



City of Fort Bragg
Received

APR 01 2025

CITY OF FORT BRAGG

Code Enforcement

416 N. Franklin St.

Fort Bragg, CA 95437

(707) 961-2827

<https://www.city.fortbragg.com>

CODE ENFORCEMENT COMPLAINT FORM

Issues NOT addressed by Code Enforcement:

- Disturbing the Peace
- Enforcement of CC&R's
- Property Line Disputes
- Violations Outside of City Limits
- Barking Dogs/Animal Control
- Fence Repair Disputes
- Mobile Home Park Violations
- Landlord/Tenant Disputes
- Development in School Districts
- Encroachment on State Highways

LOCATION (ADDRESS) OF VIOLATION 104 E. DANA ST. (4 100 DANA)

The property is: ☐ Occupied ☒ Vacant ☐ Unknown Is
the violation visible from the public street? ☒ Yes ☐ No

Type of Violation -- Please Select:

- | | | |
|---|--|--|
| ☐ Abandoned/Inoperable Vehicle | ☐ Abandoned Building | ☐ Trash, Junk, Outdoor Storage |
| ☐ Parking on Front Yard | ☒ Unpermitted Construction | ☐ Overgrown Vegetation/Weeds |
| ☐ Lack of Heat or Water | ☐ Hazardous Pool/Spa | ☐ Illegal Yard Sales |
| ☐ Prohibited Animals | ☐ Illegal Business | ☒ Other: Explain below |
| ☐ Graffiti | ☐ Substandard Housing Conditions | |

DESCRIPTION OF COMPLAINT (include location on property if applicable)

IN PREPARATION FOR THIS SUBDIVISION, PROPERTY OWNERS HAD EXTENSIVE
UNPERMITTED GRADING + FILL WORK DONE ON 104 DANA THAT FILLED IN
A SEASONAL WETLAND + ADDED ON-SITE DRAINAGE TO 100 DANA AT SAME
TIME. THIS WETLAND WAS IS PROTECTED, POSSIBLY BY RECORDED INST. # 2011-08548
FILED W/ COUNTY CLERK ON 6/22/2011 FROM PRIOR SUBDIVISION.

All information below is required. Your identity will not be disclosed unless court ordered by a judge.
ANONYMOUS COMPLAINTS WILL NOT BE PROCESSED.

Below are some of the most common code violations enforced by the City.

6.12.040 NUISANCE CONDITIONS.

It is declared a public nuisance for any Responsible Party owning, leasing, occupying, or having charge of any premises in this City to maintain the premises in the manner that any one (1) or more of the following conditions or activities are found to exist:

- E. Overgrown vegetation:
 - 1. Likely to harbor rats, vermin, and other nuisances;
 - 2. Causing detriment to neighboring properties; or
 - 3. Causing fire hazard.
- F. Dead, decayed, diseased, or hazardous trees, weeds, and other vegetation located in the curb, gutter, and sidewalk areas:
 - 1. Constituting a danger to public safety and welfare; or
 - 2. Detrimental to nearby property.
- H. Broken or discarded furniture and household equipment on the premises for periods in excess of 90 days, visible from the street or nearby property which constitutes visual blight or is detrimental to nearby property or property values;
- I. Packing boxes, trash, dirt, and other debris deposited for periods in excess of 90 days either inside or outside buildings, visible from the street or nearby property which constitutes visual blight or is offensive to the senses or is detrimental to nearby property values;
- K. Neglect of premises:
 - 1. To influence zone changes; or
 - 2. To cause detrimental effect upon nearby property or property values.
- L. Maintenance of premises in the condition as to be detrimental to the public health, safety, or general welfare;
- M. Property maintained in the condition as to create an unsafe condition;
- R. A violation of any provision of the Municipal Code;
- T. Any condition recognized in law or in equity as constituting a public nuisance, including without limitation, any condition described in Cal. Civil Code § 3479.
- U. Continual complaints of violations of Local, State or Federal laws that require the Police Department to respond to the property resulting in the issuance of citations or the making of arrests.
- V. Commercial buildings, which are closed, vacant, or inoperative for a period exceeding 90 days shall be declared a public nuisance, unless maintained to the following standards:
 - 1. Windows must be kept clean, unobstructed by stored items or temporary coverings, and in a move-in ready condition equivalent to and consistent with occupied buildings in close proximity, except that temporary coverings are allowed during the period of time that an active building permit has been issued and tenant improvements are actually under construction;
 - 2. Local contact information for the property owner or property manager must be posted and clearly displayed on the front door;
 - 3. The interior and exterior of the structure must be maintained clear of trash, debris and stored items, except for those commercial fixtures directly associated with a prior or proposed legal use of the building;
 - 4. The exterior surfaces and paint, millwork and trim shall be kept clean and maintained in good condition equivalent to and consistent with occupied buildings in close proximity, to achieve a uniform appearance with the surrounding area and present a move-in ready condition for future tenants or business operators; and
 - 5. All nuisance conditions listed in this section are applicable to vacant buildings and in cases of immediate danger to health and safety or emergency may be caused to be abated prior to the 90-day period first stated above.

CIVIL CODE – CIV 3479.

Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

Public Comment -- Minor Subdivision 1-24 (DIV 1-24)

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

Date Tue 4/1/2025 4:25 PM

To cdd <cdd@fortbragg.com>

Community Development Department,

I write to comment on the proposed minor subdivision at 104 Dana Street. At first blush, this application seems relatively innocuous and inconsequential, however, this subdivision and the unpermitted grading and fill work that was performed on the property prior to applying for the subdivision presents major concerns that likely prevent the City from approving this application as currently presented.

This parcel and the adjoining parcels had a seasonal wetland on the property that was filled in prior to this application without any permits or local review. Such grading requires permits and environmental review (because of the preexisting wetland) pursuant to ILUDC §§ 18.60.030 -- Grading Permit Requirements, and 18.60.040 -- Grading Permit Application Filing and Processing, subdivision (B). These permits and environmental review did not occur. In fact, County Building Official Richard Angley noted the prior unpermitted work in an email about this proposed subdivision to CDD dated February 19, 2025 at 8:44 AM, where he asked the City to require a soil structural evaluation from a licensed engineer to ensure the unpermitted work was done in a manner that could support future construction on the parcels. Mr. Angley did not specifically mention the wetland that was filled in as part of that unpermitted work but it provides serious issues for this proposed subdivision due to the improper piecemealing of this project by first doing grading work that wouldn't have been permitted to destroy a protected wetland that would have prevented the City from approving this subdivision pursuant to ILUDC § 18.81.070 -- Tentative Map Approval or Disapproval, subdivision (C), Findings Requiring Denial, because the necessary grading is in direct conflict with both applicable ILUDC provisions and Inland General Plan policies that are intended to protect wetlands.

Relevant Inland General Plan policies that are in direct conflict with proposed Minor Subdivision 1-24:

OS-1.1, Preserve areas with important natural resources, which includes waterways and wetlands among the explicitly protected resources.

OS-1.3, Biological Report Required, again because of the existing wetlands

OS-5.2, Riparian Habitat, which requires development to prevent the destruction of wetlands providing riparian habitat to the greatest extent feasible.

OS-5.3, No Net Loss of Wetlands, which requires no net loss of wetlands, meaning that the prior wetlands that were filled to facilitate this subdivision and future physical construction on the site should have been prevented or mitigated by the restoration of wetlands off the property.

Not only were the wetlands improperly filled in in preparation for this application, the standards applicable to that grading and fill work were violated and no environmental review was conducted even though the wholesale destruction of the on-site wetlands created a significant unmitigated

environmental impact under CEQA. In the past, the greater property that has been and is proposed to be subdivided was advertised for sale as a "mitigation property" because of the wetlands that effectively prevented the physical development of this and the adjacent parcels because of the wetland as well as the applicable 100 foot setbacks around the wetland ESHA. As such, this property was specifically marketed for another project that impacted wetlands and would have needed to secure the retention and or restoration of other wetlands as mitigation for the impacts to the other wetlands as well as Inland General Plan Policy OS-5.3, which requires no "net loss" of wetlands. In fact, the prior work might have been done without permits because the property owners or potential developers knew that the grading and fill permits could not have been approved and that would, in turn, prevent the subdivision as well had the entire project been proposed at once including both the grading and fill work and the subdivision the fill work could have facilitated.

The greater parcel that was subdivided in the past to create this and the adjacent parcels included a recorded covenant of the protected area on the site. This recorded instrument is listed in the (outdated) title report from 2016 that was provided by the applicant as part of this application. The title report cites the recorded protections but that very relevant instrument was improperly omitted from the application materials. The recorded instrument was filed with the County Clerk's Office on June 22, 2011 as Instrument No. 2011-08548 M.C.N. Upon review of the application materials and title report, CDD should have deemed the application incomplete without Instrument No. 2011-08548 showing the protected area in order to calculate the necessary ESHA buffers and conditions of the protections. As such, this application should be denied until these issues have been resolved. The earlier Pryor Minor Subdivision required a related use permit due to the Wetland Management and Mitigation Plan and that file should have been reviewed for this application.

Moreover, the applicant should also be required to correct any site conditions due to the unpermitted (and likely impermissible without off-site mitigation) grading and fill work recently performed on this parcel and the adjacent parcels. This may actually require restoration of the now-destroyed wetlands or appropriate mitigation for the loss on another "mitigation property". The instrument was associated with the 2011 subdivision of the larger parcel that created this parcel (AKA "Pryor Minor Subdivision") and it involved a Mitigated Negative Declaration and Wetland Management and Mitigation Plan that applies to this property and all future development, including the unpermitted grading and fill work and this minor subdivision (SCH No. 2011022070). That document should have been included in the application materials or CDD should have been located and included as part of this review. (Please see <https://ceganet.opr.ca.gov/2011022070> for information about the prior project's environmental review.)

A recent real estate listing for this property (updated October 3, 2024, available at https://www.zillow.com/homedetails/104-Dana-St-Fort-Bragg-CA-95437/211816403_zpid/) described the conditions as follows: "This double lot is located on a street with no through traffic and bordered on two sides by a wetland preserve. No one can build east or to the north of parcel. The sewer main and lateral are stubbed in on the north end of the property and ready for your home plans. A grading permit was approved and grading has been completed. This parcel is ready to build. This sunny location with southern and western exposure is a great location to build your home. Minutes to town, schools and shopping. Sellers are willing to contribute \$6,500 for completion of sidewalk requirement." However, based on the County Building Official's email as well as a search for grading permits by CDD staff, no such grading permit was acquired, which makes sense because the site conditions shouldn't have allowed for the work to be permitted at all.

In short, I believe that the City should not approve this minor subdivision without first addressing these serious issues and recommend that the Planning Commission and City Council not approve anything until such issues have been resolved, including a review of the Use Permit, MND, and Wetland Management and Mitigation Plan from the 2011 Pryor Minor Subdivision to determine the extent that this project and the prior unpermitted grading work are subject to the plan and recorded resource protections.

(Please note that some of my comment is based on the reasonable assumption that there was not a grading permit when the wetland was filled but it is always possible that CDD staff couldn't find it when I asked about the work. Mr. Angley also might not have been aware of a permit issued by the City.)

Regards,

--Jacob

Fort Bragg Planning Commission Meeting
Minor Subdivision 1-24 (DIV 1-24)

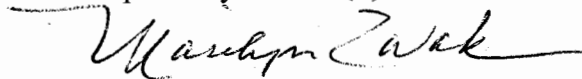
In response to the Notice of Public Hearing regarding the proposed subdivision at 104 Dana, I ask that you consider my following concerns:

When I purchased my lot at 100 Dana there were many restrictions defined by the city regarding the development of the lot due to the fact it was a marshland. The marsh was to be preserved by allowing all waters to percolate back into the earth. Changes in the topography of the land require a civil engineer as defined by the city running up the cost of the lot preparation another 10K. My architect was told that the adjacent lot would be under the same requirements as it had a good size pond in the center of it.

This short block on Dana dead ends into a nature walk and I was inspired by the natural beauty of the marshlands to create a manzanita art fence that highlights the natural beauty of the marsh. The openness of the views of dense marsh growth gives the residents a much needed relief from the built environment. Countless neighbors and visitors have stopped to express their appreciation to me.

When the city suddenly allowed the pond to be filled causing waters to back up onto my lot I did not complain but felt this was generally unfair and deceptive. I love this little neighborhood and am invested in its enhancement. So I speak on behalf of the welfare of my neighbors as well as myself when I ask for this subdivision to be denied. The spaciousness of the lot at 104 Dana is part of the beauty as you approach the nature walk and I ask that it be given special consideration due to its close proximity to the existing recreational area.

Respectfully submitted,



Marilyn Zwak Artist

Owner of adjacent lot 100 Dana

RECEIVED

APR 07 2025

City of Fort Bragg
City Clerk

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Thursday, April 10, 2025 12:05 PM
To: cdd <cdd@fortbragg.com>
Subject: Re: Public Comment -- Minor Subdivision 1-24 (DIV 1-24)

Community Development Department,

Now that I have had a chance to review more project information, I would like to amend my prior comments. Despite the City's records indicating otherwise, the recent grading work was actually permitted by the City in 2023 as BP23-080. As a result, we can't fault the applicant for relying on their permit to perform work approved by the City, even if it arguably shouldn't have been. I say that it shouldn't have been approved because the details of the permit were not consistent with the prior subdivision requirements even though the existence of such requirements was referenced in PW's communications with the applicant's agent. (It appears that the documents were mentioned but not actually reviewed by staff in detail, instead relying on the applicant to review the documents and apply them to their project; a better approach would be for staff to have identified the specific applicable requirements and ensure that the proposed details of the grading plans followed them.)

There are numerous special conditions from the prior permits that apply to all four of the parcels created in the prior subdivision of the formerly larger parcel that explicitly apply to this parcel (described as "Parcel 1" on the Pryor Subdivision). There are also applicable mitigation measures from the related MND that should have been applied to and enforced on subsequent projects, including the recent grading and fill work as well as the currently-proposed subdivision. Unfortunately, City staff appear to have either been unaware of the specific special conditions and mitigation measures due to not fully researching the prior permit history and instead relying on the applicant to ensure compliance. IMO, this is an example of a serious process breakdown in both CDD and the Public Works Department. CDD should have done a planning review of the grading permit application and identified and applied the prior permit conditions and mitigation measures to that permit rather than relying on PW Engineering staff to do everything. Instead, the grading was done in a manner that appears to conflict with the explicit requirements from the Pryor Subdivision. These conditions and requirements were also not followed for related work on the adjacent parcel at 100 N Dana Street (Parcel 2 in the Pryor Subdivision) when the sidewalks were installed because there isn't a "cross-drain" at the corner that was explicitly required, which demonstrates that the City shouldn't assume that an applicant will actually review any referenced requirements. It isn't the applicant's job to ensure that an application includes all specific requirements, it is the City's job to do that through the entitlement review process.

For this review, you need to make sure that all applicable requirements from the Pryor Subdivision are followed. This involves special conditions applied to the earlier permits that relate to future work, mitigation measures from the MND, and requirements of the Wetland Management and Mitigation Plan (WMMP) created as part of the Pryor Subdivision. Staff should include the relevant analysis in their staff report for the current proposed subdivision and likely impose relevant special conditions to the current project as a result. Moreover, the fact that an existing MND applies to this property due to the earlier Pryor Subdivision (which explicitly applies to all future projects on any of the four parcels, not just this one) means that the cited categorical exemption may not apply and a subsequent review of the governing MND is necessary for this project. Because the public hearing notice does not indicate any such review has occurred, I have to assume that the staff report will fail to address this significant CEQA issue. As a result, I must object to the City erroneously relying on the cited categorical exemption and suggest that either an amendment to the MBSD or a supplemental CEQA review of this project be applied. (The same should have happened related to the grading permit since that project was even more directly related to the prior MND than the simple subdivision.). The application of an exemption to this subsequent related subdivision is improper unless a

thorough analysis of the existing MND and its required mitigation measures are applied to the current proposed subdivision to demonstrate that the details of this subdivision are not in conflict with the requirements set out in the MND. There is no indication in the public hearing notice that has been done.

In summary, be sure that all special conditions, mitigation measures from the MND, and requirements of the WMMP have been reviewed and are being applied to this subdivision (to the extent they are relevant) before you approve anything related to the current application. If you do not, then your approval would be improper and amount to an abuse of discretion.

In case staff don't include the permits, MND, and WMMP for the Pryor Subdivision in the record for this currently proposed subdivision, I include them by reference in this comment. CDD has the hard copy file of all of these documents in its possession, which I reviewed in person on Tuesday so that same file box should be provided for the Planning Commission's review of this project.

Regards,

--Jacob

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Thursday, April 10, 2025 3:47 PM
To: cdd <cdd@fortbragg.com>
Subject: Re: Public Comment -- Minor Subdivision 1-24 (DIV 1-24)

Community Development Department,

I'd like to amend my comment incorporating by reference the entire project file contents of the bankers box about the Pryor Minor Subdivision (DIV-1-10, LLA 1-10, and USP 2-10). First, there was a sheet attached to the box that identified a Z-drive location where, I assume, electronic versions of the files reside. The electronic records are easier to use rather than their physical counterparts so that is both fine and preferred. I also want to narrow the scope to only include the four relevant documents rather than the entire physical project file:

1. The Mitigated Negative Declaration (MND) for the Pryor Subdivision
2. The Wetland Management and Mitigation Plan (WMMP) for the Pryor Subdivision
3. The staff report (including attachments like the draft approval resolution) for the entitlement review for the Pryor Subdivision
4. The actual approved permits for the Pryor Subdivision, which list the special conditions that are explained in more detail in the staff report

These four individual documents from within the full file for the Pryor Subdivision outline all of the requirements that apply to the future projects on all four lots created by that subdivision, including the 2023 grading permit and this proposed subdivision of Parcel 1 from the Pryor Subdivision. I would normally attach the electronic versions of these documents myself but I don't have access to them because they are in the custody and control of CDD and there isn't time to fully process a PRA request prior to the scheduled hearing.

Thanks,

--Jacob

104 N Dana -- Minor Subdivision 1-24 (DIV 1-24)

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

Date Fri 4/11/2025 1:07 PM

To cdd <cdd@fortbragg.com>

Cc Whippy, Isaac <iwhippy@fortbragg.com>

Community Development Department,

Although this relates to the permit conditions associated with the earlier subdivision, when I visited the project site I noted that the required boundary fence that is supposed to be in place to protect the wetland/drainage area to the north of the parcel proposed to be further subdivided is missing the western-most segment of the fence. It has actually been down for quite some time but as it around the north and east boundaries of the project site, the City needs to require the restoration (and continued maintenance) of the entire boundary fence.

One of the other requirements is that both this parcel (104) and the northern parcel (i.e., where the protected wetlands are) still need to have the sidewalk improvements installed along Dana Street. That is not technically required until a primary residence is built on the subdivided parcel at 104 and the southern parcel at 100 N Dana. I mention that because now that 104 is proposed to be further subdivided into two separate parcels, the original permit condition will need to be adjusted to require the sidewalks be installed when a primary residence is built on 100 N Dana and when a residence is built on either of the two parcels that will be formed out of 104 otherwise the condition will be undermined. Since the other permit conditions from the Pryor Subdivision have not consistently been enforced (including in the very recent sidewalk work that was done at 100 N Dana that lacks the explicitly-required cross drain which was determined to be essential to control the overall drainage on the larger former parcel into the retained wetlands along in the northern parcel), we must ensure that all applicable conditions are enforced now as part of this project. Moreover, we need to have that parcel alter the corner ramp area to include the improperly-omitted cross drain since the City staff reviewing those associated permits failed to perform adequate due diligence reviewing the prior projects that created those conditions.

Regards,

--Jacob

Comment for Minor Subdivision 1-24 (DIV 1-24) about CEQA, Mitigation Measures, and Permit Conditions

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

Date Mon 4/14/2025 12:54 PM

To cdd <cdd@fortbragg.com>

Cc Whippy, Isaac <iwhippy@fortbragg.com>

 4 attachments (14 MB)

unnamed (1).jpg; unnamed.jpg; 1000000974.jpg; 1000000972.jpg;

Planning Commission,

Now that the staff report for this subdivision is available for review, I have some specific comments in response to what can only be described as inadequate and misleading content in the staff report. These issues need to be addressed and the approval resolution amended accordingly or you should not approve this subdivision--you should approve it eventually but not until corrected, which will probably require a continuance to facilitate the revisions.

First, I reiterate that the categorical exemption that is asserted doesn't apply to this project. While I agree that it would normally apply to a minor subdivision like this because the earlier subdivision was more than two years ago (and for the reasoning in the attached draft NOE and staff report), that is only the case when the earlier subdivision did not have an associated MND that explicitly applies to future projects within the earlier subdivision, including this subsequent subdivision. The language in the staff report that is incorrect, IMO, is "The parcel was created through a subdivision permitted on April 26, 2011, for which a deed restricted wetland mitigation project was created on an adjoining parcel that fully mitigated the removal of all wetlands from this parcel. Therefore, DIV 1-24 is eligible for a categorical exemption from CEQA under Section 15315 of the CEQA Guidelines for Minor Land Divisions." There is no explanation or justification of the "therefore", quite the contrary. The existence of an MND that evaluated and mitigated these particular wetland-related impacts is why this project isn't exempt, rather it is covered by an existing MND. This may seem like a distinction without a difference (other than semantics) because I am not suggesting that additional environmental review is necessary, rather the environmental review was already performed because the additional subdivision of this parcel was evaluated at the time.

The importance of an accurate CEQA determination is that it reminds us to now review, in detail, the mitigation measures and requirements of the related earlier subdivision to ensure that this project (and future projects) are consistent with them. This project (and any other development, including the future construction of homes on the site) would normally be exempt as well and that would defeat the purpose of the earlier CEQA analysis and review because, if the projects are not reviewed for that consistency and built accordingly, then the planning and mitigation measures fail. The staff report includes such analysis, albeit based on the false assumption/assertion that all mitigation measures have been implemented already. The neighbors and any interested member of the community who

cares about protecting our groundwater and the preserved wetland, could challenge this project and seek enforcement of the mitigation measures, etc.. Why would we try to take a CEQA shortcut or run-around, when all we have to do is acknowledge the applicable MND and ensure that its requirements are being met by this project? No one needs to do a new CEQA evaluation or circulate anything for public review periods, all of that work already happened the first time so a proper CEQA determination this time won't even delay this project or increase the costs through a new IS/MND.

Despite the false assertion in the staff report to the contrary, all the mitigation measures have not been completed from the MND that applies to this project from the earlier Pryor Subdivision. Did CDD not visit the site? If they had they would clearly see several mitigation measures and permit conditions that have not been implemented. These include the requirement to install and maintain a boundary fence around the protected wetland. As you can see below, that fence is partially up but has not been completed. There are missing boards in the middle and an entire section along the edge that is missing. As I think back, I don't think the fence was ever completed. The point of the boundary fence is to protect the wetland from human activity and incursions. Of course, that can be addressed by requiring its completion (and future maintenance) now through an additional special condition since the fence is along the boundary of the parcel proposed to be further subdivided and the subdivision itself increases the risk of damage to the wetlands through additional human incursion from two rather than one parcels.

In addition (although not on this parcel), the cross-drain at the corner was not installed (per attached photos) and the grading both on this parcel and the adjacent parcel at 100 N Dana have not been done in accordance with the mitigation measures and special conditions of the Pryor Subdivision. Not only is the cross-drain omitted but the drainage is directed in conflict with the express provisions of how future grading was supposed to be done. For 100, all the drainage on the western, street-side drainage area is collected in a drain at the north west corner of that parcel and run through a pipe to the wetland area to the north. However, most drainage is supposed to be directed to the protected wetland with the exception of the drainage in the west front setback areas, which are supposed to be directed to Dana Street (the difference is because front setback areas, particularly vehicle access and parking which has a greater likelihood of environmentally- damaging chemicals, so the WMMP directed such areas to be drained so they wouldn't enter the protected wetlands. These requirements are discussed in the staff report but neither grading or drainage-related permits for 100 or 104 complied with these directives.

The best way to try to address that is to add special conditions now to require the further grading of the property to actually follow the requirements. That isn't "legally unwinding" the recent grading permit, it is either requiring it to be corrected because the work didn't meet the specific requirements of the approved permit or requiring an additional grading permit to correct the defective and non-compliant work that somehow slipped through the cracks during the City's PW review. Those special conditions might only require such corrective action at the time of the residential construction since the two distinct drainage areas will be fully defined at that time rather than what is likely to be the case based on where structures can be built. Regardless, some sort of special condition needs to be added to ensure that the future build-out activities actually meet the requirements. If we don't, it is likely that this will be overlooked again as it was for the recent grading permits and sidewalk improvements on 100 and 104 N. Dana.

As mentioned, the staff report makes the false assertion that the grading work on 104 N Dana is vested. However, that would only be true if the grading work was implemented in a manner consistent with the permit requirements and the actual grading work was not. The recent grading permit

explicitly required the grading work to be consistent with the applicable requirements of the WMMP from the Pryor Subdivision, which includes the majority of the parcel being sloped to direct surface water toward the protected wetland. Instead, the water is being directed to the south and onto the adjacent parcel. It actually floods the neighboring parcel (as described in her public comment and as I have personally verified with my own in-person observations of the parcels during our recent rains), making it more difficult and expensive for her construction. That is both inconsistent with the grading permit and also likely creates a legal cause of action for that property owner because under state law you cannot grade property to artificially alter water flows and flood neighboring property. Had the grading of 104 been done properly per the explicit requirements of its permit, the majority of the water would flow north rather than south. This needs to be corrected or it is manifestly unfair to the neighboring property owner who has invested significant sums to improve her property only to have the City's negligent permit administration harm her property interests. The entire community is harmed because the poor work also damages the protected wetlands, which are a part of our natural drainage system and stormwater management. All of these issues need to be properly resolved before you approve this subdivision. Contrary to the staff report suggesting that everything is done and satisfied, this project is anything but as currently proposed.

Please direct staff to make the necessary revisions to draft approval resolution (and associated documents) to add necessary special conditions to address these concerns as well as those raised in other public comments, only then should you approve this proposed minor subdivision.

Best regards,

--Jacob





CENTURY 21
707.964.2121
Stephanie Berry
707.964.2171





Comment for Minor Subdivision 1-24 (DIV 1-24)

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

Date Mon 4/14/2025 1:11 PM

To cdd <cdd@fortbragg.com>

I should have noted that the draft special conditions in the resolution are close to addressing the drainage concerns, they only need to be adjusted to make corrective grading more explicit to redirect the drainage patterns that are currently inconsistent with the WMMP that I discussed. Simply collecting water from the areas and "directing" them in the prescribed directed won't work since the current lot slopes after the recent grading of 104 direct surface waters in the wrong directions and in one case, explicitly gather the surface waters into a drain that dumps into the protected wetland rather than out onto Dana Street and the City's storm drain system. The property owner at 100 N Dana actually had to pay for an expensive drainage system that directly conflicts with the WMMP.

The only other additional special condition I suggest is to address the omitted boundary fence.

marie@mariejonesconsulting.com

Subject: FW: Comment for Minor Subdivision 1-24 (DIV 1-24) about CEQA, Mitigation Measures, and Permit Conditions

Hello Planning Commissioners:

Please see my comments below (Bold in Blue) regarding Patterson's email.

Thanks,

Marie Jones
Mariejonesconsulting.com
707-357-6480

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

Sent: Monday, April 14, 2025 12:54 PM

To: cdd <cdd@fortbragg.com>

Cc: Whippy, Isaac <iwhippy@fortbragg.com>

Subject: Comment for Minor Subdivision 1-24 (DIV 1-24) about CEQA, Mitigation Measures, and Permit Conditions

Planning Commission,

Now that the staff report for this subdivision is available for review, I have some specific comments in response to what can only be described as inadequate and misleading content in the staff report. These issues need to be addressed and the approval resolution amended accordingly or you should not approve this subdivision--you should approve it eventually but not until corrected, which will probably require a continuance to facilitate the revisions.

First, I reiterate that the categorical exemption that is asserted doesn't apply to this project. While I agree that it would normally apply to a minor subdivision like this because the earlier subdivision was more than two years ago (and for the reasoning in the attached draft NOE and staff report), that is only the case when the earlier subdivision did not have an associated MND that explicitly applies to future projects within the earlier subdivision, including this subsequent subdivision. The language in the staff report that is incorrect, IMO, is "The parcel was created through a subdivision permitted on April 26, 2011, for which a deed restricted wetland mitigation project was created on an adjoining parcel that fully mitigated the removal of all wetlands from this parcel. Therefore, DIV 1-24 is eligible for a categorical exemption from CEQA under Section 15315 of the CEQA Guidelines for Minor Land Divisions." There is no explanation or justification of the "therefore", quite the contrary. The existence of an MND that evaluated and mitigated these particular wetland-related impacts is why this project isn't exempt, rather it is covered by an existing MND. This may seem like a distinction without a difference (other than semantics) because I am not suggesting that additional environmental review is necessary, rather the environmental review was already performed because the additional subdivision of this parcel was evaluated at the time.

This statement is incorrect. The Pryor Subdivision MND did not include this subsequent subdivision in the project description, therefore that MND does not provide environmental review for this project. The City cannot rely on an MND for a project which did not include this two-parcel minor division in the project description. The Pryor Subdivision MND was reviewed, and all relevant mitigations were carried forward as special conditions in the permit request. The CEQA exemption for this project is correct.

The importance of an accurate CEQA determination is that it reminds us to now review, in detail, the mitigation measures and requirements of the related earlier subdivision to ensure that this project (and future projects) are consistent with them. This project (and any other development, including the future construction of homes on the site) would normally be exempt as well and that would defeat the purpose of the earlier CEQA analysis and review because, if the projects are not reviewed for that consistency and built accordingly, then the planning and mitigation measures fail. The staff report includes such analysis, albeit based on the false assumption/assertion that all mitigation measures have been implemented already. The neighbors and any interested member of the community who cares about protecting our groundwater and the preserved wetland, could challenge this project and seek enforcement of the mitigation measures, etc.. Why would we try to take a CEQA shortcut or run-around, when all we have to do is acknowledge the applicable MND and ensure that its requirements are being met by this project? No one needs to do a new CEQA evaluation or circulate anything for public review periods, all of that work already happened the first time so a proper CEQA determination this time won't even delay this project or increase the costs through a new IS/MND.

See my comments above. There is no shortcut.

Despite the false assertion in the staff report to the contrary, all the mitigation measures have not been completed from the MND that applies to this project from the earlier Pryor Subdivision. Did CDD not visit the site? If they had they would clearly see several mitigation measures and permit conditions that have not been implemented. These include the requirement to install and maintain a boundary fence around the protected wetland. As you can see below, that fence is partially up but has not been completed. There are missing boards in the middle and an entire section along the edge that is missing. As I think back, I don't think the fence was ever completed. The point of the boundary fence is to protect the wetland from human activity and incursions. Of course, that can be addressed by requiring its completion (and future maintenance) now through an additional special condition since the fence is along the boundary of the parcel proposed to be further subdivided and the subdivision itself increases the risk of damage to the wetlands through additional human incursion from two rather than one parcels.

This required fence is already included as a special condition in the resolution and staff report.

In addition (although not on this parcel), the cross-drain at the corner was not installed (per attached photos) and the grading both on this parcel and the adjacent parcel at 100 N Dana have not been done in accordance with the mitigation measures and special conditions of the Pryor Subdivision. Not only is the cross-drain omitted but the drainage is directed in conflict with the express provisions of how future grading was supposed to be done. For 100, all the drainage on the western, street-side drainage area is collected in a drain at the north west corner of that parcel and run through a pipe to the wetland area to the north. However, most drainage is supposed to be directed to the protected wetland with the exception of the drainage in the west front setback areas, which are supposed to be directed to Dana Street (the difference is because front setback areas, particularly vehicle access and parking which has a greater likelihood of environmentally- damaging chemicals, so the WMMP directed such areas to be drained so they wouldn't enter the protected wetlands. These requirements are discussed in the staff report but neither grading or drainage-related permits for 100 or 104 complied with these directives.

This applicant is not responsible for off-site improvements (cross drain) for a minor subdivision. Final grading for this parcel will be determined when a development application is submitted to the City of Fort Bragg. It is premature to define grading without a development plan.

The best way to try to address that is to add special conditions now to require the further grading of the property to actually follow the requirements. That isn't "legally unwinding" the recent grading permit, it is either requiring it to be corrected because the work didn't meet the specific requirements of the approved permit or requiring an additional grading permit to correct the defective and non-compliant work that somehow slipped through the cracks during the City's PW review. Those special conditions might only require such corrective

action at the time of the residential construction since the two distinct drainage areas will be fully defined at that time rather than what is likely to be the case based on where structures can be built. Regardless, some sort of special condition needs to be added to ensure that the future build-out activities actually meet the requirements. If we don't, it is likely that this will be overlooked again as it was for the recent grading permits and sidewalk improvements on 100 and 104 N. Dana.

The stormwater concerns will be addressed at time of development when the applicant gets a grading permit. We should not dictate how that grading is achieved now because we have no idea what the development plans will include. Also Special Condition #1 already includes language that effectuates this outcome at the grading permit stage.

As mentioned, the staff report makes the false assertion that the grading work on 104 N Dana is vested. However, that would only be true if the grading work was implemented in a manner consistent with the permit requirements and the actual grading work was not. The recent grading permit explicitly required the grading work to be consistent with the applicable requirements of the WMMP from the Pryor Subdivision, which includes the majority of the parcel being sloped to direct surface water toward the protected wetland. Instead, the water is being directed to the south and onto the adjacent parcel. It actually floods the neighboring parcel (as described in her public comment and as I have personally verified with my own in-person observations of the parcels during our recent rains), making it more difficult and expensive for her construction. That is both inconsistent with the grading permit and also likely creates a legal cause of action for that property owner because under state law you cannot grade property to artificially alter water flows and flood neighboring property. Had the grading of 104 been done properly per the explicit requirements of its permit, the majority of the water would flow north rather than south. This needs to be corrected or it is manifestly unfair to the neighboring property owner who has invested significant sums to improve her property only to have the City's negligent permit administration harm her property interests. The entire community is harmed because the poor work also damages the protected wetlands, which are a part of our natural drainage system and stormwater management. All of these issues need to be properly resolved before you approve this subdivision. Contrary to the staff report suggesting that everything is done and satisfied, this project is anything but as currently proposed.

These assertions are incorrect: for all applicants, per State and Federal Law, when a grading or building permit is issued and acted upon that permit is vested. When the applicant applies for a development permit, changes in the grades can be required if necessary per the Department of Public Works and the MND. Anyway, this issue is also already addressed in Special Conditions 1, 6, 7, 8, 9, 10, 11, and 12.

Please direct staff to make the necessary revisions to draft approval resolution (and associated documents) to add necessary special conditions to address these concerns as well as those raised in other public comments, only then should you approve this proposed minor subdivision.

No revisions are required.

Best regards,

--Jacob