



City of Fort Bragg

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

Meeting Agenda Planning Commission

Thursday, August 5, 2021

6:00 PM

Town Hall, 363 N.Main Street

Special Planning Commission Meeting

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PLEASE TAKE NOTICE

This Planning Commission meeting is presented virtually via Zoom. The Governor's executive Orders N-25-20, N-29-20, and N-08-21 suspend certain requirements of the Brown Act. Planning Commissioners and staff may participate by video conference.

The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public Comment regarding matters on the agenda may be made by joining the Zoom video conference and using the Raise Hand feature when the Chair or Acting Chair calls for public comment. Any written public comments received after agenda publication will be forwarded to the Commissioners as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, California. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except those written 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 submitted to Sarah Peters, speters@fortbragg.com.

ZOOM WEBINAR INVITATION

You are invited to a Zoom webinar.

When: Aug 5, 2021 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/81618948595>

Or Telephone:

US: +1 720 707 2699 or +1 253 215 8782

Webinar ID: 816 1894 8595

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 PLANNING 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.

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.

4A. [21-414](#) Approve Minutes of July 21, 2021

Attachments: [07212021 Planning Commission Meeting](#)

4B. [21-411](#) Amended Denial Resolution MUP 1-21

Attachments: [Amended Resolution for Denial of Minor Use Permit 1-21 Sunshine Wholistic Co](#)
[Public Comment](#)

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

6. PUBLIC HEARINGS

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 August 5, 2021.

Sarah Peters
Administrative Assistant, Community Development Department

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

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Text File

File Number: 21-414

Agenda Date: 8/5/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Minutes

Agenda Number: 4A.

Approve Minutes of July 21, 2021



City of Fort Bragg

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Fort Bragg, CA 95437
Phone: (707) 961-2823
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Meeting Minutes Planning Commission

Wednesday, July 21, 2021

6:00 PM

Via Video Conference

Special Meeting

MEETING CALLED TO ORDER

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

PLEDGE OF ALLEGIANCE

ROLL CALL

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

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

None.

2. STAFF COMMENTS

Assistant Director O'Neal gave updates on two items of interest coming before City Council on July 26:

- 1) Grocery Outlet appeal hearing
- 2) Hearing on Formula Business ordinance for inland land use area

3. MATTERS FROM COMMISSIONERS

Commissioner Roberts thanked City staff for getting word out on water crisis.

4. CONSENT CALENDAR

Commissioner Roberts requested Item 4C be pulled for discussion. A motion was made by Commissioner Rogers, seconded by Vice Chair Andreis, to approve the Consent Calendar, excepting Item 4C.

4A [21-380](#) Approve Minutes of the June 23, 2021 Planning Commission Meeting

These Minutes were approved on the Consent Calendar.

4B [21-381](#) Approve Minutes of the July 14, 2021 Planning Commission Meeting

These Minutes were approved on the consent calendar.

ITEMS REMOVED FROM CONSENT CALENDAR

4C [21-379](#) Adopt Resolution Denying MUP 1-21 for Cannabis Dispensary at 144 N Franklin Street

Commissioner Roberts requested additional language be added to the Resolution.

Commissioners discussed other concerns and no vote was taken on this item.

This Planning Resolution was continued to a future meeting.

5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

Vice Chair Andreis recused himself from Item 4C.

6. PUBLIC HEARINGS

7. CONDUCT OF BUSINESS

ADJOURNMENT

Chair Logan closed the Planning Commission meeting at 6:14 P.M.

Jeremy Logan, Chair

Sarah Peters, Administrative Assistant

IMAGED (_____)



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Text File

File Number: 21-411

Agenda Date: 8/5/2021

Version: 1

Status: Business

In Control: Planning Commission

File Type: Planning Resolution

Agenda Number: 4B.

Amended Denial Resolution MUP 1-21

Take action on a resolution for denial of Minor Use Permit 1-21 for the establishment of a Cannabis Dispensary at 144 North Franklin Street

RESOLUTION NO. PC __-2021

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION FOR DENIAL OF MINOR USE PERMIT 1-21 FOR THE ESTABLISHMENT OF A CANNABIS DISPENSARY AT 144 NORTH FRANKLIN STREET.

WHEREAS, there was filed with this Commission a verified application on the forms prescribed by the Commission requesting approval of a Minor Use Permit under the provisions of Chapter 18 Article 7 of the Inland Land Use Development Code to permit the following Use:

Establish a cannabis dispensary on the property located at Assessor's Parcel No. 008-164-39 as shown on the Fort Bragg Parcel Map and addressed as 144 N. Franklin Street.

WHEREAS, the Planning Commission upon holding the hearing on June 23, 2021 determined that there was not sufficient evidence that the required noticing for the Minor Use Permit and the Minor Use Permit Administrative Hearing were properly posted at the property; and

WHEREAS, the approval of a project requires that all findings for a Minor Use Permit be made; and

WHEREAS, at the public hearing Planning Commission established the following finding c. could not be made:

- c. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;

The proposed use is not compatible with the existing and future land uses because testimony presented by the appellant and the neighbors provide evidence of a mixed-use neighborhood making it incompatible with the residential properties primarily adjacent to the site.

NOW, THEREFORE, BE IT RESOLVED that pursuant of all the evidence presented on June 23, 2021, both oral and documentary, and further based on the findings as stated above and incorporated herein by reference, Minor Use Permit 1-21 is denied subject to the provisions of the City of Fort Bragg Municipal Code Title 18 Inland Land Use Development Code.

The above and foregoing Resolution was introduced by Commissioner _____, seconded by Commissioner _____, and passed and adopted at a Special Meeting of the Planning Commission of the City of Fort Bragg held on the 5th day of August 2021, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

Jeremy Logan, Chair

ATTEST:

Sarah Peters, Administrative Assistant

From: [Jenny Shattuck](#)
To: [Peters, Sarah](#)
Subject: Planning Commission 8/5/21 public comment agenda item 4B
Date: Thursday, August 05, 2021 12:16:00 PM

Dear Planning Commission,

Once again, the resolution of the planning commission recommended tonight is not written as directed and made by unanimous vote by commissioners Logan, Roberts and Rogers in the meeting on July 14th based on your deliberations on June 23. It is imperative that staff follow direction from the planning commissioner and the resolutions need to reflect that. This has not been done for MUP 1-21 and it should be fixed by re-writing the resolution exactly as stated by the planning commissioners, not an alternative version prepared by staff that is not consistent with the commission's direction. The continued inaccuracies in planning work are not only unfair to the original applicant, those who appealed and the planning commissioners, but also to the city council who must make decisions on the appeal filed by the applicant based on the findings from the planning commission. I would hope that this third re-write would include an accurate resolution because this is important to all involved. Please correct the language of the resolution yourselves tonight and only adopt a resolution that accurately reflects your direction from past meetings.

Thanks,

Jenny Shattuck

From: [Jenny Shattuck](#)
To: [Peters, Sarah](#)
Subject: Agenda item 4B addition comment
Date: Thursday, August 05, 2021 1:19:39 PM

I realized my previous comment didn't include these sentences, so please attach to original comment..

My comment on the resolution not reflecting the planning commissions actual finding of denial about the notices was not specific enough. My point is that the resolution itself should explicitly state that the planning commission finds that not only was there not sufficient evidence that the required notices were properly posted at the property but the notices actually were not posted, including the notice for the June 23, 2021 appeal hearing before the planning commission.

The way it is currently written only mentions the notice for the minor use permit and the notice for the administrative minor use hearing but does not include the notice for the planning commission appeal hearing. Please revise the resolution.

Thank you,

Jenny Shattuck

From: [Bill Mann](#)
To: [Peters, Sarah](#)
Cc: [CDD User](#)
Subject: PLEASE ENTER TO AUG. 5, 2021 PLANNING COMMISSION RECORD
Date: Thursday, August 05, 2021 2:17:40 PM

August 5, 2021

Dear Commissioners:

As residents within the neighborhood surrounding the Proposed Cannabis Dispensary at 144 N. Franklin St., we hereby make extreme objection to City Staff Revisionism of actual recent Planning Commission Meeting decisions and the improper Notifications concerning the meetings themselves.

The current Planning Commission Resolution regarding the findings of the July 14, 2021 Cannabis Appeal Hearing needs to be corrected to properly address and reflect the true findings and language of the Commission's unanimous rejection of the Sunshine Appeal.

Specifically the flawed staff Summary of the July 14, 2021 Commission Hearing:

(1) fails to properly recite that the Commission rejected the appeal due to improper Posting On Site Notice of the Planning Commission Hearing to be held on June 23, 2021; and
(2) fails to fully detail the Neighborhood Objection and Testimony, illuminating the numerous and potentially catastrophic impacts of a cannabis dispensary butting up so dangerously close, to the high density residential neighborhood environment.

Please formally and immediately correct these sloppy and legally flawed revisions of the July 14, 2021 Planning Commission Hearing, including staff's faulty Notice Summaries, at your 6 P.M. Hearing this evening.

Regards,
Bill Mann
Susanne Rogers



Virus-free. www.avast.com

From: [Jacob Patterson](#)
To: [Peters, Sarah](#); [CDD User](#)
Subject: Public Comment for 8/5/21 PC meeting, Item 4B
Date: Thursday, August 05, 2021 4:50:42 PM

Planning Commission,

Please see the attached appeal filed by Brandy Moulton on behalf of Sunshine Holistic of your June 23, 2021 denial of MUP 1-21. The specific points she raised in the appeal may provide context for you to consider as you approve or revise the language concerning your specific findings of denial in the updated draft resolution before you tonight.

Regards,

--Jacob

RECEIVED

JUL 06 2021

CITY OF FORT BRAGG
CITY CLERK

FOR CITY USE ONLY:

File # 387-21/E

Date Filed: 7.6.2021

Received by: Jemos

APPEAL OF PLANNING COMMISSION DECISION

APPELLANT(S): Sunshine Holistic (Brandy Moulton)

MAILING ADDRESS: 18601 N Hwy 1 #166

CITY: Fort Bragg STATE & ZIP CODE: CA 95437

TELEPHONE #: 707-223-1129 FAX #: _____

**Describe the action being appealed and state the reasons for the appeal.
(You may attach a letter or other exhibits to describe or justify this appeal.)**

Appeal of the Planning Commission's action on June 23, 2021 regarding Item 6B - Minor Use Permit No. 1-21.

Please see letter attached for appeal reasons.

APPELLANT(S) SIGNATURE: 

DATE: 7.6.21

DATE: _____

FOR CITY USE ONLY:

Fee Paid \$1,000.00 \$1,000.00 (#110-0000-3998)

Receipt # _____

Date: 7.6.2021

Notice of Public Hearing:

Mailed () Date: _____

Published () Date: _____

Posted () Date: _____

CITY COUNCIL ACTION:

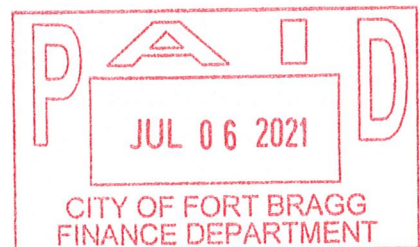
DATE: _____

Approve: _____

Deny: _____

Table: _____ Until _____

Receive & File: _____



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

RE: Sunshine Holistic’s Appeal of the June 23, 2021 Planning Commission’s Decision to Uphold Appellant’s Appeal and Deny Minor Use Permit Application No. 1-21 (“MUP 1-21”)

Dear City Council,

I, Brandy Moulton, as the Chief Executive Officer and owner of Sunshine Holistic, appeal the Planning Commission’s June 23, 2021 decision to uphold the appeal submitted by Gene Mertle and Jay Koski (“Appellant”) and deny MUP 1-21.

The basis for the Planning Commission’s decision to uphold the Appellant’s appeal and deny MUP 1-21 is unclear, vague, and ambiguous. **Accordingly, Sunshine Holistic is appealing the Planning Commission’s June 23, 2021 decision to deny MUP 1-21 in its entirety.**

The Planning Commission did not articulate the specific reasons for granting the appeal and the record is devoid of facts to support its decision. In light of the arbitrary and capricious nature of the Planning Commission’s decision, I am left to guess at the basis for their decision based upon comments made during the hearing. In doing so, I can specify the following reasons for my appeal:

1. An unsupported assertion was made by Jacob Patterson that the “Notice of Pending Permit” for MUP 1-21 was not properly posted. Contrary to this assertion, the Notice of Pending Permit was posted on February 12, 2021.

Please see the signed declarations attached to this letter attesting to this posting. Please also see the February 17, 2021 signed Declaration of Posting that was part of the staff materials provided to the Planning Commission.

Even if the notice was defective, pursuant to the Fort Bragg Municipal Code, this is not a basis for granting the appeal.

2. Appellant arbitrarily objected to the design, location, size, and operating characteristics of the proposed project. No evidence was provided to support this assertion. The Zoning Ordinance specifically allows for cannabis retail stores in the Central Business District (“CBD”) with a minor use permit. The General Plan provides that the CBD supports mixed uses of retail stores and residences, *so long as the mixed-use does not conflict with the primary retail function of the CBD*. It would be counter-intuitive for the City to pass Ord. 952-2019 to allow for cannabis retail in the CBD while simultaneously finding the use incompatible with the neighboring land uses.
3. The Planning Commission arbitrarily held that our operating plan was not sufficient enough to ensure that the business would not endanger the public welfare. No evidence was provided or used to support this assertion about our project.

Contrarily, our submitted MUP 1-21 application (which was part of the staff materials provided to the Planning Commission) includes several security measures we intend to incorporate at our proposed facility. We are also subject to several operational restrictions at both the local and State level which ensures that commercial cannabis businesses are not detrimental to the public welfare.

4. The Planning Commission improperly considered issues outside the scope of its jurisdiction. Fort Bragg Municipal Code section 18.92.030(C) provides that an appeal shall be limited to issues raised at or before the May 18, 2021 administrative hearing.

The Planning Commission engaged in and provoked unwarranted considerations including, but not limited to:

- a. Repeatedly considering information provided within the previous minor use permit application MUP 4-20;
- b. Requesting and discussing crime statistics for unrelated cannabis retail operations;
- c. Inquiring about the City's process on receiving cannabis tax money in light of the status of federal legalization;
- d. Inquiring about the Planning Commission's authority to inspect cannabis businesses employee lists; and
- e. Inquiring about the Planning Commission's authority to deny MUP 1-21 based on the required background check process despite the City Attorney's repeated statements that such considerations were outside the scope of the Planning Commission's review.

These unwarranted comments, considerations, and requests should be disregarded because the Planning Commission lacked jurisdiction to consider those issues.

5. All of the evidence in the record supports the necessary required findings for MUP 1-21.

Appellant cannot simply make assertions that are contrary to, and unsupported by, the evidence in the record, and the Planning Commission cannot overturn the Community Development Director's project approval based on these unsupported assertions.

Supplemental information to further support our appeal bases shall be submitted closer to the City Council hearing date as is expressly permitted by the City.

Thank you,

Brandy Moulton
CEO of Sunshine Holistic

CITY OF FORT BRAGG
416 North Franklin Street
Fort Bragg, CA 95437
Tel: (707) 961-2827
Fax: (707) 961-2802
http://city.fortbragg.com



Case No(s) _____
Date Filed _____
Fee _____
Receipt No. _____
Received by _____

Office Use Only - August 2016

CANNABIS BUSINESS PERMIT APPLICATION FORM

Please complete this application thoroughly and accurately as possible using the application checklist. Incomplete applications cannot be processed until they are complete. This application will be processed along with a City Business License and will remain pending until all required licenses and permits are approved. Public hearing expenses are borne by the applicant, owner, or agent.

APPLICANT

Name: Sunshine Holistic / Brandy Moulton
Mailing Address: _____

City: Fort Bragg State: CA Zip Code: 95437 Email: _____

PROPERTY OWNER

Name: Lyndia Pycott
Mailing Address: _____

City: Fort Bragg State: CA Zip Code: 95437 Email: _____

AGENT

Name: same as applicant.
Mailing Address: _____ Phone: _____

City: _____ State: _____ Zip Code: _____ Email: _____

STREET ADDRESS OF PROJECT 144 N Franklin St Fort Bragg CA 95437

ASSESSOR'S PARCEL NUMBER(S) 0081643900

PROPERTY SIZE _____ Square Feet or 0.35 Acres

TOTAL SQUARE FOOTAGE OF ALL STRUCTURES AND BUILDINGS TO BE USED BY THE APPLICANT: 5600 Square Feet

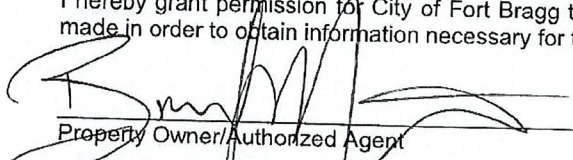
PROPOSED HOURS OF OPERATION: 9am 9pm

PROJECT DESCRIPTION

Briefly describe project as shown on proposed plans retail cannabis dispensary.

PUBLIC SAFETY REVIEW AUTHORIZATION

I hereby grant permission for City of Fort Bragg to review the application and premises for which this application is made in order to obtain information necessary for the preparation of required reports and render its decision.


Property Owner/Authorized Agent

2-17-21
Date

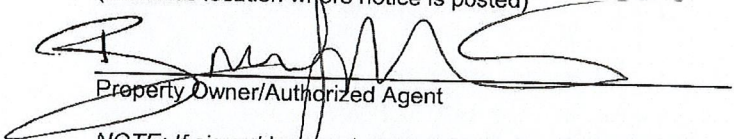
NOTE: If signed by agent, **owner** must sign "Authorization of Agent" below.

DECLARATION OF POSTING

At the time the application is submitted for filing, the applicant must complete and post the "Notice of Pending Permit" form at a conspicuous place, easily read by the public and as close as possible to the project site. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Community Development Department cannot process the application.

I hereby certify that my authorized representative or I posted the "Notice of Pending Permit" form in a conspicuous place, easily seen by the public and as close as possible to the project site for:

front windows
(Describe location where notice is posted)

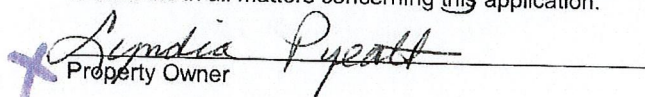

Property Owner/Authorized Agent

2-17-21
Date

NOTE: If signed by agent, **owner** must sign "Authorization of Agent" below.

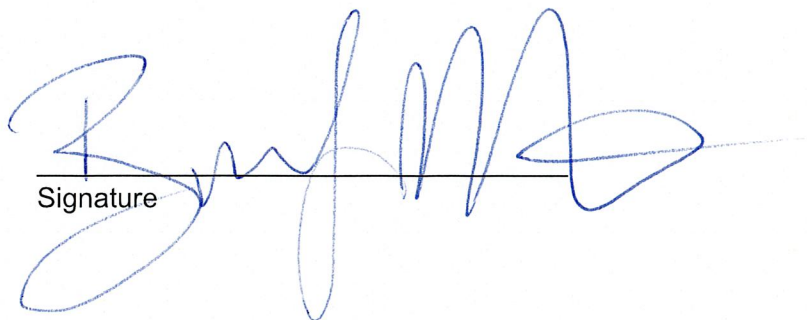
AUTHORIZATION OF AGENT

I hereby authorize Brandy Moulton to act as my representative and to bind me in all matters concerning this application.


Property Owner

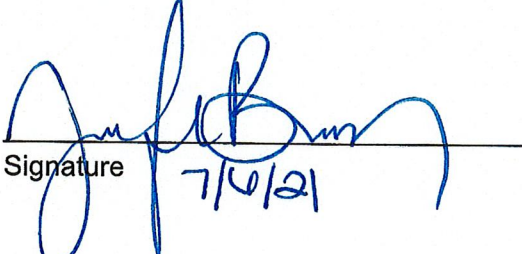
2/18/21
Date

I, Brandy Moulton, attest that the Notice of Pending Permit was posted on February 12th, 2021 in the west facing window next to the main entrance.

A handwritten signature in blue ink, appearing to be 'Brandy Moulton', written over a horizontal line. The signature is stylized and cursive.

Signature

I, Jennifer Brown, work at 144 N Franklin Street in Fort Bragg and do confirm that the Notice of Pending Permit was posted in February and remained posted for several months.


Signature 7/10/21

Date Printed: 07/06/2021 12:00
Receipt Date: 07/06/2021 12:00 PM
Receipt No. 00437799

City of Fort Bragg
416 N Franklin St
Fort Bragg, Ca 95437
(707) 961-2825
www.fortbragg.com

CR		1,000.00
MiscReven		
Appeal of Plan		
ning Commissio		
n 6/23/21 Item		
68		1,000.00

Total		1,000.00
Cash		0.00
Check	11	1,000.00

Change 0.00

SEA
Customer #: 017429
18601 N Highway 1
PMB 166
Fort Bragg, CA 954378759

Cashier: counter
Station: CH1298