



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, October 11, 2023

6:00 PM

Town Hall, 363 N. Main Street and Via Video
Conference

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PLANNING COMMISSIONERS PLEASE TAKE NOTICE

Planning Commissioners are reminded that pursuant to the Council policy regarding use of electronic devices during public meetings adopted on November 28, 2022, all cell phones are to be turned off and there shall be no electronic communications during the meeting. All e-communications such as texts or emails from members of the public received during a meeting are to be forwarded to the City Clerk after the meeting is adjourned.

ZOOM WEBINAR INVITATION

*This meeting is being presented in a hybrid format, both in person at Town Hall and via Zoom.
Hi there,*

You are invited to a Zoom webinar.

When: Oct 11, 2023 06:00 PM Pacific Time (US and Canada)

Topic: Planning Commission

Please click the link below to join the webinar: <https://us06web.zoom.us/j/86175462237>

Or One tap mobile: US +16694449171 or 86175462237# or +17193594580

Webinar ID: 861 7546 2237

International numbers available: <https://us06web.zoom.us/u/kF8K3kAHg>

To speak during public comment portions of the agenda via zoom, please join the meeting and use the raise hand feature when the Chair or Acting Chair calls for public comment on the item you wish to address.

1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR**ITEMS**

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

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

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

WRITTEN PUBLIC COMMENTS: Written public comments received after agenda publication are forwarded to the Commissioners as soon as possible after receipt and are available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, during normal business hours. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software application. Public comments may be emailed to CDD@fortbragg.com.

2. STAFF COMMENTS**3. MATTERS FROM COMMISSIONERS****4. CONSENT CALENDAR**

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

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**6. PUBLIC HEARINGS**

- 6A. [23-276](#) Receive Report, Hold a Public Hearing, and Adopt a Resolution Recommending City Council Amend the Inland Land Use and Development Codes to Comply with Changes to California Housing Law Relating to Urban Lot Splits and Urban Unit Development; and Adopt a Resolution Recommending that the City Council Submit a Local Coastal Program Amendment Application to Affirm Similar Coastal Land Use and Development Code Amendments and Associated CEQA Determinations are Consistent with the Coastal Act

Attachments: [Staff Report - ZON 23-1](#)
[Att. 1 ZON 23-1 Resolution Title 17 Amend](#)
[Att. 2 ZON 23-1 Resolution Title 18 Amend](#)
[Att. 3 ZON 23-1 Consistency Analysis](#)
[Att. 4 Public Comment](#)
[Att. 5 Public Hearing Notices](#)

- 6B. [23-338](#) Receive Report, Hold a Public Hearing, Deliberate, and Approve Use Permit 1-23, Cannabis Business Permit 1-23 and Variance 2-23 for Emerald Triangle Cannabis at 546 S. Main Street, and Ensure Associated CEQA Determination is Consistent with the Coastal Act

Attachments: [Staff Report UP 1-23, CBP 1-23, VAR 2-23](#)
[Att. 1 Site Plan](#)
[Att. 2 PC Resolution](#)
[Att. 3 Public Comments](#)
[Att. 4 Public Hearing Notice English - UP 1-23](#)
[Att. 5 Public Hearing Notice Espanol - UP 1-23](#)

7. CONDUCT OF BUSINESS

ADJOURNMENT

The adjournment time for all Planning Commission meetings is no later than 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.

STATE OF CALIFORNIA)
)ss.
 COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on Friday, October 6, 2023.

Juliana von Hacht Cherry, Community Development Director

NOTICE TO THE PUBLIC

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Community Development Department at 416 North Franklin Street, Fort Bragg, California, during normal business hours. Such documents are also available on the City's website at www.fortbragg.com subject to staff's ability to post the documents before the meeting.

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

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

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

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



City of Fort Bragg

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

Text File

File Number: 23-276

Agenda Date: 10/11/2023

Version: 1

Status: Public Hearing

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 6A.

Receive Report, Hold a Public Hearing, and Adopt a Resolution Recommending City Council Amend the Inland Land Use and Development Codes to Comply with Changes to California Housing Law Relating to Urban Lot Splits and Urban Unit Development; and Adopt a Resolution Recommending that the City Council Submit a Local Coastal Program Amendment Application to Affirm Similar Coastal Land Use and Development Code Amendments and Associated CEQA Determinations are Consistent with the Coastal Act



Urban Lot Splits & Urban Unit Development

Proposed Amendments to the ILUDC and the CLUDC

Marie Jones Consulting October, 2023

PROJECT INFORMATION

APPLICATION #:	ILUDC and CLUDC Amendments ZON 1-23
APPLICANT:	City of Fort Bragg
PROJECT:	Receive Report, Hold a Public Hearing, and Adopt a Resolution Providing a Recommendation to City Council Regarding Proposed Zoning Amendments to the Inland Land Use and Development Codes to Comply with Changes in State of California Housing Law Related to Urban Lot Splits and Urban Unit Development. Adopt a Resolution Recommending to City Council to File a Local Coastal Program Amendment Application to Affirm Similar Coastal Land Use and Development Code Amendments are Consistent with the Coastal Act of 1976.
LOCATION:	Low Density Residential Zoning Districts in the Coastal Zone and the Inland Area
APN:	Various
LOT SIZE:	2,400 SF+
ZONING:	Low Density Residential Zoning Districts (RR, RS, RL zones)
ENVIRONMENTAL DETERMINATION:	<p>Government Code Section 66411.7(n) states “A local agency may adopt an ordinance to implement the provisions of Section 66411; an ordinance to implement Section 66411 shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resource Code.</p> <p>The ILUDC amendment is statutorily exempt, as the adoption of an ordinance regarding urban lot splits in low-density residential zones implementing the provisions of Sections 65852.1 and Section 66411.7 of the Government Code is statutorily exempt from CEQA.</p> <p>The amendments to the CLUDC are part of the City’s Local Coastal Program and will be submitted to the California Coastal Commission for certification. The project is statutorily exempt from environmental review under CEQA Guidelines 15265 Adoption of Coastal Plans and Programs.</p>

BACKGROUND

Senate Bill 9 (SB-9) was the product of a multi-year effort to develop solutions to address the State’s housing crisis. The goals of SB-9 are to:

- Provide options for homeowners to: 1) build intergenerational wealth to improve equity and create social mobility; and 2) increase the supply of affordable rental opportunities and home ownership.
- Benefit homeowners NOT institutional investors. By requiring owner occupancy, the program is not available to speculators and developers generally. The program requires a homeowner to record a deed restriction for owner occupancy for three years after completing the ministerial lot split.
- Requires a roughly equal lot split – no more than a 40/60 percent lot split. Minimum lot size is 1,200 SF.
- Only permissible in single-family zoning districts.
- Establishes a maximum number of four (4) units, including two primary homes or a duplex, with two ADUs and JADUs for any lot that has not been split through an urban lot split. Allows up to two units maximum per parcel created through an urban lot split (2 primary units, one duplex, or one primary and one ADU).
- Requires ordinance exceptions to guarantee that at least two units of 800 sf are allowed on each subsequent lot.
- Prohibits urban lot splits in environmentally sensitive habitat areas and in historic neighborhoods.

DESCRIPTION

The attached draft Ordinances include proposed language for both the ILUDC and the CLUDC amendments. For compliance with the Coastal Act and the Certified LCP, the CLUDC amendment will include additional text, which is noted in **brown text**. Otherwise, the proposed zoning ordinances are identical.

The Urban Lot Split & Urban Unit Development regulations result in two potential outcomes:

1. State Law requires that each urban community allow two primary units on an existing parcel that has not undergone an Urban Lot Split and one ADU per primary unit for a totaling four residential units on the same parcel.
2. After a parcel is subdivided through an Urban Lot Split, each parcel can have up to two residential units total.

While reviewing the attached draft ordinance language, please note that highlighted sections are open to local discretion, in that they can be modified or in some cases not included. The remainder of the text is required by State Law. More specifically the Planning Commission and City Council have discretion regarding the following policy considerations in the ordinance:

Code section	Discussion
17.84.045 Urban Lot Splits	
Definition of a Unit	Permit one half of a duplex as a permissible unit in an Urban Lot Split. So that someone can build a duplex or two primary units. As these parcels will be roughly half the size of existing single-family parcels a duplex would allow more efficient use of the parcel than two primary units.

Code section	Discussion
C. Parcel Access	The City Council must allow either a flag lot or an easement over a front parcel, without alley access, in order to provide access to the back parcel. MJC recommends that the City allow both to increase flexibility in site design.
17.84.045 Urban Lot Splits	
F & L. Exceptions to Development Standards	The City Council can provide a preferred priority order for modifying development standards in order to accommodate the minimum requirement of two 800 SF units on each parcel, or leave it to the discretion of the Community Development Director.
17.42.200 Urban Unit Development	
A. Density, Size & Number of Units Allowed.	<p>The state requires that at least two units of 800 SF be allowed on each lot. Some communities have limited urban lot splits by limiting all urban development units to 800 SF, this is very common in exclusive communities. This is probably the one location where the local jurisdiction has the most control over housing availability and urban form. MJC recommends:</p> <ol style="list-style-type: none"> 1. Unit sizes as proposed in A. Other unit sizes may be selected, but the Planning Commission should balance the need for units of usable size with potential impacts on neighborhoods. 2. Clearly stating that parcels subject to urban lot splits are not eligible for a 3rd unit (ADU or JADU) under 18.42.170 (Second Units). Without an urban lot split, applicants may add two second units in addition to the two primary units for a total of four units.
B. Setbacks	The “Front Parcel” is required to have a mandatory 4’ setback from the new back parcel property line for new construction. However, the front of the “Back Parcel” must be defined, and a setback defined in the code.
C. Off-Street Parking	<p>The City can eliminate the parking requirement for lot splits or otherwise modify parking requirements.</p> <p>As a primary dwelling unit shall be allowed one driveway from the adjacent alley with specified exceptions, MJC recommends limiting the number of curb cuts to one cut per the original parcel and establishing an easement (or other devise) to reduce the quantity of street curb cuts.</p>
E. Exceptions to Objective Development Standards	The ordinance includes the same priorities as the Planning Commission’s recommended amendments to the ADU ordinance.
M. Objective Design Review Standards	The City is permitted to establish objective design review criteria but does not have to do so. These criteria are adapted from the City’s second unit and multifamily housing regulations. Additional design criteria may be added to reduce the impact of these developments on neighborhood design. You may again strike the Window and Balcony placement criteria if you feel it is too restrictive or modify any of the other standards.

Code section	Discussion
N. Utilities	The ordinance recommends exempting units of 750 SF or less from capacity fees, and requiring pro-rated capacity fees for larger units as required by State law, as previously recommended by the Planning Commission.

RECOMMENDED ACTION

1. Adopt a Resolution of the Fort Bragg Planning Commission Recommending that the City Council Submit an LCP Amendment Application to the Coastal Commission to Amend Title 17 of the Fort Bragg Municipal Code to Amend Chapter 17.21.030(B) & 17.21.050 “Residential Zoning Districts,” add Chapter 17.42.200 “Urban Unit Development”, add Chapter 17.84.045 “Urban Lot Split”, and Amend Chapter 17.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.
2. Adopt a Resolution of the Fort Bragg Planning Commission Recommending that the City Council Amend Title 18 of the Fort Bragg Municipal Code to Amend Chapter 18.21.030(B) & 18.21.050 “Residential Zoning Districts,” add Chapter 18.42.200 “Urban Unit Development”, add Chapter 18.84.045 “Urban Lot Split”, and Amend Chapter 18.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.

ALTERNATIVE ACTION(S)

Provide alternative direction to staff and the consultant to pursue one of the alternative approaches described below.

Some people are concerned that SB-9 will bring significant change to the urban form and neighborhood cohesion in Fort Bragg. However, strategies to avoid implementation of SB 9 also come with drawbacks and challenges. MJC has identified two potential approaches to limit the scope of SB-9 within the City of Fort Bragg. Each is described below:

1. **The City could rezone all properties that are currently zoned Low Density Residential as Medium Density Residential zoning districts.**

This approach can be used because SB-9 only applies to low-density residential zoning districts. With SB-9, low-density residential zoning districts can accommodate up to 4 units on a typical Fort Bragg parcel of 7,500 SF, or 23 units/acre, while Fort Bragg’s Medium Density Residential Zoning District allows a maximum of 12 units/acre. Theoretically under SB-9, many more residential units would be permissible in low-density residential zoning districts than in Fort Bragg’s Medium Density Residential zoning districts. By rezoning low-density residential areas to RM District designations, the City could effectively side step implementing SB-9 and all of the regulatory requirements of SB-9. However, it would also mean that rezoned neighborhoods would have all other regulations associated with Medium Density Residential zoning districts including: a 35 ft height limit, multi-

family parking requirements, multifamily development regulations, and many additional permitted uses including: multi-family housing, co-housing, residential care facilities, art studios, medical clinics, doctors' office, hospital, personal services, etc.. SB-9 requires dispersed residential development, (two primary units and two secondary units) per lot, while Medium Density Residential allows multifamily developments of up to three stories, which combined with multifamily parking requirements results in a different urban form.

Rezoning these neighborhoods would require notifying every property owner of the potential rezone prior to Planning Commission and City Council consideration and would likely generate significant public opposition and the need for a public education effort, as residents would not understand why their property is proposed for "up zoning" to Medium Density Residential. Additionally, this action would not be exempt from CEQA (unlike the SB-9 action) and thus would require at least an MND and possibly an EIR, which would be somewhat costly. For the above reasons up zoning is not recommended, as the urban design costs appear to outweigh the benefits.

2. The City could establish a Historic District over most of the low-density neighborhoods in Fort Bragg.

Per State Law, SB-9 cannot be implemented in historic districts. The City has the ability to establish historic districts in Fort Bragg through 18.74.030 - Historic Landmark Designation. Through this procedure the City could make the historic neighborhoods of Fort Bragg exempt from SB-9 by adopting a Historic District for these older neighborhoods in the community. This approach would not work for neighborhoods that are not historic. There are both advantages and disadvantages to being located within a historic district.

Some advantages include the following:

- a. Use of the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC), rather than the Uniform Building Code (UBC).
- b. Use of the Secretary of the Interior's Standards for Rehabilitation.
- c. Waiver of Development Code standards (e.g., reduced off-street parking), in compliance with § 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).
- d. The approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts, in compliance with § 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).
- e. The Department of Housing and Urban Development's Federal Housing Administration (FHA) has a flexible loan program that helps developers, investors, and families at all income levels to buy and restore properties in urban and rural historic districts. The program operates through FHA approved lending institutions, and the loans are insured by the FHA.

- f. Federal financial assistance for rural buildings. The U.S. Department of Agriculture's Rural Housing Service offers funds for the acquisition, construction, rehabilitation, or repair of homes and apartment-style housing for low and moderate-income people in rural areas.
- g. Federal tax incentives for historic preservation for the rehabilitation of income-producing (commercial, industrial, or rental residential) structures included on the National Register of Historic Places (or those within a National Register district) through the State Historic Preservation Officer (SHPO).
- h. The National Trust Forum offers financial assistance in the form of grants and loans.
- i. California property tax abatement incentives were first enacted in 1972 and are available for use by owner-occupied residential and commercial structures (also known as the Mills Act).

Some disadvantages of designating low-density residential zoning districts as a Historic District include additional permitting requirements and the need for an historic resource analysis. Specifically, per our current code, changes to any historic structure located within a Historic District would require the following:

- a. Completion of a review of the proposed scope of work by a preservation architect.
- b. Approval of a permit known as a Certificate of Appropriateness for exterior remodels, reconstruction or demolitions, for which specific findings must be made including the following:
 - 1. The proposed work will neither adversely affect the significant architectural features of the historic resource nor adversely affect the character or historic, architectural, aesthetic interest, or value of the historic resource and its site;
 - 2. The proposed work conforms to any prescriptive standards and design guidelines adopted by the City for the particular resource, and to the Secretary of the Interior's Standards for Rehabilitation, and does not adversely affect the character of the historic resource; and
 - 3. In the case of construction of a new improvement upon a historic resource property, the use and design of the improvement shall not adversely affect, and shall be compatible with, the use and design of existing historic resources within the same historic district.
- c. Additionally, this action would not be statutorily exempt from CEQA, unlike the SB-9, and thus would require an MND. Although, CEQA guidelines would potentially find projects consistent with Section 15331 *Historic Resource Restoration/Rehabilitation* CCR Title 14, Chapter 3 categorically exempt.

Finally, many people worry that changes to the Accessory Dwelling Unit regulations could substantially change the City, and that has not been the case. The City has added from 10 to 20 new ADUs/year, which is not sufficient to substantially change

the City's urban form or the look and feel of individual neighborhoods. Likewise, fears about how SB-9 could reshape the City may be misplaced. Despite local interest, the City has processed one SB-9 lot split. The potential impacts to neighborhoods and the community are limited. The regulations themselves limit their utility to developers as they require owner-occupancy and so cannot be used for speculative development. Additionally, smaller homes on small lots will not be as expensive as a larger home on a full-sized lot. The resultant small homes with tiny yards are primarily attractive to older people, single people and couples without families, which make up the majority of our population. Urban lot splits also provide an important mechanism for older people to remain in their home as they age while extracting some value from their primary economic asset, which would also be of value to many in our community.

ENVIRONMENTAL ANALYSIS

Government Code Section 66411.7(n) states "A local agency may adopt an ordinance to implement the provisions of Section 66411.7 *Parcel Map for Urban Lots*; an ordinance to implement Section 66411.7 shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resource Code. (Guidelines for California Environmental Quality Act Section 15002(d) *General Concepts* states a project is an activity subject to CEQA.)

The proposed amendment to the Coastal Land Use and Development Code is part of the City's Local Coastal Program and will be submitted to the California Coastal Commission for certification. Therefore, the proposed project is statutorily exempt from further environmental review under CEQA Guidelines 15265 *Adoption of Coastal Plans and Programs*.

Additionally, the proposed CLUDC amendment is statutorily exempt under CEQA Guidelines 15282(h). The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

FISCAL IMPACT

Eliminating the Capacity Fee for units of 750 SF or less, as required by state law, will result in the City investing more funds from other sources on capital improvements related to sewer and water infrastructure.

GREENHOUSE GAS EMISSIONS IMPACT

Greenhouse gas emissions are generally less when more housing is added to already developed urban areas like Fort Bragg because residents drive less to get to work, school, shopping etc.

CONSISTENCY

The consistency of any proposed ordinance with the Coastal General Plan and Inland General Plan has been analyzed in Attachments 3 of this report.

IMPLEMENTATION/TIMEFRAMES

This effort includes amendments to Title 17 (Coastal) and Title 18 (Inland) of the Fort Bragg Municipal Code. Recommendations by the Planning Commission will be forwarded to City Council for a decision and direction. Amendments to each Title proceed differently.

Title 17 Coastal: Upon receipt of the Planning Commission’s recommendation, the Council shall conduct a public hearing and either approve, approve in modified form, or disapprove the proposed amendment based on the findings identified in Section 17.94.060 (Findings and Decision). If the Council proposes to adopt a substantial modification to the amendment not previously considered by the Coastal Commission, the proposed modification shall be first referred to the Coastal Commission for its recommendation. Prior to Council’s adoption of the amendments, the Coastal Commission must find the amendments consistent with the Coastal Act.

Title 18 Inland: Upon receipt of the Planning Commission’s recommendation, the Council shall conduct a public hearing and either approve, approve in modified form, or disapprove the proposed amendment based on the findings identified in Section 18.94.060 (Findings and Decision). If the Council proposes to adopt a substantial modification to the amendment not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation, in compliance with State law (Government Code Sections 65356 and 65857).

While the two amendments are similar, they are not identical. Urban Lot Splits in the Coastal Zone would be subject to the Coastal Development Permit process.

Title 17 Coastal LUDC Zoning Code Amendment	Potential Timeline
Planning Commission Public Hearing and Recommendation to City Council	Oct 2023
City Council – Public Hearing and Adoption of Resolution Transmitting Zoning Amendment to Coastal Commission	Dec 2023
Prepare LCP Amendment Application	Dec 2023 – Jan 2024
Coastal Commission Review and “Friendly Modifications” Due to City	June 2024
City Council acceptance of “Friendly Modifications” from the Coastal Commission	Oct 2024

Title 18 Inland LUDC Zoning Code Amendment	Potential Timeline
Planning Commission Public Hearing and Recommendation to City Council	Oct 2023
City Council – Public Hearing and 1st Reading of Ordinance	Dec 2023
City Council – 2 nd Reading of Ordinance	Jan 2023
Ordinance become effective	Feb 2023

ATTACHMENTS

1. Resolution of the Fort Bragg Planning Commission Recommending that the City Council Submit an LCP Amendment Application to the Coastal Commission to Amend Title 17 of

the Fort Bragg Municipal Code to Amend Chapter 17.21.030(B) & 17.21.050 “Residential Zoning Districts,” add Chapter 17.42.200 “Urban Unit Development”, add Chapter 17.84.045 “Urban Lot Split”, and Amend Chapter 17.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.

2. Resolution of the Fort Bragg Planning Commission Recommending that the City Council Amend Title 18 of the Fort Bragg Municipal Code to Amend Chapter 18.21.030(B) & 18.21.050 “Residential Zoning Districts,” add Chapter 18.42.200 “Urban Unit Development”, add Chapter 18.84.045 “Urban Lot Split”, and Amend Chapter 18.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.
3. General Plan Consistency Analysis

NOTIFICATION

1. “Notify Me” subscriber lists: Fort Bragg Downtown Businesses; and Economic Development Planning.

RESOLUTION NO. PC -2023

**RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION
RECOMMENDING THAT THE CITY COUNCIL SUBMIT AN LCP
AMENDMENT APPLICATION TO THE COASTAL COMMISSION TO
AMEND TITLE 17 OF THE FORT BRAGG MUNICIPAL CODE TO AMEND
CHAPTER 17.21.030(B) & 17.21.050 “RESIDENTIAL ZONING
DISTRICTS”, ADD CHAPTER 17.42.200 “URBAN UNIT DEVELOPMENT”,
ADD CHAPTER 17.84.045 “URBAN LOT SPLIT”, AND AMEND CHAPTER
17.100 “DEFINITIONS” TO ESTABLISH REGULATIONS AND
STANDARDS FOR URBAN LOT SPLITS AND URBAN UNIT
RESIDENTIAL DEVELOPMENT PROJECTS IN LOW-DENSITY
RESIDENTIAL ZONING DISTRICTS PURSUANT TO SENATE BILL 9.**

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City adopted a Coastal General Plan (“Coastal GP”) as the Land Use Plan portion of the Local Coastal Program on May 12, 2008 which established policies for all land within the Fort Bragg Coastal Zone; and

WHEREAS, in August 2008 the California Coastal Commission certified the City’s Local Coastal Program (LCP) which includes the Coastal GP as the Land Use Plan; and

WHEREAS, The City Council adopted Resolution 3162-2008 on May 12, 2008 adopting the Coastal General Plan; and

WHEREAS, the City adopted a Coastal Land Use and Development Code in 2008 as the implementing portion of the Local Coastal Program on May 12, 2008, which established all land use regulations for the Coastal Zone; and

WHEREAS, the Coastal General Plan includes policies to: (1) advance the orderly growth and development of the City’s Coastal Zone; (2) protect coastal resources; (3) incorporate sustainability into the development process so that Fort Bragg’s coastal resources and amenities are preserved for future generations; (4) respond to current environmental and infrastructure constraints; (5) protect the public health, safety and welfare; and (6) promote fiscally responsible development; and

WHEREAS, the availability of housing is a substantial concern for individuals of all demographics, ages, and economic backgrounds in communities throughout the State of California; and

WHEREAS, on September 16, 2021, California Governor Gavin Newsom signed Senate Bill 9 (SB-9) into law as part of an effort to address the State’s housing crisis by streamlining housing production; and

WHEREAS, the new legislation became effective on January 1, 2022, and requires local agencies to ministerially approve urban lot splits and development of up to four residential units per single family residential lot provided the projects meet certain criteria; and

WHEREAS, the City wishes to balance compliance with State law with the rights still preserved under the new legislation authorizing the City to establish objective zoning, subdivision and design review standards consistent with SB-9 requirements to approve urban lot splits and urban unit residential development; and

WHEREAS, The project is exempt from CEQA, as a zoning amendment to implement the provisions of Sections 65852.1 and Section 66411.7 of the Government Code is exempt from CEQA by those code sections; and

WHEREAS, the “activities and approvals by a local government necessary for the preparation and adoption of a local coastal program or long range development plan” pursuant to the California Coastal Act are statutorily exempt from compliance with CEQA, and this statutory exemption “shifts the burden of CEQA compliance from the local agency to the California Coastal Commission (CEQA Guidelines § 15265 (c)); and

WHEREAS, the Community Development Committee held a duly noticed public hearing on May 17, 2023, to discuss a memo about SB-9 implementation in Fort Bragg; and public comments were given at that time; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 11, 2023, to consider the Zoning Amendment, accept public testimony; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Coastal General Plan; the Fort Bragg Coastal Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the Planning Commission meeting of October 11, 2023 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

SECTION 1: COASTAL LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 17.94.060, the Planning Commission recommends that the City Council makes the following findings for adoption of the proposed amendments to the Fort Bragg Coastal Land Use and Development Code:

- a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and

As noted in the General Plan Consistency Analysis, which is Attachment 2 to the staff

report and incorporated by reference under the resolution statement above, the project is consistent with the Coastal General Plan as follows:

1. The proposed project is consistent with the land use designations of the Land Use Element of the Coastal General Plan (CGP) because state law does not allow local jurisdictions to include the four units allowed through an Urban Lot Split and subsequent development in their density calculations. Thus, while the amendments will allow “higher” residential densities, State law does not allow local jurisdictions to count these increases in density towards density limitations. Thus, density limitations do not need to be modified in the Land Use Element. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
 2. The proposed amendment is consistent with the following applicable General Plan policies: Policy LU-10.2, Policy LU-10.4, Policy LU-10.6, Policy LU-5.7, Policy LU-10.1, Policy PF-1.1, Policy PF-2.1, Policy CD-1.1: Policy CD-2.4 and Policy CD-2.5
 3. The proposed amendment would be consistent with the policies of the Conservation Element as a CDP is required if the project is located in an area that has the potential to effect Environmentally Sensitive Habitats, Wetlands, visual resources or on other Coastal Act resources as illustrated in the Maps of the Coastal General Plan.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed amendment is mandated by State Law as such it is in the public interest to permit additional opportunities for residential housing development, which will provide for better convenience and welfare for the residents of the City of Fort Bragg as it will result in additional housing units. The proposed amendment requires conformance with all applicable building codes which will ensure healthy and safe housing.

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The Proposed Amendment is consistent with CLUDC standards with the following State mandated exception.

1. **Lot Coverage:** As mandated by state law, housing units developed as a consequence of this ordinance must be exempt from lot coverage calculations if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
2. **Set Backs:** As mandated by state law, housing units developed as a consequence of this ordinance have an exception from the code requiring only 4 feet setbacks on the rear and side property lines. Additionally, front yard setbacks must be reduced if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
3. **Parking and Traffic:** Again, in compliance with State law, City Council may require

that housing units developed as a consequence of this ordinance provide off-street parking so long as that requirement does not preclude an applicant from building at least two units of 800 SF each.

SECTION 2: GENERAL FINDINGS:

- a. The foregoing recitals are true and correct and made a part of this Resolution; and
- b. The documents and other material constituting the record for these proceedings are located at the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby recommend that the City Council submit an LCP Amendment application to the Coastal Commission to amend Title 17 to the Fort Bragg Municipal Code to Amend Chapter 17.21.030(B) & 17.21.050 “Residential Zoning Districts” add Chapter 17.42.200 “Urban Lot Split” and add Chapter 17.84.045 “Urban Unit Residential Development” and amend Chapter 17.100 “Definitions” to establish regulations and standards for urban lot splits and urban unit residential development projects in Low-Density Residential zoning districts pursuant to Senate Bill 9.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

The above and foregoing Resolution was introduced by _____ seconded by _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 11th day of October 2023, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSE:**

Jeremy Logan, Chair

ATTEST:

Maria Flynn, Administrative Assistant

Resolution Appendix A

Draft Ordinance: CLUDC Urban Lot Splits & Urban Unit Development

17.21.030 & 17.21.050 Land Use Table Amendments

Revise 17.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts:

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P	Permitted Use, Zoning Clearance required					
	MUP UP	Minor Use Permit required (see Section 17.71.060)					
	S	Use Permit required (see Section 17.71.060)					
	—	Permit requirement set by Specific Use Regulations					
		Use not allowed					
LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
RESIDENTIAL USES							
Duplex	P	P	P	P	P	P	17.42.170 17.42.200
Low Density Primary dwelling Unit	P	P	P	P	P	P	
Urban Unit Development (4 units)	p	p	p	-	-	-	17.42.200
Urban Unit Development (2 units)	P	P	P	-	-	-	17.42.200 & 17.84.045

Revise Table 2-4 to clarify that two-unit and four-unit development is allowed consistent with 17.42.200.

TABLE 2-4 - RR, RS, AND RL DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District		
	RR Rural Residential	RS Suburban Residential	RL Low Density Residential
Density	Maximum number of dwelling units allowed on a single parcel.		
	1 dwelling unit or one duplex per parcel; or 1 dwelling unit and one second unit and one JADU where allowed by 17.42.170 ; or Two to four dwelling units, where allowed, by 17.42.170 and 17.84.045.		

17.84.045 Urban Lot Splits

Adopt an entirely new Ordinance 17.84.045 Urban Lot Splits in its entirety.

Purpose. This Section establishes standards to implement California Government Code Section 66411.7 which requires approval of the subdivision of a residential lot in RR, RS, and RL Zoning Districts into two parcels with up to two units of housing on each subsequent parcel per 17.42.200.

Coastal Development Permit required. An application for an Urban Lot Split shall be approved with an administrative Coastal Development Permit. While a public hearing shall not be held, public notice is required for both the Pending Action and the Final Action.

Definitions. These definitions are intended for the narrow purpose of implementing 17.84.045.

- **Unit.** Unit means a primary dwelling unit or one unit of a duplex an ADU or a JADU.
- **Urban Lot Split.** A lot split authorized through 66411.7 and regulated by this Section 17.84.045.
- **Front Parcel.** A parcel, created by an Urban Lot Split, which includes at least 50% of the original parcel’s street-facing frontage.
- **Back Parcel.** A parcel, created by an Urban Lot Split, which includes more than 50% of the original parcel’s alley-facing frontage or back parcel line.
- **Front of the Parcel.** The “front of the parcel” is defined as 1) the street side of the Front Parcel or 2) the alley side of an alley fronting Back Parcel, or 3) the newly created parcel line for a Back Parcel that does not abut an alley.
- **Residential Use.** Residential Use includes primary units, ADUs, a duplex, and associated accessory residential structures (per Land Use Table 2-1 Residential Uses).

A. Limitation on Location.

1. The parcel must be located in RR, RS, and RL Zoning Districts. Parcels in multifamily residential zoning districts and commercial zoning districts are not eligible for Urban Lot Splits.
2. The applicant shall undertake proper mitigation if the parcel is in a Fire, Flood, or Earthquake Hazard Zone per the appropriate section of this code.
3. Both resulting parcels shall have access to, provide access to, or adjoin the public right-of-way.
4. Urban Lot Splits are not permitted, under any of the following conditions.
 - a. On a parcel adjacent to another parcel that was split via the Urban Lot Split under ownership by the same person or a person working in concert with the property owner of the adjacent parcel.
 - b. On a parcel that was created through a previous Urban Lot Split.
 - c. On parcels under ownership of a community land trust, as defined in Section 402.1 of the Revenue and Taxation Code, or a qualified nonprofit corporation as described in 214.15 of the Revenue and Taxation Code.

- d. On a parcel located in a historic site or district, listed on the State Historic Resources Inventory or designated as a Historic Landmark.
- e. On a parcel located on prime farmland, a hazardous waste site listed pursuant to Section 65962.5, or within a 100-year flood zone.
- f. On a parcel that includes a wetland, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993) or habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plant Protection Act
- g. On a parcel located on lands under a conservation easement.
- h. On a parcel where the Urban Lot Split would require demolition of affordable or rental housing that: 1) is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income; (2) is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) has been occupied by a tenant in the last three years.
- i. On a parcel located within areas mapped in the Coastal General Plan on any of the following Coastal General Plan maps: Map OS-1 Open Space and Environmentally Sensitive Habitat Areas; Map OS-2 Special Review and Runoff Sensitive Areas; and/or Map SF-2 Flood Hazards.

B. Lot Size, Lot Split Size, Setbacks

- 1. No parcel of less than 2,400 SF may be subdivided through the Urban Lot Split process.
- 2. The resulting lots must be near equal in size; each lot must be at least 40 percent of the existing lot size, but no smaller than 1,200 sf.
- 3. The new lot line may be approved even if the line divides pre-existing adjacent or connected structures, so long as the structures meet building code safety standards and are sufficient to allow for separate conveyance.

C. Urban Lot Split Access & Public Improvements.

- 1. Created parcels shall have access to, provide access to, or adjoin the public right-of-way. Flag Lots or easements are permissible if there is no alley access to the back parcel. In no case will more than one curb cut be permitted per original parcel, shared street access is required where street access is necessary for both parcels.
- 2. Easements shall be required for the provision of public services and facilities.
- 3. The City shall not require the dedication of rights-of-way or the construction of offsite improvements.

D. Use Limitation and Deed Restriction.

- 1. **Deed Restriction.** As part of the recordation of the Lot Split, the owner shall record a deed restriction on both resultant lots in a form approved by the City that includes all items enumerated in D2 below.
- 2. **Use Limitations.** The following restrictions apply to all lots created through an Urban Lot Split.

- a. **Owner Occupancy.** The property owner shall use one of the units as their primary residence for a minimum of three years.
- b. **Sale.** The sale of one unit separate from the sale of the other unit on the same parcel is prohibited.
- c. **Short-term Rentals.** Units shall not be rented for periods of less than 31 days.
- d. **Future Lot Splits.** Future Urban Lot Splits of either resulting parcel is prohibited.
- e. **Prohibition of non-residential uses.** Non-residential uses are not permitted. Only residential uses are permitted, (per Use Table 2-1 Residential Uses)

E. Subdivision Map Act & General Plan Conformance. This Section overrides any conflicting provisions of the Subdivision Map Act. General Plan conformance is not required if it would preclude urban lot-splits mandated by this Section.

F. Exceptions to Development Standards for Lot Splits with Existing Development.

- 1. **Side & Rear Yard Setbacks.** No setbacks are required for existing structures.
- 2. **Non-Conforming Structures and Land Uses.** All existing nonconforming zoning conditions (use, development standards, parking standards, etc.) may continue with an Urban Lot Split.

G. Urban Lot Split Application Requirements. An application for an Urban Lot Split under this Section shall include the following materials.

- a. Tentative Map.
- b. Boundary survey.
- c. Parcel Map with legal descriptions for both parcels.
- d. Deed restriction.

H. Allowable Development. Development of parcels created through an Urban Lot Split shall be regulated by Section 17.42.200.

I. Required Findings for Denial. The denial of a proposed Urban Lot Split requires the Building Official to make the following finding:

- a. Based upon a preponderance of the evidence, the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- b. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

- J. Required Findings for Approval in the Coastal Zone.** The approval of a proposed Urban Lot Split requires the Review Authority to make the following findings for Urban Lot Splits in the Coastal Zone:
1. New parcels will minimize risks to life and property in areas of geologic and flood hazard.
 2. New parcels will assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area; and not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
 3. New parcels are consistent with relevant LCP policies requiring that parcels be sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas and to allow the continuance of those areas into the future.
 4. New parcels are consistent with LCP policies protecting public access, recreational opportunities, marine habitats, water quality, and visual resources.
 5. New parcels are served with adequate public services.
 6. New parcels will not be directly or indirectly impacted by sea level rise under the “medium-high risk aversion” scenarios prepared by the Coastal Commission for a period of 101 years.

17.42.200 Urban Unit Development

Adopt an entirely new Ordinance 17.42.200 Urban Unit Development in its entirety.

Purpose. This Section establishes standards to implement California Government Code Section 66411.7 which requires ministerial approval up to two units of housing (see H-2) on a parcel created through an Urban Lot Split and up to four Units (see H-1) on a single parcel that was not created through an urban lot split.

Coastal Development Permit required. An application for residential development that complies with the standards of this Section shall be approved with an administrative Coastal Development Permit. While a public hearing shall not be held, public notice is required for both the Pending Action and the Final Action.

Definitions. These definitions are intended for the narrow purpose of implementing 17.42.200

- **Unit.** "Unit means a primary dwelling unit, one unit of a duplex, an ADU or a JADU.
- **Urban Lot Split.** A lot split authorized through 66411.7 and regulated by this Section 17.84.045.
- **Front Parcel.** A parcel, created by an Urban Lot Split, which includes at least 50% of the original parcel’s street-facing frontage.
- **Back Parcel.** A parcel, created by an Urban Lot Split, which includes more than 50% of the original parcel’s alley-facing frontage or back parcel line.
- **Front of the Parcel.** The front of the parcel shall be the street side of the Front Parcel, the alley side of an alley fronting Back Parcel, or the newly created parcel line for a Back Parcel that does not abut an alley.
- **Residential Use.** Residential Use includes primary units, ADUs, a duplex, and associated accessory residential structures (per Land Use Table 2-1 Residential Uses).

A. Density, Size & Number of Units Allowed.

1. A Maximum of four units (two units and two J/ADUs) are permissible on lots which do not go through an Urban Lot Split. There is no size limit for primary units; second units must be 800 SF or less.
2. A maximum of two units is permissible on each lot created by an Urban Lot Split as follows:
 - a. Two Primary Units of 1,200 SF or less each, or
 - b. One Duplex of 2,200 SF or less, or
 - c. One Primary Unit of 1,200 SF & One ADA of 800 SF or less, or
 - d. One Primary Unit of 1,200 SF & One Junior ADU of 500 SF or less, or
 - e. One Primary Unit of 2,200 SF or less.
 - f. Lots created through an Urban Lot Split are not eligible for the maximum of three units (primary, ADU, JADU) specified under 17.42.170
3. Units permissible under this section are exempt from the calculation of the maximum allowable density and shall be deemed to be a residential use that is consistent with the General Plan and zoning designation for the lot(s).

B. Setbacks For New Units.

1. Rear and side yard setbacks for new units shall be 4 feet.
2. The minimum front yard setback for the back parcel shall be:
 - a. 10 feet when facing the alley, and
 - b. 5 feet when facing the new property line (see definitions).
3. The minimum front yard setback for the front parcel shall comply with the development standards of Section 17.21.050.

C. Off-street parking. One off-street parking space is required for each unit unless the unit is located ½ mile from a bus stop or there is a car share on the same block. Where feasible parking access shall be provided from the alley for both parcels via an easement or parcel configuration. In no case will more than one curb cut be permitted per original parcel, shared street access is required where street access is necessary for both parcels. Parking shall be provided onsite in areas with coastal access that have constrained public parking.

D. Timing. Units may be constructed simultaneously or at different times.

E. Exceptions to Development Standards

1. **Exceptions to Accommodate at least two 800 SF Units.** The Community Development Director shall modify or eliminate objective development standards if they prevent the construction of up to two units of at least 800 square feet in size on each lot. The following objective development standards shall be modified last (and only if no other combination of modified standards permits at least two 800 SF Units): parking requirement, front setback, height limit.
2. **Non-conforming Setbacks.** The setbacks of an existing structure may be retained for a new structure that is located in the same footprint as an existing structure.

F. Objective Design Review Standards

1. **Separate entrance required.** All units shall have separate entrances.
2. **Private open space and storage space.** Each unit must include 100 SF of private outdoor open-space and 100 cubic feet of outdoor accessible storage space (as part of the unit). Private open space shall be at the same elevation as and immediately accessible from within the unit. Each private open space area shall have a minimum dimension of 8 feet; except for upper-floor balconies where the private open space is provided as a balcony.
3. **Window & Balcony Placement.** A two-story unit or one that is located over a garage shall not have windows or balconies that directly face a neighboring yard. This limitation does not apply to windows facing alleys.
4. **Accessory structures.** Only one accessory structure (garage, craft room, shed, etc.) is permitted per lot and shall be designed and constructed with an architectural style, exterior colors and materials similar to the dwelling unit(s).
5. **Building facades adjacent to streets.** Dwelling units shall be sited and designed so that at least 75% of the facade of each building adjacent to a public street is occupied by habitable space with windows. Each facade adjacent to a street shall

have at least one pedestrian entry into the structure.

6. **Building code compliance.** All new units must satisfy the requirements contained in the building code and fire code as currently adopted by the City, including applicable energy efficiency standards associated with Title 24 of the California Code of Regulations.

G. Utilities

1. **Separate Connections.** The project shall include separate gas, electric and water utility connection directly between each dwelling unit and the utility.
2. **Capacity fees.** Units of less than 750 SF shall be exempt from paying capacity fees, and units of more than 750 SF shall pay a prorated share of the capacity fee.

H. Application Requirements. An application for development of allowable units under this section shall include the following materials.

- a. Site Plan – existing conditions,
- b. Site Plan – proposed project,
- c. Floor Plans, and
- d. Elevations and Finishes.

J. Required Findings for Approval in the Coastal Zone. The approval of a proposed Urban Unit Development requires the Review Authority to make the following findings in the Coastal Zone:

3. New units will minimize risks to life and property in areas of geologic and flood hazard.
4. New units will assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area; and not in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
5. New units are consistent with relevant LCP policies requiring that units be sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas and to allow the continuance of those areas into the future.
6. New units are consistent with LCP policies protecting public access, recreational opportunities, marine habitats, water quality, and visual resources.
7. New parcels/units are served with adequate public services.
8. New parcels/units will not be directly or indirectly impacted by sea level rise under the “medium-high risk aversion” scenarios prepared by the Coastal Commission for a period of 101 years.

17.100 Definitions Amendments

In order to support the required code updates, the following modifications to the definitions in CLUDC Section 17.100.020 are recommended:

Urban Lot Split. A lot split authorized through 66411.7 and regulated by Section 17.84.045.

Urban Unit Development. Development authorized and regulated by Section 17.42.200.

RESOLUTION NO. PC -2023

**RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION
RECOMMENDING THAT THE CITY COUNCIL AMEND TITLE 18 OF THE
FORT BRAGG MUNICIPAL CODE TO AMEND CHAPTER 18.21.030(B) &
18.21.050 “RESIDENTIAL ZONING DISTRICTS,” ADD CHAPTER 18.42.200
“URBAN UNIT DEVELOPMENT,” ADD CHAPTER 18.84.045 “URBAN LOT
SPLIT,” AND AMEND CHAPTER 18.100 “DEFINITIONS” TO ESTABLISH
REGULATIONS AND STANDARDS FOR URBAN LOT SPLITS AND URBAN
UNIT RESIDENTIAL DEVELOPMENT PROJECTS IN LOW DENSITY
RESIDENTIAL ZONING DISTRICTS PURSUANT TO SENATE BILL 9.**

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new state planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS the City desires to ensure that residential development occurs in an orderly manner, in accordance with the goals and objectives of the General Plan and reasonable land use planning principles; and

WHEREAS, on September 16, 2021, California Governor Gavin Newsom signed Senate Bill 9 (SB-9) into law as part of an effort to address the State’s housing crisis by streamlining housing production; and

WHEREAS, the new legislation became effective on January 1, 2022, and requires local agencies to ministerially approve urban lot splits and development of two residential units per single family residential lot provided the projects meet certain criteria; and

WHEREAS the City wishes to balance compliance with State law with the rights still preserved under the new legislation authorizing the City to establish objective zoning,

subdivision and design review standards consistent with SB-9 requirements to approve urban lot splits and urban unit residential development; and

WHEREAS, the project is exempt from CEQA, as a zoning amendment to implement the provisions of Sections 65852.1 and Section 66411.7 of the Government Code is exempt from CEQA by those code sections; and

WHEREAS, the Community Development Committee held a duly noticed public hearing on May 17, 2023, to discuss a memo about SB-9 implementation in Fort Bragg; and public comments were given at that time; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 11, 2023, to consider the Zoning Amendment, accept public testimony; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the Planning Commission meeting of October 11, 2023 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

SECTION 1: INLAND LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 18.94.060, the Planning Commission recommends that the City Council make the following findings for adoption of the proposed amendments to the Fort Bragg Inland Land Use and Development Code:

a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and

1. The proposed project is consistent with the land use designations of the Land Use Element of the General Plan because state law does not allow local jurisdictions to include the four units allowed through an Urban Lot Split and subsequent development in their density calculations. Thus, while the amendments will allow “higher” residential densities, State law does not allow local jurisdictions to count these increases in density towards density limitations. Thus, density limitations do not need to be modified in the Land Use Element.
2. The proposed amendment is consistent with the following applicable General Plan policies: Policy LU-6.1, Policy PF-1.2, Policy PF-2.1, Policy CD-1.2, Policy H-1.6, Policy H-2.9, Policy H-3.2, and Program H-4.1.2.

b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

1. The proposed amendment is mandated by State Law as such it is in the public interest to permit additional opportunities for residential housing development, which will provide for better convenience and welfare for the residents of the City of Fort Bragg as it will result in additional housing units. The proposed amendment requires conformance with all applicable building codes which will ensure healthy and safe housing.

c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

1. The Proposed Amendment is consistent with ILUDC standards with the following State mandated exceptions.
 - a) Lot Coverage: As mandated by state law, housing units developed as a consequence of this ordinance must be exempt from lot coverage calculations if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
 - b) Set Backs: As mandated by state law, housing units developed as a consequence of this ordinance have an exception from the code requiring only 4 feet setbacks on the rear and side property lines. Additionally, front yard setbacks must be reduced if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
 - c) Parking and Traffic: Again, in compliance with State law, City Council may require that housing units developed as a consequence of this ordinance provide off-street parking so long as that requirement does not preclude an applicant from building at least two units of 800 SF each.

SECTION 2: GENERAL FINDINGS:

- a. The foregoing recitals are true and correct and made a part of this Resolution; and
- b. The documents and other material constituting the record for these proceedings are located in the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby recommend that the City Council amend Division 18 to the Fort Bragg Municipal Code to Amend Division 18 to the Fort Bragg Municipal Code to Amend Chapter 18.21.030(B) & 18.21.050 "Zoning Districts and Allowable Land Uses", add Chapter 18.42.175 "Urban Lot Split", and Chapter 18.84.045 "Urban Unit Residential Development", and Amend Chapter 18.100 "Definitions" to establish regulations and standards for urban lot splits and urban unit residential development projects in Low Density Residential zoning districts consistent with the purpose of Senate Bill 9.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

The above and foregoing Resolution was introduced by _____ seconded by _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 11th day of October 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

Jeremy Logan, Chair

ATTEST:

Maria Flynn, Administrative Assistant

Resolution Attachment A

Draft Ordinance: ILUDC Urban Lot Splits & Urban Unit Development

18.21.030(B) Residential District Allowable Land Uses and Permit Requirements

Revise 18.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts:

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P	Permitted Use, Zoning Clearance required					
	MUP UP S —	Minor Use Permit required (see Section 18.71.060) Use Permit required (see Section 18.71.060) Permit requirement set by Specific Use Regulations Use not allowed					
LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
RESIDENTIAL USES							
Duplex	P	P	P	P	P	P	18.42.170 18.42.200
Low Density Primary dwelling Unit	P	P	P	P	P	P	
Urban Unit Development (4 units)	p	p	p	-	-	-	18.42.200
Urban Unit Development (2 units)	P	P	P	-	-	-	18.42.200 & 18.84.045

18.21.050 Residential District Site Planning and Building Standards

Revise Table 2-4 to clarify that two and four unit development is allowed consistent with 18.42.200.

TABLE 2-4 - RR, RS, AND RL DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District		
	RR Rural Residential	RS Suburban Residential	RL Low Density Residential
Density	Maximum number of dwelling units allowed on a single parcel. 1 dwelling unit or one duplex per parcel; or 1 dwelling Unit and one second unit and one JADU where allowed by 18.42.170 ; or Two to four units, where allowed, by 18.42.200 .		

18.84.045 Urban Lot Splits

Adopt an entirely new Ordinance 18.84.045 Urban Lot Splits, in its entirety.

Purpose. This Section establishes standards to implement California Government Code Section 66411.7 which requires ministerial approval of the subdivision of a residential lot in a Low Density Residential zone into two parcels with up to two units of housing on each subsequent parcel per 18.42.200.

Ministerial Approval. An application for an Urban Lot Split and/or the associated residential development that complies with the standards of this Section shall be approved ministerially.

Definitions. These definitions are intended for the narrow purpose of implementing 18.84.045.

- **Unit.** Unit means a primary dwelling unit or one unit of a duplex an ADU or a JADU.
- **Urban Lot Split.** A lot split authorized through 66411.7 and regulated by this Section 18.84.045.
- **Front Parcel.** A parcel created by an Urban Lot Split that includes at least 50% of the original parcel’s street-facing frontage.
- **Back Parcel.** A parcel, created by an Urban Lot Split, which includes more than 50% of the original parcel’s alley-facing frontage or back parcel line.
- **Front of the Parcel.** The “front of the parcel” is defined as 1) the street side of the Front Parcel or 2) the alley side of an alley fronting Back Parcel, or 3) the newly created parcel line for a Back Parcel that does not abut an alley.

A. Limitation on Location.

1. The parcel must be in a Low-Density Residential zone (RR, RS, RL zones). Parcels in multifamily residential zoning districts and commercial zoning districts are not eligible for Urban Lot Splits.
2. The applicant shall undertake proper mitigation if the parcel is in a Fire, Flood, or Earthquake Hazard Zone per the appropriate section of this code.
3. Both resulting parcels shall have access to, provide access to, or adjoin the public right-of-way.
4. Urban Lot Splits are not permitted, under any of the following conditions.
 - a. On a parcel adjacent to another parcel that was split via the Urban Lot Split under ownership by the same person or a person working in concert with the property owner of the adjacent parcel.
 - b. On a parcel that was created through a previous Urban Lot Split.
 - c. On parcels under ownership of a community land trust, as defined in Section 402.1 of the Revenue and Taxation Code, or a qualified nonprofit corporation as described in 214.15 of the Revenue and Taxation Code.
 - d. On a parcel located in a historic site or district, listed on the State Historic Resources Inventory or designated as a Historic Landmark.
 - e. On a parcel located on prime farmland, a hazardous waste site listed pursuant to Section 65962.5, or within a 100-year flood zone.

- f. On a parcel that includes a wetland, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993) or habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plant Protection Act
- g. On a parcel located on lands under a conservation easement.
- h. On a parcel where the Urban Lot Split would require demolition of affordable or rental housing that: 1) is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income; (2) is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) has been occupied by a tenant in the last three years.

B. Lot Size, Lot Split Size, Setbacks

- 1. No parcel of less than 2,400 SF may be subdivided through the Urban Lot Split process.
- 2. The resulting lots must be near equal in size; each lot must be at least 40 percent of the existing lot size, but no smaller than 1,200 SF.
- 3. The new lot line may be approved even if the line divides pre-existing adjacent or connected structures, so long as the structures meet building code safety standards and are sufficient to allow for separate conveyance.

C. Urban Lot Split Access & Public Improvements.

- 1. Created parcels shall have access to, provide access to, or adjoin the public right-of-way. Flag Lots or easements are permissible if there is no alley access to the back parcel. In no case will more than one curb cut be permitted per original parcel, shared street access is required where street access is necessary for both parcels.
- 2. Easements shall be required for the provision of public services and facilities.
- 3. The City shall not require the dedication of rights-of-way or the construction of offsite improvements.

D. Use Limitation and Deed Restriction.

- 1. **Deed Restriction.** As part of the recordation of the Lot Split, the owner shall record a deed restriction on both resultant lots in a form approved by the City that includes all items enumerated in D2 below.
- 2. **Use Limitations.** The following restrictions apply to all lots created through an Urban Lot Split.
 - a. **Owner Occupancy.** The property owner shall use one of the units as their primary residence for a minimum of three years.
 - b. **Sale.** The sale of one unit separate from the sale of the other unit on the same parcel is prohibited.
 - c. **Short-term Rentals.** Units shall not be rented for periods of less than 31 days.
 - d. **Future Lot Splits.** Future Urban Lot Splits of either resulting parcel is prohibited.

- e. **Prohibition of non-residential uses.** Non-residential uses are not permitted. Only residential uses are permitted, (per Use Table 2-1 Residential Uses)

E. Subdivision Map Act & General Plan Conformance. This section overrides any conflicting provisions of the Subdivision Map Act. General Plan conformance is not required if it would preclude urban lot-splits mandated by this section.

F. Exceptions to Development Standards for Lot Splits with Existing Development.

- a. **Side & Rear Yard Setbacks.** No setbacks are required for existing structures.
- b. **Non-Conforming Structures and Land Uses.** All existing nonconforming zoning conditions (use, development standards, parking standards, etc.) may continue with an Urban Lot Split.

G. Urban Lot Split Application Requirements. An application for an Urban Lot Split under this section 18.42.200 shall include the following materials.

- a. Tentative Map.
- b. Boundary survey.
- c. Parcel Map with legal descriptions for both parcels.
- d. Deed restriction.

H. Allowable Development. Development of parcels created through an Urban Lot Split shall be regulated by Section 18.42.200.

18.42.200 – Urban Unit Development

Adopt an entirely new Ordinance 18.42.200 Urban Unit Development, in its entirety.

Purpose. This Section establishes standards to implement California Government Code Section 66411.7 which requires ministerial approval up to two units of housing (see H-2) on a parcel created through an Urban Lot Split and up to four Units (see H-1) on a single parcel that was not created through an urban lot split.

Ministerial Approval. An application for the residential development that complies with the standards of this Section shall be approved ministerially.

Definitions. These definitions are intended for the narrow purpose of implementing 18.42.200

- **Unit.** "Unit means a primary dwelling unit or one unit of a duplex an ADU or a JADU.
- **Urban Lot Split.** A lot split authorized through 66411.7 and regulated by this Section 18.84.045.
- **Front Parcel.** A parcel, created by an Urban Lot Split, which includes at least 50% of the original parcel’s street-facing frontage.
- **Back Parcel.** A parcel, created by an Urban Lot Split, which includes more than 50% of the original parcel’s alley-facing frontage or back parcel line.
- **Front of the Parcel.** The front of the parcel shall be the street side of the Front Parcel, the alley side of an alley fronting Back Parcel, or the newly created parcel line for a Back Parcel that does not abut an alley.
- **Residential Use.** Residential Use includes primary units, ADUs, a duplex, and associated accessory residential structures (per Use Table 2-1 Residential Uses).

A. Density, Size & Number of Units Allowed.

1. A Maximum of four units (two units and two J/ADUs) are permissible on lots which do not go through an Urban Lot Split. There is no size limit for primary units, second units must be 800 SF or less.
2. A maximum of two units is permissible on each lot created by an Urban Lot Split as follows:
 - a. Two Primary Units of 1,200 SF or less each, or
 - b. One Duplex of 2,200 SF or less, or
 - c. One Primary Unit of 1,200 SF & One ADA of 800 SF or less, or
 - d. One Primary Unit of 1,200 SF & One Junior ADU of 500 SF or less, or
 - e. One Primary Unit of 2,200 SF or less.
3. Units permissible under this section are exempt from the calculation of the maximum allowable density for the lot on which they are located and shall be deemed a residential use that is consistent with the General Plan and zoning designation for the lot(s).

B. Setbacks For New Units.

1. Rear and side yard setbacks for new units shall be 4 feet.

2. The minimum front yard setback for the back parcel shall be 10 feet when facing the alley, and 5 feet when facing the new property line (see definitions). The minimum front yard setback for the front parcel shall comply with the development standards of Section 18.21.050.

C. Off-street parking. One off-street parking space is required for each unit unless the unit is located half a mile from a bus stop or there is a car share on the same block. Where feasible parking access shall be provided from the alley for both parcels via an easement or parcel configuration. In no case will more than one curb cut be permitted per original parcel, shared street access is required where street access is necessary for both parcels.

D. Timing. Units may be constructed simultaneously or at different times.

E. Exceptions to Development Standards

1. **Exceptions to Accommodate at least two 800 SF Units.** The Community Development Director shall modify or eliminate objective development standards if they prevent the construction of up to two units of at least 800 square feet in size on each lot. The following objective development standards shall be modified last (and only if no other combination of modified standards permits at least two 800 SF Units): parking requirement, front setback, height limit.
2. **Non-conforming Setbacks.** The setbacks of an existing structure may be retained for a new structure that is located in the same footprint as an existing structure.

F. Objective Design Review Standards

1. **Separate entrance required.** All units shall have separate entrances.
2. **Private open space and storage space.** Each unit must include 100 SF of private outdoor open-space and 100 cubic feet of outdoor accessible storage space as part of the unit. Private open space shall be at the same elevation as and immediately accessible from within the unit. Each private open space area shall have a minimum dimension of 8 feet; except for upper-floor balconies where the private open space is provided as a balcony.
3. **Window & Balcony Placement.** A two-story unit or one that is located over a garage shall not have windows or balconies that directly face a neighboring yard. This limitation does not apply to windows facing alleys.
4. **Accessory structures.** Only one accessory structure (garage, craft room, shed, etc.) is permitted per lot and shall be designed and constructed with an architectural style, exterior colors and materials similar to the dwelling units.
5. **Building facades adjacent to streets.** Dwelling units shall be sited and designed so that at least 75% of the facade of each building adjacent to a public street is occupied by habitable space with windows. Each facade adjacent to a street shall have at least one pedestrian entry into the structure.
6. **Building code compliance.** All new units must satisfy the requirements contained in the building code and fire code as currently adopted by the City, including applicable energy efficiency standards associated with Title 24 of the California

Code of Regulations.

G. Utilities

1. Separate Connections. The project shall include separate gas, electric and water utility connection directly between each dwelling unit and the utility.
2. Capacity fees. Units of less than 750 SF shall be exempt from paying capacity fees, and units of more than 750 SF shall pay a prorated share of the capacity fee.

H. Application Requirements. An application for development of allowable units under this section shall include the following materials.

- a. Site Plan – existing conditions,
- b. Site Plan – proposed project,
- c. Floor Plans, and
- d. Elevations and Finishes.

I. Required Findings for Denial. The denial of a proposed Urban Lot Split requires the Building Official to make the following finding:

1. Based upon a preponderance of the evidence, the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and
2. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

18.100 Definitions Amendments

In order to support the required code updates, the following modifications to the definitions in ILUDC Section 18.100.020 are recommended:

Urban Lot Split. A lot split authorized through 66411.7 and regulated by Section 18.84.045.

Urban Unit Development. Development authorized and regulated by Section 18.42.200.

ATTACHMENT 3: GENERAL PLAN/LUDC - CONSISTENCY ANALYSIS

This attachment analyzes both the ILUDC and CLUDC amendments consistent with the respective Inland and Coastal General Plans and the ILUDC and CLUDC.

1. Coastal General Plan & CLUDC Consistency Analysis

Required Findings

The CLUDC 17.95.060(B) requires that the following findings be made for the amendments to the Coastal Land Use and Development Code:

1. The proposed amendment is consistent with the Coastal General Plan and any applicable specific plan.
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The amendment is consistent with relevant policies of the City's Coastal General Plan as analyzed below.

Land Use Element

The proposed project is consistent with the land use designations of the Land Use Element of the Coastal General Plan (CGP) because state law does not allow local jurisdictions to include the four units allowed through an Urban Lot Split and subsequent development in their density calculations. Thus, while the amendments will allow "higher" residential densities, State law does not allow local jurisdictions to count these increases in density towards density limitations. Thus, density limitations do not need to be modified in the Land Use Element.

The proposed amendment to the CLUDC is **consistent** with the following Coastal General Plan Policies in the Land Use Element.

Policy	Analysis
Policy LU-10.2: Locating New Development. New commercial, or industrial development, except as provided in the LCP, shall be located within, contiguous with, or in close	Allowing Urban Lot Splits by right will increase infill development by allowing up to four units on a lot where previously only one primary unit and 2 ADUs were allowed. The areas with low density residential zoning located within the

Policy	Analysis
<p>proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.</p>	<p>coastal zone are largely developed and this policy would increase density in these already developed areas. Further the ordinance prohibits speculators from using the tool to increase density by requiring 3 years of property owner occupancy in one of the units on one of the resulting parcels. The proposed ordinance includes safeguards for protection of Coastal Resources and a Coastal Development Permit would be required to ensure protection of coastal resources.</p>
<p>Policy LU-10.4: Ensure Adequate Services and Infrastructure for New Development. Development shall only be approved when it has been demonstrated that the development will be served with adequate water and wastewater treatment. Lack of adequate services to serve the proposed development shall be grounds for denial of the development.</p>	<p>The City recently upgraded its Sewer Treatment Facility and has acquired property to develop additional water storage which together will ensure adequate sewer and water services throughout Fort Bragg. Additionally, The City anticipates a relatively few number of Urban Lot Splits and Urban Unit Developments per year which would be served by existing infrastructure.</p>
<p>Policy LU-10.6: Protect Special Communities. New Development shall, where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.</p>	<p>In the proposed CLUDC amendment, an applicant for an Urban Lot Split must provide onsite parking where visitor-serving parking is constrained.</p>
<p>Policy LU-5.7: Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.</p>	<p>The proposed amendment requires off-street parking for Urban Lot Splits and associated housing development in neighborhoods that provide coastal recreational access.</p>
<p>Policy LU-10.1: Preserve Neighborhoods: Preserve and enhance the character of the City's existing residential neighborhoods.</p>	<p>The Urban Lot Split regulations and associated housing development include sufficient regulatory guidelines to help Fort Bragg to preserve and enhance the character of the City's existing residential</p>

Policy	Analysis
	neighborhoods, even with increasing density.

There are no other applicable policies in the land use element.

Public Facilities Element

The proposed amendment to the CLUDC is consistent with the following Coastal General Plan Policies in the Public Facilities Element.

Policy PF-1.1: All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.

Analysis: The City of Fort Bragg continues to rely on three surface water sources: Waterfall Gulch (tributary to Hare Creek), Newman Gulch (tributary to Noyo River), and the Noyo River (intake is at Madsen Hole). The water treatment plant was originally constructed in the 1950’s, and upgraded in the 1980’s, and has a capacity of 2.2 million gallons per day (MGD). While the water supply has not changed, the City has made significant progress in amplifying storage capacity:

- It added an additional 1.5 million gallon finished water storage tank and the Summers Lane Reservoir with a raw water capacity of 14.7 million gallons, creating a total water storage capacity to 22.6 million gallons.
- It installed a desalination batch plant to allow effective use of water from the Noyo during low flow conditions.
- It purchased the “gulf course” property with plans to build new water storage capacity on the site.

While there is more than sufficient capacity, the City is also exploring long term sustainable water strategies that include “purple pipe” transmission of treated recycled wastewater and desalinization. The City’s potable water system has sufficient capacity to support future development that could occur as a result of the proposed code revision while still accommodating other planned growth in the City.

The City’s Water Treatment Plant (WWTP) provides sewage treatment and disposal through the Fort Bragg Municipal Improvement District No. 1 (MID). The MID is somewhat larger than the City as it includes part of the Sphere of Influence. The Wastewater Treatment Plant (WWTP) was constructed in 1971 and underwent a substantial upgrade in 2020. It has a secondary treatment level capacity of 0.8 million gallons per day (MGD) for average dry weather flow (ADWF) and 4.9 MGD Peak Hydraulic Flow. The WWTF also has sufficient capacity to handle additional wastewater that may result from development of housing related to the proposed code revisions.

Policy PF-2.1 Development Pays Its Share: Require that new development pay its share of capital improvements and the cost of public services to maintain adequate levels of service.

Analysis: The ordinance includes capacity fees for housing units of more than 800 SF associated with Urban Lot Splits.

There are no other policies that are applicable to the proposed CLUDC updates.

Conservation, Open Space, Energy, and Parks Element

The proposed amendment would be consistent with the policies of the Conservation Element as a CDP is required if the project is located in an area that has the potential to have Environmentally Sensitive Habitat, Wetlands, visual resources or on other Coastal Act resources as illustrated in the Maps of the Coastal General Plan.

Circulation Element

The proposed amendment is consistent the policies of this element and does not conflict with anything in the element.

Community Design, Safety, and Noise Elements

The proposed amendment is consistent with the policies of this element and does not conflict with anything in the element.

Policy	Analysis
Policy CD-1.1: Visual Resources: Permitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance scenic views in visually degraded areas.	As amended, new development would be required to apply for a CDP which would necessitate a visual analysis if visual resources would be impacted by a proposed project.
Policy CD-2.4 Discourage Sameness and Repetitive Residential Designs.	Urban Lot Splits and Two Unit Development can only be undertaken by individual home-owners and would therefore not result in sameness or repetitive design.
Policy CD-2.5 Scenic Views and Resource Areas: Ensure that development does not adversely impact scenic views and resources as seen from a road and other public rights-of-way.	As amended, new development would be required to apply for a CDP which would necessitate a visual analysis if visual resources would be impacted by a proposed project.

Housing Element

The City's Housing Element was updated in 2019 and adopted by the City Council for both Inland and Coastal Fort Bragg, however the 2019 Housing Element has not been certified by Coastal Commission as part of the Local Coastal Program. Nevertheless, this consistency review for the amendments to the CLUDC uses the goals, policies, and programs from the 2019 Housing Element as it has been updated per State Law. The last certified Housing Element (2008) in the Coastal General Plan does not include most State mandated goals, policies and programs.

The proposed amendments to the CLUDC **are consistent** with the following applicable policies of the 2019 Housing Element:

Policy	Analysis
Policy H-1.6 Infill Housing: Encourage housing development on existing infill sites in order to efficiently utilize existing infrastructure.	The proposed zoning code amendment will allow housing development on parcels created through Urban Lot Splits this results in denser and more efficient use of

Policy	Analysis
	space to increase housing in already developed areas.
Policy H-2.9 First Time Home Buyers: Encourage affordable housing for first time home buyers.	The proposed zoning code amendment would result in smaller lots and more housing units for sale, which would reduce the cost of new homes and increase affordability for first time home buyers.
Policy H-3.2 Improve Accessibility to Housing: Make it easier to develop housing for seniors and persons with disabilities.	The proposed zoning code amendment would result in smaller lots and more housing units for sale, which would reduce the cost of new homes and increase affordability for seniors and people with disabilities.
Program H-4.1.2 Reduce Capacity Fees for Smaller Units: Consider charging water and sewer capacity fees based on the size of the unit (either square feet or number of bedrooms) in order to ensure that each unit pays its fair share for capacity costs.	The ordinance waves capacity fees for housing units of 750 SF or less which are associated with Urban Lot Splits.

The proposed project does not conflict with any goals, policies, or programs of the 2019 Housing Element.

CONSISTENCY WITH CLUDC SITE PLANNING AND PROJECT DESIGN STANDARDS

The Proposed Amendment is consistent with CLUDC standards with the following State mandated exception.

- Lot Coverage:** As mandated by state law, housing units developed as a consequence of this ordinance must be exempt from lot coverage calculations if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
- Set Backs:** As mandated by state law, housing units developed as a consequence of this ordinance have an exception from the code requiring only 4 feet setbacks on the rear and side property lines. Additionally, front yard setbacks must be reduced if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.

- **Parking and Traffic:** Again, in compliance with State law, City Council can require that housing units developed as a consequence of this ordinance provide off-street parking so long as that requirement does not preclude an applicant from building at least two units of 800 SF each.

COASTAL RESOURCES ANALYSIS

All Urban Lot Splits and Two Unit projects are required to obtain an administrative Coastal Development Permit and make specific findings that Coastal Act resources will not be impacted. The Coastal Commission's staff has reviewed a draft of the ordinance and suggested modifications which would make it compatible with the Coastal Act, these are noted in brown text in the draft ordinance.

2. General Plan & ILUDC Consistency Analysis

Required Findings

The ILUDC 18.95.060(B) requires that the following findings be made for the amendments to the Inland Land Use and Development Code:

4. The proposed amendment is consistent with the Inland General Plan and any applicable specific plan.
5. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
6. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The amendment is consistent with relevant policies of the City’s General Plan and the ILUDC as analyzed below.

Land Use Element

The proposed project is consistent with the land use designations of the Land Use Element of the General Plan because state law does not allow local jurisdictions to include the four units allowed through an Urban Lot Split and subsequent development in their density calculations. Thus, while the amendments will allow “higher” residential densities, State law does not allow local jurisdictions to count these increases in density towards density limitations. Thus, density limitations do not need to be modified in the Land Use Element.

The proposed amendment to the ILUDC is **consistent** with the following General Plan Policy in the Land Use Element.

Policy	Analysis
<p>Policy LU-6.1: Preserve Neighborhoods: Preserve and enhance the character of the City’s existing residential neighborhoods.</p>	<p>The Urban Lot Split regulations and associated Urban Unit Development include a number of regulatory requirements that may help Fort Bragg preserve and enhance the character of the City’s existing residential neighborhoods, even with increasing density. The regulatory requirements include various required deed restrictions, owner occupancy for three years, a minimum of a 60/40% lot split, and protections for wetlands and historic resources.</p>

There are no other applicable policies in the land use element.

Public Facilities Element

The proposed amendment to the CLUDC is consistent with the following Coastal General Plan Policies in the Public Facilities Element.

Policy PF-1.2: All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.

Analysis: The City of Fort Bragg continues to rely on three surface water sources: Waterfall Gulch (tributary to Hare Creek), Newman Gulch (tributary to Noyo River), and the Noyo River (intake is at Madsen Hole). The water treatment plant was originally constructed in the 1950's, and upgraded in the 1980's, and has a capacity of 2.2 million gallons per day (MGD). While the water supply has not changed, the City has made significant progress in amplifying storage capacity:

- It added an additional 1.5 million gallon finished water storage tank and the Summers Lane Reservoir with a raw water capacity of 14.7 million gallons, creating a total water storage capacity to 22.6 million gallons.
- It installed a desalination batch plant to allow effective use of water from the Noyo during low flow conditions.
- It purchased the "golf course" property with plans to build new water storage capacity on the site.

While there is more than sufficient capacity, the City is also exploring long-term sustainable water strategies that include "purple pipe" transmission of treated recycled waste water and desalinization. The City's potable water system has sufficient capacity to support future development that could occur as a result of the proposed code revision while still accommodating other planned growth in the City.

The City's Water Treatment Plant (WWTP) provides sewage treatment and disposal through the Fort Bragg Municipal Improvement District No. 1 (MID). The MID is somewhat larger than the City as it includes part of the Sphere of Influence. The Wastewater Treatment Plant (WWTP) was constructed in 1971 and underwent a substantial upgrade in 2020. It has a secondary treatment level capacity of 0.8 million gallons per day (MGD) for average dry weather flow (ADWF) and 4.9 MGD Peak Hydraulic Flow. The WWTF also has sufficient capacity to handle additional wastewater that may result from development of housing related to the proposed code revisions.

Additionally, The City anticipates a relatively few number of Urban Lot Splits and Urban Unit Developments per year which would be served by existing infrastructure.

Policy PF-2.1 Development Pays Its Share: Require that new development pay its share of capital improvements and the cost of public services to maintain adequate levels of service.

Analysis: The ordinance includes capacity fees for housing units of more than 750 SF associated with Urban Lot Splits, as permissible by State Law.

There are no other policies that are applicable to the proposed CLUDC updates.

Conservation, Open Space, Energy, and Parks Element

The proposed amendment would be consistent with the policies of the Conservation Element.

Circulation Element

The proposed amendment is consistent the policies of this element and does not conflict with anything in the element.

Community Design, Safety, and Noise Elements

The proposed amendment is consistent the policies of this element and does not conflict with anything in the element.

Policy	Analysis
Policy CD-1.2 Discourage Sameness and Repetitive Residential Designs.	Urban Lot Splits and Two Unit Development can only be undertaken by individual home-owners and would therefore not result in sameness or repetitive design.

Housing Element

The City’s Housing Element was updated in 2019 and adopted by the City Council. The proposed amendments to the ILUDC **are consistent** with 2019 Housing Element, including the following relevant policies:

Policy	Analysis
Policy H-1.6 Infill Housing: Encourage housing development on existing infill sites in order to efficiently utilize existing infrastructure.	The proposed zoning code amendment will allow housing development on parcels created through Urban Lot Splits this results in denser and more efficient use of space to increase housing in already developed areas.

Policy	Analysis
Policy H-2.9 First Time Home Buyers: Encourage affordable housing for first time home buyers.	The proposed zoning code amendment would result in smaller lots and more housing units for sale, which would reduce the cost of new homes and increase affordability for first time home buyers.
Policy H-3.2 Improve Accessibility to Housing: Make it easier to develop housing for seniors and persons with disabilities.	The proposed zoning code amendment would result in smaller lots and more housing units for sale, which would reduce the cost of new homes and increase affordability for seniors and people with disabilities.
Program H-4.1.2 Reduce Capacity Fees for Smaller Units: Consider charging water and sewer capacity fees based on the size of the unit (either square feet or number of bedrooms) in order to ensure that each unit pays its fair share for capacity costs.	The ordinance waves capacity fees for housing units of 750 SF or less which are associated with Urban Lot Splits.

The proposed project does not conflict with any policies of the 2019 Housing Element.

Consistency with CLUDC Site Planning and Project Design Standards

The Proposed Amendment is consistent with ILUDC standards with the following State mandated exception.

- **Lot Coverage:** As mandated by state law, housing units developed as a consequence of this ordinance must be exempt from lot coverage calculations if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
- **Set Backs:** As mandated by state law, housing units developed as a consequence of this ordinance have an exception from the code requiring only 4 feet setbacks on the rear and side property lines. Additionally, front yard setbacks must be reduced if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
- **Parking and Traffic:** Again, in compliance with State law, City Council may require that housing units developed as a consequence of this ordinance provide off-street parking so long as that requirement does not preclude an applicant from building at least two units of 800 SF each.

Public Comment -- 10/11/23 PC Mtg., Item Nos. 6A & 6B

Jacob Patterson <jacob.patterson.esq@gmail.com>

Fri 10/6/2023 12:18 PM

To:cdd <cdd@fortbragg.com>

Planning Commission,

This is kind of technical but the agenda descriptions for both items should have included the disclosure that the City is trying to claim CEQA exemptions from further environmental review, which is supposed to be included according to relatively recent case law applying the Brown Act. Technically, your determinations about agenda items that were not properly noticed could be set aside if challenged. I happen to agree with the substance of the CEQA determinations and think both items are exempt for the reasons laid out in the staff reports and draft resolutions but that doesn't rectify the incomplete agenda descriptions, which are primarily for the public's benefit to ensure that anyone reading the agenda understands what is being proposed. Our CDD has a long history of failing to properly notice agenda items, particularly public hearings, and this meeting appears to fall into that troubling pattern.

Regards,

--Jacob



Oct 11, 2023

City of Fort Bragg, CA
416 North Franklin Street
Fort Bragg, CA 95437

By Email: CDD@fortbragg.com

CC: kfc@jones-mayer.com; Cityclerk@fortbragg.com

Re: Proposed Amendments to Land Use and Development Codes Regarding Lot Splits

Dear Fort Bragg Planning Commission,

The California Housing Defense Fund (“CalHDF”) submits this letter as a public comment concerning item 6A on the agenda for tonight’s meeting. This item – consideration of an ordinance to implement Senate Bill 9 (“SB 9”) – presents several legal problems. CalHDF urges the Planning Commission to address these problems before recommending the City Council approve the ordinance.

The City May Require an Affidavit, but Not a Deed Restriction, for the Three-Year Residency Guarantee

The provisions in the draft ordinance regarding owner occupancy exceed the limits of state law and must be amended before the ordinance is passed. State law allows cities to require “an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.”(Gov. Code § 66411.7, subd. (g)(1)). However, the City cannot require a *deed restriction* requiring the owner to reside on-site for the three year period. (18.84.045(D)(2).) SB 9 specifically prohibits “additional owner occupancy standards, other than provided for” in state law. (*Id.* at subd. (g)(3).) That provision must be deleted before passage of the ordinance.

The City May Not Prevent Community Land Trusts and Nonprofits from Doing Urban Lot Splits

As drafted, the ordinance does not permit urban lot splits on “parcels under ownership of a community land trust [...] or a qualified nonprofit corporation.” (18.84.045(A)(4)(c).) But SB 9 specifically addresses such entities. It states that the owner-occupancy requirement “shall not apply to [...] a ‘community land trust,’ [...] or [...] ‘qualified nonprofit corporation.’” (Gov.

360 Grand Ave #323, Oakland 94610
hi@calhdf.org

Code § 66411.7(g)(2).) This indicates that such entities *should* be allowed to take advantage of SB 9’s lot split provisions, and the contrary language in the draft ordinance must be stricken. (CalHDF also notes that when the ordinance is so amended, it must provide exemptions to the owner-occupancy requirement for community land trusts and qualified nonprofit corporations. (*Id.*))

Separate Conveyance of Duplex Units Cannot Be Prohibited

Finally, the ordinance proposes to prohibit the separate sale of duplex units on the same lot. (18.84.045(D)(2)(b).) But duplexes are not like ADUs – they can be sold individually. SB 9 states, “A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements: [listing requirements].” (Gov. Code § 65852.21(a).) A deed restriction barring the separate sale of duplex units does not appear on the list of requirements. Thus, the City goes beyond its authority under SB 9 by attempting to require such a deed restriction, and the above-quoted language should be deleted before passage.



CalHDF appreciates the Planning Commission’s attention to the City’s SB 9 ordinance. As the Commission knows, our state faces an acute housing crisis, and the legislature enacted SB 9 to address that crisis. It is important, then, that local implementing ordinances follow the law, and CalHDF urges the Commission to correct the problems described above.

CalHDF is a 501(c)3 non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dylan Casey", written over a circular stamp or seal.

Dylan Casey
CalHDF Executive Director



CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin Street, Fort Bragg, CA 95437
Phone: (707) 961-2827
www.FortBragg.com

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Fort Bragg Planning Commission will conduct a public hearing on Zoning Amendment 1-23 (ZON 1-23) to make a recommendation to City Council about ordinance amendments intended to establish consistency with State Parcel Map requirements for Urban Lot Splits and Two Unit Development at a regularly scheduled meeting on Wednesday, October 11, 2023 at 6:00 PM, or as soon thereafter as the matter may be heard, at Town Hall, which is located at the corner of Main and Laurel Streets and 363 North Main Street, Fort Bragg, California. The public hearing will concern the following item:

APPLICATION: Zoning Amendment 1-23

FILING DATE: 1/3/2023

APPLICANT: City of Fort Bragg

PROJECT: Zoning Amendments to the Inland and Coastal Land Use and Development Codes Article 4 "Standards for Specific Land Uses" and Article 8 "Subdivision Regulations & Procedures" to Establish Consistency with Gov. Code, § 66411.7 Parcel Map for Urban Lot Splits: Requirements

LOCATION: Single-Family Residential Zoning Districts in the Coastal Zone and the Inland Areas

APN: Various

LOT SIZE: Various

ZONING: Rural Residential, Suburban Residential, Low Density Residential

PROJECT DESCRIPTION: Adopt a Resolution of the Fort Bragg Planning Commission recommending that the City Council submit a Local Coastal Plan Amendment Application to the Coastal Commission amending the Coastal Land Use and Development Code (Division 17 of the Fort Bragg Municipal Code) to Comply with Recent Changes in State of California Housing Law Related to Urban Lot Splits and Two Unit Development; and adopt a Resolution of the Fort Bragg Planning Commission recommending that the City Council adopt Amendments to the Inland Land Use and Development Codes (Division 18 of the Fort Bragg Municipal Code) to Comply with Recent Changes in State of California Housing Law Related to Urban Lot Splits and Two Unit Development.

ENVIRONMENTAL DETERMINATION: Statutorily Exempt from CEQA

Public Comment regarding this Public Hearing may be made in any of the following ways: (1) Emailed to the Community Development Department at cdd@fortbragg.com; (2) Written comments delivered to City Hall, 416 N. Franklin Street before 3:00 PM on the day of the meeting; or (3) Verbal comments made during the meeting, either in person at Town Hall or virtually using Zoom (if a Zoom link is provided at the time of agenda publication).

Staff reports and other documents that will be considered by Planning Commissioners will be made available for review on the City's website: <https://cityfortbragg.legistar.com/Calendar.aspx>, at least 72 hours prior to the Planning Commission meeting, and are also available for review and/or copying during normal office hours at Fort Bragg City Hall, 416 N. Franklin Street. To obtain application materials or for more

information, please contact Community Development Department Staff, via email at cdd@fortbragg.com. At the conclusion of the public hearing, the Planning Commission will consider a decision on the above matter.

Appeal process and fee schedule: Decisions of the Planning Commission shall be final unless appealed to the City Council in writing within ten (10) days thereafter with a filing fee of \$1,000 to be filed with the City Clerk. If you challenge the above case in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Community Development Department at, or prior to, the public hearing.


Juliana von Hacht Cherry, Director
Community Development Department

POSTING/MAILING ON OR BEFORE: September 22, 2023
PUBLICATION DATE: September 22, 2023

STATE OF CALIFORNIA)
) ss
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg in the Community Development Department; and that I caused this notice to be posted in the City Hall Notice case on or before September 22, 2023.


Juliana von Hacht Cherry, Community Development Director

cc: Planning Commission
 'Notify Me' Subscriber Lists



CIUDAD DE FORT BRAGG

Incorporada el 5 de agosto de 1889
416 N. Franklin Street, Fort Bragg, CA 95437
Teléfono: (707) 961-2827
www.FortBragg.com

AVISO DE AUDIENCIA PÚBLICA

POR EL PRESENTE SE NOTIFICA que la Comisión de Planificación de Fort Bragg llevará a cabo una audiencia pública sobre la Enmienda de Zonificación 1-23 (ZON 1-23) para hacer una recomendación al Concejo Municipal sobre enmiendas a la ordenanza destinadas a establecer coherencia con los requisitos del mapa de parcelas estatales para divisiones de lotes urbanos y desarrollo de dos unidades en una reunión programada regularmente el miércoles 11 de octubre de 2023 a las 6:00 p. m., o tan pronto como se pueda escuchar el asunto, en la ciudad. Sala, que está ubicado en la esquina de las calles Main y Laurel y 363 North Main Street, Fort Bragg, California. La audiencia pública se referirá al siguiente punto:

SOLICITUD: Enmienda de Zonificación 1-23

FECHA DE PRESENTACIÓN: 3/1/2023

SOLICITANTE: Ciudad de Fort Bragg

PROYECTO: Enmiendas de Zonificación a los Códigos de Desarrollo y Uso de Tierras Interiores y Costeras Artículo 4 "Estándares para Usos Específicos de la Tierra" y Artículo 8 "Regulaciones y Procedimientos de Subdivisión" para Establecer Consistencia con el Código Gubernamental, § 66411.7

Mapa de parcelas para fraccionamiento de lotes urbanos: requisitos

UBICACIÓN: Distritos de Zonificación Residencial Unifamiliar en la Zona Costera y el Interior

APN: Varios

TAMAÑO: Varios

DEL LOTE: Residencial Rural, Residencial Suburbano, Residencial de Baja Densidad

ZONIFICACIÓN: DESCRIPCIÓN DEL PROYECTO: Adoptar una Resolución de la Comisión de Planificación de Fort Bragg recomendando que el Concejo Municipal presente una Solicitud de Enmienda al Plan Costero Local a la Comisión Costera que modifica el Código de Desarrollo y Uso de Tierras Costeras (División 17 del Código de Desarrollo y Uso de Tierras Costeras Código Municipal) para cumplir con cambios recientes en la ley de vivienda del estado de California relacionados con la división de lotes urbanos y el desarrollo de dos unidades; y adoptar una Resolución de la Comisión de Planificación de Fort Bragg recomendando que el Concejo Municipal adopte Enmiendas a los Códigos de Desarrollo y Uso de Tierras Interiores (División 18 del Código Municipal de Fort Bragg) para cumplir con los cambios recientes en la Ley de Vivienda del Estado de California relacionados con lotes urbanos Splits y desarrollo de dos unidades.

DETERMINACIÓN AMBIENTAL: Estatutariamente exenta de CEQA

Los comentarios públicos sobre esta audiencia pública se pueden realizar de cualquiera de las siguientes maneras: (1) enviados por correo electrónico al Departamento de Desarrollo Comunitario a cdd@fortbragg.com; (2) Comentarios escritos entregados al Ayuntamiento, 416 N. Franklin Street antes de las 3:00 p.m. del día de la reunión; o (3) Comentarios verbales realizados durante la reunión, ya sea en persona en el Ayuntamiento o virtualmente usando Zoom (si se proporciona un enlace de Zoom en el momento de la publicación de la agenda).

Los informes del personal y otros documentos que serán considerados por los Comisionados de Planificación estarán disponibles para su revisión en el sitio web de la Ciudad: <https://cityfortbragg.legistar.com/Calendar.aspx>, al menos 72 horas antes de la reunión de la Comisión de Planificación, y también están disponibles para revisión y/o copia durante el horario de oficina normal en Fort Bragg City Hall, 416 N. Franklin Street. Para obtener materiales de solicitud o para más

Para obtener más información, comuníquese con el personal del Departamento de Desarrollo Comunitario por correo electrónico a cdd@fortbragg.com. Al concluir la audiencia pública, la Comisión de Planificación considerará una decisión sobre el asunto anterior.

Proceso de apelación y cronograma de tarifas: Las decisiones de la Comisión de Planificación serán definitivas a menos que se apelen ante el Concejo Municipal por escrito dentro de los diez (10) días siguientes con una tarifa de presentación de \$1,000 que se presentará ante el Secretario Municipal. Si impugna el caso anterior en el tribunal, es posible que se limite a plantear solo aquellas cuestiones que usted u otra persona plantearon en la audiencia pública descrita en este aviso o en correspondencia escrita entregada al Departamento de Desarrollo Comunitario durante o antes de la audiencia pública. .


Juliana von Hacht Cherry, directora
Departamento de Desarrollo Comunitario


PUBLICACIÓN/ENVÍO POR CORREO ANTES: 22 de septiembre de 2023
FECHA DE PUBLICACIÓN: 22 de septiembre de 2023

ESTADO DE CALIFORNIA

))s

CONDADO DE MENDOCINO)

Declaro, bajo pena de perjurio, que soy empleado de la Ciudad de Fort Bragg en el Departamento de Desarrollo Comunitario; y que hice que este aviso se publicara en el caso de Aviso del Ayuntamiento el 22 de septiembre de 2023 o antes.


Juliana von Hacht Cherry, directora de desarrollo comunitario
cc: Comisión de Planificación
Listas de suscriptores 'Notificarme'



City of Fort Bragg

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

Text File

File Number: 23-338

Agenda Date: 10/11/2023

Version: 1

Status: Public Hearing

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 6B.

Receive Report, Hold a Public Hearing, Deliberate, and Approve Use Permit 1-23, Cannabis Business Permit 1-23 and Variance 2-23 for Emerald Triangle Cannabis at 546 S. Main Street, and Ensure Associated CEQA Determination is Consistent with the Coastal Act

AGENCY:	Planning Commission
MEETING DATE:	October 11, 2023
PREPARED BY:	MJC
PRESENTED BY:	Marie Jones

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23), Variance 2-23 (VAR 2-23); 4-4-2023

OWNER: Drea Hypes, Gerald Hypes

APPLICANT: Emerald Triangle Cannabis

AGENT: Paul Clark

PROJECT: Retail Cannabis Dispensary

LOCATION: 546 S. Main St.

APN: 018-020-48

LOT SIZE: 14,914 Square Feet

ZONING: Highway Visitor Commercial (CH), Inland Zone.

ENVIRONMENTAL DETERMINATION: Exempt from CEQA under 15301 Class 1 Existing Facilities

SURROUNDING LAND USES:
NORTH: CG – Residential
EAST: CG – Mixed commercial residential
SOUTH: CG – Office and Car wash
WEST: CG – GP Mill Site, Highway 1

APPEALABLE PROJECT: Can be appealed to City Council

RECOMMENDED ACTION

Receive report, hold a public hearing, deliberate and approve Use Permit 1-23, Cannabis Business Permit 1-23 ad Variance 2-23.

ALTERNATIVE ACTIONS

1. Receive report, hold a public hearing, deliberate and provide direction to prepare a resolution for denial.
2. Receive report, hold a public hearing, continue the public hearing and request additional information.

BACKGROUND

The building located at 546 S. Main St. has been utilized over the years by many different businesses, including: restaurants, retail, office and non-profit uses. It has also been vacant at various times for years at a time and is a difficult building to establish a successful business. It was recently purchased with the intention of moving an established retail cannabis dispensary, Emerald Triangle Cannabis, to this new location. The applicants note in their application that they are “showcasing local Mendocino and Humboldt brands and have a 5 Star customer rating on Google, and we strive to make our community a fun place to live and visit.”

Usually, a Cannabis Business Permit is reviewed and approved concurrently with a Minor Use Permit and is heard and decided by the Director of Community Development. However, the Director can and did elevate this permit to a Use Permit, as the project may require a Variance. A Use Permit requires review and consideration by the Planning Commission.

GENERAL PLAN CONSISTENCY

The project was reviewed for consistency with the General Plan and was found to be consistent with all General Plan policies, including the following relevant General Plan Policies.

Land Use 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.
CONSISTENT – Project is located in an existing retail building along highway 1 in an area developed to serve visitors and retail uses.
Land Use 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.
CONSISTENT – Project will reuse an existing building that has had many years of unstable occupancy and vacancy. This building is more likely to remain occupied if it is occupied by a destination tenant, a tenant which people drive to specifically for retail or services. The proposed use is a destination business and so may result in a more complete utilization of this small commercial building.
Safety Policy SF-5.1 Demand for Police Services: Review development proposals for their demand for police services and implement measures to maintain adequate police services.
CONSISTENT – The Police Department has reviewed the project and does not have any concerns for approval, additionally the operators have an existing cannabis retail business at the corner of Chestnut and Main street which is operated without excessive calls for service.

Based on the review of the project, the Planning Commission can make the finding that approval of the Use Permit is consistent with the Inland General Plan.

USE PERMIT ANALYSIS

The project was evaluated for consistency with the ILUDC. The project was found to be consistent with the Highway Visitor Commercial Zone per Table 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts in ILUDC §18.22.030.

Additionally, ILUDC requires that the project comply with section 18.22.030(C)5:

5. CH (Highway Commercial) district.

- a. Secondary uses oriented to local clientele may be permitted where the primary use of a site is oriented to or serves visitor, regional, or transient traffic; and
- b. Uses oriented to local clientele may be allowed where visitor-oriented uses are precluded because of environmental concerns or other site specific constraints.

The project is a retail dispensary that will serve locals and visitors alike. Indeed, many tourists come to Fort Bragg to acquire Cannabis and thus this use could be considered primarily a visitor serving use. The finding can be made that it is consistent with Section 18.22.030(C)4.

This project was reviewed for compliance with the Specific Land Use Standards in 18.42.057 Cannabis Retail, as this is the trigger for the Use Permit requirement. Please see analysis below.

2. Operation Requirements.

- a. **Odor.** Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.

The proposed operation does not include cultivation and odor is not an issue.

- b. **Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.

The proposed business would be open between the hours of 9am to 9pm.

- c. **Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §§ [18.30.050\(F\)](#) and [18.30.070](#).

The proposed project is not adjacent to any residential properties. The property to the north is a real estate office and the property to the south is a car wash. However the building does not comply with City regulations regarding lighting, and MJC recommends Special Condition 1.

Special Condition 1. Prior to issuance of the Use Permit, CBP and Variance, the applicant shall replace all non-compliant external lights with downward facing night-sky compliant lights at the front and exterior of the building.

d. On-Site Consumption. The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way is prohibited.

The applicant does not propose to allow onsite consumption of cannabis.

e. Drive-Through Services. Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.

The applicant has not proposed to establish a walk-up window or drive through cannabis retail service.

3. Location Requirements. In order to avoid the concentration of cannabis retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, a cannabis retail business shall not be:

a. Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section [11353.1\(e\)\(2\)](#), or a park. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school, youth center, day care facility, and/or park to the closest property line of the lot on which the cannabis business is proposed.

The recently established Sea Star Studios is located at 579 S Franklin St which is 145 feet from the proposed Emerald Triangle business location, and Sea Star Studios appears to conform with the definition of a “Youth Center” per the City’s and the State cannabis codes. According to Sea Star Studio’s website:

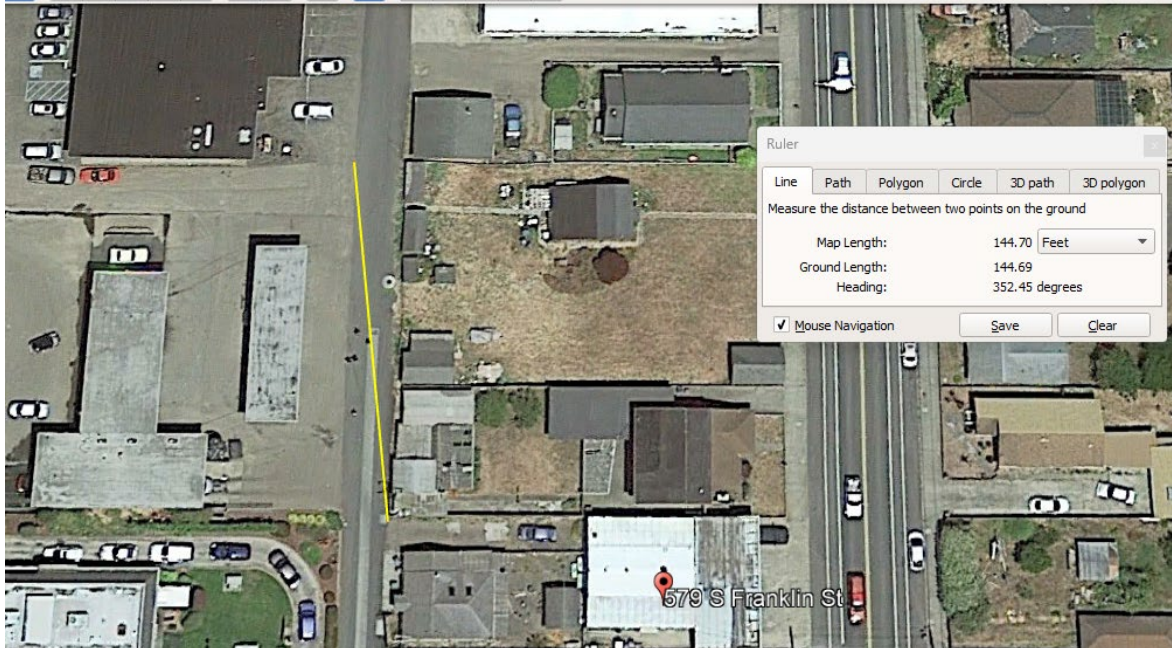
“Sea Star Studios offers creative arts classes for all ages, with a focus on early childhood classes. Children can explore our fun nautical themed play gym and our cozy reading nook, while families and friends can gather, relax and re-connect!”

A youth Center is defined in the Health and Safety Code as follows:

(2) “Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

City Staff reached out to the operators of Sea Star Studios to find out if they would object to the sale of cannabis products on a parcel located within 144 feet of their parcel, and they indicated that they do not object to the operation of this business.

As noted in the google map below, the parcel on which the proposed cannabis retail store is located is 144 feet from Sea Star Studios, while the buildings are located 207 linear feet from each other.



The above analysis means that the applicant is precluded from approval of a Use Permit unless the Planning Commission finds either that: 1) the Sea Star Studios does not qualify as a Youth Center; or 2) the Planning Commission grants a variance for the project.

The Planning Commission could make the determination that Sea Star Studios is a Youth Center, in which case MJC has completed a variance analysis for the project below.

VARIANCE ANALYSIS

Section 18.71.070 sets the standards and identifies the required findings for the Planning Commission to determine if a Variance is warranted for this project. As noted in section 18.71.070 the purpose of a variance is to:

“Provide a process for City consideration of requests to waive or modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.”

Further a Variance “may be granted to waive or modify any requirement of this Development Code except: allowed land uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.”

To grant a Variance the Planning Commission must make all three of the following findings (in bold):

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;

The proposed project site is a relatively small Highway Visitor Commercial parcel which has had a long history (25+ years) of failed businesses and building vacancy. This location and building clearly pose a difficulty to business success in part because this stretch of Highway 1 is fast moving, the parcel is small and not visible with an unattractive building. Based on this history of vacancies and business failure, only a destination retail business will be successful in this location. A destination store is a retail operation that consumers find attractive for specific reasons and are therefore willing to make a special trip solely for the purpose of shopping at that location. The proposed Cannabis Retail store would be a destination retail business, because people do make special trips to purchase Cannabis, this is borne out by the business's success in its current location which has similar issues (high past vacancy, business turn over and failure). The Planning Commission could find that the parcel's size, zoning and location make it a very difficult parcel on which to have a successful business in conformance with the Highway Visitor Commercial zoning and the Development Code. Additionally, the Variance from the zoning code is a very small reduction of the setback from a youth center from 150 feet to 145 feet, which is less than a 3% decrease in the required setback.

b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and

Special Condition 2 would reduce any potential impacts on the Sea Star Studios:

Special Condition 2: The applicant shall install a 6-foot-high security fence along the east and south parcel boundary to minimize any potential impacts to the Sea Star Studios Youth Center.

c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

As noted above the proposed business operation in this location is consistent with the General Plan.

CANNABIS BUSINESS LICENSE

MJC reviewed the application to ensure that it complies with Municipal Code Section 9.30.130 Operating Requirements:

Code Section	Project	Consistent?
A. The design, location, size and operating characteristics of the cannabis business shall comply with the findings and conditions of any applicable discretionary permit obtained for its operation.	The project as conditioned by the Use Permit and Variance will insure compliance with this requirement.	Yes.
B. A cannabis business use shall maintain a current register of the names of all employees currently employed by the use.	See above.	Yes

Code Section	Project	Consistent?
<p>C. The building entrance to a cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.</p>	<p>The application did not include a sample sign and MJC recommends Special Condition 3.</p> <p>Special Condition 3: Prior to issuance of the Use Permit, the applicant shall install a sign on the building that limits entrance to those over 21 years of age.</p>	<p>Yes, as conditioned.</p>
<p>D. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cannabis business use.</p>	<p>The applicant has not proposed to sell alcoholic beverages.</p>	<p>Yes</p>
<p>E. A cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry.</p>	<p>The Fort Bragg Police Department conducted a public safety review and has stated that they have identified no issues with the application. The application site plan includes installation of lighting, alarms and video surveillance.</p>	<p>Yes</p>
<p>F. A cannabis business shall provide the Chief of Police and Fire Chief with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there is an emergency or there are operating problems associated with the cannabis business. The cannabis business management shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police or Planning Department.</p>	<p>The business owner has provided their contact information to resolve any concerns with the business.</p>	<p>Yes</p>

The project was reviewed by the Fort Bragg Police Department and prior to issuance of a business license, the business will be inspected by the Fire Marshal.

The project was evaluated to determine if it met any grounds for **rejection** delineated in Section 9.30.100:

Municipal Code Rejection	Project	Rejection
The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;	Location is allowable as conditions and with an approved Variance of 3% of the setback from a Youth Center.	No
The applicant has violated any local or state law, statute, rule, or regulation respecting a cannabis business;	Not as of the date of the public safety review.	No
The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;	There is no material evidence to suggest this.	No
The applicant, his or her agent, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, with the exception of cannabis related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a guilty plea or verdict or a conviction following a plea of nolo contendere;	No convictions were found on the applicant's background check.	No
The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;	No information was uncovered in public safety review.	No
The applicant is under 21 years of age;	The applicant is over 21.	No
The cannabis business does not comply with Title 18 (Inland Land Use and Development Code);	The project as conditioned and with the approval of all permits by the Planning Commission would comply with Title 18.	No
The required application or renewal fees have not been paid.	Applicant has paid all application fees.	No

In order to approve the project, ILUDC 18.71.060(F)(4) requires several findings, including that, "The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access... and public services... and utilities... 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."

The applicant's plan addressed the following aspects of the business that related to this finding:

Potential Impact	Applicant's plan	Sufficient
Security	Applicant has provided a security plan in their application (see Attachment 1), which includes 16 surveillance cameras with high definition night vision auto activation, deep sentinel perimeter surveillance, an alarm system with siren, motion detector and security doors.	The proposed plan is sufficient, however, staff recommend that as a condition of approval, the applicant must have a final inspection by CDD/PD prior to opening for business.
Storage and Waste	The applicant offers no onsite consumption or manufacturing therefore standard waste management through C&S waste is sufficient.	Applicant's plan is sufficient.
Odor Control	Odor control is not an issue with retail cannabis.	Applicant's plan is sufficient.
Lighting	Applicant has not included a lighting plan.	This is an existing structure, however the existing lighting on the exterior of the building does not comply with the City's zoning code, therefore MJC recommends Special Condition 1.
Noise	This is a proposed retail use in Highway Visitor Commercial and no additional noise is expected that would be outside normal parameters for a retail store.	Sufficient
Parking	The site is located in a commercial development that has shared parking that is sufficient for the site.	Sufficient

ENVIRONMENTAL DETERMINATION

This project is exempt from CEQA under section 15301 Existing Facilities because there will be no substantial changes to the structure and the use is similar to the previous use. There are no relevant exceptions to the exemption and there are no potential significant environmental impacts from this project.

ATTACHMENTS

1. Application & Site Plan
2. Resolution of the Fort Bragg Planning Commission Approving Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23), Variance 2-23 (VAR 2-23) for Emerald Triangle Cannabis to operate at 546 S. Main St.

546 S. Main Street (North Section) - Emerald Triangle Cannabis - Relocation
New location for existing business
Mendocino, Inc -DBA- Emerald Triangle Cannabis

- 1) City of Fort Bragg Cannabis Business Application: Attached.
Cannabis Business Permit Application Form
Planning Application Form. Page 2 has signed Authorization of Agent.

- 2) Business Licenses: Attached.
Cannabis License
Resale License
Business License

- 3) Owners Profile: Attached. Contains all this information and authorization to verify.
Residential address:
2000 - Present: Own and occupy
45010 Calpella St, Mendocino, CA 95460
California Drivers' Licenses: Attached. See owner/employee registers
Owners: Drea and G. Madison Hypes
Management: Omar Ramirez, Venecia Ramirez, and Jennifer Mullis
Owners Live Scan: Completed 5-16-2019 on file at Fort Bragg Police Station.

Description of Owner's Cannabis Experience:

Locally owned Fort Bragg dispensary

Owners and operator of Emerald Triangle Cannabis

500 S. Main Street #A

Fort Bragg, CA 95437

June 2020 - Current - In Good Standing

Currently operating in Fort Bragg, showcasing local Mendocino and Humboldt brands.

We have a 5 Star customer rating on Google, and we strive to make our community a fun place to live and visit.

4) Security Plan:

We utilize an on-site, state-of-the-art security system, with NVR recordings, and 16 high definition video cameras, superior monitors, and security lighting. Details on security diagram.

Security Diagram: Attached

Interior configuration diagram includes video camera placement in each room, including retail store and backrooms

5) Notarized Authorization:

We are in escrow to purchase this property. The sellers live out of town, and are not computer literate. They have authorized their agent to sign their consent, as evidenced by the notarized document of proof of purchase of subject property.

Operating Procedures: Explained below

Product safety and quality assurance

All cannabis products are mandated by the State of California to be independently lab tested, and be accompanied by the COA (Certificate of Analysis).

- 6) Each product's COA assures the safety and quality of all cannabis bought and sold in California. Example **attached**.

Record keeping procedures: Explained below

- 1) METRC is the Track and Trace system, required by the State of California. The Department of Cannabis Control (DCC) mandates that all products be recorded digitally into METRC, by the manufacturer/seller, then delivered by a distributor to our location. Delivery zone is located at the rear of the building. All deliveries are transacted in the rear of the building (out of sight of the general public). We take possession of the goods in our intake room within our employee only/restricted area. The next step is to accept the product as ordered on the METRC manifest, online through CA.METRC.com. Only after we accept the order through METRC.com, can our Point of Sale (POS) system create a purchase order to input the products for sale in our store. All aspects of this business, from retail -to- intake are recorded by video surveillance.
- 2) All cannabis purchases include the manufacturer's/distributor's invoice/sales order, with corresponding COA's, and the METRC manifest. Both the distributor and buyer/Emerald Triangle Cannabis sign and date the invoices as PAID, sign and date the METRC manifests as accepted, and each of us keep a copy of both documents.
- 3) We file the paperwork by date, and order of receipt. Stored on premise for 7 years.
- 4) Our POS system tracks all products bought and sold in Emerald Triangle Cannabis.

Product recall procedures


A product recall would be initiated by the manufacturer, notifying us of the recall. We shall pull the item(s) and remove from inventory, then package for pick-up by their distributor. The manufacturer would handle disposal of that product.

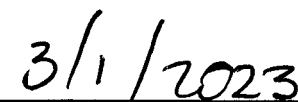
Solid waste disposal plan

No cannabis solid waste is generated by the retail side. Very minimal solid waste is generated in the dividing of bulk cannabis flower into smaller packaging. Cannabis buds are finely manicured by the grower, prior to the sale to Emerald Triangle Cannabis. Any small stems that might remain after sorting, would be of no value and composted off-site. A lockable dumpster is available.

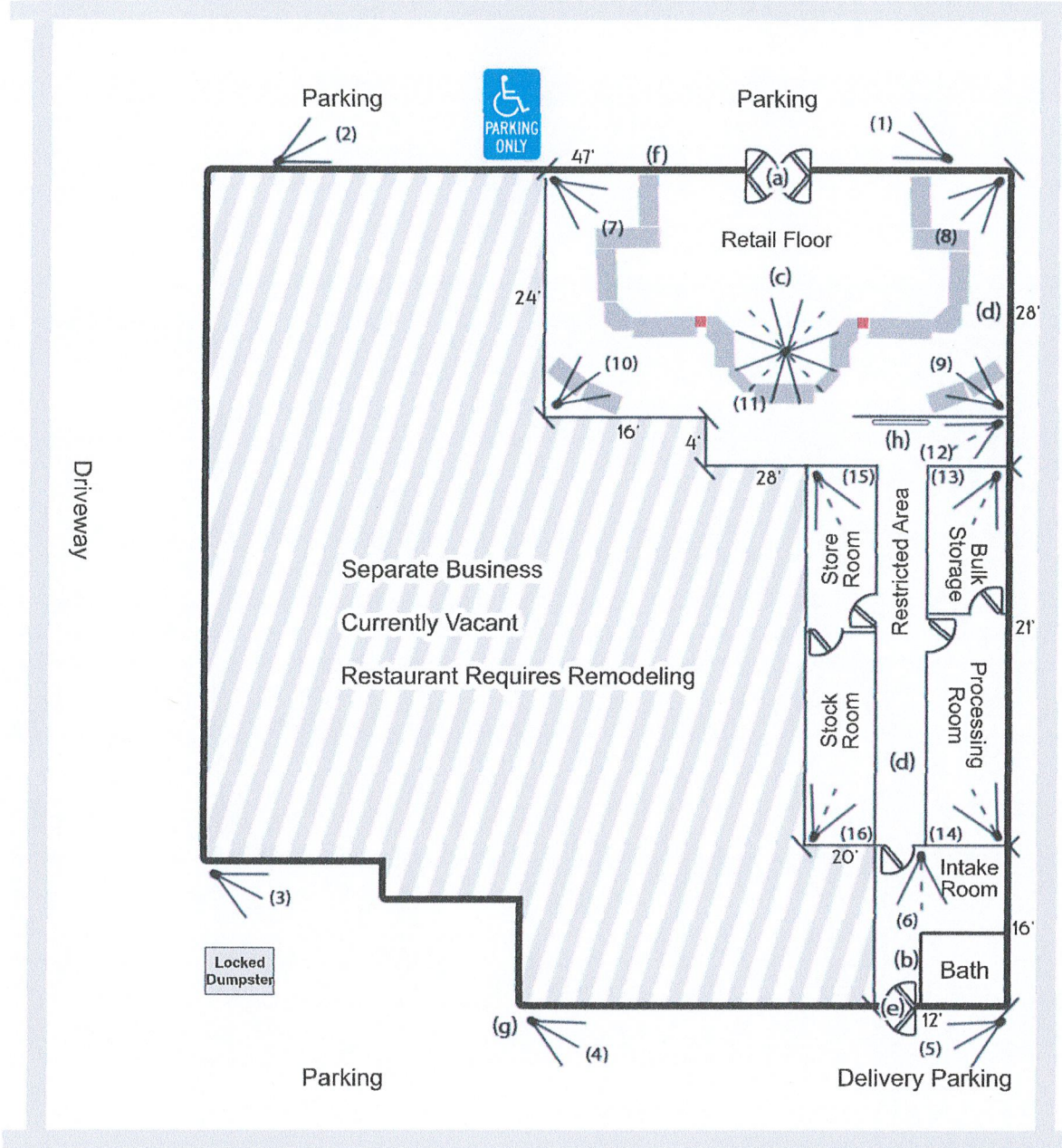
Odor prevention plan

Odor prevention is more of a concern with cultivation, for which we have No intention of engaging in.


Drea Hypes


Date

546 S. MAIN ST - EMERALD TRIANGLE CANNABIS #2



FLOORPLAN SQUARE FEET

RETAIL FLOOR	1,252'
RESTRICTED AREA	420'
INTAKE ROOM	192'
TOTAL SQUARE FEET	1,864'

Alley

ALARM SYSTEM

- (a) Front door Open sensor
 - (b) Alarm panel w/siren
 - (c) Glass break sensor
 - (d) Motion detector
 - (e) Back door Open sensor & security door
 - (f) Front door Live Video surveillance
 - (g) Back door Live Video surveillance
 - (h) Security System Specifications
- 16-Channel HD Surveillance Camera System
 1080P resolution (1920x1080) 75°- 360° viewing angles
 High Definition Night Vision w/auto activation.
 Network Video Recorder (NVR) with 24 inch monitor.
 3TB Hard Drive On-site Storage
 90 Day Recorded Cloud Storage
 24/7 Recording with remote monitoring/viewing
 Deep Sentinel Perimeter Surveillance

16 HD VIDEO CAMERAS

- (1) Front door: Exterior North camera facing front door & parking lot
- (2) Front exterior: South camera facing parking lot
- (3) Back exterior: South camera facing NorthEast parking lot
- (4) Back exterior: Middle camera facing NorthEast lot & door
- (5) Back door: North camera facing SouthEast door & deliveries
- (6) Interior camera recording intake room & back door
- (7) Interior camera facing NorthEast toward door & retail floor
- (8) Interior camera facing SouthEast toward door & retail floor
- (9) Interior camera facing SouthWest toward retail floor
- (10) Interior camera facing NorthWest toward retail floor
- (11) Overhead 360 camera
- (12) *Restricted Area* - Employee Breakroom
- (13) *Restricted Area* - Bulk Storage Room - Bulk flower storage
- (14) *Restricted Area* - Processing Room - Packaging
- (15) *Restricted Area* - Storeroom - Store supplies
- (16) *Restricted Area* - Stockroom - Inventory backstock



**Adult-Use and Medicinal - Retailer License
Provisional
Storefront**

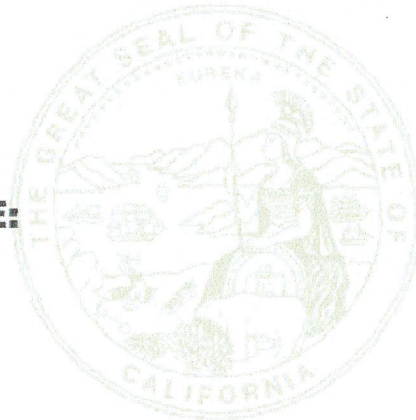
**LICENSE NO:
C10-0000722-LIC**

**VALID:
6/4/2020**

**LEGAL BUSINESS NAME:
MENDOCINO, INC.**

**EXPIRES:
6/4/2023**

**PREMISES:
500 Main ST S, BLDG A
Fort Bragg, CA 95437**



Non-Transferable

*Prominently display this license
as required by Title 16 CCR § 5039*

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
SELLER'S PERMIT



PERMIT NUMBER

252501248 - 00001

EMERALD TRIANGLE CANNABIS
MENDOCINO, INC.
500 S MAIN ST # A
FORT BRAGG CA 95437-5107

START DATE:
July 1, 2019

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX
LAW TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE
PERSONAL PROPERTY AT THE ABOVE LOCATION.

YOU ARE REQUIRED TO OBEY ALL FEDERAL AND
STATE LAWS THAT REGULATE OR CONTROL
YOUR BUSINESS. THIS PERMIT DOES NOT ALLOW
YOU TO DO OTHERWISE.

THIS PERMIT IS NOT VALID AT ANY OTHER ADDRESS.

PLEASE RETAIN THIS DOCUMENT FOR YOUR
RECORDS.

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED AND IS NOT TRANSFERABLE.
FOR GENERAL TAX QUESTIONS, PLEASE CALL OUR CUSTOMER SERVICE CENTER AT 1-800-400-7115 (CRS:711).
FOR INFORMATION ON YOUR RIGHTS, CONTACT THE TAXPAYERS' RIGHTS ADVOCATE OFFICE AT 1-888-324-2798.

CDTFA-442-R REV. 20 (2-22)

A MESSAGE TO OUR PERMIT HOLDER

As a permittee, you have certain rights and responsibilities under the Sales and Use Tax Law. For assistance, we offer the following resources:

- Our website at www.cdffa.ca.gov.
- Our toll-free Customer Service Center at 1-800-400-7115 (CRS:711). Customer service representatives are available Monday through Friday from 7:30 a.m. to 5:00 p.m. (Pacific time), except state holidays.

As a permittee, you are expected to maintain the normal books and records of a prudent businessperson. You are required to maintain these books and records for no less than four years, and make them available for inspection by a California Department of Tax and Fee Administration (CDTFA) representative when requested. You are also required to know and charge the correct sales or use tax rate, including any local and district taxes.

You must notify us if you are buying, selling, adding a location, or discontinuing your business; adding or dropping a partner, officer, or member; or when you are moving any or all of your business locations. This permit is valid only for the owner specified on the permit. A person who obtains a permit and ceases to do business, or never commenced business, shall surrender their permit by immediately notifying CDTFA in writing at this address: California Department of Tax and Fee Administration, Field Operations Division, P.O. Box 942879, Sacramento, CA 94279-0047. You may also surrender the permit to a CDTFA representative.

If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with CDTFA, please contact the Taxpayers' Rights Advocate Office for help by calling 1-888-324-2798 or by faxing 1-916-323-3319.

As authorized by law, information provided by an applicant for a permit may be disclosed to other government agencies.



CITY OF FORT BRAGG

Incorporated August 5, 1889

416 N. Franklin Street

Fort Bragg, CA 95437

Phone: (707) 961-2825

ANNUAL INSPECTION OF CANNABIS BUSINESS

This form must be returned each year prior to issuance of new annual license.

Name of Business: **Emerald Triangle** Business License Number: 70922

Business Address: **500 S Main St #A Fort Bragg, CA 95437**

Business Contact (name & phone number): _____

To Schedule an Inspection, call the Fort Bragg Police Department at (707) 961-2800.

Applicant shall have this form available on the date and time of the inspection.

Do Not write below line. TO BE COMPLETED BY FORT BRAGG POLICE DEPARTMENT.

SECTION ONE

As required by City Code section 9.30.130, a cannabis business shall meet the following operating requirements for the duration of the use:

Date & Time of Inspection: 2-8-23

Requirements:	Condition Met? Circle One
A. The design, location, size and operating characteristics of the cannabis business shall comply with the findings and conditions of any applicable discretionary permit obtained for its operation. Comment: _____	<input checked="" type="radio"/> Yes / No
B. A cannabis business use shall maintain a current register of the names of all employees currently employed by the use. Comment: <u>ELECTRONIC FILE ON COMPUTER</u>	<input checked="" type="radio"/> Yes / No
C. The building entrance to a cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian. Comment: _____	<input checked="" type="radio"/> Yes / No
D. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cannabis business use. Comment: _____	<input checked="" type="radio"/> Yes / No

**CITY OF FORT BRAGG
ANNUAL INSPECTION OF CANNABIS BUSINESS ~ Page Two**

Requirements (continued):	Condition Met? Circle One
<p>E. A cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry.</p> <p>Comment: _____</p>	<p>Yes / No</p>
<p>F. A cannabis business shall provide the Chief of Police and Fire Chief with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there is an emergency or there are operating problems associated with the cannabis business. The cannabis business management shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police or Planning Department.</p> <p>Comment: <u>PROVIDED DATE OF INSPECTION</u></p>	<p>Yes / No</p>

SECTION TWO

Results of Inspection (Check one):

- FACILITY MEETS ALL REQUIREMENTS.** (proceed to SECTION THREE, below)
- OR
- FACILITY DOES NOT MEET ALL REQUIREMENTS.** The following requirements need improvement / correction to complete the inspection: _____

If facility does not meet requirements, check 1, 2, or 3 below:

1. Facility may continue to operate. Requirements need to be met by: _____ (date)
- OR
2. Facility must immediately stop operation until the above condition are met.
- OR
3. Other (Specify): _____ -

Follow up inspection (if needed) scheduled for: _____

SECTION THREE

Inspected by: W. Raines Badge Number: 501

Signature: [Signature] Date: 2-8-23

RESOLUTION NO. PC -2023

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION APPROVING USE PERMIT 1-23 (UP 1-23), CANNABIS BUSINESS PERMIT 1-23 (CBP 1-23), VARIANCE 2-23 (VAR 2-23) FOR EMERALD TRIANGLE CANNABIS AT 546 S. MAIN ST.

WHEREAS, Emerald Triangle Cannabis (“Applicant”), submitted an applicant for: a Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23), Variance 2-23 (VAR 2-23) to operate a retail cannabis business in an existing retail building; and

WHEREAS, 546 S. Main St., Fort Bragg, California (Assessor Parcel Numbers: 018-020-48) is in the Highway Visitor Commercial (CH), Inland Zone and no changes to the site’s current zoning designation are proposed under the Project; and

WHEREAS, the Project is subject to the Fort Bragg Inland General Plan and Inland Land Use and Development Code (ILUDC); and

WHEREAS, the project is exempt from CEQA under 15301 Class 1 Existing Facilities; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 11, 2023, to consider the Project, accept public testimony; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project applications; all site plans, and all reports and public testimony submitted as part of the Planning Commission meeting of October 11, 2023 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

Approval of VAR 2-23 to allow the operation of Emerald Triangle Cannabis at 546 S. Main St, Fort Bragg, based on the following findings (18.71.0070):

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
- b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
- c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

Approval of Use Permit 1-23 and CBP 1-23 to allow the operation of Emerald Triangle Cannabis at 546 S. Main St, Fort Bragg, based on the following findings and determinations from: ILUDC 18.71.060(F) regarding the Use Permit:

1. The proposed use is consistent with the General Plan and any applicable specific plan;
2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. 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.
5. The proposed use complies with any findings required by § 18.22.030 (Commercial District Land Uses and Permit Requirements).
6. The proposed use complies with the Specific Land Use Standards for Cannabis Retail Business in Section 18.42.057
7. The proposed use complies with Municipal Code Section 9.30 Cannabis Businesses.

The EMERALD TRIANGLE CANNABIS project is also subject to the following general findings and determinations, based on analysis and testimony presented at the October 11, 2023 hearing, incorporated herein:

1. The foregoing recitals are true and correct and made a part of this Resolution;
2. The documents and other material constituting the record for these proceedings are located at the Community Development Department;
3. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the General Plan, Inland Land Use and Development Code (ILUDC) and the Fort Bragg Municipal Code;
4. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
5. 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.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby approve Use Permit Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23), Variance 2-23 (VAR 2-23) to operate a retail cannabis business in an existing retail building at 546 S. Main St., Fort Bragg, subject to the following conditions:

SPECIAL CONDITIONS

1. Prior to issuance of the Use Permit, CBP and Variance, the applicant shall replace all non-compliant external lights with downward facing night-sky compliant lights at the front and exterior of the building.
2. The applicant shall install a 6-foot-high security fence along the east and south parcel boundary to minimize any potential impacts to the Sea Star Studios Youth Center.
3. Prior to issuance of the Use Permit, the applicant shall install a sign on the building that limits entrance to those over 21 years of age.

STANDARD CONDITIONS

1. This action shall become final on the 11th day following the decision unless an appeal to the City Council is filed pursuant to ILUDC Chapter 18.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the ILUDC.
3. 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.
4. 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 the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.
5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.
7. 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.
8. Unless a condition of approval or other provision of the Inland Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with ILUDC Subsection 18.76.070(B).

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

The above and foregoing Resolution was introduced by _____ seconded by _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 11th day of October 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

Jeremy Logan, Chair

ATTEST:

Maria Flynn, Administrative Assistant

From: [Jacob Patterson](#)
To: [cdd; Cherry, Juliana](#)
Cc: [Cervenka, Neil](#)
Subject: Comment and Concern About Variance 223 (VAR 2-23)
Date: Thursday, September 28, 2023 2:42:49 PM

Community Development Department,

After inquiring about the Emerald Triangle relocation entitlement applications, I learned the following about the requested variance:

"[T]he Variance from the zoning code is a very small reduction of the setback from a youth center from 150 feet to 145 feet, which is less than a 3% decrease in the required setback.

The youth center mentioned is Sea Star Studios Youth Center."

I understand why the applicant is requesting a variance but this is not the kind of thing that can be altered through the variance process according to how I interpret the ILUDC. The above statement is also somewhat inaccurate because the issue is not one of a setback, which is about internal placement of structures relative to the parcel boundaries, it is about an explicit and specific prohibition and a land use. ILUDC § 18.42.057 concerning the Cannabis Retail land use doesn't create a setback of 150 feet that could potentially be reduced with a variance, it creates an exclusion zone around youth-oriented land uses that strictly prohibits the location of a cannabis retail land use within 150 feet of an existing youth center.

ILUDC § 18.71.070 concerning variances make it very clear in Subdivision B that variances cannot be applied to "allowed land uses" or "specific prohibitions" and this situation involves both the land use of cannabis retail and a specific prohibition of not locating cannabis retail land uses within 150 feet of an existing youth center. The variance process could be used for something else like an internal building setback requirement, sign height limitation, lot coverage ratios, or specific site improvements like frontage sidewalks. It cannot be used to allow an otherwise unpermitted land use, in this case cannabis retail. Nor can it be used to avoid a specific prohibition in the ILUDC and the Location Requirements in ILUDC § 18.42.057, subdivision C.3., is a specific prohibition (note the use of "**shall not** be").

This may be an unfortunate consequence of how our code is written but it certainly doesn't create a situation where the applicant would be deprived of a right or privilege enjoyed by other property owners in the vicinity and in the same zoning district. All nearby property owners also within 150 feet of Sea Star Studios also have the same strict prohibition against locating a cannabis retail business on their parcels.

Interestingly, the land owner could creatively get around this prohibition if they applied for a lot line adjustment in conjunction with the neighboring car wash site so their nearest property line is no longer within 150 feet of the property line of the Sea Star Studios or the property where Sea Star Studios could be split into two under the new CA rules, putting the residential use along the alley in a separate parcel from the front commercial building, but neither of those mechanisms are at issue in this application as it is currently configured.

Moreover, it is very unlikely that the Planning Commission will be able to find (in a supported manner with written findings that include explicit analytical justifications for the conclusions of the findings) that the first two of the three required findings are satisfied because there are

not any special circumstances that apply to this property and approving the variance would grant a special privilege to this property compared to the adjacent properties that are also subject to the same prohibition (e.g., the car wash or Starbucks).

Even if no neighboring property owner or even Sea Star Studios explicitly support this project, the City cannot ignore the plain language of the ILUDC that excludes situations like this from even being eligible for a variance. Sometimes interpreting and applying a local zoning code has unfortunate results that even the Planning Commissioners or staff don't feel makes sense in a particular situation but that doesn't mean we can ignore the requirements of the ILUDC and pretend that a variance can be used to permit a specifically prohibited land use in this location. If the Planning Commission doesn't like the result, the answer is to recommend an amendment to the ILUDC that would allow for variances in situations like this rather than trying to make specious justifications with a wink and a nod to look the other way and approve a variance under the current ILUDC, which is what governs this application. I think this is particularly true when there are other remedies that could allow for this business to use the intended building (e.g., a lot line adjustment).

Regards,

--Jacob

From: [Jacob Patterson](#)
To: [cdd](#); [Cherry, Juliana](#)
Cc: [Cervenka, Neil](#)
Subject: Re: Comment and Concern About Variance 223 (VAR 2-23)
Date: Friday, September 29, 2023 9:49:35 AM
Attachments: [Cannabis retail variance 18.71.070.pdf](#)

Here are the ILUDC sections with my highlights of the relevant provisions

On Thu, Sep 28, 2023 at 2:42 PM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
Community Development Department,

After inquiring about the Emerald Triangle relocation entitlement applications, I learned the following about the requested variance:

"[T]he Variance from the zoning code is a very small reduction of the setback from a youth center from 150 feet to 145 feet, which is less than a 3% decrease in the required setback.

The youth center mentioned is Sea Star Studios Youth Center."

I understand why the applicant is requesting a variance but this is not the kind of thing that can be altered through the variance process according to how I interpret the ILUDC. The above statement is also somewhat inaccurate because the issue is not one of a setback, which is about internal placement of structures relative to the parcel boundaries, it is about an explicit and specific prohibition and a land use. ILUDC § 18.42.057 concerning the Cannabis Retail land use doesn't create a setback of 150 feet that could potentially be reduced with a variance, it creates an exclusion zone around youth-oriented land uses that strictly prohibits the location of a cannabis retail land use within 150 feet of an existing youth center.

ILUDC § 18.71.070 concerning variances make it very clear in Subdivision B that variances cannot be applied to "allowed land uses" or "specific prohibitions" and this situation involves both the land use of cannabis retail and a specific prohibition of not locating cannabis retail land uses within 150 feet of an existing youth center. The variance process could be used for something else like an internal building setback requirement, sign height limitation, lot coverage ratios, or specific site improvements like frontage sidewalks. It cannot be used to allow an otherwise unpermitted land use, in this case cannabis retail. Nor can it be used to avoid a specific prohibition in the ILUDC and the Location Requirements in ILUDC § 18.42.057, subdivision C.3., is a specific prohibition (note the use of "**shall not be**").

This may be an unfortunate consequence of how our code is written but it certainly doesn't create a situation where the applicant would be deprived of a right or privilege enjoyed by other property owners in the vicinity and in the same zoning district. All nearby property owners also within 150 feet of Sea Star Studios also have the same strict prohibition against locating a cannabis retail business on their parcels.

Interestingly, the land owner could creatively get around this prohibition if they applied for a lot line adjustment in conjunction with the neighboring car wash site so their nearest property line is no longer within 150 feet of the property line of the Sea Star Studios or the property where Sea Star Studios could be split into two under the new CA rules, putting the

residential use along the alley in a separate parcel from the front commercial building, but neither of those mechanisms are at issue in this application as it is currently configured.

Moreover, it is very unlikely that the Planning Commission will be able to find (in a supported manner with written findings that include explicit analytical justifications for the conclusions of the findings) that the first two of the three required findings are satisfied because there are not any special circumstances that apply to this property and approving the variance would grant a special privilege to this property compared to the adjacent properties that are also subject to the same prohibition (e.g., the car wash or Starbucks).

Even if no neighboring property owner or even Sea Star Studios explicitly support this project, the City cannot ignore the plain language of the ILUDC that excludes situations like this from even being eligible for a variance. Sometimes interpreting and applying a local zoning code has unfortunate results that even the Planning Commissioners or staff don't feel makes sense in a particular situation but that doesn't mean we can ignore the requirements of the ILUDC and pretend that a variance can be used to permit a specifically prohibited land use in this location. If the Planning Commission doesn't like the result, the answer is to recommend an amendment to the ILUDC that would allow for variances in situations like this rather than trying to make specious justifications with a wink and a nod to look the other way and approve a variance under the current ILUDC, which is what governs this application. I think this is particularly true when there are other remedies that could allow for this business to use the intended building (e.g., a lot line adjustment).

Regards,

--Jacob

18.71.070 - Variance and Administrative Variance

A. Purpose. The Variance and Administrative Variance provide a process for City consideration of requests to waive or modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property **denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.**

B. Applicability. A Variance or Administrative Variance may be granted to waive or modify any requirement of this Development Code **except: allowed land uses;** residential density; **specific prohibitions** (for example, prohibited signs), or procedural requirements.

C. Review authority.

1. Variance. A Variance application shall be reviewed, and approved or disapproved, by the Commission.

2. Administrative Variance. An Administrative Variance application shall be reviewed, and approved or disapproved, by the Director.

a. The Director may grant an Administrative Variance to reduce any of the following requirements of this Development Code up to a maximum of 25%:

- i) Distance between structures;
- ii) Parcel dimensions (not including area);
- iii) Setbacks;
- iv) On-site parking, loading, and landscaping;
- v) Sign regulations (other than prohibited signs);
- vi) Lot coverage; and/or
- vii) Floor area ratio.

b. The Director may choose to refer any Administrative Variance application to the Commission for hearing and decision.

D. Application filing and processing. An application for a Variance or Administrative Variance shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Variances or Administrative Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection (F) of this Section (Findings and decision).

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with this Section, and all other applicable requirements of this Development Code.

1. Variance. The Commission shall conduct a public hearing on an application for a Variance before a decision. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. Administrative Variances. Before a decision on an Administrative Variance, the City shall provide notice of a public hearing in compliance with Chapter 18.96 (Public Hearings).

a. Initial notice. The notice shall state that the Director will decide whether to approve or disapprove the Administrative Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. Notice and conduct of hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96 (Public Hearings), and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. Findings and decision.

1. General findings. The review authority may approve a Variance or Administrative Variance only after first making all of the following findings:

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
- b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
- c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

2. Findings for off-site parking Variance. The approval of a Variance to allow some or all of the parking spaces required for a nonresidential project to be located off site, or to allow in-lieu fees or facilities instead of the required on-site parking spaces, shall require that the review authority first make both of the following findings in compliance with Government Code Section 65906.5, instead of those required by Subsection (F)(1) of this Section.

- a. The Variance will be an incentive to, and a benefit for, the nonresidential development; and
- b. The Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

3. Reasonable accommodation. The review authority may also grant a Variance or Administrative Variance to the site planning or development standards of this Development Code in compliance with this Section, based on the finding that the Variance or Administrative Variance is necessary to accomplish a reasonable accommodation of the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA). (Housing Element, Program H-3.9.1.)

G. Conditions of approval. In approving a Variance or Administrative Variance, the review authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection (F) of this Section (Findings and decision). The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Variance or Administrative Variance.

(Ord. 930, § 2, passed 06-12-2017)

18.42.057 - Cannabis Retail

- A. Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses), cannabis retail shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 and any required State licenses prior to operation.
- B. Definitions.** Definitions of the cannabis retail facilities regulated by this Section are in Article 10 (Definitions) under "Cannabis."
- C. Standards for Cannabis Retail.** A minor use permit for cannabis retail shall be approved if it complies with the following standards:
- 1. Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 and any required State licenses prior to operation.
 - 2. Operation Requirements.**
 - a. Odor.** Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.
 - b. Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.
 - c. Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §§ 18.30.050(F) and 18.30.070.
 - d. On-Site Consumption.** The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way is prohibited.
 - e. Drive-Through Services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
 - 3. Location Requirements.** In order to avoid the concentration of cannabis retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, a cannabis retail business shall not be:
 - a.** Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2), or a park. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school, youth center, day care facility, and/or park to the closest property line of the lot on which the cannabis business is proposed.
 - 4. Accessory Uses.** The primary use of a cannabis retail use shall be to sell products directly to on-site customers.
 - a. Accessory Uses.** The following uses are permissible as accessory uses to cannabis retail. More than one accessory use is permissible; however, each accessory use shall not exceed the total square footage of the primary use.
 - i.** Office, nursery (non-flowering) cultivation for on-site sales only; retail delivery; on-site distribution, craft cannabis manufacturing – no volatile solvents permitted, distribution, wholesale.
 - ii.** Fire suppression sprinklers are required in all buildings with on-site nursery cultivation located in commercial districts. Nursery cultivation as an accessory use shall also comply with § 18.42.055, Commercial Cannabis Cultivation.
 - b. Minor Use Permit.** If a permitted cannabis retail use chooses to provide an accessory use or services at a later date, a minor use permit shall be required.
 - c. Accessory Delivery.** Sales may also be conducted by delivery, subject to the requirements of § 18.42.059.

(Ord. 979, § 3, passed 6-13-2022)

18.71.070 - Variance and Administrative Variance

A. Purpose. The Variance and Administrative Variance provide a process for City consideration of requests to waive or modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

B. Applicability. A Variance or Administrative Variance may be granted to waive or modify any requirement of this Development Code except: allowed land uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.

C. Review authority.

1. Variance. A Variance application shall be reviewed, and approved or disapproved, by the Commission.

2. Administrative Variance. An Administrative Variance application shall be reviewed, and approved or disapproved, by the Director.

a. The Director may grant an Administrative Variance to reduce any of the following requirements of this Development Code up to a maximum of 25%:

- i) Distance between structures;
- ii) Parcel dimensions (not including area);
- iii) Setbacks;
- iv) On-site parking, loading, and landscaping;
- v) Sign regulations (other than prohibited signs);
- vi) Lot coverage; and/or
- vii) Floor area ratio.

b. The Director may choose to refer any Administrative Variance application to the Commission for hearing and decision.

D. Application filing and processing. An application for a Variance or Administrative Variance shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Variances or Administrative Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection (F) of this Section (Findings and decision).

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with this Section, and all other applicable requirements of this Development Code.

1. Variance. The Commission shall conduct a public hearing on an application for a Variance before a decision. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. Administrative Variances. Before a decision on an Administrative Variance, the City shall provide notice of a public hearing in compliance with Chapter 18.96 (Public Hearings).

a. Initial notice. The notice shall state that the Director will decide whether to approve or disapprove the Administrative Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. Notice and conduct of hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96 (Public Hearings), and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. Findings and decision.

1. General findings. The review authority may approve a Variance or Administrative Variance only after first making all of the following findings:

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
- b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
- c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

2. Findings for off-site parking Variance. The approval of a Variance to allow some or all of the parking spaces required for a nonresidential project to be located off site, or to allow in-lieu fees or facilities instead of the required on-site parking spaces, shall require that the review authority first make both of the following findings in compliance with Government Code Section 65906.5, instead of those required by Subsection (F)(1) of this Section.

- a. The Variance will be an incentive to, and a benefit for, the nonresidential development; and
- b. The Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

3. Reasonable accommodation. The review authority may also grant a Variance or Administrative Variance to the site planning or development standards of this Development Code in compliance with this Section, based on the finding that the Variance or Administrative Variance is necessary to accomplish a reasonable accommodation of the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA). (Housing Element, Program H-3.9.1.)

G. Conditions of approval. In approving a Variance or Administrative Variance, the review authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection (F) of this Section (Findings and decision). The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Variance or Administrative Variance.

(Ord. 930, § 2, passed 06-12-2017)

From: [Jacob Patterson](#)
To: [cdd](#); [Cherry, Juliana](#)
Cc: [Cervenka, Neil](#); [Ducey, Peggy](#); [Marie Jones](#)
Subject: Fwd: Comment and Concern About Variance 223 (VAR 2-23)
Date: Friday, October 6, 2023 11:17:19 AM
Attachments: [Cannabis retail variance 18.71.070.pdf](#)

Community Development Department,

I noticed that the Planning Commission meeting materials do not include my prior submitted written comment about the requested variance, which I submitted pursuant to the public hearing notice (see below). This oversight should be corrected ASAP because it deals with the central issue if a variance is even possible at this location;. According to case law regarding variances and the plain language of our own code, which is included in the staff report, the specific prohibition of cannabis retail land uses within 150 feet of a youth center is not something that can be adjusted through the variance process.

Please distribute this comment to the Planning Commission without delay and include it in the agenda materials as a public comment for the 10/11/23 PC meeting, agenda item 6B.

Regards,

--Jacob

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

From: **Jacob Patterson** <jacob.patterson.esq@gmail.com>
Date: Fri, Sep 29, 2023 at 9:49 AM
Subject: Re: Comment and Concern About Variance 223 (VAR 2-23)
To: CDD User <cdd@fortbragg.com>, <jcherry@fortbragg.com>
Cc: Cervenka, Neil <ncervenka@fortbragg.com>

Here are the ILUDC sections with my highlights of the relevant provisions

On Thu, Sep 28, 2023 at 2:42 PM Jacob Patterson <jacob.patterson.esq@gmail.com> wrote:
Community Development Department,

After inquiring about the Emerald Triangle relocation entitlement applications, I learned the following about the requested variance:

"[T]he Variance from the zoning code is a very small reduction of the setback from a youth center from 150 feet to 145 feet, which is less than a 3% decrease in the required setback.

The youth center mentioned is Sea Star Studios Youth Center."

I understand why the applicant is requesting a variance but this is not the kind of thing that can be altered through the variance process according to how I interpret the ILUDC. The above statement is also somewhat inaccurate because the issue is not one of a setback, which is about internal placement of structures relative to the parcel boundaries, it is about an explicit and specific prohibition and a land use. ILUDC § 18.42.057 concerning the Cannabis Retail land use doesn't create a setback of 150 feet that could potentially be

reduced with a variance, it creates an exclusion zone around youth-oriented land uses that strictly prohibits the location of a cannabis retail land use within 150 feet of an existing youth center.

ILUDC § 18.71.070 concerning variances make it very clear in Subdivision B that variances cannot be applied to "allowed land uses" or "specific prohibitions" and this situation involves both the land use of cannabis retail and a specific prohibition of not locating cannabis retail land uses within 150 feet of an existing youth center. The variance process could be used for something else like an internal building setback requirement, sign height limitation, lot coverage ratios, or specific site improvements like frontage sidewalks. It cannot be used to allow an otherwise unpermitted land use, in this case cannabis retail. Nor can it be used to avoid a specific prohibition in the ILUDC and the Location Requirements in ILUDC § 18.42.057, subdivision C.3., is a specific prohibition (note the use of "**shall not be**").

This may be an unfortunate consequence of how our code is written but it certainly doesn't create a situation where the applicant would be deprived of a right or privilege enjoyed by other property owners in the vicinity and in the same zoning district. All nearby property owners also within 150 feet of Sea Star Studios also have the same strict prohibition against locating a cannabis retail business on their parcels.

Interestingly, the land owner could creatively get around this prohibition if they applied for a lot line adjustment in conjunction with the neighboring car wash site so their nearest property line is no longer within 150 feet of the property line of the Sea Star Studios or the property where Sea Star Studios could be split into two under the new CA rules, putting the residential use along the alley in a separate parcel from the front commercial building, but neither of those mechanisms are at issue in this application as it is currently configured.

Moreover, it is very unlikely that the Planning Commission will be able to find (in a supported manner with written findings that include explicit analytical justifications for the conclusions of the findings) that the first two of the three required findings are satisfied because there are not any special circumstances that apply to this property and approving the variance would grant a special privilege to this property compared to the adjacent properties that are also subject to the same prohibition (e.g., the car wash or Starbucks).

Even if no neighboring property owner or even Sea Star Studios explicitly support this project, the City cannot ignore the plain language of the ILUDC that excludes situations like this from even being eligible for a variance. Sometimes interpreting and applying a local zoning code has unfortunate results that even the Planning Commissioners or staff don't feel makes sense in a particular situation but that doesn't mean we can ignore the requirements of the ILUDC and pretend that a variance can be used to permit a specifically prohibited land use in this location. If the Planning Commission doesn't like the result, the answer is to recommend an amendment to the ILUDC that would allow for variances in situations like this rather than trying to make specious justifications with a wink and a nod to look the other way and approve a variance under the current ILUDC, which is what governs this application. I think this is particularly true when there are other remedies that could allow for this business to use the intended building (e.g., a lot line adjustment).

Regards,

| --Jacob

18.71.070 - Variance and Administrative Variance

A. Purpose. The Variance and Administrative Variance provide a process for City consideration of requests to waive or modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property **denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.**

B. Applicability. A Variance or Administrative Variance may be granted to waive or modify any requirement of this Development Code **except: allowed land uses;** residential density; **specific prohibitions** (for example, prohibited signs), or procedural requirements.

C. Review authority.

1. Variance. A Variance application shall be reviewed, and approved or disapproved, by the Commission.

2. Administrative Variance. An Administrative Variance application shall be reviewed, and approved or disapproved, by the Director.

a. The Director may grant an Administrative Variance to reduce any of the following requirements of this Development Code up to a maximum of 25%:

- i) Distance between structures;
- ii) Parcel dimensions (not including area);
- iii) Setbacks;
- iv) On-site parking, loading, and landscaping;
- v) Sign regulations (other than prohibited signs);
- vi) Lot coverage; and/or
- vii) Floor area ratio.

b. The Director may choose to refer any Administrative Variance application to the Commission for hearing and decision.

D. Application filing and processing. An application for a Variance or Administrative Variance shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Variances or Administrative Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection (F) of this Section (Findings and decision).

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with this Section, and all other applicable requirements of this Development Code.

1. Variance. The Commission shall conduct a public hearing on an application for a Variance before a decision. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. Administrative Variances. Before a decision on an Administrative Variance, the City shall provide notice of a public hearing in compliance with Chapter 18.96 (Public Hearings).

a. Initial notice. The notice shall state that the Director will decide whether to approve or disapprove the Administrative Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. Notice and conduct of hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96 (Public Hearings), and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. Findings and decision.

1. General findings. The review authority may approve a Variance or Administrative Variance only after first making all of the following findings:

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
- b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
- c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

2. Findings for off-site parking Variance. The approval of a Variance to allow some or all of the parking spaces required for a nonresidential project to be located off site, or to allow in-lieu fees or facilities instead of the required on-site parking spaces, shall require that the review authority first make both of the following findings in compliance with Government Code Section 65906.5, instead of those required by Subsection (F)(1) of this Section.

- a. The Variance will be an incentive to, and a benefit for, the nonresidential development; and
- b. The Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

3. Reasonable accommodation. The review authority may also grant a Variance or Administrative Variance to the site planning or development standards of this Development Code in compliance with this Section, based on the finding that the Variance or Administrative Variance is necessary to accomplish a reasonable accommodation of the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA). (Housing Element, Program H-3.9.1.)

G. Conditions of approval. In approving a Variance or Administrative Variance, the review authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection (F) of this Section (Findings and decision). The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Variance or Administrative Variance.

(Ord. 930, § 2, passed 06-12-2017)

18.42.057 - Cannabis Retail

- A. Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses), cannabis retail shall comply with the standards of this Section. These standards apply in addition to the other provisions of this Development Code and requirements imposed by Chapter 9.30 and any required State licenses prior to operation.
- B. Definitions.** Definitions of the cannabis retail facilities regulated by this Section are in Article 10 (Definitions) under "Cannabis."
- C. Standards for Cannabis Retail.** A minor use permit for cannabis retail shall be approved if it complies with the following standards:
- 1. Additional Permits and Licenses Required.** A cannabis storefront retail business shall obtain a cannabis business permit subject to Chapter 9.30 and any required State licenses prior to operation.
 - 2. Operation Requirements.**
 - a. Odor.** Cannabis cultivations shall use the best available technology to ensure odors are not detected on adjacent or nearby property or areas open to the public.
 - b. Hours of Operation.** Cannabis retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to 7 days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit. Cannabis retail uses shall only be permitted to engage in delivery services during hours that the storefront is open to the public, unless the review authority permits delivery outside these hours.
 - c. Lighting and Screening.** Projects that are on properties adjacent to residential properties shall comply with §§ 18.30.050(F) and 18.30.070.
 - d. On-Site Consumption.** The consumption of cannabis at a cannabis retail use or within the parking lot or public right-of-way is prohibited.
 - e. Drive-Through Services.** Drive-through or walk-up window services in conjunction with cannabis retail are prohibited.
 - 3. Location Requirements.** In order to avoid the concentration of cannabis retail land uses and maintain the downtown commercial character, and compatibility with adjacent residential uses, a cannabis retail business shall not be:
 - a.** Located within 150 feet of a school providing instruction in kindergarten or any grades 1 through 12, a child day care center or facility, a youth center as defined in the State of California Health and Safety Code Section 11353.1(e)(2), or a park. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school, youth center, day care facility, and/or park to the closest property line of the lot on which the cannabis business is proposed.
 - 4. Accessory Uses.** The primary use of a cannabis retail use shall be to sell products directly to on-site customers.
 - a. Accessory Uses.** The following uses are permissible as accessory uses to cannabis retail. More than one accessory use is permissible; however, each accessory use shall not exceed the total square footage of the primary use.
 - i.** Office, nursery (non-flowering) cultivation for on-site sales only; retail delivery; on-site distribution, craft cannabis manufacturing – no volatile solvents permitted, distribution, wholesale.
 - ii.** Fire suppression sprinklers are required in all buildings with on-site nursery cultivation located in commercial districts. Nursery cultivation as an accessory use shall also comply with § 18.42.055, Commercial Cannabis Cultivation.
 - b. Minor Use Permit.** If a permitted cannabis retail use chooses to provide an accessory use or services at a later date, a minor use permit shall be required.
 - c. Accessory Delivery.** Sales may also be conducted by delivery, subject to the requirements of § 18.42.059.

(Ord. 979, § 3, passed 6-13-2022)

18.71.070 - Variance and Administrative Variance

A. Purpose. The Variance and Administrative Variance provide a process for City consideration of requests to waive or modify certain standards of this Development Code when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district.

B. Applicability. A Variance or Administrative Variance may be granted to waive or modify any requirement of this Development Code except: allowed land uses; residential density; specific prohibitions (for example, prohibited signs), or procedural requirements.

C. Review authority.

1. Variance. A Variance application shall be reviewed, and approved or disapproved, by the Commission.

2. Administrative Variance. An Administrative Variance application shall be reviewed, and approved or disapproved, by the Director.

a. The Director may grant an Administrative Variance to reduce any of the following requirements of this Development Code up to a maximum of 25%:

- i) Distance between structures;
- ii) Parcel dimensions (not including area);
- iii) Setbacks;
- iv) On-site parking, loading, and landscaping;
- v) Sign regulations (other than prohibited signs);
- vi) Lot coverage; and/or
- vii) Floor area ratio.

b. The Director may choose to refer any Administrative Variance application to the Commission for hearing and decision.

D. Application filing and processing. An application for a Variance or Administrative Variance shall be filed and processed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by detailed and fully dimensioned plans, architectural drawings and sketches, and data/materials identified in the Department handout for Variances or Administrative Variances. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection (F) of this Section (Findings and decision).

E. Project review, notice, and hearing. Each application shall be reviewed by the Director to ensure that the proposal complies with this Section, and all other applicable requirements of this Development Code.

1. Variance. The Commission shall conduct a public hearing on an application for a Variance before a decision. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 18.96 (Public Hearings).

2. Administrative Variances. Before a decision on an Administrative Variance, the City shall provide notice of a public hearing in compliance with Chapter 18.96 (Public Hearings).

a. Initial notice. The notice shall state that the Director will decide whether to approve or disapprove the Administrative Variance application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.

b. Notice and conduct of hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 18.96 (Public Hearings), and the Director shall conduct the public hearing before a decision on the application in compliance with Chapter 18.96.

F. Findings and decision.

1. General findings. The review authority may approve a Variance or Administrative Variance only after first making all of the following findings:

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
- b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
- c. The Variance or Administrative Variance is consistent with the General Plan and any applicable specific plan.

2. Findings for off-site parking Variance. The approval of a Variance to allow some or all of the parking spaces required for a nonresidential project to be located off site, or to allow in-lieu fees or facilities instead of the required on-site parking spaces, shall require that the review authority first make both of the following findings in compliance with Government Code Section 65906.5, instead of those required by Subsection (F)(1) of this Section.

- a. The Variance will be an incentive to, and a benefit for, the nonresidential development; and
- b. The Variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

3. Reasonable accommodation. The review authority may also grant a Variance or Administrative Variance to the site planning or development standards of this Development Code in compliance with this Section, based on the finding that the Variance or Administrative Variance is necessary to accomplish a reasonable accommodation of the needs of a disabled person in compliance with the Americans with Disabilities Act (ADA). (Housing Element, Program H-3.9.1.)

G. Conditions of approval. In approving a Variance or Administrative Variance, the review authority may impose any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by Subsection (F) of this Section (Findings and decision). The violation of any required condition shall constitute a violation of this Section and may constitute grounds for revocation of the permit.

H. Post approval procedures. The procedures and requirements in Chapter 18.76 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 9 (Land Use and Development Code Administration), shall apply following a decision on an application for a Variance or Administrative Variance.

(Ord. 930, § 2, passed 06-12-2017)

From: [Jacob Patterson](#)
To: [cdd](#)
Subject: Public Comment -- 10/11/23 PC Mtg., Item Nos. 6A & 6B
Date: Friday, October 6, 2023 12:18:43 PM

Planning Commission,

This is kind of technical but the agenda descriptions for both items should have included the disclosure that the City is trying to claim CEQA exemptions from further environmental review, which is supposed to be included according to relatively recent case law applying the Brown Act. Technically, your determinations about agenda items that were not properly noticed could be set aside if challenged. I happen to agree with the substance of the CEQA determinations and think both items are exempt for the reasons laid out in the staff reports and draft resolutions but that doesn't rectify the incomplete agenda descriptions, which are primarily for the public's benefit to ensure that anyone reading the agenda understands what is being proposed. Our CDD has a long history of failing to properly notice agenda items, particularly public hearings, and this meeting appears to fall into that troubling pattern.

Regards,

--Jacob

Planning Commission item 6b 10/11/2023

Paul Clark <pclark@fortbraggrealty.co>

Mon 10/9/2023 9:04 AM

To:cdd <cdd@fortbragg.com>

Cc:Paul Clark <pclark@fortbraggrealty.co>;Phillip Jago <pjfortbragg@icloud.com>

23-338 Version: 1

Name:

Type: Planning Resolution

Status: Public Hearing

File created: 10/5/2023

In control: [Planning Commission](#)

On agenda: 10/11/2023

Final action:

Title:

Receive Report, Hold a Public Hearing, Deliberate, and Approve Use Permit 1-23, Cannabis Business Permit 1-23 and Variance 2-23 for Emerald Triangle Cannabis at 546 S. Main Street, and Ensure Associated CEQA Determination is Consistent with the Coastal Act

Attachments:

1. [Staff Report UP 1-23, CBP 1-23, VAR 2-23](#), 2. [Att. 1 Site Plan](#), 3. [Att. 2 PC Resolution](#), 4. [Att. 3 Public Comments](#), 5. [Att. 4 Public Hearing Notice English - UP 1-23](#), 6. [Att. 5 Public Hearing Notice Espanol - UP 1-23](#)

Just to clarify I was the agent for the former owners of this building, that had to approve the application for this site, so I was agent for them mainly. The building was sold to this applicant 05/19/2023 it took some time to get to this point. The city would not process the request unless the then building owner Mr. And Mrs. Gee, signed the application or their agent. The new owns should be complimented on the major improvements they have made on this Main street property. I do not plan on attending this meeting, but am available if you have any questions. Not sure I can answer much.

Thank you

Paul Clark

DRE 00640014

809 North Main Street

Fort Bragg, CA 95437

707-964-0811

pclark@fortbraggrealty.co

October 9, 2023

To: Fort Bragg Planning Commission

From: Marianne McGee

RE: Emerald Triangle Relocation

Dear Chair Logan,

I appreciate the opportunity to provide input and to support the relocation of Emerald Triangle from its current location on the corner of Chestnut and Main to 546 S. Main Street.

Emerald Triangle has benefited the City of Fort Bragg by providing an important service to many in the community, improving its current location by installing disabled access and paying taxes as a successful business.

The drawback to the current location is the small parking lot, which enters right onto Chestnut. That lot is dangerous as it's so small and close to the street with many cars flying around the corner from Main Street. It is extremely difficult to maneuver my Toyota out of the disabled space as it's so close to Chestnut. The restaurant sharing the 5 spaces is opening back up again, so traffic will increase again.

I am thankful that Emerald Triangle has finally found a product that enables me to sleep. Staff there has worked closely with me to find it, as insomnia has made my disability worse. I see other elders shopping there, many saying the products are effective for pain relief.

This new location is not in the Central Business District, so the objections raised on a previous potential business are irrelevant and there is only one person with concerns. Additionally, the Fort Bragg Police Department and Sea Stars Studio appear to have no objections either.

As a resident of the City for over 25 years, that building has had a variety of businesses and often been vacant. The Hypes have a successful business and have improved the rental location, so I expect this will continue.

Please enable Emerald Triangle to move to their new location, making it safer for all of us.

Flynn, Maria

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Wednesday, October 11, 2023 2:20 PM
To: cdd
Cc: Cervenka, Neil; Marie Jones; Cherry, Juliana
Subject: Public Comment -- 10/11/23 PC Mtg., Item No. 6B, Emerald Triangle Dispensary
Attachments: 20231011_094705.jpg

Planning Commission & CDD,

Please note that the following is my personal opinion and cannot be relied upon as legal advice even though I am an attorney with land use expertise. You should consult the City Attorney's office or special counsel for any legal analysis and advice about this or other entitlement reviews.

That being said, I actually think this is a good local business in its current location and even think it is unfortunate that it is prohibited at the proposed location, but I am dismayed that I have to object to this public hearing proceeding at all because of procedural issues with the public hearing notice. Weirdly, the very same issue occurred for the last cannabis retail permit application when the City failed to make sure the applicant posted the required notices in a prominent location at the project site, which is required by the ILUDC. (One would think we would learn from past errors but alas...) For the Sunshine-Holistic application, that actually became one of the two findings of denial when the Planning Commission denied that project--they also found it was not compatible with the existing land uses in the vicinity. In this case, the notices have not been properly posted again. Since the public hearing was scheduled and noticed in the paper--only one of the forms of notice that is required by the applicable provisions of the ILUDC--I have checked the project site daily to see if the physical notices on the project site was being displayed. After checking for a final time today, the day of the hearing itself and a day when City Hall is not even open to allow any interested member of the public to seek access to application materials and information, I can attest that there has never been a notice of the public hearing posted on the project site, let alone in a prominent location. As a result, the Planning Commission cannot make the required findings for approval since the project cannot be found to have met all ILUDC requirements because the required public hearing notice has not been posted on the project site as required.

Moreover, the prior notice of pending permit was not displayed either until it was posted some time yesterday. That notice, which is totally different than the notice of the public hearing, asserts it was posted 3-31-2023 but even if that had been the case, it was removed at some point prior to when the public hearing was supposed to be noticed and only replaced yesterday, a mere day prior to the public hearing and at a time when any interested person wouldn't even have the ability to go into CDD to seek relevant information to inform their participation. This is not procedurally acceptable and the public hearing, IMO, needs to be rescheduled and noticed properly and fully. The alternative is much more severe, which is denying the permit application because it was not noticed properly as the Planning Commission did for the Sunshine-Holistic cannabis retail permit application. This is true because it is critically important that the City interpret and apply its zoning code in a consistent manner across projects. If we deny one permit because of lack of posted notice, we need to deny a similarly situated permit for the same reasons or the City could be accused of making arbitrary and capricious permit entitlement decisions treating some applications more favorably than others. Consistency in approach across permits is a fundamental requirement for defensible entitlement review decisions. In addition, you shouldn't feel bad for the applicant since it was their responsibility (in conjunction with City planning staff) to actually post the required notice of public hearing on the project site in a prominent location and they clearly failed to do so.

Of the two options, continuance to a new public hearing that is properly noticed or denial of the permit, it probably makes more sense to deny the permit with two findings of denial: (1) the notice of public hearing was not posted as required, and (2) cannabis retail dispensaries are not permitted within 150 feet of an existing day care or youth center and Sea Star Studios is closer than 150 feet away. As I explained in my prior comment, my opinion is that this is not something that can be waived via the variance process. Although I relied on interpreting the plain language of the ILUDC to come to that conclusion, it is actually a matter of state law. California has determined as a matter of policy that cannabis retail cannot be located within an exclusion zone around youth-oriented land uses and our ILUDC only reflects this state law requirement (i.e., we didn't come up with this policy choice on our own). The state default exclusion zone is 600 feet but we exercised the only local control that the state left to us and made the exclusion zone smaller at a 150 foot radius measured from property line to property line. We don't have the authority to ignore this aspect of state law and although we properly exercised our local land use authority to shrink the radius of the exclusion zone within which cannabis retail land uses are strictly prohibited, we do not have the authority to change the radius of the exclusion zone on an ad hoc, project-by-project basis, through variance or otherwise, despite what is in the staff report. You may not like the result of this policy directive but this is not about your personal opinions and preferences, it is about reviewing an entitlement application objectively and applying the applicable rules and procedures based on the verified facts. I feel bad that this applicant probably invested time and money seeking to relocate to their new building and I suspect that CDD staff failed to flag these critical issues but apparent mistakes by City staff don't excuse an applicant from the requirements of the ILUDC and relevant state law. It is also irrelevant to your decision whether or not Sea Star studios objects to cannabis retail sales this close to their youth center because the exclusion zone is absolute and not dependent on the parties involved approving or objecting to the proposed nearby location. Please don't get distracted by irrelevant factors or engage in emotional decision-making in your review. To ignore the applicable code and state law would result in reversible decisions due to an abuse of the Planning Commission's discretion.

Regards,

--Jacob



NOTICE OF PENDING PERMIT

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

PROPOSED DEVELOPMENT:

Minor use permit for
Cannabis retail

STREET ADDRESS: 546 S. MAIN ST

ASSESSOR PARCEL NUMBER(S): 018-020-48

APPLICANT'S NAME: DREA HYPES

DATE NOTICE POSTED: 3-31-2023

For further information, please contact:

City of Fort Bragg
Community Development Department
416 North Franklin Street
Fort Bragg, CA 95437
Tel: 707-961-2827

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

Date: October 11, 2023

To: Fort Bragg Planning Commission

From: Jacob Patterson

Re: Use Permit 1-23, Cannabis Business Permit 1-23 and Variance 2-23 for Emerald Triangle Cannabis at 546 S. Main Street

I have one final comment and objection concerning the public hearing tonight, which is I was not provided access prior to this public hearing to the relevant permit application materials by the City of Fort Bragg Community Development Department despite several attempts to review them. The result is that I have not been provided the opportunity to fully inform my public comments with the relevant information, much like any interested member of the public who walked by the project site wouldn't have had any way to know there was a scheduled public hearing coming up.

This is troubling for several reasons but primarily because the notice of public hearing directed any member of the public to the Community Development Department where such records were supposed to be available for public review. Likewise, Juliana Cherry did not respond to any of my written inquiries even though her email address was listed as the appropriate contact for any questions about the permit applications. I also contacted the City Manager and Assistant City Manager and they also did not provide the information or responses to my timely inquiries. The one time I was able to actually speak with someone at the public information counter of the Community Development Department about this project, I asked to receive information about the requested variance but was told that nothing existed yet, which was odd since it was listed in the public hearing notice as one of the requested entitlements and the City's ILUDC requires complete applications before permit reviews are supposed to proceed. The first information I was able to review about the variance or the rest of the entitlement applications is in the staff report from Marie Jones but that is just her summary and analysis not the underlying information and application materials.

City of Fort Bragg
Received

OCT 11 2023



CITY OF FORT BRAGG

Incorporated August 5, 1889

416 N. Franklin Street, Fort Bragg, CA 95437

Phone: (707) 961-2827

www.FortBragg.com

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Fort Bragg Planning Commission will conduct a public hearing on Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23) and Variance 2-23 (VAR 2-23) at a regularly scheduled meeting on Wednesday, October 11, 2023 at 6:00 PM or as soon thereafter as the matter may be heard at Town Hall, at the corner of Main and Laurel Streets (363 North Main Street), Fort Bragg, California. The public hearing will concern the following item:

APPLICATION: Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23), Variance 2-23 (VAR 2-23)
FILING DATE: April 4, 2023
APPLICANTS: Drea Hypes, Gerald Hypes, Emerald Triangle Cannabis
PROJECT: Cannabis Retail Use "Emerald Triangle"
LOCATION: 546 S. Main Street
APN: 018-020-48
LOT SIZE: 14,914 Square Feet
ZONING: Highway Visitor Commercial (CH), Inland Zone.
PROJECT DESCRIPTION: Use Permit 1-23 (UP 1-23), Cannabis Business Permit 1-23 (CBP 1-23), and Variance 2-23 (VAR 2-23) applications requesting to operate a cannabis business at 546 S. Main Street.
ENVIRONMENTAL: Class 1 Exemption from CEQA

Public Comment regarding this Public Hearing may be made in any of the following ways: (1) Emailed to the Community Development Department, at CDD@fortbragg.com (2) Written comments delivered to City Hall, 416 N. Franklin Street before 3:00 PM on the day of the meeting; or (3) Verbal comments made during the meeting, either in person at Town Hall or virtually using Zoom if a Zoom link is provided at the time of agenda publication.

Staff reports and other documents that will be considered by Planning Commissioners will be made available for review on the City's website: <https://cityfortbragg.legistar.com/Calendar.aspx>, at least 72 hours prior to the Planning Commission meeting, and are also available for review and/or copying during normal office hours at Fort Bragg City Hall, 416 N. Franklin Street. To obtain application materials or for more information, please contact Juliana von Hacht Cherry, Community Development Director, via email at jcherry@fortbragg.com. At the conclusion of the public hearing, the Planning Commission will consider a decision on the above matter.

Appeal process and fee schedule: Decisions of the Planning Commission shall be final unless appealed to the City Council in writing within ten (10) days thereafter with a filing fee of \$1,000 to be filed with the City Clerk. If you challenge the above case in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Community Development Department at, or prior to, the public hearing.

Juliana von Hacht Cherry
Community Development Director

POSTING/MAILING ON OR BEFORE: September 22, 2023
PUBLICATION DATE: September 22, 2023

STATE OF CALIFORNIA)
) ss
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg in the Community Development Department; and that I caused this notice to be posted in the City Hall Notice case on or before September 22, 2023.

Juliana von Hacht Cherry, Community Development Director

cc: Property owners within 300' radius
 Planning Commission
 Owner/Applicant/Agent
 'Notify Me' Subscriber Lists



CIUDAD DE FORT BRAGG Constituida
el 5 de agosto de 1889
416 N. Franklin Street, Fort Bragg, CA 95437
Teléfono: (707) 961-2827
www.FortBragg.com

AVISO DE AUDIENCIA PÚBLICA

POR EL PRESENTE SE NOTIFICA que la Comisión de Planificación de Fort Bragg llevará a cabo una audiencia pública sobre el Permiso de uso 1-23 (UP 1-23), el Permiso de negocio de cannabis 1-23 (CBP 1-23) y la Variación 2-23 (VAR 2-23).) para que Emerald Triangle Cannabis opere en 546 S. Main St. en una reunión programada regularmente el miércoles 11 de octubre de 2023 a las 6:00 p. m. o tan pronto como el asunto pueda ser escuchado en el Ayuntamiento, en la esquina de las calles Main y Laurel (363 North Main Street), Fort Bragg, California. La audiencia pública se referirá al siguiente punto:

SOLICITUD: Permiso de uso 1-23 (UP 1-23), Permiso de negocio de cannabis 1-23 (CBP 1-23), Variación 2-23 (VAR 2-23)

FECHA DE PRESENTACIÓN: 4 de abril de 2023

SOLICITANTES: Drea Hypes, Gerald Hypes, Cannabis Triángulo Esmeralda
Uso minorista de cannabis "Triángulo Esmeralda"

546 S. Calle principal
018-020-48

PROYECTO: 14,914 pies cuadrados

UBICACIÓN: Carretera Comercial de Visitantes (CH), Zona Interior.

APN: TAMAÑO DEL LOTE: ZONIFICACIÓN: DESCRIPCIÓN DEL PROYECTO: Permiso de uso 1-23 (UP 1-23), Permiso de negocio de cannabis 1-23 (CBP 1-23) y Variación 2-23 (VAR 2-23) solicitudes que solicitan operar un negocio de cannabis en 546 S. Main Street.

AMBIENTAL: Exención Clase 1 de CEQA

Los comentarios públicos sobre esta Audiencia Pública pueden realizarse de cualquiera de las siguientes maneras: (1) Enviado por correo electrónico al Departamento de Desarrollo Comunitario, a CDD@fortbragg.com (2) Comentarios escritos entregados al Ayuntamiento, 416 N. Franklin Street antes de las 3:00 p.m. del día de la reunión; o (3) Comentarios verbales realizados durante la reunión, ya sea en persona en el Ayuntamiento o virtualmente usando Zoom si se proporciona un enlace de Zoom en el momento de la publicación de la agenda.

Los informes del personal y otros documentos que serán considerados por los Comisionados de Planificación estarán disponibles para su revisión en el sitio web de la Ciudad: <https://cityfortbragg.legistar.com/Calendar.aspx>. al menos 72 horas antes de la reunión de la Comisión de Planificación, y también están disponibles para revisión y/o copia durante el horario de oficina normal en Fort Bragg City Hall, 416 N. Franklin Street. Para obtener materiales de solicitud o para obtener más información, comuníquese con Juliana von Hacht Cherry, Directora de Desarrollo Comunitario, por correo electrónico a jcherry@fortbragg.com. Al concluir la audiencia pública, la Comisión de Planificación considerará una decisión sobre el asunto anterior.

Proceso de apelación y cronograma de tarifas: Las decisiones de la Comisión de Planificación serán definitivas a menos que se apelen ante el Concejo Municipal por escrito dentro de los diez (10) días siguientes con una tarifa de presentación de \$1,000 que se presentará ante el Secretario Municipal. Si impugna el caso anterior en el tribunal, es posible que se limite a plantear solo aquellas cuestiones que usted u otra persona plantearon en la audiencia pública descrita en este aviso o en correspondencia escrita entregada al Departamento de Desarrollo Comunitario durante o antes de la audiencia pública. .


Juliana von Hacht cereza
Directora de Desarrollo y Comunidad

PUBLICACIÓN/ENVÍO POR CORREO ANTES: 22 de septiembre de 2023

FECHA DE PUBLICACIÓN: 22 de septiembre de 2023

ESTADO DE CALIFORNIA

)) s

CONDADO DE MENDOCINO)

Declaro, bajo pena de perjurio, que soy empleado de la Ciudad de Fort Bragg en el Departamento de Desarrollo Comunitario; y que hice que este aviso se publicara en el caso de Aviso del Ayuntamiento el 22 de septiembre de 2023 o antes.



Juliana von Hacht Cherry, directora de desarrollo comunitario

cc: Propietarios dentro de un radio de 300'

Comisión de Planificación

Propietario/Solicitante/Agente

Listas de suscriptores 'Notificarme'



CIUDAD DE FORT BRAGG Constituida
el 5 de agosto de 1889
416 N. Franklin Street, Fort Bragg, CA 95437
Teléfono: (707) 961-2827
www.FortBragg.com

AVISO DE AUDIENCIA PÚBLICA

POR EL PRESENTE SE NOTIFICA que la Comisión de Planificación de Fort Bragg llevará a cabo una audiencia pública sobre el Permiso de uso 1-23 (UP 1-23), el Permiso de negocio de cannabis 1-23 (CBP 1-23) y la Variación 2-23 (VAR 2-23).) para que Emerald Triangle Cannabis opere en 546 S. Main St. en una reunión programada regularmente el miércoles 11 de octubre de 2023 a las 6:00 p. m. o tan pronto como el asunto pueda ser escuchado en el Ayuntamiento, en la esquina de las calles Main y Laurel (363 North Main Street), Fort Bragg, California. La audiencia pública se referirá al siguiente punto:

SOLICITUD: Permiso de uso 1-23 (UP 1-23), Permiso de negocio de cannabis 1-23 (CBP 1-23), Variación 2-23 (VAR 2-23)

FECHA DE PRESENTACIÓN: 4 de abril de 2023

SOLICITANTES: Drea Hypes, Gerald Hypes, Cannabis Triángulo Esmeralda
Uso minorista de cannabis "Triángulo Esmeralda"

546 S. Calle principal
018-020-48

PROYECTO: 14,914 pies cuadrados

UBICACIÓN: Carretera Comercial de Visitantes (CH), Zona Interior.

APN: TAMAÑO DEL LOTE: ZONIFICACIÓN: DESCRIPCIÓN DEL PROYECTO: Permiso de uso 1-23 (UP 1-23), Permiso de negocio de cannabis 1-23 (CBP 1-23) y Variación 2-23 (VAR 2-23) solicitudes que solicitan operar un negocio de cannabis en 546 S. Main Street.

AMBIENTAL: Exención Clase 1 de CEQA

Los comentarios públicos sobre esta Audiencia Pública pueden realizarse de cualquiera de las siguientes maneras: (1) Enviado por correo electrónico al Departamento de Desarrollo Comunitario, a CDD@fortbragg.com (2) Comentarios escritos entregados al Ayuntamiento, 416 N. Franklin Street antes de las 3:00 p.m. del día de la reunión; o (3) Comentarios verbales realizados durante la reunión, ya sea en persona en el Ayuntamiento o virtualmente usando Zoom si se proporciona un enlace de Zoom en el momento de la publicación de la agenda.

Los informes del personal y otros documentos que serán considerados por los Comisionados de Planificación estarán disponibles para su revisión en el sitio web de la Ciudad: <https://cityfortbragg.legistar.com/Calendar.aspx>. al menos 72 horas antes de la reunión de la Comisión de Planificación, y también están disponibles para revisión y/o copia durante el horario de oficina normal en Fort Bragg City Hall, 416 N. Franklin Street. Para obtener materiales de solicitud o para obtener más información, comuníquese con Juliana von Hacht Cherry, Directora de Desarrollo Comunitario, por correo electrónico a jcherry@fortbragg.com. Al concluir la audiencia pública, la Comisión de Planificación considerará una decisión sobre el asunto anterior.

Proceso de apelación y cronograma de tarifas: Las decisiones de la Comisión de Planificación serán definitivas a menos que se apelen ante el Concejo Municipal por escrito dentro de los diez (10) días siguientes con una tarifa de presentación de \$1,000 que se presentará ante el Secretario Municipal. Si impugna el caso anterior en el tribunal, es posible que se limite a plantear solo aquellas cuestiones que usted u otra persona plantearon en la audiencia pública descrita en este aviso o en correspondencia escrita entregada al Departamento de Desarrollo Comunitario durante o antes de la audiencia pública. .


Juliana von Hacht cereza
Directora de Desarrollo y Comunidad

PUBLICACIÓN/ENVÍO POR CORREO ANTES: 22 de septiembre de 2023

FECHA DE PUBLICACIÓN: 22 de septiembre de 2023

ESTADO DE CALIFORNIA

)) s

CONDADO DE MENDOCINO)

Declaro, bajo pena de perjurio, que soy empleado de la Ciudad de Fort Bragg en el Departamento de Desarrollo Comunitario; y que hice que este aviso se publicara en el caso de Aviso del Ayuntamiento el 22 de septiembre de 2023 o antes.



Juliana von Hacht Cherry, directora de desarrollo comunitario

cc: Propietarios dentro de un radio de 300'

Comisión de Planificación

Propietario/Solicitante/Agente

Listas de suscriptores 'Notificarme'