

Lemos, June

From: Jacob Patterson <jacob.patterson.esq@gmail.com>
Sent: Friday, March 9, 2018 1:40 PM
To: Jones, Marie
Cc: Lemos, June
Subject: Public Comment -- 3/12 CC Mtg., Item No. 6A, Dry Shed #4 Appeal

City Staff & Council-members,

The applicable findings for approval of Coastal Development Permits ("CDP") include the requirements that the proposed development (in this case the demolition of an existing structure rather than the construction of a new structure) be found to be compatible/consistent with the Local Coastal Program ("LCP"), Coastal General Plan ("CGP"), and the intent/uses of the applicable zoning district.

Although you are entitled to rely on the advice and analysis of your experts, including staff, you are not required to do so and you are not required to agree with their conclusions or interpretation of their analysis. You are charged with exercising your independent judgment in reviewing the issues before you in this appeal. Please consider the following before you make any final decision. If you require more thorough analysis of the issues, particularly the legal issues by the City Attorney, you should continue a final decision to a later meeting to permit such analysis and advice, which might be beneficial in a confidential memo rather than open discussion.

Irrespective of the opinions of staff, the Planning Commission, the applicant, or some members of the public, it is reasonable to find, and there is substantial evidence in the record to support, a decision of the Council that the proposed demolition of Dry Shed #4 is NOT consistent with the LCP, CGP, or the intent and uses of the Timber Resources Industrial zoning district that applies to the underlying property. As such, it is entirely within your power and authority to uphold the appeal and deny the requested CDP for the demolition of Dry Shed #4.

Moreover, do not be bullied or intimidated by implied legal threats should you decide to deny this CDP. I recommend that you request the analysis of the City Attorney regarding "takings" because there is informative case law in this area, including in the context of denials of requested demolition permits. I enjoyed refreshing my recollection as part of my review of this agenda item. I am concerned that Staff presented unsupported legal conclusions in the staff reports and at the earlier hearings that, in my opinion, do not comport with the law in this area when the relevant facts are considered. I believe this prejudiced the earlier review of the CDP by the Planning Commission and was inappropriate because it was not presented by an attorney representing the City or Planning Commission but was presented by non-attorney staff or was the self-interested position of the applicant in their correspondence with the City.

Many of the relevant facts were cited by the appellant as grounds for his appeal, including the demonstrated continued economic value of Dry Shed #4 in its current state as evidenced by several parties expressing interest in purchasing the property including the existing structure. Staff improperly rejected some of those facts as irrelevant to the issues before you in this appeal. Do not fall victim to what has been a flawed review process for this important decision about the future of the community. Please consider all the facts and ignore the superfluous information and discussion that has clouded this review.

I believe the following includes some of the most relevant aspects of the LCP, CGP, and Timber Resources Industrial zoning district for your consideration of the CDP to demolish Dry Shed #4. There are others that I am sure you can identify without my prompting.

LOCAL COASTAL PROGRAM:

The LCP consists of the CGP and the Coastal Land Use & Development Code. In order to be compatible or consistent with the LCP, an application for proposed development must be evaluated against the requirements of both halves of the LCP. The following policies, programs, and code sections are relevant to this review (and appeal) and this application for a demolition permit for Dry Shed #4 because the proposed demolition conflicts with said policies, programs, and code sections as described below.

COASTAL GENERAL PLAN:

Policy CD-2.6 Property Maintenance and Nuisances: Ensure that properties are well maintained and nuisances are abated.

Permitting "demolition through neglect" does not satisfy this policy, it undermines it because it encourages land owners to not maintain their properties adequately (in violation of the City's code about nuisances and maintaining property in good condition) and then to use their own neglect to attempt to justify demolishing the same building.

Program CD-2.6.1: Continue to implement and enforce the City's nuisance abatement ordinance, and update it, as necessary, to ensure that property values are maintained throughout the City.

Permitting demolition of poorly maintained buildings where the City failed to use code enforcement to encourage proper maintenance of the property in the past also undermines this policy. The City should have required to repair and maintain this building. The very facts cited by the land owner to attempt to support their request for demolition supports Code Enforcement proceedings and that approach would be consistent with this policy. However, granting this CDP conflicts with this policy because it undermines its purpose and encourages property owners to fail to maintain their buildings to justify demolition. One of the purposes of nuisance abatement is maintenance of property values, which supports the property tax base. Demolition is valuable to the property owner in some instances because it facilitates a reduction in the property taxes paid (a portion going to the City) through the reduction in assessed value of the improvements. Don't reward this kind of behavior and harm City coffers as a result.

Program CD-2.6.3: Provide Code enforcement for immediate health and safety violations in conjunction with the building inspection process.

This CDP conflicts with this policy for similar reasons it conflicts with the above policies, including encouraging and rewarding lack of maintenance of existing property.

COASTAL LAND USE & DEVELOPMENT CODE:

IT (Timber Resources Industrial) zoning district. The IT zoning district is applied to areas appropriate for timber resource and forest products related manufacturing, including a variety of related industrial uses, as well as related support activities including railroad lines, truck shipping facilities, power generation, and related uses; and aquaculture.

Demolishing an existing industrial building that is appropriate for Timber Industrial uses (including aquaculture) does not further the purposes of the Timber Resources Industrial land use designation or zoning district. This is particularly true because it is the last remaining building in that district. Other than outside storage of processed lumber (i.e., drying yards), Dry Shed #4 is the last remaining use that is actually consistent with the current land use designation and zoning district.

Demolishing Dry Shed #4 does not further these intended uses, it hinders the possibility of resuming such uses. Even though the rest of the formerly operational mill is gone, the fact that the drying yards at the north end of the property remain in place and in use demonstrates that Timber Industrial uses remain viable and active. For this reason, the demolition of Dry Shed #4 only hinders the possibility of using the property as it is currently intended to be used, for the drying of lumber that requires indoor curing and storage rather than exterior curing and storage. As such, this proposed demolition is inconsistent and incompatible with the listed policies and programs in the Coastal General Plan, the Local Coastal Program, and the current zoning.

Best regards,

--Jacob

Response to City Staff Findings and Recommendations

To the Honorable Mayor Peters, Vice Mayor, and City Council Members:

***Note: Dry Shed #4 will here forward be referred to more appropriately as the C. R. Johnson Legacy Shed.**

CITY STAFF RECOMMENDATION

Staff recommends denial of the Appeal of Gabriel Quinn Maroney and Approval of Coastal Development Permit 11-12/17 for the demolition of Dry Shed 4 based on the approved Mitigated Negative Declaration and the findings and subject to the conditions cited below:

This unfortunate recommendation ignores the clear historic significance of C. R. Johnson Legacy Shed, the relevant evidence that retention of the structure is feasible, that demolishing could potentially cause harm to nearby buildings, that there are other tools the city could use to eliminate safety concerns or blight, that the entire process has been fraught with systematic governmental failures that seem to violate the intentions of and spirit of the Brown Act, and that said demolition is both inconsistent/incompatible with the listed policies/programs in the Coastal General Plan/Local Coastal Program and current zoning.

FINDINGS

1. The demolition of Dry Shed 4 is necessary to eliminate safety concerns stemming from the lack of a functional fire suppression system on the Mill Site and the dilapidated state of the building, which makes it susceptible to storm damage. The demolition will also remove conditions of blight and improve the visual character in an area of scenic importance;

It is absolutely NOT NECESSARY to demolish the C. R. Johnson Legacy Shed to eliminate safety concerns, mitigate a dilapidated state, or to remove the conditions of blight. The City has other Code Enforcement proceedings available which would cure nuisances caused by neglect from the property owner. Permitting, "demolition through neglect," is simply irresponsible, undermining, and poor governance.

2. The proposed project is consistent with the purpose and intent of the Timber Resources Industrial (IT), as well as all other applicable provisions of Title 17 of the Fort Bragg Municipal Code, and applicable provisions of the Fort Bragg Municipal Code in general;

Demolition of C. R. Legacy Shed is not consistent with the purpose and intent of the Timber Resources Industrial (IT) or applicable provisions of the Fort Bragg Municipal Code in general because the building is the last remaining with intended use consistent with the current zoning district and land use designation.

3. The proposed project is in conformity with the certified Local Coastal Program (LCP);

The proposed project to demolish C. R. Johnson Legacy Shed is not in conformity with the certified Local Coastal Program (LCP) because it will adversely effect coastal

resources (destroy historic site in use with zoning district), it is inconsistent with the purposes of the zone, and could be injurious to properties or improvements in the vicinity.

4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located;

The COE of Skunk Train Depot gave testimony to the Planning Commission stating in effect that demolishing the C. R. Johnson Legacy Shed would potentially cause damage to their buildings.

5. As proposed, the development will not have any unmitigated adverse impacts to any known historical, archaeological or paleontological resource;

The C. R. Johnson Legacy Shed is a well know and documented historical sight that is the sole remaining building of 22 which contributed to the Georgia-Pacific Lumber Mill Historic District (P-23-004385) consisting of structures dating from 1885 to 1965. Katherine Anderson (Architectural Historian) points out in the documents dated August 2, 2017 that, "its association with the lives of persons significant in the past; principally with the life of C.R. Johnson, a founder of the lumber company and Fort Bragg's first mayor." As the sole remains structure connected to the district, it would have an adverse impact to a know historic structure.

Appeal Rationale Comments Note:

I am also concerned that some of my written comments have been taken out of context, misinterpreted, and wrongfully dismissed as not relevant and shall address this.

Submitted on behalf of the "8th Agency"
(We the People).

In dedicated appreciation,
Gabriel Quinn Maroney, MS (Global Health)

abrief
quinn
maroney



Jourdain, Brenda

From: Rex Gressett <rex.gressett@aol.com>
Sent: Monday, March 12, 2018 3:40 PM
To: Jourdain, Brenda
Subject: letter on hearing for appeal of demolition permit dryshed 4

Rex Gressett
rex.gressett@aol.com

To the Fort Bragg city council on the appeal of the demolition permit for dryshed4.

Some folks in town and some of the council know that over the last couple of weeks I have been trying to negotiate a purchase of the dry shed by a local landowner. He does not feel that he wants to rock the boat at this time by coming in to directly oppose a permit. He is relying I think on the council's willingness to be reasonable and perhaps look under some obvious local rocks. If the City Council will patiently give us a little grace we can work on the contacts that we have gained in our first protracted negotiation. If the council takes this opportunity to be accommodating to possibilities and strong in the pursuit of even option very likely he or others will move forward. There is plenty of development interest in the dry sheds..The city did not find a developer because they were not been actively or at least effectively looking for one. The initial serious interest by a single developer has raised the question, what is the city leadership attitude about the mill shed?. Is it prudence to destroy what may be of great value to the entire town. If the fear of GP prevents this period of grace, then we lose a key to our future for what urgency? , Instead, let's take a closer (indeed it will be a first) look a few options, certainly including the Skunk. The determinations of the stakeholders meeting seem to bear directly on the issues that were holding up the Skunk. It would indeed be a tragedy if the impediments to the negotiations between the skunk and GP were suddenly cleared away only to discover the chief object of the negotiation reduced to wreckage. New interest and the Skunk negotiations both council a small delay. 90 days seems so easy and would do much to overturn a wide public perception of hustle at city council meeting as in “we were hustled”. Never a good thing.