

RESOLUTION NO. *PC -2021*

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION FOR APPROVAL OF COASTAL DEVELOPMENT PERMIT 2-20 AND DESIGN REVIEW 5-20 FOR THE CONSTRUCTION OF A FENCE AT 420 N. HARBOR DRIVE.

WHEREAS, there was filed with this Commission a verified application on the forms prescribed by the Commission requesting approval of a Coastal Development Permit and Design Review under the provisions of Chapter 17 Article 7 of the Coastal Land Use Development Code to permit the following Use:

To construct a 96' long and up to 6' high fence

On that certain property described as follows:

Assessor's Parcel No. 018-130-43 as shown on the Fort Bragg Parcel Map and addressed as 420 N. Harbor Drive.

WHEREAS, the Planning Commission upon giving the required notice did, on the 10th day of March, 2020, conduct duly noticed public hearings as prescribed by law to consider said application; and

WHEREAS, the Project is exempt pursuant to the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15303 new construction of a small structure and 15061(b)3, the Common Sense Exemption because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

WHEREAS, the public hearing included evidence establishing the following:

1. The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources;
2. If the project is located between the first public road and the sea, that the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections [30200](#) of the Public Resources Code);
3. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment;
4. The proposed use is consistent with the purposes of the zone in which the site is located;

5. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan;
6. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and
7. Services, including but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development;
8. Supplemental findings for projects located within Environmentally Sensitive Habitat Areas:
 - i) The resource as identified will not be significantly degraded by the proposed development; and
 - ii) There is no feasible less environmentally damaging alternative; and
 - iii) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.
9. The project complies with the purpose and requirements of Section 17.71.050 Design Review and;
 - a. provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;
 - b. provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;
 - c. provides efficient and safe public access, circulation, and parking;
 - d. provides appropriate open space and landscaping, including the use of water efficient landscaping;
 - e. is consistent with the General Plan, any applicable specific plan, and the certified Local Coastal Program; and
 - f. Complies and is consistent with the City's Design Guidelines.

NOW, THEREFORE, the Fort Bragg Planning Commission of the City of Fort Bragg resolves as follows:

- 1) On the basis of the evidence presented, both oral and documentary, the Planning Commission finds that the following required findings regarding the Coastal Development Permit are made for each of the following reasons:

- a. *“The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg’s certified Local Coastal Program and will not adversely affect coastal resources;”*

This finding can be made because the proposed fence will protect wetland and riparian habitat and prevent illegal dumping and parking in sensitive habitat.

- b. *If the project is located between the first public road and the sea, that the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections [30200](#) of the Public Resources Code)*

This finding can be made because the fence parallels the road and does not block any standard location for foot traffic.

- c. *Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment;*

This finding can be made because the project has special conditions to ensure that there are no adverse effects during construction.

- d. *The proposed use is consistent with the purposes of the zone in which the site is located;*

This finding can be made because fences up to 6 feet in height are allowable uses in the Residential Low-Density Zone.

- e. *The proposed development is in conformance with the City of Fort Bragg’s Coastal General Plan;*

This finding can be made because the fence will protect the ESHA and therefore conforms with Goal OS-1 Preserve and enhance the City’s Environmentally Sensitive Habitat Areas.

- f. *The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and*

This finding can be made because the fence will help protect the environment and there are no detrimental impacts.

- g. *Services, including but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development;*

This finding can be made because the fence will not require any services and therefore will have no impact on services.

h. Supplemental findings for projects located within Environmentally Sensitive Habitat Areas

i) The resource as identified will not be significantly degraded by the proposed development

This finding can be made because the fence will protect the riparian and wetland habitat on the site.

ii) There is no feasible less environmentally damaging alternative;

This finding can be made because when the shed was removed, the area became a dumping ground for junk, trash, and illegally parked vehicles. Not building the fence would result in continued damage to the ESHA. Therefore, building the fence is the least environmentally damaging alternative.

iii) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

This finding can be made because there are three special conditions that are established to eliminate any possible impacts on wetland and riparian habitat during construction.

2) On the basis of the evidence presented, both oral and documentary, the Planning Commission makes the following required findings regarding the Design Review are made for each of the following reasons:

a. Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;

This finding can be made because the fence will be no more than 6 feet in height and will be similar to the fence directly across the street and continuing the existing fence to the south.

b. Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;

This finding can be made because the fence will be made of recycled redwood consistent with the historic character of the site and will follow the setback of the existing fencing in the neighboring site.

- c. *Provides efficient and safe public access, circulation, and parking;*

This finding can be made because the construction of the fence will not impact public access, circulation or legal parking.

- d. *Provides appropriate open space and landscaping, including the use of water efficient landscaping;*

This finding can be made because no landscaping will be installed as part of this project and the fence will protect existing open space and riparian/wetland habitat.

- e. *Is consistent with the General Plan, any applicable specific plan, and the certified Local Coastal Program;*

This finding can be made because constructing the fence will protect habitat and therefore conforms with Goal OS-1 Preserve and enhance the City's Environmentally Sensitive Habitat Areas.

- f. *Complies and is consistent with the City's Design Guidelines.*

This finding can be made because the fence will be no more than six feet and will be consistent with the colors and materials historically on the site and the wood matches the preferred fencing material for Fort Bragg neighborhoods.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby approve the Coastal Development Permit and Design Review for construction of a fence at 420 N. Harbor Drive subject to the following conditions included below.

STANDARD CONDITIONS

1. This action shall become final on the 11th working day following the decision unless an appeal to the City Council is filed pursuant to Chapter 17.92.030. This action is appealable to the California Coastal Commission pursuant to Chapter 17.92.040.
2. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
3. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State and Federal agencies having jurisdiction. All plans submitted with required permit applications shall be consistent with this approval.
4. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - (a) That such permit was obtained or extended by fraud.
 - (b) That one or more of the conditions upon which such permit was granted have been violated.

- (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or as to be a nuisance.
 - (d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
- 5. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
- 6. This Coastal Development Permit approval shall lapse and become null and void 24 months from the date of approval unless before the passing of 24 months, a Final Map examined and approved by the City Engineer is approved by the City Council and recorded or an extension is requested and obtained

SPECIAL CONDITIONS

1. No heavy equipment shall be used in the building of the fence.
2. No vegetation removal shall occur within the adjacent riparian/wetland hillside during construction activities, with the exception being that invasive Himalayan blackberry may be removed from the existing temporary fence and flat areas as needed for the fence construction. Vegetation mowing shall occur only between August 16th and January 31st, only outside the nesting bird season.
3. All materials storage and staging associated with the fence construction shall occur within the flat portions of the property, which are not part of the riparian area.
4. The Applicant is responsible for ensuring that the fence is within the parcel boundary and that it does not encroach on the City of Fort Bragg or Mendocino County Right of Way.
5. Full road closure of N. Harbor Drive is not allowed. Work shall be planned in advance to minimize impacts to visitors of the harbor area. No work requiring an encroachment on N. Harbor Drive shall be performed during any weekend or Holiday to minimize disruptions. Applicant shall be mindful of roadway and vehicular constraints (e.g. narrow road, sharp turns) when planning types of vehicles/equipment to use in the demolition activities.
6. Applicant shall notify affected residents and businesses in the project area at least 72 hours prior to any lane closures.

7. If work is to occur in the Right of Way, the applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation and include a Traffic Control Plan (TCP), and insurance at least two (2) weeks prior to anticipated construction date.
8. All work shall be done in compliance with all conditions required by the City of Fort Bragg Grading Ordinance; Land Use Code Chapter 17.60-17.64 – Grading and Stormwater runoff Requirements and Procedures.
9. Applicant must comply with the Construction Site Storm Water Runoff Control Plan and Checklist submitted to the Public Works Department for approval.
10. If construction is to be conducted between October and April (the rainy season) approval from the Public Works Department and additional construction BMP's will be required.
11. All construction debris/soil shall be properly disposed in accordance with the City's Construction Waste Recycling Ordinance. It is not permitted for construction debris and soil to be placed in the City right-of-way.

NOW, THEREFORE, BE IT FURTHER RESOLVED that pursuant of all the evidence presented, both oral and documentary, and further based on the findings and conditions, Coastal Development Permit 2-20 and Design Review 5-20 are approved subject to the provisions of the City of Fort Bragg Municipal Code Title 17 Coastal Land Use Development Code.

The above and foregoing Resolution was introduced by _____, seconded by _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 10th day of March 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

Jeremy Logan, Chair

ATTEST:

Joanna Gonzalez, Administrative Assistant