

## **RESOLUTION NO. PC\_\_\_\_-2017**

### **RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION MAKING FINDINGS BASED ON THE EVIDENCE PRESENTED TO MODIFY EXISTING USE PERMIT 9-03 (USP 9-03) TO INCLUDE ADDITIONAL AND REVISED CONDITIONS TO ADDRESS NUISANCE CONDITIONS AND ONGOING VIOLATIONS OF SPECIAL AND STANDARD CONDITIONS OF THE USE PERMIT.**

**WHEREAS**, in 2003, the Planning Commission approved Use Permit 9-03 for the Hospitality House to operate an emergency shelter at 237 North McPherson Street and APN 008-155-11; and

**WHEREAS**, Use Permit 9-03 included two special conditions limiting the Hospitality House to 24 beds as follows:

1. The total number of emergency shelter beds shall not exceed 24. A Use Permit amendment shall be required prior to any increase in the number of beds at the site.
2. Prior to occupancy of the new/renovated alley "family" structure, Community Development Department staff shall conduct an inspection of the entire facility to ensure that no more than 24 beds are at the site.

**WHEREAS**, the City of Fort Bragg received numerous written and verbal complaints about the operation of the Hospitality House from the fall of 2016 through the present, and these complaints resulted in the City opening a code violation case regarding the Hospitality House (HH); and

**WHEREAS**, during the course of the code violation investigation, staff visited the Hospitality House on two occasions, with the permission of the Executive Director of MCHC, to observe and understand how Hospitality House operates. During the visits, staff discovered a violation of the Hospitality House Use Permit (USP 9-03), namely an increase in the number of beds from 24 to 35; and

**WHEREAS**, On July 20, 2017, the Hospitality House requested that the July 26th public hearing be continued, to allow Hospitality House representatives more time to prepare for the hearing; and

**WHEREAS**, On July 26<sup>th</sup>, the Planning Commission voted unanimously to continue the public hearing on the Hospitality House Use Permit modification to 6:00 on August 23<sup>rd</sup>; and

**WHEREAS**, during the Public Hearing on August 23, 2017, the City presented written evidence and testimony of the following nuisance conditions that relate to operation of the Hospitality House emergency shelter, in violation of various Fort Bragg Municipal Code Sections and Standard Condition 6 of the Use Permit:

- a. Between June 2016 and June 2017, the Fort Bragg Police Department received 196 confirmed calls for service to respond to the Hospitality House to address a variety of issues, including: disturbance, assault, battery, fighting, verbal threats, suspicious people/vehicle, trespass, drunk in public, etc.;

- b. During this time period, the City has received numerous complaints from residents and business owners regarding the following issues:
  - I. Urination, feces, vomit, pet waste on public and private property;
  - II. Aggressive panhandling, loitering, shouting, arguing, cursing in the public right of way;
  - III. Littering;
  - IV. Public drinking and drug use in the public right of way and on private property;
  - V. Trespassing, shoplifting, vandalism and fighting on private property;
  - VI. Sleeping on sidewalks, in vehicles, and on private property; and
  - VII. Obstruction of sidewalks and alleys with personal property.

**WHEREAS**, During the August 23, 2017 Public Hearing, the Planning Commission heard the evidence presented in the Use Permit and Code Violation case and took testimony from the public and carefully weighed the case; and

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Fort Bragg does hereby make the following additional findings for USP 9-03, based on the evidence presented at the hearing, in the staff report and in all attachments:

- 7. One or more of the conditions of the original permit or approval have not been substantially fulfilled or have been violated. Specifically, two conditions have been violated: (a) The Hospitality House violated USP 9-03 Special Condition 1, which permits a maximum of 24 beds in the emergency shelter. There are currently 35 beds in the emergency shelter. (b) The Hospitality House is in violation of Standard Condition 6c which states 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.”
- 8. The improvement/use allowed by the permit has become detrimental to the public health, safety, or welfare, and the manner of operation constitutes or is creating a nuisance.
- 9. Ongoing complaints alleging violations of local, State or federal laws require the Police Department to respond to the property and have resulted in the issuance of citations or the making of arrests.
- 10. The Hospitality House operates in such a way as to cause nuisance conditions:
  - a. Some Hospitality House clients leave a variety of personal trash and belongings around the neighborhood. Some Hospitality House clients leave the facility with food on paper plates and leave the paper plates and food supplies littered around the neighborhood.
  - b. Some Hospitality House clients defecate and urinate on Hospitality House property and immediately adjacent properties.
  - c. Some Hospitality House clients loiter and block the public right of way while waiting for Hospitality House to open to serve meals.

- d. Some Hospitality House clients engage in behaviors which cause nuisance conditions, such as: 1) fighting, aggressive pan-handling, loitering, shouting, arguing, cursing, littering, public drinking & drug use in the public right of way; 2) obstruction of sidewalks and alleys; 3) trespassing, shoplifting and vandalism of private property; and 4) sleeping on sidewalks, in vehicles, and on private property. Some Hospitality House clients engage in behaviors which cause nuisance conditions that prompt excess calls for service to the Police Department and disturb the peace of the neighbors surrounding the Hospitality House.
- e. On occasion, intoxicated and/or inebriated people are accommodated at Hospitality House in violation of its stated rules. The Hospitality House is, on occasion, left unmanaged in the evenings/nights and clients contribute to nuisance conditions at such times.
- f. At times, the manager of the Hospitality House has refused to cooperate with Police Department investigations of individuals housed at the shelter.
- g. The expansion of the meals program, in both number and hours, has resulted in an increase in the number of code violation complaints, calls for service and has resulted in an overall increase in nuisance conditions in the neighborhood.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Planning Commission of the City of Fort Bragg does hereby modify Use Permit 9-03, to include the following Special and Standard Conditions based on the above findings, as follows:

**The Special Conditions of USP 9-03 shall be deleted and replaced with the following Special Conditions:**

- 1. The total number of beds at the emergency shelter shall not exceed 24. An increase in the number of beds is not permitted unless a Minor use Permit or Use Permit Amendment is applied for and obtained. If this provision is violated, operator shall pay a code violation fee, as determined by the City's Fee Schedule for each occurrence of violation.
- 2. The emergency shelter operator shall permit periodic inspections by City staff, which may be conducted without prior notification, to ensure that the limitation on the number of beds is not exceeded.
- 3. Hospitality House shall serve all food on premises. Food shall not be prepared or served "to go" for clients to carry off-site.
- 4. Hospitality House shall provide at least two 50-gallon trash receptacles on site for clients to dispose of personal trash. Trash cans shall be emptied on a regular basis to ensure sufficient trash capacity.
- 5. Hospitality House shall provide a restroom facility for non-guest clients starting one hour before the breakfast meal program each day. (5b)

6. Hospitality House shall provide a location on Hospitality House premises for clients to gather and wait for the meal program to open. The gathering area shall be available to clients starting one hour before food service each day. The gathering area shall be monitored by Hospitality House staff.
7. Hospitality House shall monitor client behavior on and adjacent to the Hospitality House premises and shall report illegal behavior to the Police Department and cooperate with the Police Department to address client behavior that disturbs the peace. "Adjacent to" means the sidewalk directly in front of the Hospitality House property and the alley directly behind the Hospitality House property. (7b)
8. Hospitality House shall establish rules of conduct for clients, aimed at curtailing behaviors that are unlawful and/or disturb the peace. Clients who violate the rules of conduct shall be denied service by Hospitality House in accordance with policies approved by the MCHC Board of Directors. The Hospitality House shall establish a "ban list" which identifies individuals who are temporarily and/or permanently banned from the Hospitality House property. The "ban list" shall be shared with the Police Department and the Police Department may add the names of individuals who have been cited and/or arrested for illegal acts occurring in locations other than the Hospitality House premises. The Police Department shall use its judgment as to whether an individual should be temporarily banned or permanently banned from the Hospitality House depending upon the severity and frequency of repetition of the crime(s) committed. The Hospitality House shall abide by the "ban list." Closed loop surveillance cameras shall be installed in the interior and exterior public spaces of the Hospitality House and footage shall be shared with the Police Department upon request. (8b)
9. The Hospitality House rules of conduct shall prohibit drug use and drinking on Hospitality House property. Clients that violate these rules of conduct shall not be served meals and/or provided with a room for the evening. (9b)
10. The Hospitality House shall post signs on the front and back property entrances that prohibit drug use, drinking, intoxication and loitering. The signs shall also provide a phone number to reach a member of the Hospitality House staff during Hospitality House operating hours from 4:00 pm to 9:00 am. (10b)
11. The Extreme Weather Shelter shall not be operated from the Hospitality House.
12. The Hospitality House shall be successfully managed by a competent person who has both the requisite training and experience to manage an emergency shelter. (12b)
13. The Hospitality House manager shall be responsible for oversight of all activities on the premises and shall work to minimize the negative impacts of the facility and its clients on the surrounding neighborhood.
14. The Hospitality House shall have a trained person on-site at all times when clients are present. (14a)
15. The Hospitality House Management shall cooperate with the Police Department and Police Officers when they respond to complaints and calls for service at the Hospitality House, or when undertaking investigations at the Hospitality House.

16. The Hospitality House shall not expand the hours of meal service. Meal service shall be limited to 20,000 meals per year (2017 use rate).
17. Other homeless services currently offered at the facility shall not be intensified or expanded. (17a)
18. The Hospitality House shall not offer new services that attract additional clients to the facility at other times of day or otherwise intensify the utilization of the facility, including but not limited to: counseling, educational services, mental health services, mail service, computer access, food pantry, etc.

### **STANDARD CONDITIONS**

**The Standard Conditions of USP 9-03 shall be deleted and replaced with the following Standard Conditions:**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal to the City Council is filed pursuant to Inland Land Use and Development Code (ILUDC) Chapter 18.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the ILUDC.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to 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.

**The above and foregoing Resolution was introduced by Planning Commissioner \_\_\_\_\_, seconded by Planning Commissioner \_\_\_\_\_, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the \_\_\_\_ day of \_\_\_\_, 2017, by the following vote:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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**Teresa Rodriguez**  
**CHAIR**

**ATTEST:**

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**Sarah McCormick**  
**Planning Technician**