



AGENCY: City Council
MEETING DATE: May 24, 2021
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
EMAIL ADDRESS: tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Conduct Public Hearing, Receive Report and Consider Adoption of Urgency Ordinance No. 96X-2021 Extending the Temporary 45-Day Moratorium on the Approval of Applications and Permits for Formula Businesses in the Inland Zoning Areas

ISSUE:

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

On April 12, 2021, the City Council adopted Urgency Ordinance No. 964-2021, which placed a 45-day moratorium on the approval of applications and permits for Formula businesses. The 45-day moratorium will expire on May 27, 2021. Pursuant to [California Government Code Section 65858](#) the City Council issued a report, which was presented to the public at the May 10, 2021 City Council meeting on the actions taken to alleviate the conditions that led to the adoption of the urgency ordinance. As reported, the Planning Commission, City Attorney and staff have made significant progress in drafting an ordinance to regulate formula businesses, but the work is not yet complete.

A public hearing is scheduled for June 2, 2021 for the Planning Commission to consider making a recommendation to City Council to approve a formula business ordinance, approve in modified form or disapprove the proposed ordinance. Staff anticipates that the City Council will have an opportunity to review and consider a formula business ordinance on June 28, 2021.

In order to complete the work on regulation of formula businesses, staff is proposing an extension of the moratorium for ten months and fifteen days, as provided for by state law. Staff anticipates that the formula business regulation ordinance will be completed and presented to City Council for adoption well before ten months and fifteen days expires. The Planning Commission spent many hours of thoughtful consideration and review developing the current draft ordinance. In any case, the additional time provides a buffer if the City Council chooses to rework the ordinance or its adoption is delayed. The City Council may rescind the urgency ordinance extending the moratorium prior to its stated termination. Further, if adopted staff recommends rescinding the urgency ordinance extending the moratorium as soon as the formula business ordinance is effective.

AGENDA ITEM NO. 7A

ANALYSIS:

Urgency Ordinances

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

An urgency ordinance may remain in effect for only 45 days, unless it is extended by another four-fifths vote. After notice and a hearing, the City can extend the Ordinance for up to either ten months and 15 days, with the option to extend it once more for an additional one-year, or once for 22 months and 15 days. Either option equates to a total moratorium period of up to two years and each requires the four-fifths votes. The City Council may rescind the Urgency Ordinance prior to its stated termination.

Formula Businesses

The City is currently processing a planning application for Dollar General that meets the definition of a Formula Business. In late summer 2020, a completed application was received for a Dollar General to be located at 251 S. Franklin Street, which is regulated by the City's Inland Code. The Dollar General Project is currently undergoing environmental review. No entitlements have been issued for this project and extension of the moratorium on approving applications and permits for formula businesses could delay action on the Dollar General application and subject it to formula business regulation.

The 45-day moratorium was established to allow the City the opportunity to finalize development of an ordinance regulating formula businesses. Development of and adoption of that ordinance is not yet complete.

Link to April 12, 2021 City Council Staff Report re: Ordinance No. 964-2021:

<https://cityfortbragg.legistar.com/LegislationDetail.aspx?ID=4904549&GUID=6ED1C198-08AE-4B90-875A-9EA1F90500B5&Options=&Search=>

Link to May 5, 2021 Planning Commission Meeting Staff Report re: Proposed Formula Business Ordinance:

<https://cityfortbragg.legistar.com/LegislationDetail.aspx?ID=4931044&GUID=D05A39F8-64C5-4386-80A1-3878652A4C5D&Options=&Search=>

RECOMMENDED ACTION(S):

1. Open the Public Hearing, receive staff report, take evidence and public testimony and close the public hearing.
2. Waive reading of the text in its entirety, read by title only, and adopt Ordinance No. **XXX**-2021, “AN UNCODIFIED INTERIM URGENCY MEASURE OF THE CITY COUNCIL OF FORT BRAGG EXTENDING INTERIM ORDINANCE NO. 964-2021 PLACING A MORATORIUM ON THE APPROVAL OF APPLICATIONS AND PERMITS FOR FORMULA BUSINESSES IN THE INLAND ZONING AREA.”
3. Please note, that a four-fifths vote is required for adoption of the Interim Urgency Ordinance.

FISCAL IMPACT:

The impact of extending a temporary moratorium on formula businesses to the City’s revenue is likely minimal.

GREENHOUSE GAS EMISSIONS IMPACT:

Adoption of the temporary moratorium on formula businesses will have little impact on greenhouse gas emissions but could slow down development and resulting construction that causes an increase in greenhouse gas emissions.

CONSISTENCY:

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

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

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

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

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

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

Policy LU-4.1 Formula Businesses and Big Box Retail: The location, scale, and appearance of formula businesses and big box retail shall not detract from the economic

vitality of established commercial businesses, and shall be consistent with the small town, rural character of Fort Bragg.

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

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

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

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

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

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

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

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

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

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

Central Business District Frontage and Façade Standards

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

The following policy regulates formula design:

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

IMPLEMENTATION/TIMEFRAMES:

An urgency ordinance may remain in effect for only 45 days, unless it is extended by another four-fifths vote. Ten days prior to the expiration of the Urgency Ordinance or any extension, City Council will need to issue a written report describing the measure taken to alleviate the condition that led to the adoption. After notice and a hearing, the City can extend the Ordinance for up to either ten months and 15 days, with the option to extend it once more for an additional one-year, or once for 22 months and 15 days. Either option equates to a total moratorium period of up to two years and each requires the four-fifths votes. The City Council may rescind the Urgency Ordinance prior to its stated termination.

ATTACHMENTS:

1. Proposed Ordinance
2. Report on Measures Taken

NOTIFICATION:

1. Economic Development Planning, **Notify Me subscriber list**
2. Tourism and Marketing, **Notify Me subscriber list**
3. Fort Bragg Downtown Businesses, **Notify Me subscriber list**
4. Dollar General: [John Wojtila](#); [Jon Browning](#); [Matthew Rasmussen](#)