

FROM RESIDENTS OR PROPERTY OWNERS OF 100 BLOCK OF NORTH McPHERSON ST



WBL

FOR CITY USE ONLY:

File # 36A-21/B
Date Filed: 5.26.2021
Received by: gremos

Jean K Cain
Sarah Macy
Currie Hull
James Matson
Patricia M Bell

APPEAL OF ADMINISTRATIVE DECISION

APPELLANT(S): Gene & Dianna Mertzl JAY Koski Patricia M Bell

MAILING ADDRESS: 190 Elkhorn Way

CITY: Fort Bragg STATE & ZIP CODE: CA 95437

TELEPHONE #: 707 964 0798 FAX #: dmertzl@sbcglobal.net

Describe the action being appealed and state the reasons for the appeal.
(You may attach a letter or other exhibits to describe or justify this appeal.)

see attached
Jean K Cain
Sarah Macy
Currie Hull
James Matson
Patricia M Bell

5/26/21
5/26/21
5/25/21
5/25/21
5/25/21

APPELLANT(S) SIGNATURE: Gene A Mertzl
Jay Koski

DATE: 5/25/21
DATE: 5/25/21

FOR CITY USE ONLY:

Fee Paid \$375
Receipt # 00434620
Date: 5.26.2021

Notice of Public Hearing:

Mailed () Date: _____
Published () Date: _____
Posted () Date: _____

PLANNING COMMISSION ACTION:

DATE:

Approve: _____
Deny: _____
Table: _____ Until _____
Receive & File: _____

RECEIVED

MAY 26 2021

CITY OF FORT BRAGG
CITY CLERK

We are appealing the Acting Community Development Director's decision to approve Minor Use Permit 1-21 on May 19, 2021 and object for the reasons set forth in the enclosed public comment submitted for the administrative public hearing. Specifically, we object to:

- 1) The City of Fort Bragg's attempted reliance on a categorical exemption from CEQA and believe that an Initial Study should be prepared to determine the appropriate level of CEQA review for this project.
- 2) The City's ability to make the required finding that "The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity" because the Acting Community Development Director has not provided any basis to support that conclusion. Instead, he asserted that because the zoning potentially allows this use, it must be consistent with the land uses in the vicinity of the project, which completely ignores all of the reasons this particular land use of a cannabis dispensary in this particular location immediately adjacent to single-family residential properties is not consistent with the single-family residential uses that were raised by many of the neighbors through public comments. The Planning Commission should overturn that decision because the reasons given for that finding are nothing more than a zoning clearance, which is not the point of this particular finding. Instead, the Planning Commission is charged with explaining how a retail cannabis dispensary in this particular location within the Central Business District is compatible with the adjacent land uses of the post office, credit union, grocery store, and single-family residential uses. We believe that it is not compatible for the reasons raised in the public comments and objections from the neighboring residents and property owners.
- 3) The City's ability to make the required finding that "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" because the retail cannabis dispensary in this location immediately adjacent to our property will endanger and jeopardize our property and the enjoyment of our property by our tenants and the other neighbors. Moreover, we are concerned about the traffic generated by this project that will be directed to the alley between our property as well as the water use of this project, which may involve nursery cultivation based on the City Council direction regarding the pending revisions to the City of Fort Bragg's cannabis regulations. The key issues for this finding are the site's location and the provision of public utilities to this project, including water supply.

City of Fort Bragg Community Development Department,

MUP 1-21

We are the property owners of 153 and 155 N. McPherson Street, across the alley from the old Floor Store where a cannabis business is proposed. As stated in the Notice of Pending Action for MUP 1-21, we are writing to request a public hearing for this permit and to communicate our concerns and objections to a cannabis business in this particular location because we believe it will impact our property and our tenants and their children negatively if it is approved. We are very concerned that this permit might be approved without a hearing before the Planning Commission as was originally the case because the City should hear from neighbors who are concerned that this project is not compatible with the use of their property and not make these decisions without public input. When this business was denied the first time, the City came to the right decision and we believe it should be denied again for many of the same reasons that were already expressed in the earlier public comments and the petitions against allowing this business to go into this location.

This particular location downtown is not appropriate for a cannabis business due to the unique characteristics of the site compared to other locations downtown as well as the site layout and orientation of the buildings that will direct undesirable and incompatible activity and traffic toward our residential property and those of our neighbors because of the operating characteristics of this business. There is already a cannabis dispensary on Main Street that is not right next to residential property like our own and locations like that are much more appropriate for cannabis business if we are going to allow them downtown. This is not such a location and this permit should be denied because the City cannot make the following two permit findings listed in the prior staff reports: "the design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity" and "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."

We believe locations along Franklin Street that are adjacent to residential property like our own are not appropriate for cannabis businesses because they are not compatible with the residential land uses, which is particularly true for a cannabis dispensary that includes a delivery component because of the commercial traffic to and from the rear building and the parking lot that access the alley between Franklin and McPherson Street next to our property. This location is right next to residential property as well as important downtown businesses that many of us need to visit on a regular basis, including the post office, credit union, and Purity not just other shops and storefronts like the dispensary on Main Street. We also believe the number of these businesses should be limited so the character of our historic downtown can be protected from an overconcentration of too many cannabis businesses. How many cannabis dispensaries do we need in our small downtown and should we have any at such a prominent location where children and families are forced to be exposed to these activities in order to go to the bank, grocery store, or post office or even to play in their yards right across the alley?

Based on our own development experience, we also feel that the City of Fort Bragg should properly analyze the environmental impacts of this project, particularly traffic, land use conflicts, and water use rather than skipping that analysis through an inappropriate exemption because unusual circumstances exist based on this particular location within our historic downtown that is adjacent to both residential uses to the east along McPherson Street but also community uses to the west along Franklin Street like the post office. The City of Fort Bragg is in the process of updating the land use regulations for cannabis businesses and there are proposals to allow even more intensive uses than simple dispensaries, including cannabis cultivation, processing and manufacturing, which could easily be added to this business if it is approved and which present significant environmental concerns that should be addressed before any additional cannabis businesses are considered. We keep hearing about the drought and likely water shortages this summer and this business originally proposed cultivation and manufacturing in the rear building right across the alley from our property. We certainly don't want these uses to be able to happen there and are concerned about them being allowed once the new regulations are complete if a dispensary is already operating in this location. Since these uses were all proposed by this applicant in this location, with basically the same interior layout as this application, the impacts from those uses should be studied as a foreseeable consequence of approving these permits. In fact, some people have suggested that these other activities should be permitted as accessory uses to a dispensary or as part of a cannabis microbusiness downtown and we are very concerned that approving this cannabis business in this location will allow those uses next to our property, which we oppose completely. If we must allow additional cannabis dispensaries and businesses downtown, they should only be approved in more appropriate locations that are not right next to our and other residential properties and which will not generate commercial traffic in the alley behind those homes. Thank you for your consideration of these important concerns about this proposed project. We encourage the City of Fort Bragg to deny this permit application because the findings cannot be made for this cannabis business in this proposed location.

Sincerely, *Gene and Diana*

The Mertles

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City of Fort Bragg
416 N Franklin St
Fort Bragg, Ca 95437
(707) 961-2825
www.fortbragg.com

CR	375.00
Appeal	
Appeal Fee 10	
0 BLOCK N MCPH	
ERSON	375.00

Total	375.00
Cash	375.00
Cash	375.00

Change 0.00

GENE MERTLE
Customer #: 005736
190 EBBING WAY

FORT BRAGG, CA 95437

Cashier: LBianchi
Station: CH12162

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