



City of Fort Bragg

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Meeting Minutes Planning Commission

Wednesday, August 26, 2015

6:00 PM

Town Hall, 363 N.Main Street

MEETING CALLED TO ORDER

Chair Hoyle called the meeting to order at 6:00 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present 4 - Chair Derek Hoyle, Commissioner Mark Hannon, Commissioner Stan Miklose, and Commissioner Heidi Kraut

Absent 1 - Vice Chair Teresa Rodriguez

1. APPROVAL OF MINUTES

1A. Approve Minutes of July 8, 2015

Commissioner Kraut noted a discrepancy in Item 4B of the minutes, where in one location it stated permits would expire after six-months of nonuse and in another, one year. The Commissioners agreed to amend the minutes to reflect that vacation rental permits would expire after one year of nonuse.

A motion was made by Commissioner Kraut, seconded by Commissioner Miklose, that these Minutes be approved as amended. The motion carried by the following vote:

Aye: 4 - Chair Hoyle, Commissioner Hannon, Commissioner Miklose and Commissioner Kraut

Absent: 1 - Vice Chair Rodriguez

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

3. PUBLIC HEARINGS

3A. Receive Report, Conduct Public Hearing, and Consider Approval of Use Permit 3-15 (USP 3-15) to Allow for Accessory Retail and Service Uses in Association with Approval of a Permitted New Brewery at 190 E. Elm Street

Community Development Director Jones described the project for the Commissioners, saying that the decision was not whether the applicants could operate a brewery at this location, as that is permitted by right, but whether to grant a Use Permit for the accessory services described in the

staff report. Jones said that staff is mindful that current regulations do not function well for start-ups that want to include food service with a brewery, and summarized the Special Conditions of the permit that would allow food to be served on premises as long as at least 50 percent of the space was used for manufacturing beer.

Commissioner Kraut asked what the timeline would be to change the Code to allow a restaurant and brewery in the Heavy Industrial zone. Jones responded that it would take approximately six to nine months to conduct the CEQA review and obtain the necessary approvals. In response to a question from Commissioner Miklose about how to monitor whether the applicants were indeed using 50 percent of the floor area for beer manufacturing, Jones said that the City does not monitor this, that code enforcement is complaint based, and Use Permits can be revoked if special conditions are violated.

Chair Hoyle opened the public hearing at 6:26 PM.

Steven Duerr gave an overview of the project on behalf of applicant Overtime Brewing, Inc. He said the responsible thing to do when offering beer tasting is to also offer food products. He introduced his head brewer and other members of the brewery staff and offered to answer questions from the Commissioners. He said the operation will create six to eight jobs. They will make six beers to begin with and offer a small menu of about six items. They want to be able to sell hats, T-shirts and food items, and intend to only serve their own beer. Commissioner Kraut asked about plans for outdoor events with amplified music. Mr. Duerr responded that they are part of the community and want to fit in with the neighborhood without upsetting anyone. They do not intend to have loud amplified music, just an outside area available for smokers or folks who want to enjoy the outdoors while having a beer.

Janet Kabel spoke in opposition to the project, saying the City is not following its own zoning and ordinances if they allow the project to go forward. She stated that to say the use is accessory retail when it is not is bordering on criminal and asked that the Commissioners uphold the code.

John Starkey said he was impressed with Jones' ability to break things down in the staff report and let folks know what was going on with the application. He hopes the City of Fort Bragg can see beyond zoning requirements because it is important to establish new businesses in Fort Bragg. He said the City is heading in a great direction with the new trail and hopes the Planning Commission will allow new businesses to bring in more tourists.

Bill Maslach referred to Franklin Street as the Dead Zone, with five empty buildings and a bakery that doesn't even sell bread. He said the code does include language that will allow the Commissioners to make a decision to approve the project, and he hopes they will consider it as a brewery with a small food service accessory.

Amy Wynn said that as a local environmental planner and business owner, she does not see any potential negative impact to businesses or environment if the project is approved. She said the applicants are successful, thriving businessmen and are attuned to what needs to happen in the City. Wynn stated she believes the project is a vibrant and complementary activity for this town and will help revitalize the north end of town.

Hilary White spoke in favor of the project and asked that the Commission approve the brewery as there is clearly support for it and the applicants are outstanding people who care for this town.

Gloria Rogers, former downtown merchant, is interested in the vibrancy of the project. She said the

small craft beer industry will bring tourist dollars and people to town. One of the ways cities change is by turning industrial zones into areas where people go. She thinks this would be positive for everyone and wonderful for the town.

Chair Hoyle closed the public hearing at 6:48 PM.

Discussion: Commissioner Kraut asked if it would be a permitted use if the applicants were only to produce beer and offer it for tasting without charge. Community Development Director Jones said she would have to look at the code carefully, as that is a distinction of whether something is sold or not sold. Jones also made a clarification regarding Code Section 18.42.020 about permitted uses in commercial and industrial zones. Commissioner Kraut said she would feel more comfortable if there were a special condition that the applicants only sell the beer they have produced onsite. Jones said she had anticipated that request and had prepared a Special Condition 9 which states:

Special Condition 9: Overtime Brewing, Inc. shall only sell (on and off sale) alcoholic beverages which are brewed on site and locally grown Mendocino County wines.

The operating hours of the brewery were discussed, with the Commission generally agreeing that Special Condition 3 should be modified to state:

Special Condition 3: The operating hours for the accessory retail and service uses and outside events shall be from 11:00 AM to 10:00 PM seven days a week. The manufacturing of beer can occur outside these hours; however, no onsite or offsite retail sales of food, merchandise, or beer or outdoor events shall occur after 10:00 PM.

A motion was made by Commissioner Miklose, seconded by Commissioner Hannon, that Use Permit 3-15 (USP 3-15) be approved as amended, subjected to the following findings and conditions:

GENERAL FINDINGS

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the Inland General Plan, Inland Land Use and Development Code (ILUDC), 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 environmental determination, the project is exempt from CEQA, pursuant to the California Environmental Quality Act (CEQA), Section 15303 (C), new construction or conversion of small structures, because the project does not include the use of significant amounts of hazardous substances, and does not exceed 2,500 square feet in floor area.

USE PERMIT FINDINGS

1. The proposed use is consistent with the General Plan and any applicable specific plan;

2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses 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.

STANDARD CONDITIONS

1. This action shall become final on the 11th day following the decision unless an appeal to the City Council is filed pursuant to 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 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.
5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.
7. 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.
8. Unless a condition of approval or other provision of the Inland 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 ILUDC Subsection

18.76.070(B).

SPECIAL CONDITIONS

1. There shall be no external evidence of any commercial activity outside of the primary use of the site for the brewery. No retail merchandise shall be suspended from any windows or otherwise visible from either Franklin or Elm Streets. Additionally, the applicant's signage shall be limited to advertising the brewery operation. Signage shall not reference a "restaurant or bar" facility at the brewery.
2. Prior to issuance of the business license, the applicants shall submit a site plan and design details for the proposed outdoor event area to the Community Development Director for review and approval.
3. The operating hours for the accessory retail and service uses and outside events shall be from 11:00 AM to 10:00 PM, seven days a week. The manufacturing of beer can occur outside these hours; however, no onsite or offsite retail sales of food, merchandise, or beer or outdoor events shall occur after 10:00 PM.
4. Prior to issuance of the building permit, the applicants shall submit a fully dimensioned parking schematic consistent with the ILUDC parking standards (which cover aisle dimensions, circulation, stormwater management, landscaping requirements, etc.) to the Community Development Director for review and approval. Prior to issuance of the Business License the parking plan shall be implemented.
5. The business license approval for Overtime Brewing shall include a Special Condition that limits total beer production to 1,500 barrels of beer annually. In the event that Overtime Brewing expands their operations beyond the 1,500 barrel brewing system, the applicants shall submit a new business license application to the Community Development Department for modification to the facility's barrel production limitation.
6. In the event that Overtime Brewing expands their operations beyond the 1,500 barrel brewing system, the applicants shall submit an application to the Community Development Department for modification to the facility's Use Permit.
7. Prior to the final inspection for the building permit, the applicants shall enter into a regulatory agreement with the City of Fort Bragg which establishes compliance thresholds for biochemical oxygen demand (BOD) and total suspended solids (TSS), monitoring requirements, and penalties for violations.
8. The applicant shall incorporate the California Department of Alcohol and Beverage Control's (ABC) Responsible Beverage Service (RBS) Training into the operation's business plan and ensure that all employees are provided training through the RBS program.
9. Overtime Brewing, Inc. shall only sell (on and off sale) alcoholic beverages which are brewed on site and locally grown Mendocino County wines.

The motion carried by the following vote:

Aye: 4 - Chair Hoyle, Commissioner Hannon, Commissioner Miklose and Commissioner Kraut

Absent: 1 - Vice Chair Rodriguez

Chair Hoyle recessed the meeting at 7:04 PM; the meeting reconvened at 7:06 PM.

3B. Receive Report, Conduct Public Hearing, and Consider Approval of Use Permit 4-15 (USP 4-15) to Expand the Existing Gravel Vehicle Storage Area at Sport Dodge (200 East Chestnut Street) onto the Adjoining Parcels (520 and 528 South Franklin Street)

Community Development Director Jones summarized her staff report on the expansion of vehicle storage area for Sport Dodge on two adjoining South Franklin Street parcels and the legalization of an existing unpermitted gravel storage area.

Commissioner Miklose asked questions about fencing and demolition of structures on site. Jones clarified where the fencing would go and confirmed that the green house will be torn down. Responding to a question regarding how long vehicles would be stored, Jones said this storage area is for vehicles going in and out of service bays and is not intended for long-term storage. Commissioner Kraus asked if all three parcels were zoned General Commercial; Jones responded yes, they are.

Chair Hoyle opened the public hearing at 7:16 PM.

Mike Slaughter, owner of Kahuna Investments, the applicant, talked about the project, its fencing, and intended use of the vehicle storage area. He said he would like to put up a fence and gate that can close the storage area off, especially on weekends and evenings, as people cut through his property to get to the apartments across the street on Chestnut. Mr. Slaughter explained that the reason he did not follow through with the first project in 2005 was because his wife died just after the original permit was applied for, and he let the project go. Commissioner Miklose asked about the length of time vehicles would be stored; Mr. Slaughter responded that would usually be less than a day, though sometimes a few cars are left over a weekend if they are waiting for parts.

Chair Hoyle closed the public hearing at 7:21 PM.

Discussion. Commissioner Miklose asked about the \$1,800 fine specified in Special Condition 1. Jones explained about the fine and how it was calculated. Commissioner Miklose stated he would like to remove Special Condition 1 that requires a fine be paid. Commissioner Kraut said she thought the fine was there for a reason. Commissioners Hannon, Miklose and Hoyle all wanted to strike Special Condition 1.

A motion was made by Chair Hoyle, seconded by Commissioner Kraut, that Use Permit USP 4-15 be approved as amended, subject to the following findings and conditions:

GENERAL FINDINGS

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the General Plan, Inland Land Use and Development Code (ILUDC) 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 environmental determination, the project is exempt from CEQA, pursuant to the California Environmental Quality Act (CEQA) 15303.

USE PERMIT FINDINGS

1. The proposed use is consistent with the General Plan and any applicable specific plan;
2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses 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.

SPECIAL CONDITIONS

1. Prior to issuance of the Use Permit, the applicant shall construct a six foot high solid wood fence along the east side of Parcel 018-020-55 (200 East Chestnut Street) and between the proposed use and the residential uses at 520 and 528 South Franklin Street.
2. Prior to issuance of the Use Permit, the applicant shall pay drainage fees for all three lots.

STANDARD CONDITIONS

1. This action shall become final on the 11th day following the decision unless an appeal to the City Council is filed pursuant to 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 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.
5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development

Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.

7. 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.

Unless a condition of approval or other provision of the 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 ILUDC Subsection 18.76.070B.

The motion carried by the following vote:

Aye: 4 - Chair Hoyle, Commissioner Hannon, Commissioner Miklose and Commissioner Kraut

Absent: 1 - Vice Chair Rodriguez

4. CONDUCT OF BUSINESS

5. MATTERS FROM CHAIR/COMMISSIONERS/STAFF

Commissioner Kraut issued a reminder that the walk in memory of Jere Melo is on Saturday, August 29 on the Coastal Trail. Director Jones said one of the benches on the trail is being dedicated to Melo. Commissioner Miklose asked about the status of the permits for the Pudding Creek direct transfer system project (USP 7-13) and Sea Bird Lodge sign project (SA 21-14; VAR 3-14). Jones responded that a building permit had been issued for the Sea Bird Lodge sign; she was unsure of the current implementation status of the transfer system permit.

Community Development Director Jones announced a sneak preview walk will be held on the South Coastal Trail in conjunction with Paul Bunyan Days, September 4 at 3:00 PM, meeting at Cypress Street gate. The trail is scheduled to open in mid- to late October. Jones also introduced Scott Perkins, new Associate Planner for the City and announced that June Lemos was appointed Acting City Clerk, to become City Clerk upon retirement of the incumbent. Lemos announced that Town Hall has new technical equipment including new wireless headsets for the hearing impaired.

ADJOURNMENT

Chair Hoyle adjourned the meeting at 7:32 PM.

DEREK HOYLE, Chair

June Lemos, Acting City Clerk

IMAGED (_____)