



# City of Fort Bragg

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

## Meeting Agenda Planning Commission

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Wednesday, February 8, 2023

6:00 PM

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

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### 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.*

*You are invited to a Zoom webinar.*

*When: Feb 8, 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/85760822943>*

*Or One tap mobile: US: +16694449171,,85760822943# or +13462487799,*

*Or Telephone: US: +1 669 444 9171 or +1 346 248 7799 or +1 719 359 4580*

*Webinar ID: 857 6082 2943*

*International numbers available: <https://us06web.zoom.us/j/85760822943>*

*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](mailto: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.*

- 4A. [22-634](#)** Approve Minutes of the December 14, 2022 Planning Commission Meeting

***Attachments:*** [12.14.2022 Planning Commission Minutes](#)

## **5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

## **6. PUBLIC HEARINGS**

## **7. CONDUCT OF BUSINESS**

- 7A. [22-630](#)** Recognize Outgoing Planning Commissioners Michelle Roberts and Andrew Jordan



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: 22-634

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**Agenda Date:** 2/8/2023

**Version:** 1

**Status:** Business

**In Control:** Planning Commission

**File Type:** Minutes

**Agenda Number:** 4A.

Approve Minutes of the December 14, 2022 Planning Commission Meeting



# City of Fort Bragg

416 N Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
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## Meeting Minutes Planning Commission

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Wednesday, December 14, 2022

6:00 PM

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

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### MEETING CALLED TO ORDER

Chair Logan called the meeting to order at 6:01 p.m.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

**Present** 5 - Commissioner Jeremy Logan, Commissioner Scott Deitz, Commissioner Stan Miklose, Commissioner Jary Stavely, and Commissioner David Jensen

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

Public Comment on Non-Agenda items was received from Jay McMartin Rosenquist and Annemarie Weibel.

### 2. STAFF COMMENTS

Assistant City Manager McCormick summarized the history and purpose of the informal workshop held this evening before the Planning Commission meeting. McCormick also welcomed the two new Commissioners. Outgoing Commissioners Roberts and Jordan to be recognized at the first meeting in January to thank them for their service to the City of Fort Bragg.

### 3. MATTERS FROM COMMISSIONERS

Commissioner Deitz spoke about the housing shortage in Fort Bragg, particularly affordable housing, and outlined some programs that are being implemented to address it. He suggested a marketing program to spread word of these programs and hopefully encourage building. He said the City also needs larger homes on larger parcels, and suggested two approaches - property annexation and Millsite zoning. Commissioner Deitz requested an Ad Hoc committee be formed to begin looking at Millsite zoning. Chair Logan agreed to agendaize this discussion for a meeting in January.

Commissioners Stavely and Jensen introduced themselves and summarized their backgrounds. Both were welcomed to the Commission.

Chair Logan asked that staff look into the new Baymont sign to ensure it meets the conditions of its permit.

### 4. CONSENT CALENDAR

#### Approval of the Consent Calendar

A motion was made by Commissioner Miklose, seconded by Commissioner

**Stavely, that the Consent Calendar be approved. The motion carried by the following vote:**

**Aye:** 5 - Commissioner Logan, Commissioner Deitz, Commissioner Miklose, Commissioner Stavely and Commissioner Jensen

**4A. [22-609](#)** Adopt Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

**adopted on the Consent Calendar**

**4B. [22-610](#)** Approve Minutes of the November 30, 2022 Planning Commission Meeting

**approved on the Consent Calendar**

## **5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

Commissioner Miklose and Commissioner Deitz stated that they met with City staff about the Cypress Street signal collection points and lack of sidewalks. Commissioner Deitz stated that he met with Tiffany Ferris and Jenny Shattuck at the Cypress Street intersection to discuss the inability to use the crossing button from a wheelchair and potential solutions. He said he was also at the pre-meeting workshop with CalTrans.

Commissioner Jensen said that he spoke on the phone with Jenny Shattuck about whether or not there would be an open house this evening.

## **6. PUBLIC HEARINGS**

**6A. [22-612](#)** Ministerial Approval to Convert an Existing Residential Accessory Structure located at 645 E. Redwood Avenue to an Accessory Dwelling Unit

Assistant City Manager McCormick summarized the history of the proposed Accessory Dwelling Unit (ADU) project application. It was originally rejected, but upon further review, was determined to be eligible for a Variance requiring a public hearing. However after a subsequent review of the recently updated State ADU handbook, it was determined that the project could be decided over the counter, as these projects are permitted by right. McCormick then responded to Commissioners' clarifying questions related to City ordinance updates, Variance requirements, and water and sewer connection and capacity fees.

**6B. [22-585](#)** Continue Public Hearing and Consider Adoption of a Resolution Approving Coastal Development Permit 6-22, Design Review 18-22, and Ratifying the CEQA Determination for the CalTrans ADA Upgrades to Highway One.

At 6:33 p.m., Chair Logan reintroduced the Public Hearing that had been continued from the November 30, 2022 Planning Commission meeting. City Consultant Jones provided a recap of the proposed project and special conditions. City Attorney Collins then asked that the two new Commissioners state whether or not they had reviewed the record of the hearing item that was continued from the November 30 meeting, which was held before their appointments to the Commission. Commissioners Jensen and Stavely both stated that they had reviewed the record from the continued hearing.

Commissioners' clarifying questions for staff and applicant included access and sidewalk work scheduling, sidewalk width, other sidewalk projects in the area, detectable warning surface

colors, push button at the Cypress Street intersection, signage, right-of-way status, future projects, pedestrian traffic between projects, removal of No Parking signs downtown along west side of street, removal or relocation of trees at Rite Aid, and project schedule and timeline. Public Comment was received from Jenny Shattuck, Jacob Patterson, and Annemarie Weibel. Chair Logan closed the Public Hearing at 7:22 p.m. Under deliberation, Commissioners discussed art on retaining walls, panel design, sidewalks, handrail design and purpose of rail on top of retaining wall.

**A motion was made by Commissioner Deitz, seconded by Commissioner Miklose, that this Planning Resolution be adopted. The motion carried by the following vote:**

**Aye:** 5 - Commissioner Logan, Commissioner Deitz, Commissioner Miklose, Commissioner Stavely and Commissioner Jensen

Enactment No: RES PC29-2022

**7. CONDUCT OF BUSINESS**

**ADJOURNMENT**

Chair Logan adjourned the meeting at 7:37 p.m.

\_\_\_\_\_  
Jeremy Logan, Chair

\_\_\_\_\_  
Sarah Peters, Assistant Planner

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





# City of Fort Bragg

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## Text File

File Number: 22-630

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**Agenda Date:** 2/8/2023

**Version:** 1

**Status:** Business

**In Control:** Planning Commission

**File Type:**  
Recognition/Announcements

**Agenda Number:** 7A.

Recognize Outgoing Planning Commissioners Michelle Roberts and Andrew Jordan



# City of Fort Bragg

416 N Franklin Street  
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## Text File

File Number: 23-011

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**Agenda Date:** 2/8/2023

**Version:** 1

**Status:** Business

**In Control:** Planning Commission

**File Type:** Planning Staff Report

**Agenda Number:** 7B.

Perform Business Operations Established in Bylaws for 2023 Planning Year



**CITY OF FORT BRAGG  
COMMUNITY DEVELOPMENT DEPARTMENT**

416 N. FRANKLIN, FORT BRAGG, CA 95437  
PHONE 707/961-2827 FAX 707/961-2802

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**MEMORANDUM**

**DATE: FEBRUARY 8, 2023**  
**TO: FORT BRAGG PLANNING COMMISSION**  
**FROM: COMMUNITY DEVELOPMENT DEPARTMENT**  
**SUBJECT: ANNUAL BUSINESS OPERATIONS FOR 2023 PLANNING YEAR**

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- I. SELECT A CHAIR AND VICE CHAIR:** The Planning Commission shall select one of its members as Chair and one member as Vice-Chair of the Commission. In case of the absence of the Chair, the Vice-Chair shall act as the Chair. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.050).

**ACTION:**

- **Select Chair and Vice Chair**

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

**ACTION:**

- **Review Attachment 1 – PC Meeting Schedule 2023**
- **Confirm meeting dates to be maintained as published**

- III. REVIEW SUMMARY REPORT OF WORK FOR THE 2022 CALENDAR YEAR:** After the close of the calendar year, the Commission may discuss and prepare a summary report of its work for the calendar year. The report may be submitted to the City Council and may be used for reporting to County, State or Federal agencies. (Ord. 740 §1, 1992) (Fort Bragg Municipal Code §2.20.010).

The five-member Planning Commission is appointed by the City Council, to review land use and development permits (use permits, coastal permits, design review

permits, subdivisions, etc.) for consistency with the goals and policies of the Fort Bragg General Plan, the Land Use and Development Code, and the Fort Bragg Municipal Code.

The Planning Commission provides recommendations to the City Council on General Plan amendments and rezoning requests and provides direction to the Community Development Department regarding the development of new planning policies and the interpretation of all City planning policies and codes.

In 2022, the Fort Bragg Planning Commission held 16 meetings – 12 regular meetings and 4 special meetings. At these meetings there were 14 public hearings, 21 staff reports given and 21 planning resolutions adopted. The Planning Commission made decisions or recommendations on 10 planning permits and one ordinance amendment. The table below identifies the work of the staff of the Community Development Department as well as the work of the Planning Commission.

INDICATORS	2020	2021	2022	% Change
Development Permits (Coastal Development Permits, Use Permits, Design Review, Limited Term Permits, Subdivisions, etc.)	33	63	83	32
CEQA Documents (EIRs, MNDs, NDs)	2	1	2	100
Building Permits	76	146	136	-7
Code Enforcement Cases*	50	131	176	34
Legislative Activity	2	4	4	0
Draft Work/On-Going Tasks	-	2	1	-50
Grants	3	3	1	-67
Business Licenses-New Awarded	93	92	90	-2
Sign Permits	8	20	10	-50
No. Planning Commission Staff Reports	9	23	21	-9
No. Planning Resolutions (new)	2	12	29	140
No. CDC Staff Reports	3	10	12	20

*Table 1 Performance/Workload Measures by Calendar Year*

**\*NOTE ON CODE ENFORCEMENT:** In 2022, there were 176 code enforcement cases logged in CDD for the calendar year. Of those 176 cases, 54 were resolved and 57 are in active status. The remainder of the cases are in “pending” or “closed” status. “Pending” refers to cases that have yet to be initiated, and “Closed” refers to cases that, after further investigation, were determined to not be a violation handled by the City organization. Of the active cases carried over from the previous 2021 calendar year, 10 of the 34 cases were resolved.

As in previous years, the most common violations were for nuisance conditions. Nuisance conditions included an excess of trash, debris, junk on the premises or a lack of property maintenance. The second most common violations were for unpermitted activities such as unpermitted construction, unlicensed businesses, and violations of conditional use permits. Other common violations included storm water pollution and nuisance animals.

**ACTION:**

- **Review Attachment 2 – Report of 2022 Planning Permit Hearings**

- **Recommend Staff submit progress report to City Council**

**IV. REVIEW COMMUNITY DEVELOPMENT DEPARTMENT CHANGES:** There were multiple departmental changes made in 2022. Code Enforcement moved to the Police Department. Grants moved from Administration to Community Development, and the Assistant City Manager took on the role of Planning Director. The Assistant Planner position was filled, and recruitment is underway for a Planning Technician. Additionally, a consultant is providing 10 hours per week providing training and consultation services to department staff.

**V. REVIEW PLANNING COMMISSION BYLAWS:** Fort Bragg Municipal Code Chapter 2.20 — PLANNING COMMISSION, provides in part that the Planning Commission shall have the power, by resolution, to adopt rules of procedure governing its meetings, its operation, its conduct of public hearings and the performance of its duties. The last update to the Planning Commission ByLaws was in 2022. In order to ensure that the ByLaws are consistent with the operating procedures and practices, they should be reviewed annually.

**ACTION:**

- **Review Attachment 3 – Amended ByLaws Draft**
- **Provide direction to staff for ByLaws Amendments**

**2023 Planning Commission Meeting Deadlines**

Hearing Date	Issue NOI & CEQA Doc. Begin 30 Day Review Period	Issue Request For Comments	Public Agency Comment Deadline	Notice Due to Advocate	Staff Reports Due in Legistar	Packet Due to Planning Tech	Publish Packet	End of Appeal Period/Issue Permit or NOFA
<b>2nd &amp; 4th Wed</b>	<b>less 40 days</b>	<b>less 60 days</b>	<b>less 30 days</b>	<b>Less 20 days</b>	<b>Less 13 days</b>	<b>Less 7 days</b>	<b>Less 5 days</b>	<b>Plus 13 Days</b>
1/11/2023	12/2/2022	11/13/2022	12/13/2022	12/23/2022	12/29/2022	1/4/2023	1/6/2023	1/24/2023
1/25/2023	12/16/2022	11/27/2022	12/27/2022	1/6/2023	1/12/2023	1/18/2023	1/20/2023	2/7/2023
2/8/2023	12/30/2022	12/11/2022	1/10/2023	1/20/2023	1/26/2023	2/1/2023	2/3/2023	2/21/2023
2/22/2023	1/13/2023	12/25/2022	1/24/2023	2/3/2023	2/9/2023	2/15/2023	2/17/2023	3/7/2023
3/8/2023	1/27/2023	1/8/2023	2/7/2023	2/17/2023	2/23/2023	3/1/2023	3/3/2023	3/21/2023
3/22/2023	2/10/2023	1/22/2023	2/21/2023	3/3/2023	3/9/2023	3/15/2023	3/17/2023	4/4/2023
4/12/2023	3/3/2023	2/12/2023	3/14/2023	3/24/2023	3/30/2023	4/5/2023	4/7/2023	4/25/2023
4/26/2023	3/17/2023	2/26/2023	3/28/2023	4/7/2023	4/13/2023	4/19/2023	4/21/2023	5/9/2023
5/10/2023	3/31/2023	3/12/2023	4/11/2023	4/21/2023	4/27/2023	5/3/2023	5/5/2023	5/23/2023
5/24/2023	4/14/2023	3/26/2023	4/25/2023	5/5/2023	5/11/2023	5/17/2023	5/19/2023	6/6/2023
6/14/2023	5/5/2023	4/16/2023	5/16/2023	5/26/2023	6/1/2023	6/7/2023	6/9/2023	6/27/2023
6/28/2023	5/19/2023	4/30/2023	5/30/2023	6/9/2023	6/15/2023	6/21/2023	6/23/2023	7/11/2023
7/12/2023	6/2/2023	5/14/2023	6/13/2023	6/23/2023	6/29/2023	7/5/2023	7/7/2023	7/25/2023
7/26/2023	6/16/2023	5/28/2023	6/27/2023	7/7/2023	7/13/2023	7/19/2023	7/21/2023	8/8/2023
8/9/2023	6/30/2023	6/11/2023	7/11/2023	7/21/2023	7/27/2023	8/2/2023	8/4/2023	8/22/2023
8/23/2023	7/14/2023	6/25/2023	7/25/2023	8/4/2023	8/10/2023	8/16/2023	8/18/2023	9/5/2023
9/13/2023	8/4/2023	7/16/2023	8/15/2023	8/25/2023	8/31/2023	9/6/2023	9/8/2023	9/26/2023
9/27/2023	8/18/2023	7/30/2023	8/29/2023	9/8/2023	9/14/2023	9/20/2023	9/22/2023	10/10/2023
10/11/2023	9/1/2023	8/13/2023	9/12/2023	9/22/2023	9/28/2023	10/4/2023	10/6/2023	10/24/2023
10/25/2023	9/15/2023	8/27/2023	9/26/2023	10/6/2023	10/12/2023	10/18/2023	10/20/2023	11/7/2023
11/8/2023	9/29/2023	9/10/2023	10/10/2023	10/20/2023	10/26/2023	11/1/2023	11/3/2023	11/21/2023
11/22/2023	10/13/2023	9/24/2023	10/24/2023	11/3/2023	11/9/2023	11/15/2023	11/17/2023	12/5/2023
12/13/2023	11/3/2023	10/15/2023	11/14/2023	11/24/2023	11/30/2023	12/6/2023	12/8/2023	12/26/2023
12/27/2023	11/17/2023	10/29/2023	11/28/2023	12/8/2023	12/14/2023	12/20/2023	12/22/2023	1/9/2024

2022 PLANNING COMMISSION HEARINGS

Permit No.	Address	Project Summary	Applicant	Application Date	Application Complete	Hearing Date	Effective Date
CDP 11-19 UP 2-19 DR 4-22	1241 N. Main Street	Outdoor storage of porta-potties and supplies. Truck to truck waste transfer.	Thompson's Porta Septic Service Inc.	09/10/19 10/20/20	12/16/21	<b>03/30/22</b>	04/11/22
CDP 7-21 MUP 1-22 DR 10-21	701 S. Franklin Street	Construct 2,750 Sq. Ft. metal building with 3 automotive repair bays and with associated parking.	David Cimolino, Fort Bragg Transmission	12/10/21	12/15/21	<b>05/25/22</b> <b>06/22/22</b>	07/02/22
UP 1-22	142 E. Laurel Street	Establish wine bar and wine retail store in an existing building.	Mahkayla Miller	03/31/22	04/28/22	<b>05/25/22</b>	06/06/22
UP 2-22	245 E. Laurel Street	Change of use from Commercial to Single Family Residential.	Jillian Smith	04/05/22	05/13/22	<b>05/25/22</b>	06/06/22
UP 3-22	362 N. Franklin Street	Establish Brewery/Restaurant in an existing building.	Terrence Patrick Broderick	05/24/22	06/15/22	<b>07/27/22</b>	08/06/22
DR 14-22	362 N. Main Street	Design Review for brewery/restaurant.	Terrence Patrick Broderick	05/24/22	06/15/22	<b>08/17/22</b>	08/06/22
UP 4-22 ZD 1-22	1280 N. Main Street	C&S Waste Transfer Station	Bruce McCracken, C&S Waste Sol.	10/25/21	03/11/22	<b>10/19/22</b>	10/31/22
CDP 4-21	225 N. Main Street	Removal of underground storage tanks.	Hussein Alzghoul	10/28/21	08/10/22	<b>10/19/22</b>	11/22/22
CDP 10-22 UP 5-22 DR 15-22	840 S. Franklin Street	Construction and operation of mixed-use development.	David Duncan	09/12/22	09/22/22	<b>11/09/22</b>	11/22/22
CDP 6-22 DR 18-22 CEQA Det	Highway One various	CalTrans ADA upgrades to Highway One.	CalTrans, Stephen Umbertis	06/17/22	11/08/22	<b>11/30/22</b> <b>12/14/22</b>	To Be Determined

Exhibit A  
FORT BRAGG PLANNING COMMISSION  
BYLAWS  
02/0823/20232

**I. PURPOSE**

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

**II. MEETINGS**

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

B. The meeting place of the Planning Commission for the transaction of business is fixed and established at the Town Hall, situated on the southwest corner of North Main and Laurel Streets, and commonly known as 363 North Main Street, Fort Bragg, California or virtually if resolved by the body in accordance with AB361. The meetings will be conducted in person, via webinar and televised on local TV as well as livestreamed on the City's website. (~~Ord. 274, §2, 1947; Ord. 740, §1, 1992~~) (Fort Bragg Municipal Code §2.2004.100920)

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

1. The Chair; or,
2. In the Chair's absence, by the Vice-Chair; or,
3. By a majority of the members of the Planning Commission; or
4. The City Manager, Community Development Director, or City Staff

Unless a special meeting is called by a majority vote of the members at a regular or special meeting, a written notice must be delivered, to each member of the Planning Commission at least twenty-four hours prior to the special meeting. The notice must specify the time and place of the special meeting and the business to be considered. The notice must be posted at City Hall in the kiosk and on the City's website. The only business that may be considered at a special meeting is the business shown on the notice. (~~Ord. 499 §2, 1978; Ord. 740 §1, 1992~~) (Fort Bragg Municipal Code §2.2004.1090)

D. All regular and special meetings shall be open to the public. (~~Ord. 623, 1984; Ord. 602, 1983; Ord. 83, §2, 1905~~) (Fort Bragg Municipal Code §2.2004.0100)

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

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Public Comments on (1) Non-Agenda Items & (2) Consent Calendar Items
5. Matters from Staff
6. Matters from Commissioners
7. Consent Calendar
8. Disclosure of Ex Parte Communications on Agenda Items
9. Public Hearings
10. Conduct of Business
11. Adjournment

~~(Ord. 738 §1, 1992; Ord. 674 §1, 1987; Ord. 84 §4, 1995)~~ (Fort Bragg Municipal Code §2.204.100~~60~~)

F. The adjournment time for all Commission meetings shall be 9:00 p.m. If the Commission is still in session at 9:00 p.m., the Commission may continue the meeting upon majority vote. Further, if it appears that the meeting will adjourn, the Planning Commission shall vote upon which items are to be continued to a future meeting. If a public hearing is underway at adjournment, the Planning Commission may continue the meeting to a future date certain. ~~(Ord. 740 §1, 1992)~~ (Fort Bragg Municipal Code §2.20.100)

### III. **OPERATIONS**

A. There shall be five (5) members of the Planning Commission appointed by the City Council. Each member of the City Council may submit the name of a resident of the City as a nominee for a seat on the Planning Commission. The City Council as a whole shall vote to appoint the nominee, the appointment requiring the affirmative vote of at least three (3) City Councilmembers. ~~(Ord. 805, § 1A, passed 1997)~~ (Fort Bragg Municipal Code §2.20.020)

B. Planning Commission members shall be seated for a potential term coinciding with that of the nominating City Councilmember, provided, however, that the commissioners serve at the will of the City Council. The City Council may remove any Planning Commissioner at any time through the affirmative vote of at least four (4) of the City Councilmembers. ~~(Ord. 805, § 1A, passed 1997)~~ (Fort Bragg Municipal Code §2.20.020)

C. A majority of ~~appointed~~ Planning Commissioners constitutes a quorum for the transaction of business. (Government Code §36810)

D. At the first regularly held meeting of the year, the Planning Commission shall select one of its members as Chair and one member as Vice-Chair of the Commission. In case of the absence of the Chair, the Vice-Chair shall act as the Chair. If the Chair and Vice-Chair leave the Commission, and there are no officers, the Commission shall elect a Chair and Vice-Chair as the first order of business of the meeting at the next Commission meeting. ~~(Ord. 740 §1, 1992)~~ (Fort Bragg Municipal Code §2.20.050)

- E. At the first regularly held meeting of the year, the Commission may discuss and adopt a work schedule for the year as a guide for work on the General Plan of the City. (~~Ord. 740 §1, 1992~~) (Fort Bragg Municipal Code §2.20.100070)
- F. The Community Development Director shall provide ~~a quarterly~~ updates to the Commission of all major current planning projects and all long range planning activities at the request of the Chair.
- G. After the close of the calendar year, the Commission may discuss and prepare a summary report of its work for the calendar year. The report may be submitted to the City Council and may be used for reporting to County, State or Federal agencies. (~~Ord. 740 §1, 1992~~) (Fort Bragg Municipal Code §2.20.010)
- H. To allow for efficient consideration of planning and zoning matters, Ad Hoc committees may be appointed to consider specific matters and report to the Commission. Ad Hoc committees will be appointed by the Chair, after consultation with the Commission as to the purpose and composition of the committee. Not more than two commissioners may be appointed to an Ad Hoc committee. (~~Ord. 500 §3, 1978; Ord. 740 §1, 1992~~) (Fort Bragg Municipal Code §2.2004.100075)
1. At the first meeting of each Ad Hoc committee, one member shall be elected as Chair. The Chair shall be responsible to direct the committee and to report to the Commission when the committee believes it has completed its task. The Chair shall ensure that proper notices are posted at City Hall for meetings of the Ad Hoc committee. The Chair shall account for member participation and attendance at meetings or other work related to the task, including records of action or progress. The Chair may report to the Commission periodically, about progress and/or about member attendance. Each member of an Ad Hoc committee is responsible to attend meetings of the committee. Committee meeting dates shall be set by a consensus of the committee.
  2. If one or more members of an Ad Hoc committee is/are absent from one (1) meeting that has been set by consensus, the Chair shall attempt to contact the member and determine his/her interest in serving on the committee. The Chair shall report to the Commission, requesting a replacement member, if the member is not willing to continue or if failure to attend meetings continues.
  3. Final Ad Hoc committee recommendations shall be presented to the Commission by the Chair in writing. When the committee report is received, the Commission may receive majority and minority opinions from committee members.
  4. If the Commission has a vacancy, all Ad Hoc committee activities shall cease until the Commission is fully seated with all five members, in order to avoid any Brown Act violations.
- I. The Chair shall decide all questions of order.  
(~~Ord. 674 §1, 1987; Ord. 84 §2, 1995~~) (Fort Bragg Municipal Code §2.2004.100040)

- J. The Chair may make or second any motion before the Planning Commission and present and discuss any matter as a member of the Planning Commission.  
(~~Ord. 498 §6, 1978~~) (Fort Bragg Municipal Code §2.~~2004.100034~~)
- K. In the event of a tie vote, the motion shall fail.  
(~~Ord. 552 § 2, 3, 1981~~) (Fort Bragg Municipal Code §2.~~2004.100038~~)
- L. A motion to reconsider shall not be in order except on the same day or at the next session of the Commission after which the action ~~proposed to befor~~ reconsider~~ationed~~ took place. Such motion must be made by a member who voted with the majority on the question, except that a member who was necessarily absent may, at the next meeting at which he or she is present, have a right to move a reconsideration of the same. A motion to reconsider shall require a majority vote. Whenever a motion to reconsider fails, further reconsideration shall not be granted.
- M. No member of the Planning Commission shall be permitted to interrupt another during debate or discussion of any subject. (~~Ord. 674 §1, 1987; Ord. 84 §10, 1905~~) (Fort Bragg Municipal Code §2.~~2004.10029~~)
- N. 1. Every member of the Planning Commission present shall vote on every question or matter when put, except when disqualified from voting by operation of law, or unless the Planning Commission for special reasons entered in the minutes, excuses the member from voting on a particular matter then under consideration. Should a member abstain from voting, they shall state the reason for abstaining, and said reason shall be recorded in the minutes of said meeting. (~~Ord. 738§5, 1992; Ord. 84§11, 1905~~) (Fort Bragg Municipal Code §2.~~2004.100130~~)  
2. Any member of the Planning Commission who votes in the minority, on any question or matter, may file a minority opinion. The minority opinion may be verbal at the time of the vote, or written and submitted for inclusion into the minutes of the question or matter. A minority opinion shall be shown as the personal comments of an individual member and not subject to change by a majority of the Commission. A written minority opinion must be submitted to the Planning Director between the vote on the question or matter and the beginning of the next regular meeting when the minutes on the question or matter are considered.
- O. When the Commission revises staff recommendations on an application and the applicant is not present or represented, the Commission shall defer a decision until the applicant can be present or represented, unless that applicant has submitted a formal written request for the Commission to consider their project application without the applicant's presence.
- P. Each member of the Planning Commission is responsible to attend Commission meetings. Section 2.20.080 of the Fort Bragg Municipal Code shall be enforced for each member. Section 2.20.080 reads as follows: In the event a member of the Commission does not attend meetings for a period of 60 days, unless excused for cause by the Chairperson of the Commission, the office of the member shall be deemed to be vacant and the term of the

member ipso facto terminated. The Secretary of the Commission shall immediately notify the Mayor of the termination.

- Q. If the Planning Director determines that a substantial question of interpretation on a planning matter needs the review of the Planning Commission, the Planning Director shall introduce the matter at the next regular meeting. The matter may apply to City ordinances or to a current project. The Planning Director shall provide a written report to the Planning Commission including the following:
1. A statement of the substantial question for review.
  2. A reference to ordinances in the Municipal Code that apply to the substantial question.
  3. A reference to the portions of the General Plan that may apply.
  4. A reference to previous actions by the Commission or City Council that may apply.

After the Planning Commission has studied the substantial question, it shall adopt a finding to be used by the Planning Director for all future interpretations/applications of the planning regulation.

#### **IV. PUBLIC HEARINGS**

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

- A. The Chair will announce the item from the agenda;
- B. The Chair will open the public hearing, stating the time:
  1. The Community Development Director and/or planner will present a staff **summary** report and answer questions of the Commissioners;
  2. If it is apparent that there is considerable public interest in the matter, the Chair may poll the audience for an indication of the number of persons who wish to address the Commission; and,
  3. The Chair may:
    - a) impose a three (3) minute time limit on each person who addresses the Commission;
    - b) request that testimony be combined through a spokesperson where possible; and,
    - c) limit each person who has addressed the Commission to a single opportunity to clarify their testimony.
- C. The applicant shall be given an opportunity to present the matter and answer questions from staff or Commissioners, unless they waive that right by letter in advance of the meeting;
- D. Members of the public and/or public agencies will be given an opportunity to present their comments;

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

F. For meetings held virtually via webinar comments can be made ~~at any time prior to the meeting,~~ in real-time while the item is open to public comment being considered by the Planning Commission. ~~All Comments or emails received before or during the meeting that have not been published with the agenda packet 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, 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.~~

G. ~~Spoken~~ Public comments are restricted to three minutes each, unless the Chair provides a longer period for public comments. ~~Written comments on agenda items and those exceeding three minutes will be included in the public record as part of the agenda packet the next business day after the meeting. All written comments or emails received before or during the meeting that have not been published with the agenda packet 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, 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.~~

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

I. When all comments have been presented to the Commission, any of the following options may be selected:

1. Continue the public hearing until a future date certain if there are issues raised during the hearing that need further clarification or information for application review;

1-2. ~~Continue the public hearing to an unspecified date if there are issues raised during the hearing that need further clarification or information for application review; in this situation the public hearing shall be re-noticed.~~

2-3. Leave the public hearing open while the Commission discusses action proposed to be taken, if the Chair wants to provide an opportunity for further input from the public or the applicant during the deliberation process; and,

3-4. Close the public hearing, stating the time and then tThe Commission shall ~~can~~ then discuss the action to be taken. (~~Ord. 740 §1, 1992~~) (Fort Bragg Municipal Code §2.20.100)

J. For current planning approvals, at the close of the deliberations, a Planning Commissioner shall make a motion to:

1. Adopt the resolution adopting the CEQA document for the review of the project if CEQA review was required; and, if seconded, the Commission will act on the CEQA resolution prior to consideration of the planning resolution; and

2. Adopt the planning permit(s) resolution subject to all special and standard conditions;  
or

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3. Adopt the planning permit(s) resolution subject to all special and standard conditions as modified by the Commission. The Commissioner shall clearly state for the record any proposed modifications, additions or deletions to any special conditions prior to making a motion; or

4. Provide direction to staff to prepare a resolution for denial of the permit. The Commission members indicating that they would vote for denial of the permit shall identify the reasons for denial of the application.

K. After the motion is made by a Commissioner, it must be seconded by another Commissioner. If there is no second, the motion dies. The Chair will ask for a vote of the Commission only after a motion is made and seconded.

L. After the Commission votes, the Community Development Director or Planning Staff shall describe the appeal process and timeline (to the City Council, and if relevant, to the Coastal Commission).

M. For recommendations to City Council on legislative matters, the Planning Commission shall provide recommendations and suggested changes to any proposed ordinance. Recommendations may be made by minute order or by resolution depending on statute.

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**Arellano, Humberto Jr.**

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**From:** Lemos, June  
**Sent:** Tuesday, February 7, 2023 2:12 PM  
**To:** Arellano, Humberto Jr.  
**Subject:** FW: Public Comment - Item 7B  
**Attachments:** Public Comment 7B.pdf

Hi Humberto,

I forgot to ask you if you would please print this public comment and add it to the Planning Commission agenda clipboard in the appropriate spot (after staff report on Item 7B).

Thank you,

June Lemos, MMC  
City Clerk  
City of Fort Bragg  
416 N Franklin St  
Fort Bragg CA 95437  
707.961.2823 ext. 104

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**From:** Lemos, June  
**Sent:** Monday, February 6, 2023 2:09 PM  
**To:** June Lemos (jlemos@fortbragg.com) <jlemos@fortbragg.com>  
**Cc:** Peters, Sarah <speters@fortbragg.com>; Arellano, Humberto Jr. <huarellano@fortbragg.com>  
**Subject:** Public Comment - Item 7B

Good afternoon Commissioners (BCC):

Attached is a Public Comment from Jacob Patterson regarding Item 7B on Wednesday night's agenda.

Sincerely,

June Lemos, MMC  
City Clerk  
City of Fort Bragg  
416 N Franklin St  
Fort Bragg CA 95437  
707.961.2823 ext. 104

PUBLIC COMMENT - 2/8/2023 PC MTG., ITEM 7B.

\* DRAFT BYLAWS REVISIONS MISREPRESENT CITY CODE PROVISIONS.

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

An Ordinance Amending Fort Bragg Municipal Code Section 2.20.020 Composition and appointment of members and 2.20.040 Vacancies of Chapter 2.20 PLANNING COMMISSION.

ORDINANCE NO. 805-97

THE CITY COUNCIL OF THE CITY OF FORT BRAGG DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Fort Bragg Municipal Code Chapter 2.20 is hereby amended as follows:

A. Section 2.20.020 is hereby repealed and amended in its entirety to read as follows:

"2.20.020 Composition and appointment of members.

- A. There shall be five members of the planning commission appointed by the city council. Each member of the city council may submit the name of a resident of the city as a nominee for a seat on the planning commission. The city council as a whole shall vote to appoint the nominee, such appointment requiring the affirmative vote of at least three city councilmembers.
B. Planning commission members shall be seated for a potential term coinciding with that of the nominating councilmember, provided, however, that the commissioners serve at the will of the city council. The city council may remove any planning commission at any time through the affirmative vote of at least four of the city councilmembers."

WHOLE PC, NOT SINGLE COMMISSIONER

B. Section 2.20.040 is hereby repealed and amended in its entirety to read as follows:

"2.20.040 Vacancies.

Should a vacancy occur on the planning commission and said seat remains vacant for a period of 30 days without being filled by appointment for any reason, the mayor shall have the authority to fill the vacancy subject to majority of council concurrence of said appointment."

Except as amended Chapter 2.20 is hereby reaffirmed.

Section 2. Publication. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it to be published at least once in a newspaper of general circulation published and circulated in the City.

The foregoing Ordinance was introduced by Councilmember Melo at a regular meeting of the City Council of the City of Fort Bragg held on June 23, 1997, and adopted at a regular meeting of the City of Fort Bragg held on July 14, 1997, by the following vote:

AYES: Councilmembers Olbrantz, Galli, Huber, Melo, and Mayor Peters.
NOES: None.
ABSENT: None.

Lindy Peters
Lindy Peters
Mayor

ATTEST:

DeeLynn R. Carpenter

DeeLynn R. Carpenter, CMC
City Clerk

PUBLISH: 7/24/97
EFFECTIVE DATE: 8/13/97

ORD#805/MUNICODE/dc



## **Arellano, Humberto Jr.**

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**From:** Lemos, June  
**Sent:** Thursday, February 9, 2023 1:57 PM  
**To:** Arellano, Humberto Jr.  
**Subject:** FW: Public Comment -- 2/8/2023 PC Meeting, Item No. 7B, PC Bylaws

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

**From:** Jacob Patterson <[jacob.patterson.esq@gmail.com](mailto:jacob.patterson.esq@gmail.com)>  
**Date:** Wed, Feb 8, 2023 at 12:37 PM  
**Subject:** Public Comment -- 2/8/2023 PC Meeting, Item No. 7B, PC Bylaws  
**To:** CDD User <[cdd@fortbragg.com](mailto:cdd@fortbragg.com)>  
**Cc:** <[cityclerk@fortbragg.com](mailto:cityclerk@fortbragg.com)>, Ducey, Peggy <[pducey@fortbragg.com](mailto:pducey@fortbragg.com)>, McCormick, Sarah <[SMcCormick@fortbragg.com](mailto:SMcCormick@fortbragg.com)>, Peters, Sarah <[speters@fortbragg.com](mailto:speters@fortbragg.com)>

Planning Commission & City Team,

I am submitting these comments concerning the draft revisions to the PC bylaws for your consideration tonight or at future meetings when the bylaws are actually going to be revised. My observations and recommendations are presented in the order the corresponding content shows up in the current draft provided by staff.

First, I think many of the recommended changes make sense and I commend the City team for their efforts. In particular, I appreciate removing the odd references to the relevant ordinances and corrections to the code references (although some code citations remain incorrect). Actually, I am not sure why any code references are included in the bylaws at all, particularly since sometimes the reference is the direct source of what is in the bylaws but other times the connection is unclear and the bylaws are the source of the existing or proposed rules and procedures rather than the Muni Code. Fort Bragg Municipal Code § 2.20.100 provides the overall basis for the Planning Commission adopting any rules at all so it doesn't necessarily make sense to constantly refer to it when the broad category doesn't actually require or even suggest that these particular provisions of the bylaws need to be included. In fact, many portions of the bylaws are unnecessary because they are mere recitations of the existing Municipal Code section within Chapter 2.20 about the Planning Commission. There is no need to include redundant content that is already in the Municipal Code because the Planning Commission is already bound to follow the Municipal Code. The purpose of rules of procedure in these bylaws is to clarify how the Planning Commission itself operates and extraneous content like how the Planning Commission is formed or how the City Council appoints or removes members are not germane to what the Planning Commission does. As such, I recommend removing anything from the PC Bylaws that is not a rule or regulation that is being promulgated under the authority of Fort Bragg Municipal Code § 2.20.100 (i.e., anything that isn't directly related to the purpose described in Section I). [Note that actual adoption or revision would require a formal resolution.]

As another introductory matter, it is important to recognize that the California Government Code (and other federal and state laws including both constitutions) need to be followed so the bylaws need to be consistent with outside legal requirements or they won't be able to be implemented anyway. This is described in California Government Code § 65102.

### **GOVERNMENT CODE - GOV**

#### **TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]**

*(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

**DIVISION 1. PLANNING AND ZONING [65000 - 66301]**

*(Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

**CHAPTER 3. Local Planning [65100 - 65763]**

*(Chapter 3 repealed and added by Stats. 1965, Ch. 1880.)*

**ARTICLE 1. Local Planning [65100 - 65107]**

*(Article 1 repealed and added by Stats. 1984, Ch. 690, Sec. 2.)*

**65102.**

A legislative body may establish for its planning agency any rules, procedures, or standards which do not conflict with state or federal laws.

*(Repealed and added by Stats. 1984, Ch. 690, Sec. 2.)*

I think it is critical that you keep this in mind as you think about how to revise these bylaws, particularly when some rules or regulations have the potential to implicate the constitutional rights of applicants or other meeting participants.

Specifically, I recommend you consider the following as you review the current draft.

**II. Meetings, Part B:**

This part should be revised to list hybrid meetings that are not subject to virtual meetings pursuant to AB 361 by adding ", in hybrid format for public participation purposes," immediately prior to "or virtually if resolved..."

I suggest this because we will shortly lose our ability to hold virtual meetings when the Governor's emergency declaration ends on the 28th but we can (and should) continue to offer hybrid-format meetings for purposes of public participation, which is distinct from fully virtual or hybrid-format meetings concerning Planning Commissioner attendance. Planning Commissioners attending remotely trigger the special noticing and related procedural requirements but that doesn't apply to when the City offers remote public participation options.

**II. Meetings, Part D:**

I would delete this part because it is unnecessary and already required by state law and relevant constitutional provisions.

**II. Meetings, Part F:**

The new additional final sentence is partially advisable but I would delete the word "certain" because the Planning Commission may continue a public hearing item to a date certain or a date uncertain (you don't want to limit the Planning Commission's options by excluding continuances to a date uncertain) but you don't "continue" an entire meeting to a date certain. Continuing a meeting to a different future date is called "adjourning" the meeting, which always requires a specific date and time. Continuing a public hearing agenda item is technically different and the future meeting is a new meeting rather than an adjourned meeting to finish up the unfinished business. In fact, this same section earlier uses the phrase "continue the meeting" to mean continuing to actively hold the meeting past its usual adjournment time on the same day and it is important to use the same terms in a consistent manner to avoid internal inconsistencies or ambiguity.

**III. Operations, Parts A & B:**

Rather than worrying about the omitted "er" concerning the procedures of removing a particular commissioner, which, based on my recent review of the legislative history appears to be an unintentional error in how the adopting ordinance was drafted, the better approach is simply removing current parts A and B in their entirety. The PC Bylaws are about how the Planning Commission operates (i.e., actions taken by the PC itself) but the makeup of, appointment to, and removal from the Planning Commission are all actions taken by the City Council. There is no reason to include these two parts because they have nothing to do with how the Planning Commission itself operates. Also, deleting these irrelevant parts removes the technically incorrect reference to the language of § 2.20.020, subd. B., which literally reads "any Planning Commission" rather than "any Planning Commissioner" based on the adopting ordinance that has not yet been formally updated through action of the City Council even if in applying it--something that I don't think has ever happened--would likely involve relying on the legislative history to show the actual intent related to an individual commissioner rather than the entire commission.

### **III. Operations, Part E:**

Although not technically a revision other than pointing out that the meeting schedule is governed by Municipal Code § 2.20.060 not § 2.20.100, which only talks about rules of procedure not meeting schedules, I want to draw your attention to the language of this part. IMO, the City has recently been conflating two things: establishing a meeting schedule pursuant to § 2.20.060 and a work plan/work schedule, which is actually about the substance of what the Planning Commission wants to work on in the coming year. Doing that is actually a power and responsibility that comes from the Government Code and not the Municipal Code. In fact, § 2.20.100 (the cited reference) is solely about rules of procedure and a meeting schedule and work plan are not rules of procedure (i.e., how the PC conducts its activities during meetings). IMO, the development of a work plan is about what policy matters the Planning Commission wants to substantively work on, not simply when it plans to hold its upcoming meetings. Deciding both are important tasks but they aren't the same thing. By not proactively developing a work plan for the Planning Commission, you become beholden to what policy priorities staff presents for your consideration or what the Community Development Committee of the City Council directs you to work on--also both important considerations but not the same activity as proactively addressing Planning Commission priorities for long-range planning activities that staff can use to help develop their own work plans and schedules.

### **III. Operations, Part P:**

This part includes recommended revisions but it is unnecessary or should be revised to reflect what criteria the chair should use to make a determination of when to excuse an absence for cause to avoid arbitrary and capricious decision-making by the PC Chair. The Planning Commission itself holds no collective role in enforcing the provisions of Municipal Code § 2.20.080, which is self-operative (ipso facto means automatic or self-operating, technically "by that very fact or act") and reappointment or a new appointment would be handled by action of the City Council or Mayor. This part would better be used to define the standards and procedure for requesting an excuse for cause from the PC Chair. I have no specific recommendations on what that should be but the way it is written now provides no guidance and is thus likely unnecessary as currently drafted except as a reminder of the effect of missing meetings

### **IV. Public Hearings, Parts E & F:**

These parts should be expanded or combined to explicitly cover hybrid-format meetings (for public comment purposes) in addition to in-person or virtual meetings. Current practice is usually to hear from members of the public in person first, followed by remote participants, and then any additional in-person attendees who did not speak when public comments were first solicited by the Chair. I recommend memorializing that as a revision to both E and F by replacing "For meetings held" with "For comments made" and adding in additional text describing the order comments will be solicited from the different categories of speaker (or being silent and

leaving that to the Chair's discretion). It might be advisable to expand Part F to include the legal requirement to pause the meeting discussion during any technical difficulties that prevent virtual attendees from making their comments or to make it explicit that remote-participation is at the attendee's own risk--this wouldn't apply to fully virtual meetings, where the pause to resolve technical difficulties is legally required--and that technical difficulties during optional hybrid-format meetings related to public participation are not subject to the need to pause the proceeding to allow for the remote participation. That is a major policy consideration but one that some cities are employing for timing and meeting efficiency purposes to not have to be beholden to technical difficulties that would otherwise interfere with the City continuing to conduct business. That risk virtual participants may be subjecting themselves to would obviously need to be disclosed on the meeting agendas themselves so this issue may need further thought and legal counsel input.

#### **IV. Public Hearings, Part G:**

*This part of the PC Bylaws needs the most attention and will probably require substantial revision.*

The addition of the new content about written comments or emails should be removed or moved to its own part. It is not actually related to how the Planning Commission itself conducts meetings but in how the City staff administers public comments. This is also an area that is fraught with legal compliance considerations and, if implemented literally as it is written without additional actions, would not be sufficient to meet the City's legal obligations regarding how written public comments and other information about agenda items need to be processed (IMO). In fact, because City Hall is closed on Wednesdays, which is the day of regular Planning Commission meetings, following just these practices would likely violate the Brown Act as discussed below.

[If you are interested, you may want to review Government Code § 54957.5, particularly subdivisions (b) and (c), which I pasted at the end of my comment, although there is also a lot of case law that explains the scope of what is required that is not necessarily obvious just by reading the statutory language.]

My recommendation is to either delete the references to how staff will deal with written public comments because it is not technically a rule of procedure for how the Planning Commission itself will conduct its meetings and operations or to substantially revise this section--that would be handled in an administrative regulation adopted for staff implementation. If you want to keep the content in the PC bylaws, I am not sure if how written public comments are processed is related to spoken public comments, which is what this part starts with, so it makes more sense to have another part for written public comments rather than being combined in a single part as it is now.

The language should be clarified to state that the submitted comments will be available for public inspection at City Hall during normal business hours and at Town Hall or other meeting locations during the meeting itself. The meeting location part is currently omitted but it is critically important to minimize potential due process and Brown Act violations by not having all relevant information that is being considered by the Planning Commission also be available to the applicant and other public participants in the public hearing prior to and during the public comment period of the public hearing. For example, if written comments are forwarded to all or a quorum of the Planning Commission, they need to be made immediately available for public review or the City likely would have violated the Brown Act based on recent case law. Full compliance could involve having the written comments available at a publicly-accessible location in hard copy at the same time (and likely thereafter) when they have are made available to the commissioners for their consideration. Since City Hall is closed to the public on Wednesdays and regular Planning Commission meetings are held on Wednesdays, the City is not currently meeting this requirement for written comments received on the day of the meeting and then forwarded to the commissioners by staff rather than waiting to distribute them to the commission and public at the meeting itself (likewise for after-hours or weekend comments that are forwarded as they are received).

Finally, the concluding sentence should be deleted because it is not related to how the commission operates and timely written submissions are technically part of the agenda packet and the administrative record for the planning review as they are submitted to the City and processed by staff, not simply when electronic soft copies are published online by staff, potentially the day after the meeting.

#### **IV. Public Hearings, Part I:**

This part is somewhat redundant and ambiguous. For example, there is no need to include "if there are issues raised during the hearing that need further clarification or information for application review" and that language is too limiting because there are other reasons to continue a public hearing (e.g., needing more time to digest the relevant materials or more time to solicit additional comments from the public or applicant for complex or controversial items). Moreover, a public hearing may need to be continued when complex or voluminous written comments are submitted and staff or legal counsel needs time to review the submissions, particularly late-submitted comments or applicant/appellant submissions. Finally, the same language is listed in both option 1 for a date certain and option 2 for a date uncertain and that creates ambiguity because including the modifying language suggests the listed situation serve as criteria that must be met to justify that type of the continuance. Alternatively, the first two options could be condensed simply refer to a "future date certain or uncertain" or "future date". I think deleting the modifying language, which is too limiting and not expansive enough is the better option. For land use public hearings, you don't want to unintentionally generate allegations of process violations should the Planning Commission arguably fail to follow its own rules and regulations.

#### **IV. Public Hearings, Part J:**

The current wording is somewhat inaccurate and should be revised. This part is written to assume that the recommended action will be an approval. That is too limiting and there are numerous reasons why an application might warrant a denial rather than stacking the deck in favor of approvals through how the rules of procedure are worded. In fact, procedural step 4 under this Part concerns when the Planning Commission is going to deny an application so the introductory language should be revised to include both approvals and denials or step 4 should be removed to its own part dealing with denial motions for planning applications. I recommend the latter because it requires less revision overall.

Regardless, the introductory language for approval motions should be revised to state "For staff-recommended planning approvals" or "For motions to approve planning permits" rather than the awkward and inaccurate "For current planning approvals". Likewise, "shall" should be replaced with "may" because shall is mandatory and thus not accurate unless strictly limited to the process to approve rather than deny a planning application.

Further revisions to the procedural steps are also recommended because it is clear that multiple successive motions will be required to deal with the different resolutions so it should read "make motions to" (and to address other issues). For example, all projects require CEQA review, the issue is if further environmental review under CEQA will be required through a CEQA document like an IS/MND or EIR when an exemption doesn't apply to the project so 1 should read "if further environmental review under CEQA is required" not "if CEQA review was required". If an exemption applies, there is no need to adopt two successive resolutions and a single approval resolution is fine provided it includes a determination by the Planning Commission that the cited exemption or exemptions apply and an adequate explanation of why that is the case is also included. (The proposed actions should be appropriately described in the agenda description for the public hearing in order to avoid Brown Act compliance issues.)

Current step 4 for denials should be revised (or moved to its own part and revised) to make clear that the Planning Commission can also adopt a denial resolution if one was already included in the agenda materials or that they also have the option of having a commissioner or ad hoc committee of two commissioners prepare the denial resolution--Chair Logan prepared a revised draft denial resolution for a particular application in the past

and it was the basis for what the commission adopted rather than the resolutions prepared by staff. It is normal practice for staff or the City Attorney to prepare draft resolutions but that is not a requirement and there are instances when it makes sense for a commissioner or the entire commission itself during a properly noticed meeting to draft their own resolutions or revised resolutions--the commissioners better understand their own reasoning, after all--so it doesn't make sense to limit the commission's options through rules of procedure that only allow staff to perform those tasks or to provide artificially narrow procedures.

#### **IV. Public Hearings, Part K:**

Replace "After the motion" with "After a motion" to reflect that some items involve multiple motions.

Best regards,

--Jacob

#### **GOVERNMENT CODE - GOV**

##### **TITLE 5. LOCAL AGENCIES [50001 - 57607]**

*( Title 5 added by Stats. 1949, Ch. 81. )*

##### **DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]**

*( Division 2 added by Stats. 1949, Ch. 81. )*

##### **PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]**

*( Part 1 added by Stats. 1949, Ch. 81. )*

##### **CHAPTER 9. Meetings [54950 - 54963]**

*( Chapter 9 added by Stats. 1953, Ch. 1588. )*

##### **54957.5.**

(a) Agendas of public meetings are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available upon request without delay and in compliance with Section 54954.2 or Section 54956, as applicable. However, this section shall not apply to a writing, or portion thereof, that is exempt from public disclosure.

(b) (1) If a writing is a public record related to an agenda item for an open session of a regular meeting of the legislative body of a local agency and is distributed to all, or a majority of all, of the members of a legislative body of a local agency by a person in connection with a matter subject to discussion or consideration at an open meeting of the body less than 72 hours before that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) (A) Except as provided in subparagraph (B), a local agency shall comply with both of the following requirements:

(i) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose.

(ii) A local agency shall list the address of the office or location designated pursuant to clause (i) on the agendas for all meetings of the legislative body of that agency.

(B) A local agency shall not be required to comply with the requirements of subparagraph (A) if all of the following requirements are met:

(i) An initial staff report or similar document containing an executive summary and the staff recommendation, if any, relating to that agenda item is made available for public inspection at the office or location designated pursuant to clause (i) of subparagraph (A) at least 72 hours before the meeting.

(ii) The local agency immediately posts any writing described in paragraph (1) on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(iii) The local agency lists the web address of the local agency's internet website on the agendas for all meetings of the legislative body of that agency.

(iv) (I) Subject to subclause (II), the local agency makes physical copies available for public inspection, beginning the next regular business hours for the local agency, at the office or location designated pursuant to clause (i) of subparagraph (A).

(II) This clause is satisfied only if the next regular business hours of the local agency commence at least 24 hours before that meeting.

(c) Writings that are public records described in subdivision (b) and distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), including, but not limited to, the ability of the public to inspect public records pursuant to Section 7922.525 and obtain copies of public records pursuant to either subdivision (b) of Section 7922.530 or Section 7922.535. This chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

*(Amended (as amended by Stats. 2021, Ch. 615, Sec. 208) by Stats. 2022, Ch. 971, Sec. 1. (AB 2647) Effective January 1, 2023.)*



# City of Fort Bragg

416 N Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
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## Text File

File Number: 22-631

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**Agenda Date:** 2/8/2023

**Version:** 1

**Status:** Business

**In Control:** Planning Commission

**File Type:** Appointment

**Agenda Number:** 7C.

Discuss Formation of Planning Commission Ad Hoc Committee for Mill Site Planning



**From:** [Jill](#)  
**To:** [cdd](#)  
**Cc:** [Donne.Brownsey@coastal.ca.gov](#); [Caryl.Hart@coastal.ca.gov](#); [Effie.Turnbull-sanders@coastal.ca.gov](#); [Sara.Aminzadeh@coastal.ca.gov](#); [Steve.padilla@coastal.ca.gov](#); [mike.wilson@coastal.ca.gov](#); [Katie.Rice@coastal.ca.gov](#); [Linda.Escalante@coastal.ca.gov](#); [Meagan.Harmon@coastal.ca.gov](#); [Roberto.Uranga@coastal.ca.gov](#); [Carole.Groom@coastal.ca.gov](#); [ExecutiveStaff@coastal.ca.gov](#); [John.Alnsworth@coastal.ca.gov](#); [Lisa.Haage@coastal.ca.gov](#); [dierde@mendocinocounty.org](#); [joshua.levine@coastal.ca.gov](#); [Lemos, June](#); [lpeters@fortbragg.com](#); [Rafanan, Marcia](#); [pducey@fortbragg.com](#); [McCormick, Sarah](#); [Norvell, Bernie](#); [godekejason@gmail.com](#); [Albin-Smith, Tess](#)  
**Subject:** Letter to Fort Bragg Plan. Comm. Re Mill Pond Remediation EIR from NHWG  
**Date:** Sunday, February 5, 2023 10:39:57 AM  
**Attachments:** [NHWG Letter to Fort Bragg Plan. Comm. Feb 5 2023.pdf](#)  
[DTSC letter 12 21 2022.pdf](#)  
[DTSC Letter dec 27 2022.pdf](#)

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Please forward the attached correspondence from the Noyo Headlands Working Group of the Grass Roots Institute to the Fort Bragg Planning Commissioners (Scott Dietz, David Jensen, Jeremy Logan, Stan Miklose, Jary Stavely).

Sincerely,

NHWG





# Grassroots Institute

## Noyo Headlands Working Group

February 5, 2023

Fort Bragg Planning Commission via email [cdd@fortbragg.com](mailto:cdd@fortbragg.com)  
Attn: Scott Dietz, David Jensen, Jeremy Logan, Stan Miklose, Jary Stavely  
416 N. Franklin St.  
Fort Bragg, CA 95437

### Grassroots Institute Noyo Headlands Working Group

*George Reinhardt  
Jim Schoonover  
Jill Peterson  
John Meyer  
Susan Kelley  
Daney Dawson  
Susan Nutter*

*Re: EIR Process for Mill Pond Remediation Project*

Dear Commissioners:

This letter is submitted by the Noyo Headlands Working Group of the Grassroots Institute (GRI). We are aware the City issued an RFP to secure a consultant to complete an Environmental Impact Report (EIR) for the Mill Pond Remediation Project. It is our understanding the Planning Commission will be responsible for review and approval of various aspects of the EIR process. We have several concerns we wish to share with the Planning Commission (as well as those copied on this letter) about that process and the overall situation on the Headlands

We applaud the City for including significant public outreach in the RFP as follows:

**At a minimum, the public participation effort should include six meetings:** an informal information session; two public scoping workshops; two public meetings on the Draft EIR; and a public hearing on the Final EIR. Public participation efforts will need to be coordinated with the City's Coastal Development Permit process, as well as DTSC's OU-E RAP process. (RFP at page 6, Emph. Added).

We share the City's desire for a robust public hearing process. We believe these meetings must begin immediately upon the City retaining its consultant so the public can have input well before any work being completed.

We also understand the City's timeline for its RFP is no longer valid based on several causes, the most significant of which are two recent letters from the Department of Toxic Substances Control (DTSC) dated December 21 and 27, 2023 [to the City of Fort Bragg and Mendocino Railway respectively]. In these letters (attached), DTSC outlined specific alternatives to the RAP armoring that must be considered as part of the EIR. DTSC also determined the Operable Unit E Feasibility Study requires additional alternatives analyses in a Feasibility Study

Addendum. We will watch for a revised schedule pending the City's analysis of the requirements in the DTSC letters.

Finally, we want to be sure the EIR process includes a robust consideration of alternatives including those The City clarified its expectations concerning the analysis of alternatives that must be part of the EIR:

Fort Bragg serves as the primary commercial center for the Mendocino coastal region, and the future use of the Mill Site is important to the entire region. Extensive community engagement has taken place related to reuse of the site since Georgia Pacific closed the timber facility in 2002. The community has long awaited the remediation of OU-E, and it is important that the EIR provide robust analysis on project alternatives; to foster public participation and informed decision-making. There is strong community sentiment that environmental remediation of Mill Pond area requires the removal of hazardous materials and restoration of the project site, rather than dam improvements to stabilize and contain hazardous materials. The following alternative projects are provided as a starting point. City Council will provide direction on the alternative project description to be evaluated at a future date, based on input received during public scoping session, expertise of selected environmental consulting team, and staff recommendation. (RFP at page 6).

We are concerned the proposal submitted to the City by Dudek for the EIR did not include significant discussion about the alternatives despite the clear expectations set forth by the City in its RFP. If the City retains Dudek, please do all you can to reinforce the fact that much of the work Dudek will perform will be around feasible alternatives. This is imperative as we do not want the EIR process to result in a mere rubber stamp of the remediation proposed by the applicants. We also recommend the City consider the Natural Capital value generated by restoration of wetlands and beach access in judging long term feasibility. Moreover, the DTSC and the California Coastal Commission (as discussed in the DTSC letters) also expect this analysis. We, like many others in the community, believe the applicant's proposal for remediation is woefully inadequate; the hazardous materials must be removed, and the project site fully restored.

Thank you for reviewing our concerns. Please let us know if there is any other information and/or assistance you or the City may need as we move through this important EIR process. If you would like to contact us, please do so by emailing George Reinhardt at [george@mcn.org](mailto:george@mcn.org).

Sincerely,

/s/

Noyo Headlands Working Group of the Grass Roots Institute

Encl.

e.c. **Members of the Fort Bragg City Council** [Hon. Bernie Novell, Jason Godeke, Tess Albin-Smith, Lindy Peters, Marcia Rafanan] **Fort Bragg City Staff** [City Manager Peggy Ducey; Asst. City Manager Sarah McCormick; City Clerk June Lemos] **Members and Staff of the California Coastal Commission** [The Hon. Donne Brownsey, [Donne.Brownsey@coastal.ca.gov](mailto:Donne.Brownsey@coastal.ca.gov); Caryl Hart, [Caryl.Hart@coastal.ca.gov](mailto:Caryl.Hart@coastal.ca.gov); Effie Turnbull-Sanders, [Effie.Turnbull-sanders@coastal.ca.gov](mailto:Effie.Turnbull-sanders@coastal.ca.gov); Sara Aminzadeh, [Sara.Aminzadeh@coastal.ca.gov](mailto:Sara.Aminzadeh@coastal.ca.gov); Steve Padilla, [Steve.padilla@coastal.ca.gov](mailto:Steve.padilla@coastal.ca.gov); Mike Willson, [mike.wilson@coastal.ca.gov](mailto:mike.wilson@coastal.ca.gov); Katie Rice, [Katie.Rice@coastal.ca.gov](mailto:Katie.Rice@coastal.ca.gov); Linda Escalante, [Linda.Escalante@coastal.ca.gov](mailto:Linda.Escalante@coastal.ca.gov); Meagan Harmon, [Meagan.Harmon@coastal.ca.gov](mailto:Meagan.Harmon@coastal.ca.gov); Roberto Uranga, [Roberto.Uranga@coastal.ca.gov](mailto:Roberto.Uranga@coastal.ca.gov); Carole Groom, [Carole.Groom@coastal.ca.gov](mailto:Carole.Groom@coastal.ca.gov); [ExecutiveStaff@coastal.ca.gov](mailto:ExecutiveStaff@coastal.ca.gov); John Ainsworth, Executive Director, [John.Ainsworth@coastal.ca.gov](mailto:John.Ainsworth@coastal.ca.gov); Lisa Haage, Chief of Enforcement, [Lisa.Haage@coastal.ca.gov](mailto:Lisa.Haage@coastal.ca.gov); Josh Levine, Enforcement Officer NorthCoast [Joshua.Levine@coastal.ca.gov](mailto:Joshua.Levine@coastal.ca.gov) **California Department of Toxic Substances Control** [Asha Setty, [Asha.Setty@dtsc.ca.gov](mailto:Asha.Setty@dtsc.ca.gov)] **Mendocino County Board of Supervisors** [Hon. Dan Gjerde, [gjerde@mendocinocounty.org](mailto:gjerde@mendocinocounty.org)]



**Yana Garcia**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Meredith Williams, Ph.D., Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



**Gavin Newsom**  
Governor

December 21, 2022

Sarah Million McCormick  
Assistant City Manager City  
of Fort Bragg  
smccormick@fortbragg.com

GEORGIA-PACIFIC, FORT BRAGG MILL SITE, OPERABLE UNIT E  
ENVIRONMENTAL IMPACT REPORT, FORT BRAGG, CALIFORNIA (SITE CODE:  
202276)

Dear Ms. McCormick,

California Department of Toxic Substances Control (DTSC) is in the process of reviewing the Operable Unit E Remedial Action Plan (OU-E RAP) for the Georgia-Pacific Former Mill Site. As a Responsible Agency under the California Environmental Quality Act (CEQA), DTSC is providing input to assist in scoping the Environmental Impact Report (EIR) addressing the OU-E RAP. The City of Fort Bragg (City) is lead agency for the development of the EIR because the City has review and approval authority for the Coastal Development Permit (CDP), which is required for OU-E RAP implementation. DTSC will also rely on the City-certified EIR when considering approval of the RAP. Because of the dual purposes of the EIR, DTSC suggests that the EIR be scoped to analyze both the proposed RAP and CDP as these projects are inseparable.

The City determined that an EIR is required for the CDP because of potential unmitigable, significant impacts of the remedial action proposed in the OU-E RAP. The EIR would evaluate and consider the potentially significant impacts of the project (approval of a RAP and CDP) and then recommend alternatives to reduce or eliminate these impacts. The OU-E RAP, which DTSC would review and then approve or deny, would itself identify alternative remedial actions that were initially evaluated in the September 2019 OU-E Feasibility Study (FS). The EIR could use these alternative

Ms. Sarah McCormick  
December 21, 2022  
Page 2 of 3

remedial actions as part of its alternative analysis because DTSC would rely on the City-certified EIR while performing its discretionary action on OU-E RAP.

DTSC recommends the EIR use the alternatives found in Section 7: Development and Evaluation of Remedial Alternatives of the OU-E FS. At meetings with the California Coastal Commission (CCC), DTSC received clarification on policies regarding the armoring component of the preferred remedial action for Pond 8. Coastal Commission Staff indicated that alternatives to armoring must be considered prior to approval of the CDP and OU-E RAP. DTSC also received feedback from the City and from community members requesting additional remedial alternatives be included in the EIR. Therefore, DTSC also recommends that additional alternatives be considered in the EIR and include variations on the containment alternative, including a combination removal/containment alternative, along with on-site terrestrial consolidation of sediment, on-site terrestrial treatment of sediments, and partial removal of the Pond 8 dam and the western section of Pond 8.

DTSC looks forward to working with the City on the scoping and development of the EIR for the OU-E RAP and CDP. If you have any questions regarding this letter, please contact me at (510) 540-3776 or at [Tom.Lanphar@dtsc.ca.gov](mailto:Tom.Lanphar@dtsc.ca.gov).

Sincerely,



Thomas Lanphar  
Senior Environmental Scientist  
Site Mitigation and Restoration Program  
Department of Toxic Substances Control



Kim Walsh, MPH  
Unit Chief  
Site Mitigation and Restoration Program  
Department of Toxic Substances Control

cc: see next page

Ms. Sarah McCormick  
December 21, 2022  
Page 3 of 3

cc: (via email).

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Sierra Railroad  
[mikebuck@fucrumadvocates.com](mailto:mikebuck@fucrumadvocates.com)

Robert Pinoli  
Mendocino Railway  
[rjpinoli@sierarailroad.com](mailto:rjpinoli@sierarailroad.com)

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Kennedy Jenks  
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**Yana Garcia**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Meredith Williams, Ph.D., Director  
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**Gavin Newsom**  
Governor

December 27, 2022

Mr. Mike Buck  
Mendocino Railway  
1222 Research Park Drive  
Davis, California 95618  
[Mikebuck@fulcrumadvocates.com](mailto:Mikebuck@fulcrumadvocates.com)

GEORGIA-PACIFIC CORPORATION SITE, 90 WEST REDWOOD AVENUE, FORT BRAGG, CALIFORNIA, OPERABLE UNIT E FEASIBILITY STUDY ADDENDUM (SITE CODE:202276)

Dear Mr. Buck:

The Department of Toxic Substances Control (DTSC) has determined that the Operable Unit E Feasibility Study (OU-E FS) for the Georgia-Pacific Mill Site requires additional alternatives analysis in a Feasibility Study Addendum (FS Addendum). Scoping exercises for the Operable Unit E Remedial Action Plan (OU-E RAP) and Coastal Development Permit (CDP) Environmental Impact Report (EIR) identified the need for the evaluation of alternatives not included in the OU-E FS.

The City of Fort Bragg (City) is lead agency under the California Environmental Quality Act (CEQA) for the development of the EIR because the City has review and approval authority for the Coastal Development Permit (CDP), which is required for OU-E RAP implementation. As a Responsible Agency under CEQA, DTSC will rely on the City-certified EIR when considering approval of the RAP. The City determined that an EIR is required for the CDP because of potential unmitigable, significant impacts of the remedial action proposed in the OU-E RAP. The EIR will evaluate and consider the potentially significant impacts of the project and then recommend alternatives to reduce or eliminate these impacts.

At meetings with the California Coastal Commission (CCC), DTSC received clarification on policies regarding the armoring component of the preferred remedial action for OU-E Pond 8. Coastal Commission Staff indicated that alternatives to armoring must be

Mr. Mike Buck  
December 27, 2022  
Page 2

considered prior to approval of the CDP and therefore, the OU-E RAP. DTSC also received feedback from the City and from community members requesting additional remedial alternatives be included in the EIR to evaluate remedial alternatives that could avoid armoring, and other potential unmitigable significant environmental impacts.

When selecting a remedial alternative in the RAP, DTSC will rely on the alternative analysis of the OU-E Feasibility Study and the EIR. Because the EIR has been scoped to include remedial alternatives not found in the OU-E FS, the OU-E FS must be updated in an addendum. To ensure consistency, the development of the OU-E FS Addendum must be coordinated with the development of the alternatives in the EIR.

DTSC recommends that OU-E FS Addendum reevaluate the on-site terrestrial contaminant and on-site terrestrial treatment process options. DTSC also recommends that additional alternatives considered in the EIR and the OU-E FS Addendum include variations on the containment alternative such as hybrid alternatives that include removal/containment/treatment technologies. The potential for on-site terrestrial consolidation/treatment of sediments could affect the feasibility of the removal of contaminated sediments from Ponds 1, 2, 3, 4, 6, 7, 8, and the North Pond.

If you have any questions, please contact Kim Walsh at (510) 540-3773 or via email at [Kim.Walsh@dtsc.ca.gov](mailto:Kim.Walsh@dtsc.ca.gov).

Sincerely,



Thomas P. Lanphar  
Senior Environmental Scientist  
Site Mitigation and Restoration Program – Berkeley Office  
Department of Toxic Substances Control

cc: Mr. Craig Hunt  
North Coast Regional Water  
Quality Control Board  
[Craig.hunt@waterboards.ca.gov](mailto:Craig.hunt@waterboards.ca.gov)

Mr. Robert Jason Pinoli, President  
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Mr. Mike Buck  
December 27, 2022  
Page 2

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