

AGENCY:	Planning Commission
MEETING DATE:	April 23, 2019
PREPARED BY:	S. Perkins
PRESENTED BY:	S. Perkins

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** Coastal Development Permit 4-19 (CDP 4-19)

**APPLICANT/OWNER:** William, Donna, Dennis, and Verlon Severi

**REQUEST:** Coastal Development Permit for nine soil borings to collect soil and groundwater samples

**LOCATION:** 105 North Main Street, Fort Bragg

**APN:** 008-161-05

**ZONING:** Central Business District

**LOT SIZE:** +/- 16,600 SF

**ENVIRONMENTAL DETERMINATION:** Project is Categorically Exempt from CEQA, per CEQA Guidelines Section 15305, data collection and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

**SURROUNDING LAND USES:**

NORTH:	Public Facility (Fire Department)
EAST:	Commercial (PG&E Office)
SOUTH:	Commercial (Service Station)
WEST:	Vacant (Mill Site)

**NON-APPEALABLE PROJECT:**

- ☒ Can be appealed to City Council
- ☒ Can be appealed to California Coastal Commission

## PROJECT HISTORY

The project site is currently occupied as The Shop Auto Repair and provides both major vehicle repair and minor maintenance and repair. The property is owned by William and Dennis Severi who formerly operated Severi's Service. The site has been used as a service station and/or gasoline retailer for decades.

On March 13, 2008, a permit was issued by the Mendocino County Department of Environmental Health to remove and dispose of two 8,000 gallon and one 6,000 gallon fiberglass underground storage tanks (USTs) and connected piping that previously contained unleaded fuel at 105 N. Main Street in Fort Bragg. The City of Fort Bragg was alerted to the removal of the underground storage tanks when the applicant's agent contacted the City on September 9, 2008 to request a building permit for demolition of the service station's front building canopy and abandoned sign. The removal of the underground storage tanks was already underway at the time the contractor contacted the City.

Staff authorized the removal of the storage tanks, canopy and abandoned sign with issuance of an Emergency Permit on September 10, 2008. Work authorized by Emergency Permit is considered temporary until authorized by a follow-up Coastal Development Permit. The applicant's agent submitted an application and filing fees for a Coastal Development Permit within the required 90 days from the issuance of the Emergency Permit.

Three underground storage tanks (USTs) were located immediately north of the project site building and were removed between September 10 and 11, 2008 with Emergency Permit 1-08 and subsequently authorized by CDP 13-08. As indicated in the County of Mendocino Department of Public Health – Environmental Health Division (CMDPH-EHD) *Underground Hazardous Materials Storage Tank Abandonment Inspection Report* (UST Removal Report) (CMDPH-EHD, 2008), the USTs consisted of: one (1) 8,000-gallon fiberglass gasoline UST (Tank 1), one (1) 8,000-gallon fiberglass gasoline UST (Tank 2), and one (1) 6,000-gallon fiberglass gasoline UST (Tank 3).

According to David Morris of Beacom Construction (the contractor who removed the tanks), the fiberglass tanks failed because they were not properly installed. They were in deteriorated condition with patches when they were removed from the site. According to Mr. Morris, the tanks should have been removed much sooner.

While no obvious holes were observed in the primary body of the fiberglass USTs during removal, obvious contamination was observed in the excavation pit water and surrounding soil. Soil samples collected during UST removal indicated soil contamination up to 1,200 milligrams per kilogram (mg/kg) Total Petroleum Hydrocarbons as gasoline (TPH-g) in the soil sample collected in the vicinity of Tank 3 and excavation pit water contamination of 2,100 micrograms per liter (µg/L) of TPH-g. An additional soil sample was collected from 2.5 feet below ground surface (BGS) in the vicinity of the pump island. While no signs of contamination were noted in the UST Removal Report in the vicinity of

the product piping and pump island, low level TPH-g was reported in the soil sample collected from 2.5 feet BGS in the vicinity of the pump island.

The proposed project would follow-up on the previously-identified contamination for the development of a work plan for site remediation required by the North Coastal Regional Water Quality Control Board (NCRWQCB).

## PROJECT DESCRIPTION

EBA Engineering (EBA) proposes to undertake nine temporary soil borings at the locations shown on the Site Plan (**Attachment 2**). The purpose of the investigation is to assess the current soil and groundwater conditions at the project site in relation to the former gasoline service station. The location of soil boring SB-1 was selected to characterize soil and groundwater up-gradient of the former USTs, whereas SB-2 will be located adjacent to the former fuel dispenser area. Soil boring SB-3 is proposed for the vicinity of former vent lines, and soil borings SB-4 through SB-7 are distributed across the central and western portions of the project site to characterize soil and groundwater conditions down gradient of the former USTs. Soil borings SB-8 and SB-9 are located near the vicinity of the former white gas and waste oil USTs.

EBA will contract with and oversee a C-57 licensed driller to advance the proposed soil borings. The soil borings will be advanced using a truck-mounted direct-push drilling rig. The soil borings will be drilled to an anticipated depth of approximately 20 feet BGS and/or at least five feet below first encountered groundwater. Drilling depth and location may be adjusted based upon conditions encountered in the field and/or encountering bedrock.

Soil samples will be collected in butyrate tubes. All soil samples will be capped, labeled and placed under refrigerated conditions pending transport under Chain-of-Custody (C-O-C) procedures to K Prime Inc. (K Prime), a California State- certified analytical laboratory, for chemical analysis.

Soil sampling in each boring will target depths of zero to five feet BGS to assess the threat of ingestion and direct contact and five to 10 feet BGS to assess the threat of volatilization to outdoor air pursuant to the State Water Resources Control Board's (SWRCB's) *Low-Threat Underground Storage Tank Case Closure Policy* ([LTCP] SWRCB, 2012). Additional soil samples may be collected from the borings based on areas of obvious contamination, changes in lithology and/or at the soil and groundwater interface based on conditions encountered in the field.

All soil generated during drilling activities will be containerized on-site in properly labeled DOT 17H 55-gallon steel drums or steel bins pending characterization and disposal.

Groundwater grab samples will be collected from soil borings SB-1 through SB-9 for chemical analysis. Upon reaching groundwater, the drill tooling will be advanced an additional five feet and a temporary polyvinyl chloride (PVC) well casing will be installed in the soil boring. Groundwater grab samples will be collected from each soil boring using

a disposable bailer and/or peristaltic pump. After collection, the groundwater samples will be transferred directly into laboratory-supplied sample containers, labeled, and placed under refrigerated conditions pending transport under C-O-C procedures to K Prime for chemical analysis.

The drilling and sampling equipment will be decontaminated before drilling each soil boring to minimize the possibility of cross contamination. In addition, the sampling equipment will be cleaned prior to collecting each soil sample with an Alconox® solution and a potable water rinse. The decontamination water generated as part of these cleaning operations will be transported to EBA's warehouse, where it will be subsequently treated using granular activated carbon (GAC) and discharged to the City of Santa Rosa's Publicly-Owned Treatment Works (POTW) under EBA's Industrial User Permit #SR-GW-7010. Upon completion of the drilling operations, the boreholes will be backfilled with cement grout using tremie pipe to within four inches of grade. The last four inches will be completed with native materials or asphaltic concrete to match existing conditions.

## **CONSISTENCY WITH PLANNING POLICIES**

**Rational for Requiring Coastal Development Permit.** Coastal Development Permits are required for all development in the Coastal Zone of the City of Fort Bragg to ensure consistence with local and state regulations. Section 17.71.045 of the City's Coastal Land and Development Code (CLUDC) defines development as follows (emphasis added):

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or **extraction of any materials**; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the subdivision map act (commencing with Government Code Section 66410), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg Nejedly Forest Practice Act of 1973 (commencing with Public Resources Code Section 4511).

Due to the relatively minor impact of the advancement of nine temporary soil borings for soil testing, City staff consulted with Coastal Commission staff on whether or not the proposed activity meets the definition of development and requires a Coastal Development Permit. In an email on September 26, 2018 Commission staff stated that "we would consider this activity to meet the definition of development...[and] since the proposed project does not meet the exemption requirements provided in Section 17.71.040 of the CLUDC...a coastal development permit is required." As a result, the City directed the application to make an application for a CDP prior to commencing testing activities.

**Land Use.** The project site is located within the Central Business District (CBD) zoning district and also lies within the Coastal Zone. Major repair and minor maintenance and repair vehicle services are not permitted uses within the CBD zoning district; however, the use was permitted in the CBD when it was established, per planning staff reports written in 2003 and 2008. As a result, the existing business and land use (The Shop Auto Repair) is legally non-conforming (“grandfathered”). The proposed temporary boring project would not change the land use, and the existing non-conforming business would continue during and after the activity.

**Parking.** The implementation of the project will temporary impact customer parking. The borings will be advanced using a truck-mounted rig, which will move from one boring location to the next. At any given time, at least 50% of the available parking will remain open for business use. Additionally, public parking is available nearby behind the fire station. **Special Condition 1** is recommended to ensure that parking impacts are minor and will not cause back-ups or safety issues in the public right-of-way.

**Special Condition 1:** If the activity makes more than 50% of the onsite parking unavailable for business use, the applicant shall contact the Public Works Director to determine if additional measures are necessary to prevent safety or circulation issues in the public right-of-way (i.e. signage, cones, etc.). Additionally the applicant will abide by the City’s parking ordinance and refrain from parking or storing customer vehicles in the public right of way.

**Development Standards.** As the project consists of a temporary activity and will not result in new physical structures, conformance with development standards (setbacks, FAR, etc.) is not relevant.

**Environmental Resources.** The project location is not identified as likely to contain environmentally sensitive habitat areas (ESHA) on Map OS-1 of the Coastal General Plan. The proposed borings are needed to determine the extent of underground contamination. The property owner is required by NCRWQCB to conduct this hydrogeologic investigation and develop a remediation work plan. The proposed borings are located in developed areas of the parking lot and driveways. The westernmost boring is greater than 170 feet from Pond 5 on the Mill Site, which is the nearest of any of the proposed borings to natural areas. The proposed borings, as required by NCRWQCB, are intended to remediate environmental impacts, and will not impact ESHAs.

**Public Access.** The project is located between the first public road and the sea. However, the proposed project does not impact the public’s ability to obtain public access as there is no public access through the private parcel. Public parking is located northwest of the project (behind the fire station), but will not be impacted by this project.

**Cultural Resources.** The location of the project site is not identified by the Coastal General Plan as an area of known or potential archaeological or paleontological

resources. The site is surrounded by development, mid-block on a state highway with no known cultural resources identified on surrounding properties. The likelihood of encountering cultural resources with a project of such minor scope is low and therefore a report was not required. Nevertheless, the City has an agreement with the Sherwood Valley Band of Pomo (SVBP), and Special Condition 2 is added to address their potential concerns regarding potential impacts to cultural resources.

**Special Condition 2:** The Applicant shall allow the Tribe to monitor all ground disturbing activities on projects where cultural resources may be reasonably expected to be located. However the applicant is not obligated to pay for this monitoring. Instead the applicant shall notify SVBP's TPO 14 days in advance of ground disturbing activities so that the TPO can schedule monitoring if desired by SVBP.

This project must comply with CLUDC Section 17.50.030(E), which prescribes the actions required should prehistoric traces (such as human remains, artifacts, or concentrations of shell, bone or ash) be encountered during the activity. **Special Condition 3 and 4** are included outlining these procedures.

**Special Condition 3:** If cultural resources are encountered, ground disturbing activities shall cease immediately in the discovery location and a buffer zone of one hundred (100) feet radius shall be in effect around the immediate area. The size of the buffer may be adjusted once the project archaeologist, in consultation coordination with the Tribal monitor, has had the opportunity to examine the site. No construction activities will take place within the buffer until an archaeological investigation has been completed in accordance with the applicable provisions of the CLUDC.

**Special Condition 4:** In the event that human remains are discovered during the project, all job operations shall cease and the county sheriff and coroner shall be notified. In the event that the remains are Native American human remains, associated funerary objects, sacred objects, and/or objects of cultural patrimony are found during a project, the Parties understand that a determination of the Most Likely Descendant (MLD), as described in California Public Resources Code section 5097.98, will be made by the NAHC upon notification to the NAHC of discovery of any such remains at a project site.

**Special Condition 5:** The Applicant shall transfer ownership of Native American cultural resources that are found to the SVBP for proper treatment and disposition, if requested by the Tribe, unless otherwise required by law.

**Coastal Visual Resources.** The LCP policies to protect visual resources emphasize the need to site and design new development to protect views to and along the ocean, be visually compatible with the character of surrounding areas, and where feasible, to restore

and enhance visual quality in degraded areas. The proposed project will be temporary and underground, and will not impact coastal visual resources.

**Geologic, Flood, and Fire Hazard.** The project is not located in area of fire danger or coastal bluff erosion, and is not in a FEMA-identified flood zone. No special measures are required.

**Environmental Determination.** The project is Categorically Exempt from the California Environmental Quality Act (CEQA) Section 15305, data collection and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.

### **COMMISSION ACTION**

1. Consider Coastal Development Permit 4-19 and make a decision to approve coastal development permit.

### **ALTERNATIVE ACTION**

1. Consider Coastal Development Permit 4-19, deliberate without a decision, request additional findings and revisit the applications for a decision.
2. Deny the Coastal Development Permit.

### **RECOMMENDATION**

Staff recommends approval of Coastal Development Permit 4-19 for the project based on the following findings and subject to the standard and special conditions cited below:

### **GENERAL FINDINGS**

1. The proposed project is consistent with the purpose and intent of the Central Business District, as well as all other provisions of the Coastal General Plan, Coastal Land Use and Development Code, and the Fort Bragg Municipal Code.
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
3. 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; and
4. For the purposes of the environmental determination, the project has been found to be exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15305, data collection and resource evaluation

activities which do not result in a serious or major disturbance to an environmental resource.

### **COASTAL DEVELOPMENT PERMIT FINDINGS**

1. The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources;
2. The project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code);
3. The proposed use is consistent with the purposes of the zone in which the site is located;
4. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan;
5. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity;
6. Services, including but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development;
7. The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site, or other reasons;
8. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood, or fire hazards due to required project modifications, landscaping, or other conditions;
9. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity; and
10. The resource as identified will not be significantly degraded by the proposed development.

### **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 Coastal Land Use and Development Code Chapter 17.92 - Appeals;
2. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City. Any condition directly addressing an element incorporated into the application exhibits shall be controlling and shall modify the application. All other plans, specifications, details, and information contained within application shall be specifically applicable to the project and shall be construed as if directly stated within the condition for approval. Unless expressly



stated otherwise, the applicant is solely responsible for satisfying each condition prior to issuance of the building permit;

3. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State, and Federal agencies having jurisdiction. All plans submitted with the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes;
4. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department;
5. 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; and
6. Unless a condition of approval or other provision of the Coastal Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with CLUDC Subsection 17.76.070(B).

### **SPECIAL CONDITIONS**

1. If the activity makes more than 50% of the onsite parking unavailable for business use, the applicant shall contact the Public Works Director to determine if additional measures are necessary to prevent safety or circulation issues in the public right-of-way (i.e. signage, cones, etc.). Additionally the applicant will abide by the City's parking ordinance and refrain from parking or storing customer vehicles in the public right of way.
2. The Applicant shall allow the Tribe to monitor all ground disturbing activities on projects where cultural resources may be reasonably expected to be located. However the applicant is not obligated to pay for this monitoring. Instead the applicant shall notify SVBP's TPO 14 days in advance of ground disturbing activities so that the TPO can schedule monitoring if desired by SVBP.
3. If cultural resources are encountered, ground disturbing activities shall cease immediately in the discovery location and a buffer zone of one hundred (100) feet radius shall be in effect around the immediate area. The size of the buffer may be adjusted once the project archaeologist, in consultation coordination with the Tribal monitor, has had the opportunity to examine the site. No construction activities will take place within the buffer until an archaeological investigation has been completed in accordance with the applicable provisions of the CLUDC.

4. In the event that human remains are discovered during the project, all job operations shall cease and the county sheriff and coroner shall be notified. In the event that the remains are Native American human remains, associated funerary objects, sacred objects, and/or objects of cultural patrimony are found during a project, the Parties understand that a determination of the Most Likely Descendant (MLD), as described in California Public Resources Code section 5097.98, will be made by the NAHC upon notification to the NAHC of discovery of any such remains at a project site.
5. The Applicant shall transfer ownership of Native American cultural resources that are found to the SVBP for proper treatment and disposition, if requested by the Tribe, unless otherwise required by law.

#### **ATTACHMENTS**

1. Site Location Map
2. Site Plan
3. Revised Work Plan for Preliminary Site Investigation