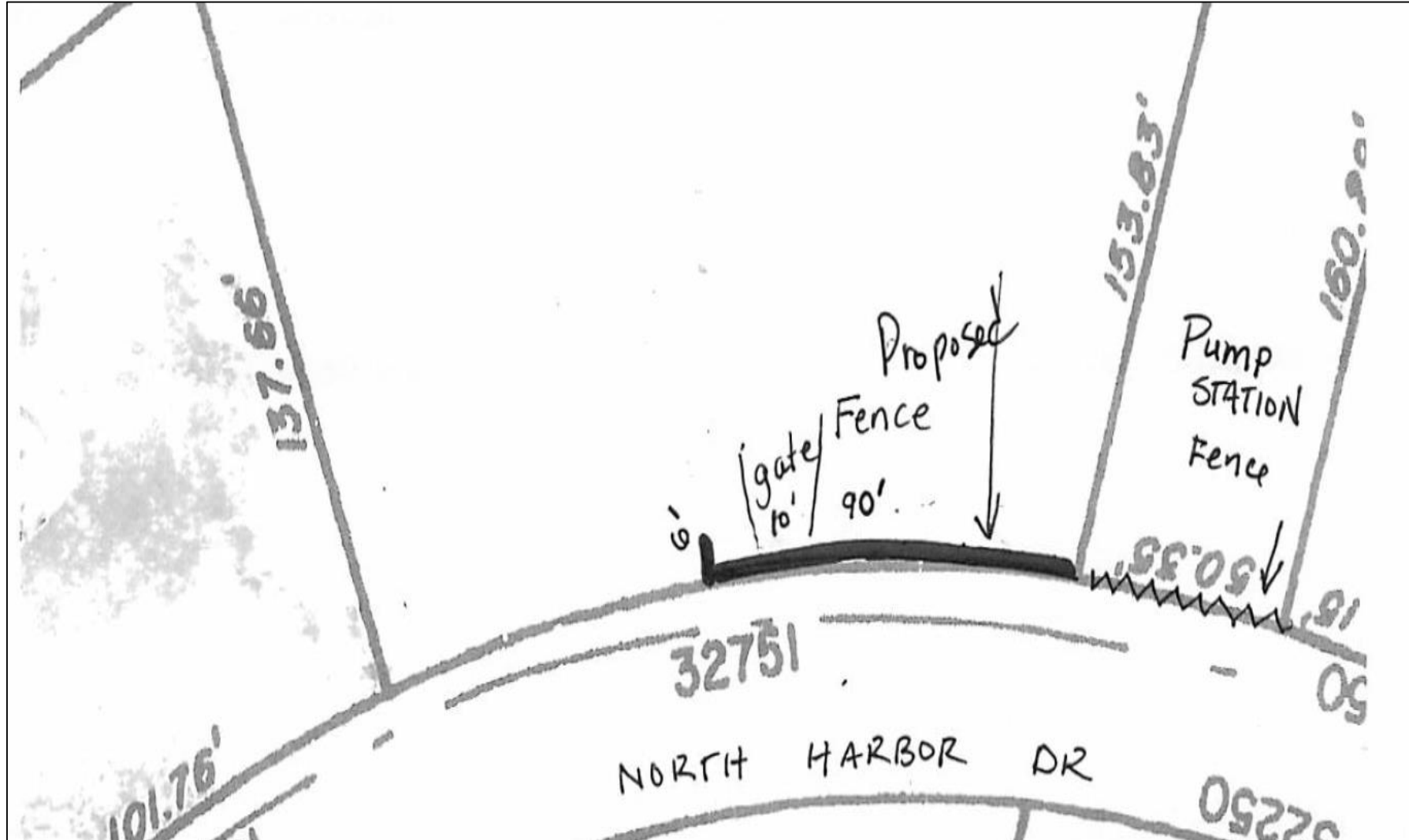
- 420 N. Harbor Drive
- Zoning: Coastal - Low Density Residential
- Previous structure included storage shed
- Proposed project: Build 96'x 6' Fence along property line
- CEQA Exemption 15303. NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES – e. Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

Site Location:





Site Plan



Design



Fence will be built from recycled old-growth redwood from the shed previously on-site.

Staff Analysis

- Consistent with General Plan
- Located in Environmentally Sensitive Habitat
 - Conducted consultation with CA Dept. Fish & Wildlife
 - Vegetation preparation for the project cannot take place between August 16 and January 31
- Design is compatible with existing and future land uses
- Site is physically suitable

Gonzalez, Joanna

From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Sent: Wednesday, February 10, 2021 10:21 AM
To: Gurewitz, Heather
Cc: Gonzalez, Joanna; O'Neal, Chantell; Miller, Tabatha
Subject: RE: CDP 2-20 OR3-20 420 N. Harbor Drive

Heather

Yes, your understanding is correct. As I understand it, determining the extent of an ESHA is normally done on a case by case basis and should be based on factual, up to date, on-the-ground information. Often times LCP maps that map sensitive resources such as ESHA are coarse-scale, generalized, and outdated (e.g., based on mapping information at the time of LCP certification and not updated over time). More often than not, a site that was formerly developed with structures is not considered ESHA due to past development impacts degrading the resources of the habitat area. If the subject fence is to be constructed in an area that was previously developed, it may be that the site itself is not ESHA, even though maps may show it as within ESHA.

Let me know if you have any questions.

Thanks

Melissa

From: Gurewitz, Heather <Hgurewitz@fortbragg.com>
Sent: Wednesday, February 10, 2021 9:52 AM
To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Cc: Gonzalez, Joanna <JGonzalez@fortbragg.com>; O'Neal, Chantell <COneal@fortbragg.com>; Miller, Tabatha@City of Fort Bragg <tmiller@fortbragg.com>
Subject: RE: CDP 2-20 OR3-20 420 N. Harbor Drive

Dear Melissa,

Thank you very much for your time this morning. I appreciate you providing some very valuable information for me regarding Environmentally Sensitive Habitat Areas (ESHA). I am writing this in follow up to confirm that I understood correctly:

Even though the parcel is identified as being in the ESHA, the ESHA is the hillside, whereas, this project is located in the grassy area formerly occupied by the shed. So, while the site is adjacent to the ESHA, the actual project is not in an ESHA.

I appreciate your help with this.

Sincerely,

Heather

Heather Gurewitz
Associate Planner
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
(707) 961-2827 x118

**** Due to COVID-19 City Hall is currently closed to the Public except by appointment. I will respond to emails in the order they are received. Thank you for your patience during these difficult times.****

From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Sent: Wednesday, February 10, 2021 9:38 AM

To: Gurewitz, Heather <Hgurewitz@fortbragg.com>

Subject: RE: CDP 2-20 OR3-20 420 N. Harbor Drive

I'll call you now

From: Gurewitz, Heather <Hgurewitz@fortbragg.com>

Sent: Wednesday, February 10, 2021 9:35 AM

To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>

Subject: RE: CDP 2-20 OR3-20 420 N. Harbor Drive

Can you either call me or provide me with your phone number so I can call you.

Heather Gurewitz
Associate Planner
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
(707) 961-2827 x118

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From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>

Sent: Wednesday, February 10, 2021 9:23 AM

To: Gurewitz, Heather <Hgurewitz@fortbragg.com>

Subject: RE: CDP 2-20 OR3-20 420 N. Harbor Drive

Heather

I noticed there were comments on the fence project. Is there any way to delay the hearing (continue the item) to address the comments, perhaps with updating findings for LCP consistency?

Thanks
Melissa

From: Gurewitz, Heather <Hgurewitz@fortbragg.com>

Sent: Wednesday, January 6, 2021 10:07 AM

To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>

Subject: RE: CDP 2-20 OR3-20 420 N. Harbor Drive

No, it's a pretty simple project. Six foot redwood fence. It fits with the design guidelines. It shouldn't have much impact as it is going to be a continuation of the existing fence line. We don't have any concerns about it.

Thank you,
Heather

Heather Gurewitz
Associate Planner
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
(707) 961-2827 x118

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From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Sent: Wednesday, January 6, 2021 9:54 AM
To: Gurewitz, Heather <Hgurewitz@fortbragg.com>
Subject: RE: CDP 2-20 OR3-20 420 N. Harbor Drive

Hi Heather

Thanks for reaching out. I did take a quick look at this after we received it and I'm not aware of any issues raised. But then again I'm not terribly familiar with the site to understand which LCP policies are at issue and whether any LCP conformity issues are raised. Likely not but just double check. Of course if you have any questions about LCP policies let me know and I can further look into it though won't have time to do so till after next week. Are any members of the public or interested parties interested in the application do you think?

Thanks
Melissa

From: Gurewitz, Heather <Hgurewitz@fortbragg.com>
Sent: Wednesday, January 6, 2021 9:46 AM
To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Subject: FW: CDP 2-20 OR3-20 420 N. Harbor Drive

Hi Melissa,

Did you have any comments on this from coastal commission? I know everyone has been out for the holidays. Please let me know if you need an extension if you do wish to comment.

Thank you,
Heather

Heather Gurewitz
Associate Planner
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
(707) 961-2827 x118

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From: Gurewitz, Heather
Sent: Wednesday, December 16, 2020 2:58 PM
To: 'Melissa.Kraemer@coastal.ca.gov' <Melissa.Kraemer@coastal.ca.gov>; O'Connor, Diane <DOconnor@fortbragg.com>
Subject: CDP 2-20 OR3-20 420 N. Harbor Drive

Dear Colleagues,

Please see the attached Agency Referral Letter regarding a Coastal Development Permit Application for 420 N. Harbor Drive. If you have any questions or concerns, please let me know. Please note, we are requesting a response by January 5, 2021.

Thank you,
Heather

Heather Gurewitz
Associate Planner
City of Fort Bragg

416 N. Franklin St.
Fort Bragg, CA 95437
(707) 961-2827 x118

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Gonzalez, Joanna

From: noreply@granicusideas.com
Sent: Monday, February 08, 2021 10:50 AM
To: Gonzalez, Joanna
Subject: New eComment for Planning Commission - Video Conference



New eComment for Planning Commission - Video Conference

Mendocino Action Council for Accountable Government Organizations submitted a new eComment.

Meeting: Planning Commission - Video Conference

Item: 4A. 21-017 Conduct a Public Hearing and Consider Approval of Coastal Development Permit 2-20 (CDP 2-20) and Design Review 5-20 (DR 5-20) to construct a fence at 420 N. Harbor Drive

eComment: This staff report is confusing and doesn't make sense. Entire sections of the staff report include discussions that aren't even about what that section is supposed to address (e.g., no analysis of the applicable policies in the general plan in the section about consistency with the general plan).

[View and Analyze eComments](#)

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February 9, 2021

Dear Members of the Planning Commission,

We are in receipt of the Public Comment submitted to the Planning Commission on February 6, 2021 by Mr. Jacob Patterson pertaining to the proposed action to be discussed at the upcoming meeting on February 10, 2021 which is noted as Item 4A: CDP 2-20. In reading Mr. Patterson's comments, we felt it important for us to address a number of his concerns.

In his lengthy comments Mr. Patterson makes numerous erroneous and unsubstantiated claims as to the proper interpretation of The California Environmental Quality Act (CEQA) and to the proper role of the Ft. Bragg Planning Department in making both recommendations and providing guidance to the Planning Commission.

The California Environmental Quality Act (CEQA) has been both a shining example to much of the country as a model for how to implement and determine proper environmental controls throughout the state, and as a model for creating a way for the state to control potential "renegade" projects that would have a significant adverse impact on the environment. It has been litigated literally hundreds of times as to the proper role of local authorities and how they interpret and implement (CEQA). Overwhelmingly the courts have sided both on the side of conservation and environmental concerns, but also on the authority of local planning departments and commissions to determine what is in the best interests of both their local communities and the state.

Courts have interpreted CEQA to afford the fullest protection of the environment within the reasonable scope of the statutes. Certain types of projects, such as construction of small structures or minor changes to existing structures are considered "categorically exempt" from the often time-consuming and expensive process of CEQA review. The reasoning behind these exemptions is that projects in the specified categories are limited in nature and ordinarily do not pose a risk of causing adverse environmental impacts.

Mr. Patterson sites the project at issue in *Berkeley Hillside* which involved demolition of an existing single-family home and construction of a new 6,478 square foot single-family residence with an attached 3,394 square-foot, 10-car garage, situated on property with a relatively steep slope. The City concluded the project was categorically exempt pursuant to the In-fill exemption (CEQA Guidelines § 15332) and the "New Construction or Conversion of Small Structures" exemption (CEQA Guidelines § 15303(a)). Opponents alleged reliance on the categorical exemptions was improper given that (1) the combined size of the residence and garage, (2) the "massive grading" that would be required given the steep slopes, and (3) the potential "seismic lurching" given its purported location near a major earthquake trace and

within a State-designated landslide hazard zone, would result in the project having significant environmental impacts.

The decision the Court held was that *whenever* there is substantial evidence of a fair argument that a significant environmental impact may occur, this *automatically* satisfies the “unusual circumstances” exception.

In a nutshell, if there is evidence that a project in the usually-exempt category will have significant environmental impacts, that evidence may be enough to suggest that some unusual circumstance is involved and therefore precludes reliance on a categorical exemption. The exemption before the planning commission for 420 North Harbor Drive is not such a case. There is simply no correlation in scope between the case Mr. Patterson cites and our request to build a fence alongside and adjacent to a current city fence.

In another case, *CREED-21 v. City of San Diego* (2/18/2015, 4th Civil No. D064186), the Fourth District Court of Appeal upheld a CEQA exemption related to the City of San Diego’s approval of a project comprising emergency storm drainage repair and site revegetation. The decision addressed various CEQA issues, including the environmental baseline determination, the “common sense” exemption, and the “unusual circumstances” exception.

In 2011, the City proposed a revegetation plan for restoration of the area impacted by the storm drain. The goal of the plan was “to restore the area entirely with native vegetation and thereby biologically improve on the current post-impact conditions of the site.” Therefore, the City had concluded based on an initial study that the project qualified for the “common sense” exemption because the project obviously would not result in significant environmental impacts. This is another case where we believe our building of a fence meets the “common sense doctrine.

In submitting our request for a building permit, we are asking for permission to build a fence, where one year ago a building stood. The location of the fence follows much the same footprint where the old building stood. We would note, we are not looking to erect a nuclear power plant, but a 90-foot fence, six feet high, made from old growth redwood. I would also note that in looking carefully at the submitted fence design you will note that it is attractive and well designed. The same cannot be said of the fence which is located directly across the street.

Although we agree that not all projects should be exempt from CEQA, the argument made by Mr. Patterson is that the City of Fort Bragg does not have discretion to use exemptions on any project that would fall into one of the exemption categories, no matter the scope, size and most importantly regardless of environmental impact. If in Mr. Patterson’s argument the Planning Commission does not have this discretion for a project as minor as a fence that will act to prevent the area from becoming a local dumping ground, then when? The (CEQA) specifically carves out specific projects and classes of projects for just such exemptions. Furthermore, if the objective of (CEQA) is to minimize damage, then there is room to argue that not having the fence would be far more detrimental to environment.

For over 80 years the Figueredo Family have been valued members of the Ft. Bragg community. From our Grandfather Manuel Figueredo, to his siblings, to our cousins, the family have been active and stalwart contributors to the community we believe in and love. As long-standing members of the community, the last thing we would want is to harm the Ft. Bragg community in any way. We strongly believe that this simple, elegant fence will not only do no harm, but will prevent the area in which it will go up from becoming a dumping ground and eyesore.

With thanks and appreciation for your consideration of our permit request.

Tracy Kane & Constance Lyons

Additional Note:

The width of a buffer zone is based on the necessary distance to ensure that the most sensitive species of plants and animals will not be disturbed significantly. The scope and scale of this project is not expected to reduce or devalue the quality of habitat of either.

The recently demolished building was already located entirely within the required 100-foot buffer and the fence line will be not be any closer to ESHA than the previously existing building. As such, the project will not result in new ESHA impacts.

Gonzalez, Joanna

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Saturday, February 06, 2021 12:40 PM
To: Gonzalez, Joanna
Cc: Gurewitz, Heather; O'Neal, Chantell
Subject: Public Comment -- 2/10/21 PC Mtg., Item 4A: CDP 2-20
Attachments: CEQA Guidelines 15300.2.pdf

Planning Commission,

As has been the case for nearly every staff report coming from the Community Development Department in the last few meetings, there are significant flaws in the analysis and recommendations for proposed CDP 2-20 and DR 5-20, including not providing support for all of the required findings in the administrative record, a chronic yet easily avoidable problem. These significant defects extend to the CEQA determination and attempted reliance on a categorical exemption to avoid environmental review. City staff has selected the Class 3 categorical exemption for small structures. The staff report states "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." First of all, this statement is patently false because even applicable categorical exemptions don't make a project "exempt from CEQA", a categorical exemption only makes a project exempt from further environmental review, avoiding the need for an Initial Study or more comprehensive CEQA document. Putting that technical defect aside, the City's attempt to avoid normally necessary environmental review for this CDP fails because it cites a categorical exemption that doesn't apply to this project. CEQA Guidelines section 15300.2, subd. (a) and (c), which is attached to this comment, demonstrate that the location of a project that includes a sensitive habitat or protected natural resource, or if a project site or surrounding area presents "unusual circumstances" compared to other sites or projects that would normally qualify for a categorical exemption, then the categorical exemption does not apply to the project and further environmental review is necessary.

The applicability of and exceptions to categorical exemptions have been litigated and the case law governs the City's actions in addition to the CEQA Guidelines themselves. The California Supreme Court case that confirmed the applicability of categorical exemptions absent unusual circumstances (*Berkeley Hillside Preservation v. City of Berkeley*), specifically talked about what could constitute unusual circumstances and prevent reliance on a normally applicable categorical exemption. One of the specific examples used in that opinion to illustrate when "unusual circumstances" might apply was a normally exempt structure that was proposed to be constructed within an ESHA. (That example in the court's opinion cited part (a) of the same Class 3 exemption Heather mentions in the staff report; part (a) applies to construction of one single-family residence but the subdivision Heather cites, part (e), applies to small accessory structures, including accessory fences). The California Supreme Court explained that the presence of an ESHA on the site of a proposed project may provide the "unusual circumstances" necessary to prevent reliance on a Class 3 categorical exemption, particularly when specific potentially significant impacts are identified and even proposed to be mitigated. In this case, CDFW and the staff report both acknowledge that this property includes an identified ESHA. If the presence of an ESHA presents an unusual circumstance preventing reliance on a normally-applicable Class 3 categorical exemption, and ESHAs are on this proposed project site, and CDFW recommended a mitigation measure to avoid what would be significant impacts of the project to the onsite ESHAs, then trying to rely on a Class 3 categorical exemption for this project is a mistake and would constitute an abuse of discretion. The Planning Commission should not make that mistake despite staff recommending that you do so.

If the Planning Commission wishes to approve the permits for this proposed project, you should continue the item to another meeting and direct staff to prepare adequate supporting analysis and documentation, including an MND as the CEQA document for this project based on the documented ESHAs on the project site and the mitigation measures recommended by CDFW. If the City took the time to prepare and circulate an MND for the Halsey Way subdivision even though no ESHA or native habitat was present on that site, there is no reason we would not have prepared and circulated an MND for this project that actually has documented ESHA on the site (other than a lack of experience and competence in planning reviews). The CEQA Guidelines make clear that even if a categorical exemption superficially appears to apply to a project, it cannot be relied on to avoid further environmental review for a project where the location of, or unusual circumstances concerning, the site of the proposed project suggest the project will have potentially significant impacts.

The exceptions in CEQA Guidelines section 15300.2 apply to this project because of the location of the site and the documented ESHA on the site, which have specifically been identified as a concern for this project in a way that is different for other projects proposed in different locations and without identified ESHA or mitigation measures addressing the impacts to those ESHA. Moreover, the proposed mitigation measures should be strengthened because of the prior unpermitted tree removal activities on the site. I believe the prior unpermitted cutting already had a negative impact on the Coast Live Oak trees (part of the identified ESHA) and this project could contribute to those impacts in a cumulatively considerable way without effective mitigation measures. The cumulative impacts of this project from further damage to the on-site ESHA are significant but the mitigation measure only addresses avoidance techniques based on future actions but which do not include any follow-up or monitoring mechanisms to ensure compliance.

Finally, the staff report refers to CDFW's recommendation but does not quote the actual recommendation (much like how Heather misrepresented the actual language and focus of the Planning Commission's motion to deny the Sunshine Holistic permits when she prepared the staff report for the appeal with the City Council). In fact, Special Condition #1 (purportedly addressing CDFW's recommendation) is significantly abbreviated from their actual recommendation. CDFW actually stated the following: "CDFW Recommendation 1: Vegetation mowing should occur from August 16 through January 31, outside the nesting bird season, if feasible. **If vegetation removal/mowing during this time is not feasible, a pre-construction bird survey should be performed by a qualified biologist no more than 14 days prior to the initiation of vegetation clearing. The survey should cover the project area and vegetated areas within 100-feet. If active nests are found, an appropriate no-disturbance buffer should be established by the qualified biologist. Once it is determined that the young have fledged or the nest otherwise becomes inactive, the buffer may be lifted and work may be initiated within the buffer**" (emphasis added). As you can see, CDFW recommended more significant mitigation for this project than what staff is presenting for your consideration. The Planning Commission should reject what appear to be staff's attempted manipulations and lack of transparency and demand an honest presentation of all relevant information and the actual recommendations of the responsible agencies reviewing the details of this proposed project. (This is particularly true for a project in an area with a past history of unpermitted vegetation removal and impacts to ESHA, which suggests that merely stating that no mowing will occur other than between August 16 through January 31 when we are in the middle of the bird nesting season and the permitted time period for moving and removal will not start until August 16, over six months from the date of this public hearing!)

I understand that this is only a permit for a fence but strongly believe we cannot continue to ignore (for convenience sake) bad practices and inadequate procedures for permit reviews even if we did so in the past. All of the recent staff changes have actually made these problems and defects worse, with the quality of work plummeting to all-time lows under the current team. Even though the Planning Commission cannot reasonably approve these permits at this time based on the staff report and "analysis" that has been presented, I am not recommending that you deny these permits. Instead, the Planning Commission should continue the item and direct staff to bring it back for your likely approval after it has been processed according to legal requirements and all findings and determination are adequately supported by substantial evidence in the record, including

incorporating the complete mitigation measure recommended by CDFW. To take any other path would harm the applicant who only wants to build her fence but who would likely be subjected to appeals, avoidable delays, and unnecessary expenses due entirely to staff's inadequate work which does not demonstrate any competence. This permit applicant and the community deserve far better than what they are receiving from City staff.

Best regards,

--Jacob

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§ 15300.2. Exceptions.

14 CA ADC § 15300.2

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

Barclays Official California Code of Regulations [Currentness](#)

Title 14. Natural Resources

Division 6. Resources Agency

Chapter 3. Guidelines for Implementation of the California Environmental Quality Act

Article 19. Categorical Exemptions

14 CCR § 15300.2

§ 15300.2. Exceptions.

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21084 and 21084.1, Public Resources Code; *Wildlife Alive v. Chickering* (1977) 18 Cal.3d190; *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896; *Citizens for Responsible Development in West Hollywood v. City of West Hollywood* (1995) 39 Cal.App.4th 925; *City of Pasadena v. State of California* (1993)

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Gonzalez, Joanna

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Wednesday, February 10, 2021 3:53 PM
To: CDD User; Gonzalez, Joanna
Subject: Public Comment -- 2/10/21 PC Mtg., Item 4A: CDP 2-20

Per Chantell's request, I thought I would forward my original email to you to be included as a public comment tonight. I did not intend it to be a public comment and it is somewhat duplicative from the official public comment I did send in but it doesn't hurt to include it anyway.

----- Forwarded message -----

From: O'Neal, Chantell <COneal@fortbragg.com>
Date: Wed, Feb 10, 2021 at 2:00 PM
Subject: RE: Implied CEQA mishap for coastal zone fence CDP
To: Jacob Patterson <jacob.patterson.esq@gmail.com>

Jacob,

Agendas for regular meetings publish at least 72 hours before that scheduled meeting. Please submit Public Comments using those methods defined in the Hearing Notice.

Chantell O'Neal

Assistant Director, Engineering Division

Public Works

(707) 961-2823 ext. 133



From: Jacob Patterson [mailto:jacob.patterson.esq@gmail.com]
Sent: Friday, February 5, 2021 10:00 AM
To: O'Neal, Chantell <COneal@fortbragg.com>
Subject: Implied CEQA mishap for coastal zone fence CDP

Chantell,

I was reviewing some records requests with my associates at S.C.R.A.M. and we found the email below about the upcoming agenda item. CDFW's recommendation is clearly a mitigation measure that likely cannot be implemented solely as a special condition of the permit, it is required to be included as a mitigation measure in an MND because of the unusual circumstances that applies to the project site compared to other locations where vegetation removal and installation of a fence would probably be exempt due to an applicable categorical exemption, including its location in the harbor on a parcel in the Coastal Zone containing significant cover of native plant populations (e.g., Coast live oak trees) and wildlife habitat. (In fact, there were unpermitted native tree removals in this area that resulted in code enforcement and stop work order a little more than a year ago.) This is a similar procedural situation to the Halsey Way subdivision, where there was a single mitigation measure MND. The City imposed a mitigation measure for that project so an MND needed to be prepared and circulated for public comment prior to any public hearing, which has not happened for this permit even though the public hearing notice already went out. We have applied mitigation measures to other CDPs for fences, including elevating the fence panels or wire at least 6 inches off the ground to permit wildlife movement.

These parts of the review process apparently were not done in this case, and an MND likely needs to be prepared and circulated for public review and comment, which will necessarily delay the public hearing date. When can the public expect an agenda and staff report for this item? You sent out a notice requesting public comments but no information on the project has been made available to the public (despite that notice calling for comments) and inquiries with Heather, the designated staff contact, have not been responded to at all, let alone in a timely manner. These issues raise numerous red flags about the likely (in)adequacy of the review for this CDP that will need to be addressed during the public hearing.

--Jacob

Hi Connie,

The good news, they aren't requiring a biological study, however, CDFW has the following recommendation. I also received a response from the building inspector, and you will not need a building permit. However, you may need something else because that small section of road is partially owned by the county and their department of transportation could potentially require something:

Thank you for the referral and the opportunity for CDFW to comment on CDP 2-20 OR3-20. We offer the following informal comments and recommendations on this Project in our role as a Trustee Agency under the California Environmental Quality Act (CEQA; California Public Resource Code section 21000 et seq.). These comments are intended to help the Lead Agency in making informed decisions early in the review process.

The Small Construction Site Stormwater Erosion and Sediment Control Plan requires work to be done from April 1 through October 31 to avoid the wet season. This period is within the nesting bird season which is February 1 through August 15. Based on familiarity with the parcel, shrubs and trees which may provide nesting habitat for birds is known to be present.

CDFW Recommendation 1: Vegetation mowing should occur from August 16 through January 31, outside the nesting bird season, if feasible. If vegetation removal/mowing during this time is not feasible, a pre-construction bird survey should be performed by a qualified biologist no more than 14 days prior to the initiation of vegetation clearing. The survey should cover the project area and vegetated areas within 100-feet. If active nests are found, an appropriate no-disturbance buffer should be established by the qualified biologist. Once it is determined that the young have fledged or the nest otherwise becomes inactive, the buffer may be lifted and work may be initiated within the buffer.

Heather Gurewitz

Associate Planner

City of Fort Bragg

416 N. Franklin St.
Fort Bragg, CA 95437

(707) 961-2827 x118

**** Due to COVID-19 City Hall is currently closed to the Public except by appointment. I will respond to emails in the order they are received. Thank you for your patience during these difficult times.****

Email correspondence with the City of Fort Bragg (and attachments, if any) may be subject to the California Public Records Act, and as such may therefore be subject to public disclosure unless otherwise exempt under the Act.



City of Fort Bragg

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

Text File

File Number: 20-973

Agenda Date: 2/10/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 5A.

Receive Report and Consider Adopting a Resolution to Update the Planning Commission Bylaws

AGENDA ITEM SUMMARY REPORT

Title: Planning Commission Bylaws 2021

APPLICANT: N/A

OWNER: N/A

REQUEST: Receive Report and Consider Adopting a Resolution to Update the Planning Commission bylaws for 2021

LOCATION: N/A

ASSESSOR'S PARCEL NO: N/A

ENVIRONMENTAL DETERMINATION: N/A

APPEALABLE PROJECT: N/A

RECOMMENDED ACTION:

Receive Report and Consider Adopting a Resolution to accept the updated Planning Commission Bylaws.

ALTERNATIVE ACTION:

Provide additional direction to staff regarding further or different modifications to the Planning Commission bylaws

BACKGROUND

The Fort Bragg Planning Commission conducts its activities according to the Planning Commission's Bylaws. The Planning Commission Bylaws were last updated in January 2019. Accordingly, it is useful for the Planning Commission to review the Bylaws on an occasional basis in order to ensure that the Bylaws relevantly cover all Planning Commission activities and procedures. Staff has attached a redline version of the Bylaws and a Resolution with the clean version for review and approval by Commission.

ATTACHMENTS

Att 1- Planning Commission Bylaws Redlined
Att 2- Resolution with Amended Bylaws

Exhibit A
FORT BRAGG PLANNING COMMISSION
BYLAWS

[01/23/201901/13/2021](#)

I. **PURPOSE**

The purpose of the bylaws of the Fort Bragg Planning Commission is to adopt its rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.20.090 and 2.20.100)

II. **MEETINGS**

A. the Commission shall hold its regular meetings on the second and fourth Wednesday of each month at 6:00 p.m. At the first regular meeting in the month of January, the Commission may adopt a specific meeting schedule that provides alternate meeting dates to avoid conflict with recognized City holidays. There will be no fourth Wednesday meetings in November and December. The meeting schedule shall be posted for public review at City Hall and on the City's website. (Ord. 740, §1, 1992) (Fort Bragg Municipal Code§ §2.20.060, 2.20.090 and 2.20.100)

B. The meeting place of the Planning Commission for the transaction of business is fixed and established at the Town Hall, situated on the southwest corner of North Main and Laurel Streets, and commonly known as 363 North Main Street, Fort Bragg, California. The meetings will be conducted via webinar and televised on local tv as well as livestreamed on the City's website.

(Ord. 274, §2, 1947; Ord. 740, §1, 1992) (Fort Bragg Municipal Code §2.04.020)

C. A special meeting of the Planning Commission may be called at any time by:

1. The Chair; or,
2. In the Chair's absence, by the Vice-Chair; or,
3. By a majority of the members of the Planning Commission.

3.4. The City Manager, Community Development Director or City Staff

Unless a special meeting is called by a majority vote of the members at a regular or special meeting, a written notice must be delivered, personally or by mail, to each member of the Planning Commission at least seventy- two hours prior to the special meeting. The notice must specify the time and place of the special meeting and the business to be considered. The notice must be posted at City Hall in the kiosk and on the City's website. a location that is accessible to the public. The only business that may be considered at a special meeting is the business shown on the notice. (Ord. 499 §2, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.190)

D. All regular and special meetings shall be open to the public. (Ord. 623, 1984; Ord. 602, 1983; Ord. 83, §2, 1905) (Fort Bragg Municipal Code §2.04.010)

E. The order of business of the Planning Commission shall be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of Minutes
5. Public Comments on Non-Agenda Items
6. Disclosure of Ex Parte Communications on Agenda Items
7. Public Hearings

8. Conduct of Business
9. Matters from Commissioners
10. Matters from Staff
11. Adjournment

(Ord. 738 §1, 1992; Ord. 674 §1, 1987; Ord. 84 §4, 1905) (Fort Bragg Municipal Code §2.04.060)

F. The adjournment time for all Commission meetings shall be 9:00 p.m. If the Commission is still in session at 9:00 p.m., the Commission may continue the meeting upon majority vote. Further, if it appears that the meeting will adjourn, the Planning Commission shall vote upon which items are to be continued to a future meeting.

(Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.100)

III. **OPERATIONS**

A. A majority of the Planning Commission constitutes a quorum for the transaction of business. (Government Code §36810)

B. At the first regular meeting in the month of January, the Planning Commission shall select one of its members as Chair and one member as Vice-Chair of the Commission. In case of the absence of the Chair, the Vice-Chair shall act as the Chair. If the Chair and Vice-Chair leave the Commission, and there are no officers, the Commission shall elect a Chair and Vice-Chair at the next Commission meeting.

(Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.050)

C. During the month of January, the Commission may discuss and adopt a work schedule for the year as a guide for work on the General Plan of the City.

(Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.070)

D. The Community Development Director shall provide a quarterly update to the Commission of all major current planning projects and all long range planning activities.

E. After the close of the calendar year, the Commission may discuss and prepare a summary report of its work for the calendar year. The report may be submitted to the City Council and may be used for reporting to County, State or Federal agencies. (Ord. 740§1, 1992) (Fort Bragg Municipal Code §2.20.010)

F. To allow for efficient consideration of planning and zoning matters, Ad Hoc committees may be appointed to consider specific matters and report to the Commission. Ad Hoc committees will be appointed by the Chair, after consultation with the Commission as to the purpose and composition of the committee. Not more than two commissioners may be appointed to an Ad Hoc committee.

(Ord. 500 §3, 1978; Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.04.075)

1. At the first meeting of each Ad Hoc committee, one member shall be elected as Chair. The Chair shall be responsible to direct the committee and to report to the Commission when the committee believes it has completed its task. The Chair shall ensure that proper notices are posted at City Hall for meetings of the Ad Hoc committee. The Chair shall account for member participation and attendance at meetings or other work related to the task, including records of action or progress. The Chair may report to the Commission periodically, about progress and/or about member attendance. Each member of an Ad Hoc committee is responsible to attend meetings of the committee. Committee meeting dates shall be set by a consensus of the committee.
2. If one or more members of an Ad Hoc committee is/are absent from one (1) meeting that has been set by consensus, the Chair shall attempt to contact the member and determine his/her interest in serving on the committee. The Chair shall report to the Commission, requesting a replacement member, if the member is not willing to continue or if failure to attend meetings continues.
3. Final Ad Hoc committee recommendations shall be presented to the Commission by the Chair in writing. When the committee report is received, the Commission may receive majority and minority opinions from committee members.

F.G. The Chair shall decide all questions of order.

(Ord. 674 §1, 1987; Ord. 84 §2, 1905) (Fort Bragg Municipal Code §2.04.040)

G.H. The Chair may make or second any motion before the Planning Commission and present and discuss any matter as a member of the Planning Commission.

(Ord. 498 §6, 1978) (Fort Bragg Municipal Code §2.04.034)

H.I. In the event of a tie vote, the motion shall fail.

(Ord. 552 § §2, 3, 1981) (Fort Bragg Municipal Code §2.04.038)

I.J. A motion to reconsider shall not be in order except on the same day or at the next session of the Commission after which the action proposed to be reconsidered took place. Such motion must be made by a member who voted with the majority on the question, except that a member who was necessarily absent may, at the next meeting at which he or she is present, have a right to move a reconsideration of the same. A motion to reconsider shall require a majority vote. Whenever a motion to reconsider fails, further reconsideration shall not be granted.

J.K. No member of the Planning Commission shall be permitted to interrupt another during debate or discussion of any subject.

(Ord. 674 §1, 1987; Ord. 84 §10, 1905) (Fort Bragg Municipal Code §2.04.120)

K.L. 1. Every member of the Planning Commission present shall vote on every question or matter when put, except when disqualified from voting by operation of law, or unless the Planning Commission for special reasons entered in the minutes, excuses the member from voting on a particular matter then under consideration. Should a member abstain from voting, they shall state the reason for abstaining, and said reason shall be recorded in the minutes of said meeting.

(Ord. 738§5, 1992; Ord. 84§11, 1905) (Fort Bragg Municipal Code §2.04.130)

2. —Any member of the Planning Commission who votes in the minority, on any question or matter, may file a minority opinion. The minority opinion may be verbal at the time of the vote, or written and submitted for inclusion into the minutes of the question or matter. A minority opinion shall be shown as the personal comments of an individual member and not subject to change by a majority of the Commission. A written minority opinion must be submitted to the Planning Director between the vote on the question or matter and the beginning of the next regular meeting when the minutes on the question or matter are considered.

L.M. When the Commission revises staff recommendations on an application and the applicant is not present or represented, the Commission shall defer a decision until the applicant can be present or represented.

M.N. Each member of the Planning Commission is responsible to attend Commission meetings. Section 2.20.080 of the Fort Bragg Municipal Code shall be enforced for each member.

N.O. If the Planning Director determines that a substantial question of interpretation on a planning matter needs the review of the Planning Commission, the Planning Director shall introduce the matter at the next regular meeting. The matter may apply to City ordinances or to a current project. The Planning Director shall provide a written report to the Planning Commission including the following:

1. A statement of the substantial question for review.
2. A reference to ordinances in the Municipal Code that apply to the substantial question.
3. A reference to the portions of the General Plan that may apply.
4. A reference to previous actions by the Commission or City Council that may ~~apply~~apply.

After the Planning Commission has studied the substantial question, it shall adopt a finding to be used by the Planning Director.

IV. PUBLIC HEARINGS

On any matter before the Planning Commission that requires a public hearing, the following procedure shall be followed:

- A. The Chair will announce the item from the agenda;

- B. The Chair will open the public hearing, stating the time:
 1. The Community Development Director and/or planner will present a staff summary report and answer questions of the Commissioners;
 2. If it is apparent that there is considerable public interest in the matter, the Chair may poll the audience for an indication of the number of persons who wish to address the Commission; and,
 3. The Chair may:
 - a) impose a three (3) minute time limit on each person who addresses the Commission;
 - b) request that testimony be combined through a spokesperson where ~~possible;~~ and possible; and,
 - c) limit each person who has addressed the Commission to a single opportunity to clarify their testimony.

- C. The applicant shall be given an opportunity to present the matter and answer questions from staff or Commissioners, unless they waive that right by letter in advance of the meeting;

- D. Members of the public and/or public agencies will be given an opportunity to present their comments;

- ~~E.~~ E. For meeting held in person ~~all~~ All speakers before the Planning Commission shall approach the public podium and give their comments. They may also provide their name, address, and whether they live or work in the City prior to addressing the Commission;

- ~~E.F.~~ E.F. For meetings held virtually via webinar Comments can be made at any time prior to the meeting, in real-time while the item is being considered by the Planning Commission. All eComments or emails received before or during the meeting that have not been published with the agenda packet will be read aloud into the record. Public comments are restricted to three minutes. Written comments on agenda items and those exceeding three minutes will be included in the public record as part of the agenda packet the next business day after the meeting.

- ~~F.G.~~ F.G. Questions from the public or Commissioners should be directed through the Chair, unless the Chair decides to manage questions in a different manner;

- ~~G.H.~~ G.H. When all comments have been presented to the Commission, any of the following options may be selected:
 1. Continue the public hearing until a future date if there are issues raised during the hearing that need further review;
 2. Leave the public hearing open while the Commission discusses action proposed to be taken; and,
 3. Close the public hearing, stating the time and then the Commission can discuss action to be taken. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.100)

RESOLUTION NO. PC -2021

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FORT BRAGG
AMENDING BYLAWS FOR THE FORT BRAGG PLANNING COMMISSION**

WHEREAS, Fort Bragg Municipal Code Chapter 2.20 — PLANNING COMMISSION, provides in part that the Planning Commission shall have the power, by resolution, to adopt rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties; and

WHEREAS, due to the provisions of the governor's executive orders n-25-20 and n-29-20 which suspend certain requirements of the brown act, and the order of the health officer of the county of Mendocino to shelter in place to minimize the spread of covid-19 public meetings are being held virtually.

WHEREAS, on January 13, 2021 the Planning Commission held a meeting to consider whether or not the existing bylaws are consistent with current practices and the Inland General Plan and the Coastal General Plan; and

WHEREAS, the adoption of bylaws is exempt from compliance with CEQA; and

WHEREAS, based on all the evidence presented, the Planning Commission finds as follows:

1. Based on the information and findings included in the staff report, minutes and all other records of the proceedings of January 13, 2021, the Planning Commission hereby finds that the attached FORT BRAGG PLANNING COMMISSION BYLAWS (2021) are consistent with the goals and policies of the City of Fort Bragg Inland General Plan and the Fort Bragg Coastal General Plan; and
2. Planning Commission hereby finds that the attached FORT BRAGG PLANNING COMMISSION BYLAWS (2021) are consistent with current practice of the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Fort Bragg does hereby amend as its rules pursuant to Section 2.20.100 that certain document entitled FORT BRAGG PLANNING COMMISSION BYLAWS (2021) as set forth more particularly in Exhibit "A" attached hereto and made a part thereof.

The above and foregoing Resolution was introduced by Planning Commissioner _____, seconded by Planning Commissioner _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 13th day of January 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

Chair

ATTEST:

Joanna Gonzalez, Administrative Assistant

Exhibit A
FORT BRAGG PLANNING COMMISSION
BYLAWS
01/13/2021

I. PURPOSE

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L. 1. Every member of the Planning Commission present shall vote on every question or matter when put, except when disqualified from voting by operation of law, or unless the Planning Commission for special reasons entered in the minutes, excuses the member from voting on a particular matter then under consideration. Should a member abstain from voting, they shall state the reason for abstaining, and said reason shall be recorded in the minutes of said meeting.

(Ord. 738§5, 1992; Ord. 84§11, 1905) (Fort Bragg Municipal Code §2.04.130)

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- M. When the Commission revises staff recommendations on an application and the applicant is not present or represented, the Commission shall defer a decision until the applicant can be present or represented.
- N. Each member of the Planning Commission is responsible to attend Commission meetings. Section 2.20.080 of the Fort Bragg Municipal Code shall be enforced for each member.
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 - 2. If it is apparent that there is considerable public interest in the matter, the Chair may poll the audience for an indication of the number of persons who wish to address the Commission; and,
 - 3. The Chair may:
 - a) impose a three (3) minute time limit on each person who addresses the Commission;
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- C. The applicant shall be given an opportunity to present the matter and answer questions from staff or Commissioners, unless they waive that right by letter in advance of the meeting;
- D. Members of the public and/or public agencies will be given an opportunity to present their comments;
- E. For meeting held in person speakers before the Planning Commission shall approach the public podium and give their comments. They may also provide their name, address, and whether they live or work in the City prior to addressing the Commission;
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- G. Questions from the public or Commissioners should be directed through the Chair, unless the Chair decides to manage questions in a different manner;
- H. When all comments have been presented to the Commission, any of the following options may be selected:
 - 1. Continue the public hearing until a future date if there are issues raised during the hearing that need further review;
 - 2. Leave the public hearing open while the Commission discusses action proposed to be taken; and,
 - 3. Close the public hearing, stating the time and then the Commission can discuss action to be taken. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.100)



City of Fort Bragg

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

Text File

File Number: 20-971

Agenda Date: 2/10/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 5B.

Discuss and Adopt a Work Schedule for the 2021 Year (Ord. 740 §1, 1992; Fort Bragg Municipal Code §2.20.070; PC Bylaws § III.C.)

2021 Planning Commission Dates

Hearing Date	Agenda Published
1/13/2021	1/8/2021
1/27/2021	1/22/2021
2/10/2021	2/5/2021
2/24/2021	2/19/2021
3/10/2021	3/5/2021
3/24/2021	3/19/2021
4/14/2021	4/9/2021
4/28/2021	4/23/2021
5/12/2021	5/7/2021
5/26/2021	5/21/2021
6/9/2021	6/4/2021
6/23/2021	6/18/2021
7/14/2021	7/9/2021
7/28/2021	7/23/2021
8/11/2021	8/6/2021
8/25/2021	8/20/2021
9/8/2021	9/3/2021
9/22/2021	9/17/2021
10/13/2021	10/8/2021
10/27/2021	10/22/2021
11/10/2021	11/5/2021
11/24/2021	11/19/2021
12/8/2021	12/3/2021
12/22/2021	12/17/2021



City of Fort Bragg

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Phone: (707) 961-2823
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Text File

File Number: 20-972

Agenda Date: 2/10/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 5C.

Review Summary Report of Planning Commission Work for the Calendar Year 2020 (Ord. 740 §1, 1992; Fort Bragg Municipal Code §2.20.010; PC Bylaws § III.D.)

File ID	Type	Status	Title	Agenda Date	Agenda Nr.	Controlling Body
20-553	Planning Resolution	Passed	Receive Report, Conduct Public Hearing, and Consider Adopting a Resolution Recommending City Council Approval of Ordinance 959-2020 (ILUDC Amendment 1-20), Amending Tables in Sections 18.22.030 and 18.22.050 of Article 2 (Zoning Districts and Allowable Land Uses), Repealing and Replacing Section 18.42.170 of Article 4 (Standards for Specific Land Uses), Repealing and Replacing Sections 18.90.030 and 18.90.040 of Article 9 (Inland land Use and Development Code Administration), and Amending Article 10 (Definitions) of Title 18 (Inland Land Use and Development Code) of the City of Fort Bragg Municipal Code Relating to Second Units	1/8/2020	4B.	Planning Commission

File ID	Type	Status	Title	Agenda Date	Agenda Nr.	Controlling Body
20-554	Planning Staff Report	Passed	Select Chair and Vice-Chair of the Fort Bragg Planning Commission and Review Bylaws	1/8/2020	5A.	Planning Commission
20-556	Minutes	Passed	Approval of the December 11, 2019 Minutes.	1/8/2020	1A.	Planning Commission
20-590	Planning Staff Report	Passed	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)	2/12/2020	4A.	Planning Commission
20-607	Report	Business	Review Summary Report of the Fort Bragg Planning Commission Work for the Calendar Year of 2019.	2/12/2020	5A.	Planning Commission
20-616	Minutes	Passed	Approval of the January 8, 2020 Minutes.	2/12/2020	1A.	Planning Commission
20-632	Planning Staff Report	Passed	Receive Report, Conduct Public Hearing and Consider Use Permit (UP 1-20) to Establish Multifamily in Central Business District Zoning Located at 127 E Laurel Street	2/26/2020	4A.	Planning Commission
20-633	Planning Staff Report	Passed	Zoning Ordinance Interpretation for Extension of Non-Conforming Use at 225 N Main Street	2/26/2020	5A.	Planning Commission
20-634	Minutes	Passed	Approval of the February 12, 2020 Minutes.	2/26/2020	1A.	Planning Commission
20-641	Planning Staff Report	Business	Receive Report from Mill Site Land Use Map Ad Hoc Committee on Draft Mill Site Land Use Map	2/26/2020	5A.	Planning Commission
20-654	Minutes	Business	Approve the Minutes of February 26, 2020.	3/11/2020	1A.	Planning Commission
20-719	Planning Staff Report	Public Hearing	Open Public Hearing and Immediately Continue Public Hearing to Date, Time and Place Certain - July 22, 2020 at 6:00 PM in Town Hall, 363 N. Main Street - to Consider Adoption of Mitigated Negative Declaration and Approval of Coastal Development Permit (CDP 1-13), Use Permit (UP 1-13), Design Review Permit (DR 1-13) and Parcel Merger (MGR 1-13) for the Proposed Avalon Project at 1201 and 1211 N Main Street (APN 069-241-27 and APN 069-241-38)	5/13/2020	5A	Planning Commission
20-727	Minutes	Passed	Approval of the Minutes of March 11, 2020	5/13/2020	1A.	Planning Commission
20-747	Planning Resolution	Business	Receive Report and Consider Adoption of Resolution Determining that the Proposed FY 2020/21 Capital Improvement Program and FY 2020/21 Capital Projects Budget are Consistent with the City of Fort Bragg Inland General Plan and Coastal General Plan	5/27/2020	5A.	Planning Commission

File ID	Type	Status	Title	Agenda Date	Agenda Nr.	Controlling Body
20-749	Minutes	Passed	Approve the Minutes of May 13, 2020	5/27/2020	1A.	Planning Commission
20-758	Planning Staff Report	Passed	Receive Report, Conduct Public Hearing and Consider Design Review Permit and Minor Use Permit to 1) reconstruct a mortuary that was destroyed by fire; 2) expand a non-conforming land use (mortuary); and 3) request a reduction in off-street parking requirements at 445 East Fir Street (APN 008-086-069)	6/10/2020	4A.	Planning Commission
20-769	Minutes	Passed	Approval of Planning Commission Minutes of May 27, 2020	6/10/2020	1A.	Planning Commission
20-850	Planning Staff Report	Business	Receive Report and Provide Direction to Staff on Developing a Formula Business Ordinance	10/14/2020		Planning Commission
20-852	Minutes	Draft	Approval of the Planning Commission Minutes of June 10, 2020 and August 26, 2020	10/14/2020		Planning Commission
20-876	Minutes	Passed	Approval of the Planning Commission Minutes of June 10, 2020 and August 26, 2020	10/14/2020	1A.	Planning Commission
20-879	Report	Business	Receive Oral Update from Staff on Departmental Activities	10/14/2020	5A.	Planning Commission
20-904	Planning Staff Report	Business	Receive Report and Make Recommendations on the Development of a Formula Business Ordinance	11/12/2020	5A	Planning Commission
20-907	Minutes	Passed	Approve the Planning Commission Minutes of October 14, 2020.	11/12/2020	1A.	Planning Commission
20-915	Planning Staff Report	Passed	Receive Report, Conduct Public Hearing, and Consider Adoption of a Mitigated Negative Declaration (MND) and Approval of Minor Subdivision 1-20 for 130 Halsey Way (DIV 1-20)	11/12/2020	4A.	Planning Commission
20-929	Minutes	Minutes to be Approved	Approve the Planning Commission Minutes of November 12, 2020	12/9/2020	1a.	Planning Commission
20-946	Planning Staff Report	Failed	Receive Report, Conduct Public Hearing and Consider Approval of Minor Use Permit 4-20 to Establish a Storefront Cannabis Dispensary With Delivery and Accessory Micro Business in Distribution, Processing, Nursery, and Non-Volatile Manufacturing, and a Residential Unit Within Two Existing Commercial Buildings	12/9/2020	5a.	Planning Commission



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
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Text File

File Number: 21-047

Agenda Date: 2/10/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Staff Report

Agenda Number: 5D.

Discussion and Possible Recommendations to Staff on Formula Business Ordinance



AGENCY:	Planning Commission
MEETING DATE:	February 10, 2021
DEPARTMENT:	City Manager
PRESENTED BY:	Tabatha Miller
EMAIL ADDRESS:	tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE: Discussion and Possible Recommendations to Staff on Formula Business Ordinance

ISSUE:

The Planning Commission met on January 6, 2021 to provide staff additional feedback and recommendations on a Formula Business Ordinance. After a long and productive meeting, Commissioner Andreis raised the idea of creating a smaller “core” Central Business District (CBD) in order to strategically regulate Formula Businesses to encourage more pedestrian traffic and allow for development while protecting the historic character of the CBD. The concept of a smaller “core” included allowing or disallowing certain Formula Businesses in certain Districts based on square footage for a particular building, development or parcel.

Secondarily, at that same meeting the Planning Commission discussed if there was a way, using the Formula Business Ordinance, to encourage businesses to adopt protocols and policies that were socially and environmentally responsible. The example discussed was B Corporations or a benefit corporation which is purpose driven and creates benefit for all stakeholders, not just shareholders.¹ The short answer from the attorney is that placing those as requirements in the Land Use Code is not appropriate but the City may enter into development agreements or other contractual arrangements where those types of terms can be negotiated and would be enforceable under contract law. Additionally, the City can establish policies, goals and programs that reward certain business operations or behaviors, through reduced fees, education and other incentives. These types of policies are generally established by the City Council.

Lastly, the Planning Commission asked about how a Formula Business Ordinance would apply when businesses change ownership but the type of business remains the same. For example, if an existing independent Fort Bragg pizza restaurant was purchased by a chain pizzeria that met the City’s definition of Formula Business. The City Attorney provided that in this case, if the new chain pizzeria was operating in the same space and generally under the same conditions, the use permit runs with the land and the chain pizzeria would not be subject to the Formula Business Ordinance unless a permit is triggered by expanding the operation by size or intensity of use such that a permit would otherwise be required.²

¹ A B Corporation is a company certified by B Lab (<https://bcorporation.net>) that meets certain standards. Although related, a Benefits Corporation is a legally incorporated status in California which allows a Board of Directors greater legal protection when making business decisions that promote social and environmental objectives.

² [The Park at Cross Creek, LLC v. City of Malibu](#), 12 Cal.App.5th 1196.

ANALYSIS:

This agenda item and staff report is general with little or no analysis so that the Planning Commission may have an open discussion on what other facets of regulating Formula Businesses to include in the final Ordinance recommended to the City Council. The City Attorney will be in attendance at this meeting to help provide answers to questions raised by the Planning Commission.

Pedestrian-Oriented CBD Core

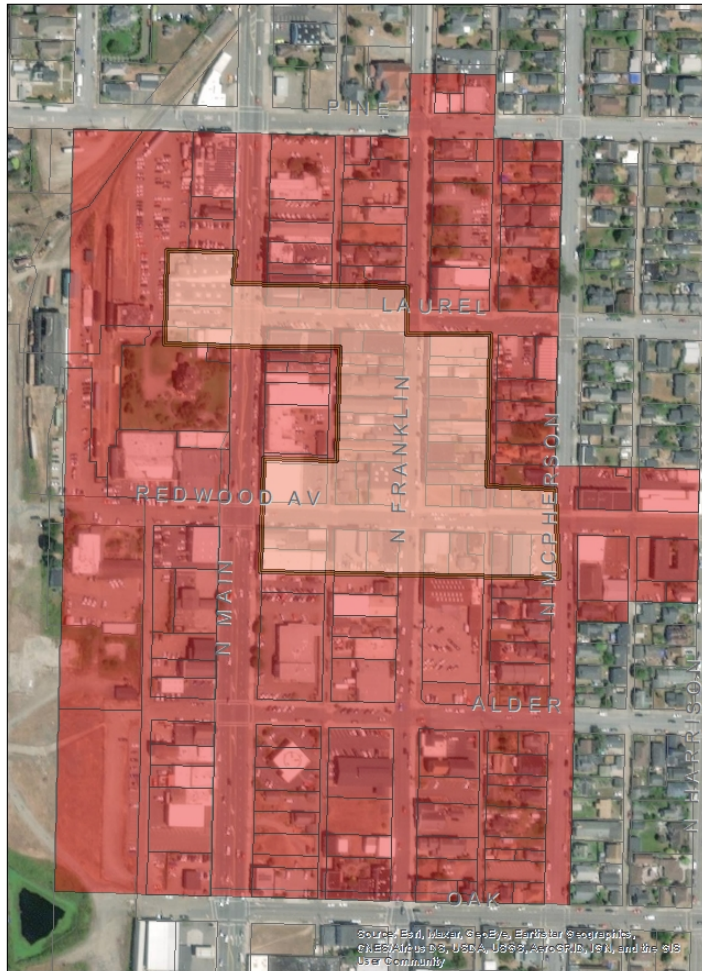
There is support already in place for the idea of creating an overlay district for the “core” CBD that would draw more attention to the pedestrian friendly heart of the City’s historic downtown. Section 18.22.030(C) of the Fort Bragg Inland Land Use and Development Code provides:

18.22.030 - Commercial District Land Uses and Permit Requirements

C. Findings for Use Permit or Minor Use Permit approval. The approval of a Use Permit or Minor Use Permit for a project within a commercial district shall require that the review authority first make the following findings for the zoning district applicable to the site, in addition to the findings required by § 18.71.060 (Use Permit and Minor Use Permit):

- 1. CN (Neighborhood Commercial) district. The use is designed and intended to serve the local neighborhood and not a broader service area, and is not of a size as to require a clientele larger than the neighborhood market area.*
- 2. CO (Office Commercial) district. The use acts to support primary uses in the zone, or clients or visitors of allowable permitted uses.*
- 3. CBD (Central Business District) district. The use complements the local, regional and tourist-serving retail, office and services functions of the CBD, and will not detract from this basic purpose of the CBD. Uses proposed for the intense pedestrian-oriented retail shopping areas of the CBD, which include the 100 blocks of East and West Laurel Street, the 300 block of North Franklin Street, and the 100 and 200 blocks of Redwood Avenue, shall be limited to pedestrian-oriented uses on the street-fronting portion of the building.*

The map on the next page highlights the “pedestrian-oriented retail shopping area” as defined above. As written in 18.22.030 (C)(3), this defined area leaves out Main Street, likely because the sidewalks and rights of way are under the jurisdiction of the California Department of Transportation (CalTrans) and not the City.



In addition to the reference in Section 18.22.030 (C)(3), a review of City archived files discovered a project from 2002 entitled “City’s Downtown Revitalization Study 2002”. This project included a flyer entitled “Downtown Overlay District” (Attachment 1) with a defined core CBD similar to the concept proposed by Commissioner Andreis.

CONSISTENCY:

Policies from the Inland General Plan Land Use Element that the Planning Commission may want to consider in its discussion this evening include:

Commercial Land

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. The Circulation and the Community Design Elements provide goals and policies

addressing parking, alleyways, and the overall appearance of commercial development.

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).

Program LU-3.1.1: Utilize City-owned land at City Hall and Bainbridge Park for historic and cultural uses, public assembly, and entertainment.

Program LU-3.1.2: Residential uses are permitted only above the ground floor or at the rear of buildings on the ground floor.

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-3.3 Historic Buildings and Mixed Uses: In the Central Business District and in other commercial areas with historic residential structures, encourage residential uses, mixed residential, and commercial uses, and the preservation of historic structures.

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-3.5 Encourage Smart Growth: Locate new residential, commercial, or industrial development within, contiguous with, or in close proximity to, existing developed areas.

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.

Program LU-3.6.1: Consider establishing incentives such as low-interest loans for rehabilitation and installation of fire sprinklers in buildings to encourage the reuse of upper floors of existing buildings in the Central Business District for housing, offices, and other uses.

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.

RECOMMENDED ACTION:

There is no recommended action. Staff placed this discussion item on the agenda so that the Planning Commission can explore more creative concepts and provide staff direction on incorporating those concepts into a Formula Business Ordinance.

ALTERNATIVE ACTION(S):

N/A

FISCAL IMPACT:

N/A

GREENHOUSE GAS EMISSIONS IMPACT:

N/A

ATTACHMENTS:

1. Downtown Overlay District Flyer

NOTIFICATION:

1. Economic Development Planning, **Notify Me subscriber list**

A Vision for Downtown Fort Bragg

DOWNTOWN FORT BRAGG IN HISTORY



Tug O' War, July 4, 1909.



Main Street, Looking South.



Main Street, Looking South, Paul Bunyan Parade, 1954.

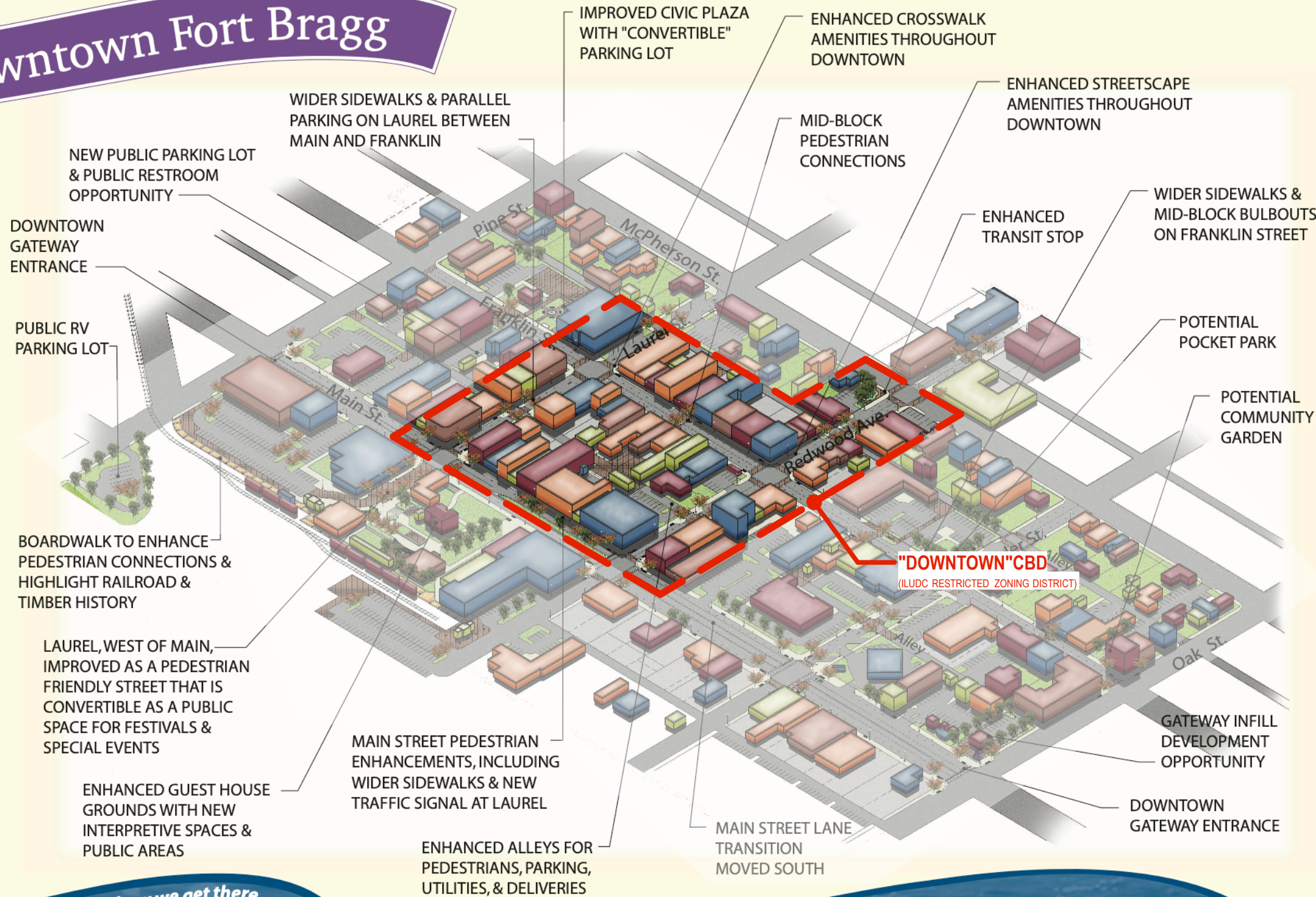


Main & Laurel Streets, 1954.

A vision shows where we want to go; a plan explains how we get there.

The achievement of a desirable future begins with a vision of what can be. Fort Bragg has long been a community that respects and appreciates its heritage, its environment, and the people who live in and visit the area. Downtown Fort Bragg is the community's center for cultural heritage, commerce, and

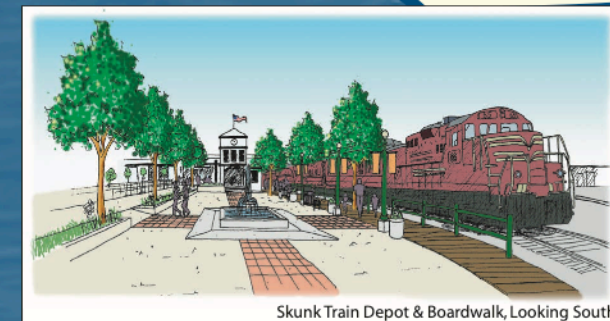
civic life. It is a special place that reflects community pride and fosters the gathering of people to enjoy all the things that make Fort Bragg unique. Downtown Fort Bragg is a place that reflects community needs and values, all within a casual, small-town atmosphere that residents and visitors alike embrace and enjoy.



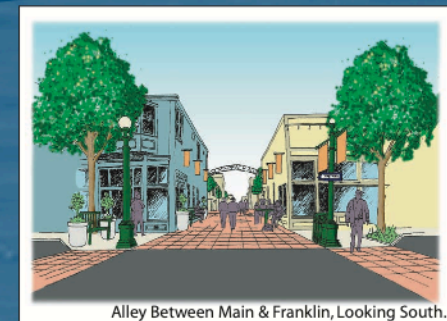
A Vision for Downtown Fort Bragg is about the community's commitment of individual and collective action to accomplish economic and physical revitalization in Downtown Fort Bragg. It is about improving the livability of an already special community, by enhancing its pedestrian-oriented qualities and reinforcing its sense of place. It is about citizens daring to dream and their willingness to work together to attain that dream. It is about collaboration between public agencies and private organizations, and partnerships between residents and businesses. It is about people with diverse interests, backgrounds, resources, and ideas coming together to forge new paths for the good of the community. Most importantly, A Vision for Downtown Fort Bragg is about people striving to understand others' perspectives and, together, journeying towards a better quality of life.



Laurel Street, Looking East.



Skunk Train Depot & Boardwalk, Looking South.



Alley Between Main & Franklin, Looking South.

Gonzalez, Joanna

From: noreply@granicusideas.com
Sent: Monday, February 08, 2021 10:46 AM
To: Gonzalez, Joanna
Subject: New eComment for Planning Commission - Video Conference



New eComment for Planning Commission - Video Conference

Mendocino Action Council for Accountable Government Organizations submitted a new eComment.

Meeting: Planning Commission - Video Conference

Item: 5D. 21-047 Discussion and Possible Recommendations to Staff on Formula Business Ordinance

eComment: Why are the city staff bringing up the past failed downtown streetscape project in the context of formula business regulations? The city invested in some of the suggested "improvements" in this old proposal only to reverse course and have to spend more money reversing them later. We are still cleaning up that old mess! Is there so little historical institutional knowledge among current staff that we are repackaging old failed ideas as templates for our current projects and proposals? Great work!

[View and Analyze eComments](#)

This email was sent from <https://granicusideas.com>.

[Unsubscribe](#) from future mailings

Gonzalez, Joanna

From: Annemarie <aweibel@mcn.org>
Sent: Wednesday, February 10, 2021 5:53 PM
To: Gurewitz, Heather; Gonzalez, Joanna; McCormick, Sarah; CDD User
Cc: Miller, Tabatha; Lemos, June
Subject: Public Comment Planning Commission meeting 2-10-2021 item 5D: Discuss. & Possible Recomm. to Staff on Formula Business Ordinance

Re: Public Comment Planning Commission meeting 2-10-2021 item 5D:
Discussion & Possible Recommendation to Staff on Formula Business Ordinance

Hi Heather, Joanna, and Sarah,

Can one of you please read my comments into the record? Thanks.

I asked 5 years ago for a Formula Business Ordinance. In the meantime the city is looking into the possibility to have a Grocery Outlet and a second Dollar store.

The quality of the Traffic Impact Analysis & the Biological Review of the Grocery Outlet project is dismal. I am concerned that a lot of the work dealing with these MND's and EIR's is given to outside sources who are not familiar with our town. The deadline for comments in regards to the initial review (322 pages) is listed to be 2-14-2021. Is that the correct deadline as I have not received any notification yet?

At the Nov. 12 meeting (based on minutes) I read that: "The Commission concurred that they would like Staff to come back with more information and examples categories for financial, hospitality, and retail. The Commission expressed the need for updating the City's Design Guidelines that were established in 2007. Miller stated that the Commission could elect an AD HOC committee comprised of two Council Members and two Planning Commissioners to work on updating the City Design Guidelines."

Will there be an AD HOC committee, who will be on it, and when will it start meeting? Why are we only now talking about needing to update the City Design Guidelines? I am concerned about the rate this Formula Business Ordinance is progressing. Many meetings have been canceled or had to be cancelled as officers had to be elected before business could transpire. In the meantime we will have more formula businesses turn Fort Bragg into "Anytown USA."

"The Commission gave direction to staff on the wording of each finding and would like additional definition of "unmet needs" and "industries"

and "standardized traits". The Commission would like proposed finding two (2) removed and more overall information added to finding three (3).

The commission agrees that a limit of 10 business locations is appropriate in the definition and proposes a square footage threshold be used to trigger the need for an economic or fiscal analysis."

What is the square footage threshold that would be used to trigger the need for an economic or fiscal analysis? I believe that we should insist that all developments require that.

Tonight's Agenda Item Summary lists under Policy LU-4.2 that "...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."

I was alarmed by the size of the large scale commercial developments in Policy LU-4.2 (max. 50,000 & 30,000 square ft. gross floor area)

Where is a list of sq. ft. of businesses like Purity, CVS, Rite Aid, Safeway, Harvest Market & Dollar Tree so we can compare with a possible future Grocery Outlet & Dollar General?

What is listed in the Coastal General Plan?

At the January 6 meeting "...the Commission came to the consensus that they would like more definition of the term facade, fast food and big box vs Formula business.

Due to virtual meetings it is hard for the public to make sense what is meant by "The Commission would like proposed finding two (2) removed and more overall information added to finding three (3)."

Please follow up with the issues you came up with at the last meetings.

Even if you adopt the Formula Business Ordinance soon, it will still take a long time until we can deal with the Coastal Commission.

Thanks for your hard work.

Sincerely,
Annemarie Weibel
2-10-2021