



City of Fort Bragg

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Meeting Minutes Planning Commission

Wednesday, February 10, 2016

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

1 A. [15-480](#) Approve Minutes of November 12, 2015

A motion was made by Commissioner Miklose, seconded by Commissioner Hannon, that these Minutes be approved. 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

Sue Boecker spoke in opposition of various Department of Toxic Substances Control agency projects.

3. PUBLIC HEARINGS

3 A. [16-023](#) Receive Report, Conduct Public Hearing, and Consider Approval of Use Permit UP 2-16; Use Permit for a Large Family Day Care Home at 211 McKinley Street; Originally MUP 3-15

Associate Planner Perkins gave a detailed review of the staff report, clarifying that a large daycare home is usually approved through a Minor Use Permit (MUP) unless the applicant or interested parties request a hearing. After the initial noticing of the MUP for the large family daycare home, Community Development received seven records of correspondence on this matter, three in favor, three opposed, and one neutral. Planner Perkins addressed each of the concerns cited in the correspondence which encompassed parking requirements, play spaces for the children, noise, building and fire codes, and staff supervision.

Discussion: Commissioner Kraut requested additional information about the existence of nuisance or code violations for other daycare homes in the City. Planner Perkins clarified that he is not aware of any. Kraut stated that Special Condition 5, requiring all kids to be supervised when walking from the bus stop seems onerous and she would like to see a revision in the wording to exempt older children.

Chair Hoyle opened the public hearing at 6:16 PM.

1. Applicant Veronica Renteria outlined the goals for her large license daycare operation. Renteria stated that the primary need for the increased capacity was to provide care for the older siblings of the children currently under her watch during school breaks, after school, and during the summer months. Providing parent's the ability to drop multiple children at the same site benefits all invested parties. Renteria clarified that her operating hours would be five days and week and once her large license was approved; she would be hiring one additional care provider to meet the state adult to child ratio. The staff member to be employed has not been chosen but they will be required to meet and pass all state background checks.

2. Bob Jorgensen sought confirmation that a small daycare home was exempt from permitting requirements. Mr. Jorgensen expressed his concerns about the effects a business might have on property values and his desire to keep the residential quality of the neighborhood.

3. Nancy Jorgensen spoke in opposition of the project expressing concerns about increased noise and traffic.

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

Discussion: Commissioner Miklose inquired about the parking for the additional staff member. Perkins responded that no additional space requirements were previously considered. Commissioner Hoyle spoke in opposition of Special Condition 1a; paving new parking spaces. Commissioners agreed to proceed with Special Condition 1 instead of 1a. Commissioner Kraut recommended amending Special Condition 5; to exempt children going to and from public transportation from the supervision requirements.

A motion was made by Commissioner Hannon, seconded by Commissioner Kraut, that Use Permit 2-16 be approved as amended, with the modification of Special Condition 5, subject to the following findings and conditions:

GENERAL FINDINGS

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;

1. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
2. 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

3. For the purposes of environmental determination, the project is exempt from CEQA, pursuant to the California Environmental Quality Act (CEQA) 15301(l)(3) demolition and removal of existing facilities exemption and 15302(b) replacement of structures.

SPECIAL CONDITIONS

1. The property owner shall submit a request to the Public Works Department to stripe the space north of the existing driveway as a loading zone only. The property owner shall notify The Community Development Department if the Large Family Day Care Home ceases operation or relocates, so that the "loading zone" striping can be removed. Failure to hold a business license for the use, or failure to secure and maintain any and all State of California certifications and/or licenses for the Large Family Day Care Home shall mean the use has ceased.
2. The property owner shall notify the Community Development Department prior to installing any outdoor recreation equipment over eight feet in height. At such time, the applicant shall submit for Community Development Department staff review a plot plan illustrating the equipment's distance from property lines to verify its consistency with ILUDC Section 18.42.060(C)(3). The Large Family Day Care Home shall operate only between the hours of 7:00 a.m. and 7:00 p.m.
3. The Large Family Day Care Home shall operate only between the hours of 7:00 a.m. and 7:00 p.m. All pick up and drop off activities of children shall occur between 7:00 a.m. and 7:00 p.m.
4. Prior to issuance of a Use Permit for a Large Family Day Care Home, the applicant shall provide the Community Development Department with documentation verifying compliance with all State of California licensing requirements for a Large Family Day Care Home, including fire safety clearance by the local fire authority (Fort Bragg Fire Department).
5. At no time shall children attending the Large Family Day Care Home be off the property (211 McKinley Street) without the full supervision of a caregiver, with the exception that children traveling to and from public transportation may proceed unaccompanied.

STANDARD CONDITIONS

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.

1. 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.
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.
3. This permit shall be subject to the securing of all necessary permits for the installation, maintenance, operation, and removal of the existing storage tanks and structures as well as the installation, maintenance, and operation of the new storage tank from all agencies having jurisdiction over fuel storage tanks, including without limitation the Fort Bragg Fire District. This permit shall also be subject to full compliance with all city, county, state, and federal regulations regarding the installation, maintenance, operation, and removal of fuel storage tanks. 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. 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.

6. 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.

7. 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).

The motion carried by the following vote:

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

Absent: 1 - Vice Chair Rodriguez

3 B. [16-026](#)

Hold a Public Hearing and Consider Certification of the Mitigated Negative Declaration (MND) for the OUC & D Remedial Action Plan (RAP) and Consider the Coastal Development Permit (CDP 8-15) for implementation of the RAP for remedial activities primarily composed of hot spot excavation in Operable Units C and D at the former Georgia-Pacific Lumber Mill located on the western edge of the City of Fort Bragg.

Community Development Director Jones, presented the staff report, identified Department of Toxic Substances Control (DTSC) as the lead agency who prepared the Environmental Impact Report (EIR), reviewed the proposed activities, and the toxins present in the various areas of interest. Jones went over the timeline of the structural decommissioning of the Georgia-Pacific Mill Site and the demolition of buildings, from 2002-2015. Over the years, GP, the applicant, has worked closely with DTSC on a number of reports which support the Remedial Action Plan (RAP) one of which included the remedial investigation. The remedial investigation looks at estimated risk receptors for toxic materials on the site. The report concluded the primary contaminants remaining on the site are located in 11 areas of interest, mostly located on the eastern side of the site and described the processes required to complete the cleanup.

Director Jones Reviewed the general processes by which they mitigation would occur. Soil excavation will occur at five sites; total soil removal will be approximately 1800 cubic yards. The City has recommended the use of clean fill as it is difficult for vegetation to grow in

dredge sands. The total activity will take about six weeks and is estimated to be completed during the summer of 2016. A total of 3.1 acres require land use controls. The Coastal General Plan has policies in place for Soil erosion, archeological resources, air quality standards, nuisance abatement, protecting health from hazardous materials, and noise impact mitigation. The Mitigated Negative Declaration (MND) ensures all such policies are followed, and is consistent with the Inland Land Use and Development Code. No obvious vegetation or trees are presently growing in this area that would cause concern for nesting birds.

Special Conditions are applied to ensure cultural and historic artifact preservation, erosion and water quality preservation, and dust control requirements are followed. This project is a hazard reduction project and if soils are determined hazardous; the fill will be moved to an appropriate facility. The MND and RAP have been reviewed and approved by City Council and DTSC.

Discussion:

Commissioner Miklose asked if this RAP approval will be the completion for the project or will there be another opportunity for the City to revisit this after tonight. Jones responded that it went to City Council in December where the RAP was approved so this is the last public hearing for the applicant before the project commences. The last item is a ministerial permit for the grading which is approved by the Director of Public Works. Miklose asked about the remaining concrete removal and Jones responded that only about three acres will be removed with this project and any future removal would be implicated by a mill site specific plan. The presence of concrete is considered a preexisting condition and unless it presents an obvious storm water problem GP cannot be required to remove additional paved surfaces. Miklose asked if cement removal could present a need for remediation; Jones responded that the soil management plan will be in place throughout the process and must be followed if there is any evidence that chemicals of concern are located. There has been extensive testing done previously on this site all test results and locations are concluded in the RAP. Miklose asked about the number of existing water testing wells and the City's purview. Jones recommended asking Arcadis about the number of wells and the obligation for maintaining and testing the wells is the responsibility of GP.

Commissioner Kraut sought clarification about when a determination is made about the hazardous content of excavated soils and Jones responded it is at the time of excavation. Kraut inquired about who made the decision to transfer some segments of OU-C and D to OU-E and that decision was made by DTSC, after recognizing the site characteristics made them most similar to the other wetlands in UO-E. Kraut asked if the Land Use Controls (LUC) are permanently binding for future proposed uses. Jones responded that LUC's specifically disallow certain uses (like daycares, senior homes, and hospitals) and these limitations are recorded on the deed. Future development could include anything that is not specifically excluded. Jones believes LUC's recorded on the deed are strictly enforced.

Chair Hoyle asked about the potential for this project to interrupt the daylighting of the creeks; Jones, clarified that these proposed sites are not near the creeks. A lengthy

discussion ensued regarding the historical and potential future alignments of Maple and Alder creeks. All daylighting proposals presented to City Council show newly designed creek pathways which will be supported by the topography of the land and will not interfere with the mill pond location. Commissioner Miklose asked about the significance of the six foot excavation depth and Jones explained that this is determined by the actual location of the contaminated soil.

Chair Hoyle opened the public hearing at 6:55 PM.

1. Applicant Dave Massengill of Georgia Pacific is excited to get started on site clean-up after such a long process.
2. George Rinehardt handed out a map which was added to the packet after the meeting under CDP 8-15 documents distributed after packet created. Rinehardt spoke in favor of daylighting the creeks and getting rid of the mill pond. Mr. Rinehardt showed concern over the lack of historical pathways found in the most recently proposed versions for creek daylighting alignments.
3. Ed Oberwiser expressed concerns that DTSC is going to allow the Mill pond to remain.
4. Sue Boecker expressed concern that we cannot go back if we do not clean up the mill site now. Boecker spoke in opposition of DTSC as an agency.
5. Ann Rennacker spoke in favor of daylighting the creeks, getting rid of the mill pond, and expressed concerns about signing Land Use Covenants.
6. Gabriel Maroni spoke in support of cleaning up the site to a degree where Land Use Controls would not be required; stating that the implementation of LUC's indicate a reason to be concerned about people's health. Maroni implored the City to consider health impacts above all else.

Chair Hoyle closed the public hearing at 7:07 PM.

Discussion:

Commissioner Kraut asked what is preventing cleaning up the site so that it can be unrestricted. Jones replied that the decision making process constitutes a multitude of factors including; state law, types of proposed future use, a cost benefit analysis, contamination levels, and community acceptance. Jones informed the Commission that the City has its own toxicologist who is not paid by GP and his unbiased guidance has been frequently referenced during this process.

Jones would like the record to reflect that; 1-this is not a lightweight MND, they were not given a pass; 2- there is a requirement in the Coastal Act that archeological resources will not be disturbed and they will be reburied or avoided if located; 3-leaving the Mill pond is not part of tonight's decision but rather set by OU-E; 4-water cleanup levels are set by the water board and they are more strict than the requirements for drinking water; and 5-the proposed pathways for creeks are not a rendition of or supported by GP but rather prepared by the City._

A motion was made by Chair Hoyle, seconded by Commissioner Miklose that Coastal Development Permit CDP 8-15 be approved subject to the following findings and conditions:

FINDINGS

1. The remediation of 11 Areas of Interest is necessary to eliminate safety concerns stemming from past contamination on the Mill Site. The remediation will remove a condition of blight on the property;
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;
3. The proposed project is in conformity with the certified Local Coastal Program (LCP);
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;
5. As proposed, the development will not have any unmitigated adverse impacts to any known historical, archaeological or paleontological resource;
6. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act as provided by a Mitigated Negative Declaration that has been prepared for the project; and
7. The proposed development is in conformity with the public access and public recreation policies of the LCP and Chapter 3 of the California Coastal Act.

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 located between the first public road and the sea, that 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. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment;
4. The proposed use is consistent with the purposes of the zone in which the site is located;
5. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan;
6. 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; and
7. 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; and
8. 10. Supplemental findings for projects located between the first public road

and the sea required by Section 17.56.070 of this Development Code.

SPECIAL CONDITIONS

1. The applicant shall implement all Mitigation Measures identified in the MND for this project as required by CEQA.
2. The applicant shall backfill the 3.1 acres of excavated areas with soil that has at least 10% organic content. The applicant shall hydro seed or broadcast seed by hand following with a 1-2" layer of rice straw mulch across the 3.1+/- acres summed remediation areas after October 1st and before November 1st to reduce bird predation of the seed and insure sufficient seed for effective revegetation of these areas with California native plants. The revegetation must be successful yielding germination and vegetative cover across $\geq 80\%$ of the 3.1+/- acres.
3. The following Best Management Practices to control, reduce or prevent discharge of pollutants from remediation and grading activities and material handling activities shall be utilized throughout project implementation:
 - a. Material and products will be stored in manufacturer's original containers.
 - b. Storage areas will be neat and orderly to facilitate inspection.
 - c. Check all equipment for leaks and repair leaking equipment promptly.
 - d. Perform major maintenance, repairs, and washing of equipment away from site.
 - e. Designate a completely contained area away from storm drains for refueling and/or maintenance work that must be performed at the site.
 - f. Clean up all spills and leaks using dry methods (absorbent materials/rags).
 - g. Dry sweep dirt from paved surfaces for general clean-up.
 - h. Train employees in using these BMPs.
 - i. Avoid creating excess dust when breaking concrete. Prevent dust from entering waterways.
 - j. Protect storm drains using earth dikes, straw bales, sand bags, absorbent socks, or other controls to divert or trap and filter runoff.
 - k. Shovel or vacuum saw-cut slurry and remove from the site.
 - l. Remove contaminated broken pavement from the site promptly. Do not allow rainfall or runoff to contact contaminated broken concrete.
 - m. Schedule demolition work for dry weather periods.
 - n. Avoid over-application by water trucks for dust control.
 - o. Cover stockpiles and other construction materials with heavy duty plastic secured and weighted on all sides to maintain cover from wind and rain even in high wind conditions. Protect from rainfall and prevent runoff with temporary roofs or heavy duty plastic and berms.
4. Prior to issuance of demolition permits, the applicant shall secure a Facility Wide Dust Control Permit from the Mendocino County Air Quality Management District. All demolition activities shall be conducted in accordance with the requirements of the permit. Particles generated in the remediation process will be minimized via dust suppression control. The applicant shall comply with the air quality mitigation measures required in the MND, which include but are not limited to the following:
 - a. Grading activities shall cease if sustained wind speeds exceed 15mph and or gusts reach or exceed 25 mph.
 - b. Vehicles will travel at not more than 15 mph.
 - c. Water shall be applied roads to minimize dust during grading.
 - d. Disturbed areas shall be sprayed with water at the end of each work period to from a thin crust.

STANDARD CONDITIONS

1. This action shall become final on the 11th working day following the Coastal

Commission's receipt of the Notice of Final Action unless an appeal to the Coastal Commission is filed pursuant to Chapter 17.61.063 and 17.92.040. This action is appealable to the California Coastal Commission pursuant to Chapter 17.92.040.

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.

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 required permit applications shall be consistent with this approval.

4. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:

5. (a) That such permit was obtained or extended by fraud.

6. (b) That one or more of the conditions upon which such permit was granted have been violated.

7. (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.

8. (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.

9. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

10. This Coastal Development Permit approval shall lapse and become null and void 24 months from the date of approval unless before the passing of 24 months, construction has commenced and is diligently pursued towards completion or an extension is requested and obtained.

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

None

5. MATTERS FROM CHAIR/COMMISSIONERS/STAFF

None

ADJOURNMENT

Chair Hoyle adjourned the meeting at 7:14 PM.

DEREK HOYLE, Chair

Chantell O'Neal, Administrative Assistant

IMAGED (_____)