



CITY OF FORT BRAGG

Incorporated August 5, 1889

416 N. Franklin Street

Fort Bragg, California

95437

tel. 707.961.2823

www.fortbragg.com

September 25, 2018

Mr. Tom Lanphar
Senior Environmental Scientist
Department of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94710-2721

REPLY: CITY OF FORT BRAGG RELEVANT AND APPROPRIATE REQUIREMENTS FROM THE CITY'S LOCAL COASTAL PROGRAM FOR UTILIZATION BY DTSC IN ITS CONSIDERATION OF REMEDIAL EVALUATION AND DECISION MAKING FOR POND SEDIMENT AT THE FORMER GEORGIA-PACIFIC MILL SITE, FORT BRAGG, CALIFORNIA

Dear Mr. Lanphar;

Thank you for your August 23, 2018 letter requesting City of Fort Bragg input regarding potential compliance of various remedial alternatives with the City of Fort Bragg's Local Coastal Program regulations.

As you are aware, the City of Fort Bragg has jurisdiction over Coastal Development Permits within City Limits. Our standard of review for a Coastal Development Permit includes both our Coastal General Plan and our Coastal Land Use and Development Code (known as our Local Coastal Program). The proposed project alternatives are defined sufficiently to provide a preliminary review of each alternative's compliance with our Coastal General Plan policies. At a later point, the City can review the specifics of a selected remedial alternative for compliance with our Coastal Land Use and Development Code, which requires much more detailed project descriptions.

As you note in your letter to the City, the draft OU-E FS includes a summary and comparison of Remedial Alternatives in Table 7-1 of the FS. The remedial alternatives in the draft OU-E FS for aquatic sediments for the South Ponds (1-4), Ponds 6, 7, 8, and the North Pond include:

1. No action;
2. Institutional controls: land use restrictions, sediment management (for Ponds 6, 7, 8 and North Pond);

3. Vegetative soil cover (dry) and institutional controls;
4. Excavation and disposal Mill Pond;
5. Vegetative sediment cover over contaminated sediment and institutional controls;
6. For Pond 8 sediment only, in-situ stabilization sediment.

The City's Coastal General Plan does not include policies that specifically regulate the clean up level or clean up goals for contaminated sediment. Rather the City's policies regulate the physical activities (development) associated with the remediation activities, and the City's CDP review is limited to the actual physical changes (development) which trigger the requirement for a Coastal Development Permit.

The applicant will be required to obtain a Coastal Development Permit from the City of Fort Bragg for development activities located above the mean high tide, and the applicant will have to obtain a separate Coastal Development Permit from the Coastal Commission for activities located below the mean high tide. In the event that the project is appealed to the Coastal Commission, the Coastal Commission will use the City's LCP as the standard of review for those portions of the project that are located above the mean high tide and will use the Coastal Act as the standard of review for those portions of the project that are located below the mean high tide.

I prepared a matrix that analyzes each remedial alternative's compliance with the City's Coastal General Plan and consulted with the North Coast District Manager, Bob Merrill, to ensure that the City of Fort Bragg and the Coastal Commission staff interpretation and application of Coastal General Plan policies is consistent, as a local decision by the City Council is very likely to be appealed to the Coastal Commission. Bob Merrill will also provide his interpretation of the application of the Coastal Act to those portions of the project that are in the area of retained jurisdiction by the Coastal Commission, which includes the areas below the mean high tide.

The review of the proposed remedial alternatives must be considered initial at this time due to the relatively limited amount of information in the project descriptions for each alternative. A more detailed project description could result in modifications to how and if the project complies with a specific policy.

Additionally, the City had to make some assumptions about some of the project descriptions in order to facilitate a realistic analysis of the alternatives, and these are outlined in this letter and the attached matrix. For example, excavation and disposal would not be feasible without a significant restoration project, and in consultation with Coastal Commission staff, staff made assumptions about what the restoration project would need to include for the project to potentially comply with the Coastal General Plan.

Please find below, the City's preliminary analysis of whether a proposed alternative may be permissible with a Coastal Development Permit and a list of the policies that would have the most significant impact on the ability of an alternative to be permissible. Please see the attached matrix for the more detailed analysis and an overview of some of the special conditions which would be applied to the project for compliance with our Coastal General Plan policies.

Project Alternatives Analysis

1. No action

Determination: This option would not be considered a development project under the Coastal Act or the Certified LCP and is exempt from the need to obtain a CDP.

2a. Institutional controls: land use restrictions, sediment management & containment for Ponds 6, 7 and North Pond.

Project assumption: the beach berm would be the containment structure for Ponds 6, 7 and the North Pond and no changes are proposed or required for this containment structure.

Determination: This option would not be considered a development project under the Coastal Act or the Certified LCP and is exempt from the need to obtain a CDP.

2b. Institutional controls: land use restrictions, sediment management, and containment for Pond 8.

Project assumptions: For purposes of this analysis this project alternative is assumed to include:

- Retention of Pond 8
- Geotechnical stabilization of the Mill Pond Dam, Crib Wall and North Wall
- Minimal fill of a small portion of Pond 8 for construction of Dam Weir
- Activities below the mean high tide

On-site Wetland Mitigation would be required and could include:

- Improve Pond 8 vegetation; and
- Improve Ponds 1-4 and 6 & 7 vegetation; and
- Establishment of new wetlands in the low land area as mitigation.

Initial Determination: This project may comply with the policies of the Coastal General Plan. Additional information is required, including a Botanical Study and a Sea Level Rise Analysis. Compliance with the following policies is not certain: Policy OS-1.6 and Policy SF-1.5.

For project compliance with many of the policies, the project would have to comply with a number of special conditions, including but not limited to the many conditions briefly described in Attachment 1.

3. Vegetative soil cover (dry) and institutional controls.

Project Assumptions: For purposes of this analysis this project alternative is assumed to include:

- Retention of the dam structures
- Add 3 feet of fill (31,500 CY) over the existing sediment and vegetation of the area with upland species. The soil cover would require dewatering and compaction of the sediment to support the weight of the cover.
- Development of a new two-acre stormwater retention and treatment basin at Maple Creek.
- Rerouting of the Alder and Maple stormwater flows into a “day-lighted creek” system.

Determination: This project does not comply with Policy OS-1.3. This alternative would not be able to secure a Coastal Development Permit. Filling Pond 8 is not permitted by Policy OS-1.3 as this would not be considered a restoration project or an incidental public purpose project, nor is it the least environmentally damaging alternative.

If the project was somehow reconfigured as a restoration project (see Option 4b), the project would require significant wetland mitigation which could not be achieved on site. The Bolsa Chica Land Trust case requires that wetland mitigation occur on the same site as the project. The development of a 2 acre stormwater retention pond and a 2 acre creek is not sufficient mitigation to fill an 8 acre wetland. The project wetland mitigation ratio would be 0.5:1, which is significantly lower than the Coastal Act ideal of 4:1.

4a. Excavation and Disposal: Ponds 6, 7 and North Pond

Project Assumptions: For purposes of this analysis this project alternative is assumed to include:

- Remove and dispose of sediment from Ponds 6, 7 and the North Pond
- Restoration and expansion of the lowland wetlands to achieve at least a 2:1 mitigation ratio, restoration of all lowland wetlands, and removal of all concrete and metal debris from the lowland area.

Initial Determination: For this project to be feasible as a restoration project under Policy OS-1.3e, the overall project would have to provide improved habitat values, increase wetland acreage (wetland mitigation ratio of 2:1) and restore the area to its natural state as much as feasible.

Compliance with the following policies is not certain:

- Policy OS-1.6 and Policy SF-1.5: additional information is required, including a Botanical Study and a Sea Level Rise Analysis.
- Policy SF-1.2 (see analysis); Policy SF-1.7 (see analysis), Policy SF-1.10 (see analysis).

The project would have to comply with a number of special conditions, including but not limited to the many conditions briefly described in Attachment 1.

4b. Excavation and Disposal: Pond 8 (aka Mill Pond)

Project Assumptions: For purposes of this analysis this project alternative is assumed to include:

- Eliminate the Mill Pond and remove 106,000 cubic yards of sediment.
- Remove the dam, crib wall, north wall and Rip Rap beach berm.
- Reuse some of the materials graded from the north wall and berm to create a stabilized slope which has some “natural” contours between the coastal trail and the lowland area.
- Pond 8 would no longer receive flows from Maple and Alder stormwater culverts.
- Development of a new two-acre stormwater retention and treatment basin at Maple Creek.
- Rerouting of the Alder and Maple stormwater flows into a “day-lighted creek” system.
- Restoration of the site with appropriate vegetation.

Initial Determination: For this project to be feasible as a restoration project under Policy OS-1.3e, the overall project would have to provide improved habitat values and restore the site to its “pre-human contact” conditions, including the creek alignment, as much as feasible.

Compliance with the following policies is not certain:

- Policy OS-1.6 and Policy SF-1.5: additional information is required, including a Botanical Study and a Sea Level Rise Analysis.
- Policy SF-1.2 (see analysis); Policy SF-1.7 (see analysis), Policy SF-1.10 (see analysis).

The project would have to comply with a number of special conditions, including but not limited to the many conditions briefly described in Attachment 1.

5. Vegetative sediment cover (wet) over contaminated sediment and institutional controls

Project Assumptions: For purposes of this analysis this project alternative is assumed to include:

- Retention of the dam structures
- Add 1 to 2 feet of fill over the existing sediment and revegetation of the area with wetland species.

Determination: This option might be approvable as filling and dredging for an incidental public service purpose if it can be demonstrated that the work in Pond 8 actually does benefit or improve the stormwater runoff treatment use of Pond 8. Additional information is required to determine if the continued use of Pond 8 as a stormwater detention basin poses a risk of mobilizing some of the contaminated sediments. If it does, then arguably partially filling the pond under policy OS-1.3 could be an incidental public service purpose of stormwater runoff management. If not, then the project would not comply with Policy OS-1.3 and would not be permissible.

- A Botanical Study and a Sea Level Rise Analysis would be required for the dam stabilization.
- Compliance with the following policies is not clear: Policy OS-1.6, Policy SF-1.5, Policy OS-2.1.

6. Pond 8 in-situ stabilization of sediment

Project Assumptions: For purposes of this analysis, this project alternative includes:

- Portland cement (or similar material) would be mixed with sediment to produce an inert, geotechnically strong, and relatively less permeable material.
- The dam stabilization project would not be required.
- The Mill Pond Dam and beach berm would continue to provide sediment containment.

Determination: This project does not comply with Policy OS-1.3 as it is not a restoration project and would not be considered the least environmentally impactful alternative. This alternative would not be able to secure a Coastal Development Permit.

7. Hot Spot Removal from Pond 8

While not included in the FS, staff is aware that the DTSC is considering requesting additional “hot spot” removal from pond 8 and staff has analyzed this activity as well.

For purposes of this analysis, this project alternative is assumed to include:

- Minimal dredging of a small portion of Pond 8 for removal of “hot spots” in Pond 8. Upon removal of the “hot spots” this analysis assumes that the pond would be cleaned to a residential standard and no containment of the pond would be required by DTSC.
- This analysis assumes retention of Pond 8 without geotechnical stabilization. (See alternative 1 to view policy implications for geotechnical stabilization.)
- Under this analysis, the dam would be retained under DSOD authority and beach access may be limited.

To understand the feasibility of “Hot Spot” removal with dam repairs, please see Option 2a.

Initial Determination: This project may comply with the policies of the Coastal General Plan. This project may comply with Policy OS-1.3 if it includes minimal dredging of Pond 8 to remove “hot spots” and if this dredging is part of a larger more extensive restoration strategy for the pond and a larger strategy that would result in improved stormwater treatment outcomes (incidental public service purpose) for the pond. If the hot spot removal areas were completely revegetated within a year additional wetland mitigation would not be required, otherwise the project would require 1:1 wetland mitigation for those areas where “hot spots” were removed.

Compliance with the following policies is not certain:

- Policy OS-1.6 and Policy SF-1.5: additional information is required, including a Botanical Study and a Sea Level Rise Analysis.
- Policy OS-16.1, 16.2, 16.17, 16.18 -Public access to the beach may be limited if the dam is not stabilized. Need to confirm with DSOD if the dam stays in DSOD’s jurisdiction and if it is not stabilized, can public access be safely provided to the beach, if so where.
- Policy SF-1.1 – see above.

The project would have to comply with a number of special conditions, including but not limited to the many conditions briefly described in Attachment 2.

Conclusion

The following two project alternatives are not considered development and would not require a Coastal Development Permit.

- **No action**
- **2a. Institutional controls: land use restrictions, sediment management & containment for Ponds 6, 7 and North Pond**

The projects below would require a Coastal Development Permit and could be found to comply with the policies of the Coastal General Plan. However additional studies are required (climate change, botanical, archaeological, etc.) and detailed project descriptions are needed to make a confident determination.

- **2b. Institutional controls: land use restrictions, sediment management, and containment for Pond 8**
- **4a. Excavation and Disposal: Ponds 6, 7 and North Pond**
- **4b. Excavation and Disposal: Pond 8**

- **5. Vegetative sediment cover (wet) over contaminated sediment and institutional controls**
- **7. Hot Spot Removal: Pond 8**

The following project alternatives are not compatible with policies of the City's Coastal General Plan and Coastal Act court cases and would not be able to obtain Coastal Development Permit approval.

- **3. Vegetative soil cover (dry) and institutional controls**
- **6. Pond 8 in-situ stabilization of sediment**

The information provided in this letter and the attached matrices represent an initial determination of potential compliance/non-compliance with the policies of the Coastal General Plan. It is based on brief project alternative descriptions. Neither engineered drawings nor coastal act resource studies have been submitted, and thus a definitive determination of compliance is not feasible.

It is also important to note that all Coastal Development Permits are discretionary, and they are considered, reviewed and decided by the Planning Commission and, upon appeal, by the City Council and the California Coastal Commission.

If you have questions or concerns, please feel free to contact me at 707-961-1807.

Sincerely,



Marie Jones

Community Development Director

cc Bob Merrill, Coastal Commission
 Tabatha Miller, Fort Bragg City Manger
 Fort Bragg City Council

Attachments

Coastal General Plan Matrix – Alternatives