



# City of Fort Bragg

416 N Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802

## Meeting Minutes Planning Commission

---

Tuesday, May 14, 2019

6:00 PM

Town Hall, 363 N.Main Street

---

### MEETING CALLED TO ORDER

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

### PLEDGE OF ALLEGIANCE

### ROLL CALL

**Present** 4 - Chair Nancy Rogers, Vice Chair Stan Miklose, Commissioner Jay Andreis, and Commissioner Michelle Roberts

**Absent** 1 - Commissioner Jeremy Logan

### 1. APPROVAL OF MINUTES

#### 1A. [19-256](#)

Approve the Minutes of April 23, 2019

Vice Chair Miklose noted the incorrect date cited in the minutes, he requested that be corrected. Minutes were approved as amended.

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

**Aye:** 4 - Chair Rogers, Vice Chair Miklose, Commissioner Andreis and Commissioner Roberts

**Absent:** 1 - Commissioner Logan

### 2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Tara Larsen approached the podium and announced that there will be a series of public meetings at the High School for public input in regards to a grant the School is applying for. The first meeting will be tomorrow May 15, 2019 at 5:30 PM.

### 3. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

The Commissioners disclosed that they have each individually visited the proposed Harvest site on the Mill Site with the owners Tom Honer and Jennifer Bosma. The Commissioners note this was strictly a site visit no requests were made.

### 4. PUBLIC HEARINGS

**4A. [19-218](#)** Coastal Development Permit 1-19 for construction of three sections of 6 foot

high habitat protection fence totaling 250 feet, 450 and 350 linear feet, at the following addresses: 180 Boatyard Drive, 1190 S Main St, 1102 S Main St. The purpose of the habitat protective fence is to protect habitat from damage caused by illegal camping, illegal clearing and illegal dumping.

Director Jones presented the prepared report, during her report she clarified that the fence installation, materials and upkeep will be paid for by the property owners.

Public Hearing at 6:22, seeing no one wished to speak Chair Rogers closed the public hearing at 6:23 PM.

**A motion was made by Vice Chair Miklose, seconded by Chair Rogers, that CDP 1-19 be approved with the following;**

**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, Coastal Land Use and Development Code (CLUDC) 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 is exempt under Section 15303c of the California Environmental Quality Act (CEQA).

**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; and
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 resource as identified will not be significantly degraded by the proposed development;
8. There is no feasible less environmentally damaging alternative;
9. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted; and
10. The resource as identified will not be significantly degraded by the proposed

development.

#### **SPECIAL CONDITIONS**

1. The fence shall be constructed out of black coated livestock wire. The fence will be held up 6 inches from the ground to allow the easy movement of small mammals through the barrier.
2. Fence posts that require post holes shall not be placed within ten feet of any Bishop Pine trees.
3. The Applicant shall allow a Tribal Monitor 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 Tribal Preservation Officer, at (707) 459-9690, 14 days in advance of ground disturbing activities so that the TPO can schedule monitoring if desired by SVBP.
4. Upon acceptance of the OTD and development of a trail to the Noyo River, the fencing shall be removed from the area defined in the OTD.

#### **STANDARD CONDITIONS**

1. This action shall become final on the 11th working day following the decision unless an appeal to the City Council is filed pursuant to Chapter 17.92.030. 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:
    - (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.
  5. 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.
  6. 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, a Final Map examined and approved by the City Engineer is approved by the City Council and recorded or an extension is requested and obtained.
- The motion carried by the following vote:

**Aye:** 4 - Chair Rogers, Vice Chair Miklose, Commissioner Andreis and Commissioner Roberts

**Absent:** 1 - Commissioner Logan

- 4B. [19-258](#)** Receive Report, Conduct Public Hearing, and Consider:(1) Adoption of the Habitat for Humanity Dubois Project MND; and (2) Approval of Coastal Development Permit 8-18, Lot Line Adjustment 1-18 and Variance 3-19 To Reorient Existing Parcels and Construct Two Single Family Dwellings at 630 Dubois Lane

Assistant Planner McCormick presented the prepared report to the Commission.

Public Hearing open at 6:47 PM.

Jason Iceland the engineer for this project, approached the podium to provide more clarity regarding elevation and orientation of the proposed homes.

Public Hearing closed at 6:49 PM.

Commissioner Roberts inquired on the existing public access. Director Jones noted that since there is no access to the ocean there are no access requirements.

Commissioner Andreis asks if the approved permits follow the property or the owner, per Director Jones if the applicant initiates construction the approved permits would remain with the property.

Chuck Greenberg from Habitat Humanity explained how the program works.

Commissioner Andreis expresses concern with the application completion, Assistant McCormick clarified how this application is complete in accordance to the City's Inland Use and Development Code. Assistant Planner McCormick and Director Jones explained the process of a Coastal Development Permit in City Limits vs in the County. Commissioner Miklose inquired on what exactly was being mitigated and staff referred him to attachment 4 the MND.

Commissioner Roberts states that a bit of repetition in the staff report under findings would make the decisions more clear.

**A motion was made by Chair Rogers, seconded by Commissioner Roberts, that Coastal Development Permit 8-18 (CDP 8-18) Lot Line Adjustment 1-18 (LLA 1-18) and Variance 3-19 (VAR 3-19) be approved. based on the following:**

**The Planning Commission of the City of Fort Bragg finds, determines and certifies as follows, for the purpose of adopting the MND for this project:**

- 1. The above recitals are true and correct, and are incorporated herein by reference;**
- 2. The MND was prepared in compliance with the requirements of CEQA;**
- 3. The MND was presented to the Planning Commission, a decision-making body for the City, the lead agency for the Project, and the Planning Commission has reviewed and considered the information contained in the MND;**
- 4. The MND reflects the Planning Commission's independent judgment and analysis as to the environmental effects of the Project;**
- 5. After mitigation, all project impacts are less than significant;**
- 6. The Planning Commission has, by its review of the evidence and analysis presented in the MND and in the record, acquired a better understanding of the full scope of the environmental issues presented by the Project. In turn, this understanding has enabled the Planning Commission to make fully informed, thoroughly considered decisions on these important issues; and**
- 7. The location of the documents or other material that constitute the record of proceedings upon which the decision is based is the City of Fort Bragg Community Development Department, 416 North Franklin Street, Fort Bragg CA 95437; the official custodian of said records is the City Clerk of the City of Fort Bragg.**

#### **GENERAL FINDINGS**

1. The proposed project is consistent with the purpose and intent of the Medium Density Residential (RM) zoning district, as well as all other provisions of the Coastal General Plan, Coastal Land Use and Development Code and the Fort Bragg Municipal Code in general;
2. The project is consistent with Chapter 17.82 (Parcel Maps and Final Maps) of the Coastal Land Use and Development Code;
3. The project is consistent with the Subdivision Map Act;
4. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
5. 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;
6. The project will provide affordable, for-sale housing for two low income households;
7. Setbacks are provided on the site in compliance with CLUDC Zoning Standards for the Medium Density Residential Zoning District; and
8. For the purposes of the environmental determination, a Mitigated Negative Declaration has been prepared for conformance with the California Environmental Quality Act (CEQA). As mitigated, the project will not result in significant or potentially significant environmental impacts.

#### **VARIANCE FINDINGS**

1. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
2. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
3. The Variance or Administrative Variance is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program. In addition to any other findings and/or conditions regarding the granting of a Variance or an Administrative Variance, the City shall only grant a Variance or Administrative Variance if the City determines that the means of accommodating the Variance or Administrative Variance: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Variance or Administrative Variance will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Variance or Administrative Variance

#### **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. 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.

8. The resource as identified will not be significantly degraded by the proposed development;

9. There is no feasible less environmentally damaging alternative;

10. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted; and

#### **SITE MAP FINDINGS**

1. The Site Map associated with the lot line adjustment for this project is consistent with the Local Coastal Program, and none of the findings for denial in CLUDC 18.81.070(C) can be made.

#### **SPECIAL CONDITIONS**

1. New parcel descriptions shall be submitted to the Public Works Director for review and approval prior to recordation by the Mendocino County Recorder. These new deeds, along with the below described maintenance agreements, shall be recorded prior to issuance of any building permits. Required documentation includes:

- Full description of each new parcel, to be recorded as part of the deeds;
- Lot calculations for each parcel;
- Any indemnification clauses needed, which shall become a part of the recorded deeds.
- Demarcation of 30-foot buffer to ESHA, clearly illustrated on a plat, to be recorded as a deed restriction, and as a permanent exhibit to the deeds for the new parcels;
- Permanent driveway, drainage, and utility easement across the northerly parcel in favor of the southerly parcel, clearly illustrated on either the same plat as the ESHA demarcation, or on a separate plat also accompanying the deeds as a permanent exhibit;
- A statement on the deeds clearly indicating that the parcels are subject to all the conditions of CDP 8-18, in perpetuity.
- Permanent maintenance agreements between parcels for the maintenance of the private driveway, to be recorded prior to issuance of any building permit;
- Permanent maintenance agreement, for each parcel, for the upkeep of the bioretention facilities to be installed as part of this project, to be recorded prior to the issuance of any building permit; and
- Reference to all relevant documents deemed necessary by the City Engineer,

including, but not limited to locations of sewer, water, and drainage infrastructure, private easements.

2. No exotic or invasive plants shall be planted during or following site development. Plant species listed as invasive (High, Moderate, or Limited) on the California Invasive Plant Inventory (Cal-IPC Inventory) shall not be installed anywhere in the project area as they would pose a risk to the surrounding environmentally sensitive habitat areas. All proposed plantings shall be obtained from local genetic stock, per CLUDC 17.36.010(E).

3. Mature blackwood acacia trees on site function as valuable riparian habitat and protect the watershed. For this reason, the applicant shall avoid removing the mature acacia trees and surrounding vegetation. In the event the trees need to be removed due to disease or risk to structures the property owner shall obtain a Coastal Development Permit and contact CDFW staff regarding the removal protocol in order to limit impact to the ESHA.

4. A Grading Plan, Construction Pollution Prevention Plan and Stormwater Runoff Mitigation Plan shall be approved by the City Engineer, prior to issuance of building permit.

5. Address markers are required on dwellings per specifications of FBMC 15.12. In the case that the address numbers are not clearly visible from the public right-of-way, the address numbers shall be posted where the private driveway meets Dubois Lane.

6. Applicant shall comply with all mitigation measures in the MND, including the following:

BIO-1: ESHA Resources shall be protected from disturbance by construction activities. Temporary wire mesh fencing shall be placed around habitat prior to construction activities. These protected areas shall not be used by workers or for the storage of machinery or materials. City staff shall will conduct inspections for compliance during construction.

BIO-2: No development shall occur within the 30-foot buffer to the identified ESHA of tanoak, as a result of the proposed project or any future development, except for those uses permitted in CLUDC Section 17.50.050(I)(2). This protection shall be recorded in a deed restriction and clearly shown on the recorded Parcel Map, prior to issuance of a building permit.

BIO-3: No development shall occur within the 30-foot buffer to the identified Riparian and Stream ESHA, as a result of the proposed project or any future development. This protection shall have a physical delineation in the form of a fence. This protection shall also be recorded in a deed restriction and clearly shown on the recorded Parcel Map, prior to issuance of a building permit

BIO-4: Although the existing acacia trees are nonnative, they function as valuable riparian habitat and protect the watershed. For this reason, the applicant will avoid removing the mature acacia trees and vegetation. In the event the trees need to be removed due to disease or danger to structures, Coastal Development permit approval is required.

BIO-7: Appropriate best management practices (BMPs) shall be submitted as part of the building permit application. Measures should include the use of a silt fence or other erosion control measures to prevent sediment from entering the stream. Erosion control devices should not contain monofilament as this may pose a potential entanglement hazard to sensitive amphibian species that may occur in the area.

BIO-8: Construction activities should occur only during daylight hours to minimize disturbance caused by artificial light and noise.

BIO-9: No exotic or invasive plants shall be planted during or following site development. Plant species listed as invasive (High, Moderate, or Limited) on the California Invasive Plant Inventory (Cal-IPC Inventory) shall not be installed

anywhere in the project area as they would pose a risk to the surrounding plant communities.

**HYDRO-1:** All work involving or associated with soil movement and/or digging shall occur during the dry season (April 1 to October 30). A grading permit will be obtained and construction best management practices (BMP's) will be implemented, including, but not limited to silt fencing and straw wattles to control sediment transport that may flow into the watershed, particularly along the buffer to the eastern fill slope.

**HYDRO-2:** A Construction Pollution Prevention Plan shall be submitted prior to issuance of building permit, which shall evaluate potential construction phase impacts to water quality and coastal waters, and shall specify temporary Best Management Practices (BMPs) to minimize erosion and sedimentation during construction, and prevent contamination of runoff by construction chemicals and materials.

**HYDRO-3:** A final Storm Water Runoff Mitigation Plan will be submitted for approval by the Public Works Department, prior to issuance of building permit. This plan shall describe post-construction Best Management Practices (BMPs) that will be used in the project to reduce increases to erosive storm water flow and to prevent polluted runoff from the built project.

#### **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 Land Use and Development Code 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 Land Use and Development Code.

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 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.

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.

The motion was carried by the following vote:

**Aye:** 4 - Chair Rogers, Vice Chair Miklose, Commissioner Andreis and Commissioner Roberts

**Absent:** 1 - Commissioner Logan

## **5. CONDUCT OF BUSINESS**

### **5A. [19-254](#)**

Consider a Resolution to Change the Change the Day of the Week of the Fort Bragg Planning Commission Bimonthly Meeting From Tuesdays to Wednesdays.

**A motion was made by Commissioner Roberts, seconded by Commissioner Andreis, that this Planning Resolution be adopted. The motion carried by the following vote:**

**Aye:** 4 - Chair Rogers, Vice Chair Miklose, Commissioner Andreis and Commissioner Roberts

**Absent:** 1 - Commissioner Logan

Enactment No: RES PC04-2019

### **5B. [19-257](#)**

Receive Report and Provide Direction to Staff Regarding Policies and Programs for the 2019 Housing Element Update of the General Plan

Director Jones and Assistant Planner McCormick co presented the prepared report to the Commission.

Commissioner Andreis suggested a deferred payment program for fees.

Commissioner Roberts suggested allowing a third unit or Junior units.

Commissioner Andreis spoke in opposition to increasing the density on low density residential zones unless there were strict guidelines in place that would prohibit multi-family next to a single family in low density residential.

## **6. MATTERS FROM CHAIR/COMMISSIONERS/STAFF**

Commissioner Miklose filed a complaint about The Shop on Main Street regarding the amount of cars stored and not screened. there is at least 27 cars. Staff will follow up with Code Enforcement actions.

Director Jones reminded the Planning Commission about the special meeting next Tuesday May 21, 2019.

## **ADJOURNMENT**

Chair Rogers adjourned the meeting at 8:30 PM.

STATE OF CALIFORNIA     )  
  )ss.  
COUNTY OF MENDOCINO    )

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on May 9, 2019.

\_\_\_\_\_  
Joanna Gonzalez  
Administrative Assistant, Community Development Department

\_\_\_\_\_  
\_\_\_\_\_, Chair

\_\_\_\_\_  
Joanna Gonzalez, Administrative Assistant

IMAGED (\_\_\_\_\_)