

The Planning Commission of the City of Fort Bragg met in regular session on the above date at 6:03 p.m., in the Fort Bragg Town Hall, 363 N. Main Street, Fort Bragg, and the following items were discussed in the order presented.

### **PLEDGE OF ALLEGIANCE**

#### **ROLL CALL**

Present: Chair Don Snyder, Vice Chair Georgia Lucas, and Commissioners Meg Courtney and Mark Hannon.

Absent: None.

Staff Present: Mike Gogna, City Attorney, Linda Ruffing, Community Development Director; Jason Dose, Planner III; and Nancy Philips, Administrative Secretary.

#### **APPROVAL OF MINUTES**

Moved by Courtney, seconded by Hannon, to approve the April 13, 2005 minutes as written.

VOTE: Ayes: Commissioners Lucas, Courtney, and Hannon.

Abstain: Commissioner Snyder, who was absent at prior meeting.

#### **PUBLIC COMMENTS ON NON-AGENDA ITEMS**

None.

Chair Snyder rearranged the agenda and placed the City Attorney workshop as the first item

#### **CONDUCT OF BUSINESS**

##### **3. Workshop with City Attorney Mike Gogna Regarding Conflicts of Interest and the Brown Act**

City Attorney Mike Gogna conducted a workshop regarding Conflicts of Interest and the Brown Act.

Gogna stated that the Brown Act was enacted for the purpose of establishing that the public's business is conducted in the open in public meetings. The Brown Act defines a meeting as any communication or exchange of communication about a subject within a jurisdiction. Serial meetings are communications or correspondence that moves from one member to another. Gogna advised that, when approached by a constituent about a particular project, a Commissioner should inform them of these limitations. Advise the constituent not to tell you what other Commissioners said or share your comments with other Commissioners. He also warned Commissioners to beware of using the "reply to all" button when responding to email. Email can become a daisy chain serial meeting. Agendas are posted to define what can be discussed and decided at a meeting. The Brown Act prohibits actions that are not included on the agenda.

Gogna noted that there were three sources of law that define conflicts of interest: (1) Section 1090 which states that city officials cannot be financially interested in any contract of which the official is a member; (2) Political Reform Act of 1974 which states that no public official shall make, participate in making, or in any way officiate a decision when the official has a financial interest in the outcome; (3) common law conflicts occur when an official tries to use their position to influence a decision. City officials may address the Commission as a private citizen, but cannot represent another party as it would be considered undue influence.

Gogna noted that liability fines assessed by the FPPC are personal and not reimbursable by the City. He warned that an official is not immunized from fines because they followed the advice of the City Attorney. The only immunity is to get advice from the FPPC. The City Attorney represents the City, not individuals. Ignorance of the law is irrelevant. Gogna invited Commissioners to contact him with any questions. He can help officials walk through the steps to make their own decision or frame the question in writing to the FPPC. Commissioners can contact the FPPC directly using the contact information in the resource binder that Gogna distributed.

## **PUBLIC HEARINGS**

1. **USP 1-94/00/05; Robert & Donna Rossi (owner); Jordan Main/Granite Construction Company (agent/applicant); 1280 North Main Street (APN 069-231-21) Use Permit renewal to authorize a five-year extension to a previously-approved permit to operate a concrete batch plant.**

The Agenda Item Summary Report prepared for this item was reviewed with the Planning Commission by Planner Dose.

Discussion: None.

**Chair Snyder opened the public hearing at 6:38 p.m.**

Public comment on this agenda item was received from:

1. Mike Brown, North Coast Plant Manager for Granite, said that he was available to answer any questions.

**Chair Snyder closed the public hearing at 6:40 p.m.**

A. Discussion: None.

**Moved by Lucas, seconded by Courtney, to approve USP 1-94/00/05 based on the following findings and conditions.**

## **FINDINGS**

1. The proposed project is consistent with the purpose and intent of the Light Industrial (IL) zoning district, in that, the use is a continuation of a previously approved use.
2. As designed, the project minimizes impacts relative to noise and aesthetics on neighboring properties to the maximum extent feasible.
3. The proposed use would be operated in conformance with the City of Fort Bragg noise ordinance.
4. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future uses in the vicinity.
5. The site is physically suitable in terms of operating characteristics relative to emergency vehicle access.
6. For the purposes of the environmental determination, the requested modifications are considered exempt from further environmental review pursuant to CEQA Guidelines Section 15301 – Class 1 – Existing Facilities.

## **SPECIAL CONDITION**

1. This use permit shall be valid until June 28, 2010 as long as the plant is operated in conformance with all City, County, and State regulations applicable to said use.

## 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 Land Use & 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 & 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 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 Building Department.
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. 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.

VOTE: Ayes: Commissioners Snyder, Lucas, Courtney, and Hannon.

### CONDUCT OF BUSINESS (CONTINUED)

2. SA 8-05; Gordon C. Westerling (owner); 401 North Main Street (APN 08-053-27/16). Sign Permit to authorize installation of 187.5 square feet of signage on the Depot Mall building at the corner of Main and Laurel Streets. The proposed signage includes 22 business identification signs and 6 building name/destination signs. The sign permit application is being referred to the Planning Commission by the Community Development Director for review and decision per Land Use & Development Code Section 18.38.030(B)1.

The Agenda Item Summary Report prepared for this item was reviewed with the Planning Commission by Director Ruffing.

#### Discussion:

**Chair Snyder opened the public comment period at 6:55 p.m.**

Public comment on this agenda item was received from:

1. Gordon Westerling, owner/applicant, stated that he has recently purchased the Depot Mall

building with the intent to make improvements. Westerling quoted the Land Use & Development Code, Table 3-12, "Each use is allowed a total sign area of at least 25 sf regardless of frontage length." He stated that he has 14 tenants and interprets the Code to mean that each tenant can have a sign on the building. Staff has told him that that particular section of the ordinance only applies to tenants with frontage. He noted that the whole front of the building is a museum. He could eliminate the museum to give his tenants the frontage, but he does not want to do that. He stated that he would like to restore the mural on the north side of the building. His tenants are local residents whose livelihoods depend on their stores. His intent is that all of the stores be successful. **Snyder left at 7:00 p.m. and returned at 7:01 p.m.** He believes that it is unfair that, because only three tenants have street frontage, the other 11 tenants cannot have exterior signs promoting their businesses. He referred to a sample of the proposed signage that was brought to the meeting. He believes that the gold lettering on the cream building would look beautiful. He proposed that the Commission go next door to look at the mural at the back of the building that is included in staff's signage square footage calculations. He stated that he could take down the mural/sign on the west side of the building and meet the square footage requirements, but he would like to retain the mural because it is a part of Fort Bragg's heritage. He has asked the tenants with windows to remove their makeshift signs to get away from a "Coney Island" look. He stated that he would take down the letters when a business leaves, and install new ones as new businesses open up.

2. Rob Borcich, tenant, stated that he did not think that the proposed signs would present a cluttered look. He stated that the scale of the signs as depicted on the photos in the application is wrong. He stated that his real estate business has been located in the Depot Mall for two months, but most people do not know it is there. It is a difficult building and should not be confused with the Company Store. When he was a Planning Commissioner there was a policy for City Code Enforcement to have people remove obsolete and unpermitted signs. He does not like clutter, but the building needs more foot traffic.
3. Debbie Jones, tenant, said that nine tenants were present and asked whether the Commission knew who was in the building. Crafters Co-op has been in the Depot Mall since 1999, yet locals still tell her that they did not know her business was there. Tenant signs should not be affected by whether a business is located on the inside or outside. The issue should not be about the lines of a building but about merchants making a living and conducting business.
4. Michael Rom, tenant, said that he moved his business to the Depot Mall from the Company Store in February. Westerling could have just bought the Depot Mall and collected rent, but he cares about it. He felt that for him to not get his way because of something small like this is not a good use of time.

**Chair Snyder closed the public comment period at 7:33 p.m.**

Discussion: The following items were noted during discussion of this issue:

- A. Responding to a question from the Commission, Ruffing stated that the language in the LUDC stating that "Each use is allowed a total sign area of at least 25 sf regardless of frontage length" is somewhat ambiguous when read alone. However, when this statement is considered in the context of the other LUDC provision which limits the number of signs for buildings with 4 or more tenants, it is clear that "each use" is referring to uses that have some street frontage. She noted that the total sign area proposed exceeds the maximum allowed, based on the length of the street frontages—however, the primary issue revolves the number of signs and their placement on the façade. She noted that the applicant proposed a total of 28 signs—and while staff was willing to be somewhat flexible in calculating the sign area and total number of signs permitted, the 28 signs so far exceed the number permitted by the Code that staff was not comfortable administratively approving the requested signage. She noted that staff has been trying to resolve this with the applicant but has not been successful. Staff believes that a sign plan that provides for fewer signs with more general messages indicating the types of

businesses, goods and services available in the Depot Mall would serve the purpose of identifying the building and drawing people in to shop. Identifying the individual businesses on pedestrian-oriented directory signs at the entries would be consistent with the Code.

- B. Snyder added that credit should be given to those who wrote the sign ordinance. The ordinance contains provisions that specifically address signage for structures such as the Depot Mall with multiple tenants and the point was deliberated to avoid a cluttered look for the collective downtown. Lucas concurred.

**Moved by Courtney, seconded by Hannon, to deny SA 8-05 based on the following findings and condition. The Planning Commission directed the applicant and his agents to prepare a revised sign plan that complies with LUDC requirements regarding the maximum number of signs and the maximum sign area.**

### **FINDINGS**

1. The proposed signage does not comply with the City's sign ordinance as established in the Land Use and Development Code Chapter 18.38.
2. The proposed signage exceeds the maximum number of signs allowed in a commercial zone, as established in LUDC Section 18.38.070.
3. The proposed signage exceeds the maximum sign area allowed on the property which is based on the length of the buildings primary and secondary frontages, per LUDC Section 18.38.070.
4. The proposed signage is not visually compatible with the scale and architectural style of the Depot structure as it presents a visually cluttered appearance that detracts from the architectural detailing of the building facades.

### **STANDARD CONDITION**

1. This action shall become final on the 11<sup>th</sup> working day following the decision unless an appeal to the City Council is filed pursuant to Land Use & Development Code Chapter 18.92 (Appeals).

**VOTE: Ayes: Commissioners Snyder, Lucas, Courtney, and Hannon.**

#### **4. MATTERS FROM CHAIR/COMMISSION/STAFF**

- A. Courtney stated that she would be out of town from June 6 through 22.

### **ADJOURNMENT**

Chair Snyder adjourned the meeting at 7:45 p.m.