

The Planning Commission of the City of Fort Bragg met in regular session on the above date at 6:00 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 Mark Hannon, Commissioners Burley Cox, Becky Ellis, David Linkhart, and Georgia Lucas.

Staff Present: Marie Jones, Community Development Director; Sean O'Rourke, Planner; and Nancy Philips, Administrative Secretary.

APPROVAL OF MINUTES

Moved by Linkhart, seconded by Ellis, to approve the July 11, 2007 regular meeting and June 13, 2007 special meeting minutes as written.

VOTE: Ayes: Commissioners Cox, Ellis, Linkhart, Lucas, and Chair Hannon

PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

PUBLIC HEARINGS

1. **CDP 8-05 & VAR 1-05; March 9, 2005; Ronald G. Rose Co-Trustee (applicant/owner); Paul Clark (agent); 550 Casa Del Noyo Drive; (APN 018-230-23); Coastal Development Permit and Variance to construct a two-story, 1,123 square foot, single-family residence of approximately 32 feet maximum height above grade on a +/- 2,381 square foot lot situated on a steep hillside on the west side of Casa Del Noyo Drive, overlooking North Harbor Drive and Noyo Harbor. Project also includes the construction of a two-car parking area and storm water drainage system. Two trees are indicated for removal. A variance is requested to reduce the rear yard set back from 20 feet to 10 feet and to reduce the side yard setback from 5 feet and 5 inches to 5 feet.**

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

Discussion: Responding to a question from the Commission, Jones explained that the lot is legal, non-conforming. Even after staff contacted the Coastal Commission to verify zoning, it is unclear whether it is zoned Garden Apartment Condominium (GAC) or Residential one-family (R1). Therefore, the application was evaluated under both zoning standards. The variance for the rear yard setback only applies if it is R1. Linkhart inquired whether denying the application would be considered denying the right to build. Jones offered to pose that question to the City Attorney. Lucas asked for clarification as to where the property line is located. Jones suggested that the applicant could stake the property and provide photo simulations. Staff could research Commission's concerns and bring the matter back to them at a later date. Cox questioned the width of Casa Del Noyo Drive. Planner O'Rourke responded that it is 25' wide. Linkhart proposed that the house be situated further up the hill which would reduce the front setback but increase the rear setback. Ellis expressed concern that there is evidence of erosion now, and grading and construction activities would contribute to further erosion given the slope of the property. Ellis questioned the stability of the property and whether it could jeopardize public safety and proposed that the applicant get a second opinion on the geotechnical report. Associate City Engineer Nancy Atkinson said that drainage would not be contained on site, but that the stormwater must be diverted so it does not erode the hill. Responding to a question from the Commission,

Atkinson said that she could review the plans again, but she is not a soils engineer.

Chair Hannon opened the public hearing at 6:35 p.m.

1. Paul Clark, agent, said that the project was designed based on the Land Use & Development Code (LUDC) which they later learned had not been certified by the Coastal Commission. The project has been evaluated under the certified Local Coastal Program (LCP). He asked the Commission for flexibility to allow another firm to do the follow-up geotechnical as he does not know BACE's availability and may want to hire someone local. The botanical study was done in 2005, and no endangered species were identified. It is a lot to ask them to do another one. Resituating the house on the lot would entail redesigning the project and more delays. The Commission does not need to be concerned about the slope as studies have been done, and engineers will have to sign off on it. Their names are on the line so they are not going to sign-off unless it is okay. Clark, a former Commissioner, said that it is not the Commission's job to make sure the property does not fall off the bluff but rather to ensure that it meets the code and design criteria. He urged the Commission to vote on the matter one way or the other.
2. Jack Thomas, adjacent neighbor, said that this is one of four narrow adjacent parcels that the County Assessor's office calls wasteland lots. Allowing this house to be built would block scenic views and create a precedent to allow others to build on sub-standard lots. Granting a variance would give the owner special privilege with a substantial alteration of land form in the Scenic Corridor. There is not enough room for parking, curbs, and sidewalks. Thomas had his augmented parking area engineered. Two neighbors on Casa Del Noyo have been denied use permits for vacation rentals because of parking problems.
3. Barbara St. John, adjacent property owner, distributed photos to the Planning Commission that advertise her vacation rental. Building this house would destroy her income and investment by blocking views of the harbor and sunset. Should an emergency occur, police and fire vehicles could not get through if this house were built. St. John noted that the lot is only one-third the size of a standard sized City lot.

Chair Hannon closed the public hearing at 7:27 p.m.

Discussion: Jones restated that this is a legal, non-conforming lot, and a variance can be applied. The LCP protects views from public right of ways, however Casa Del Noyo is a private road. How the Assessor categorizes a parcel has no bearing on applying the zoning code. During the building permit process engineers as well as the County Building Department would review the project. It is expensive to prepare construction plans for the design phase if it is not going to be built. Lucas said that she was bothered by the fact that this is sandstone and highly fractured. She used to live in an area where 12 houses slid down a hill because engineers, planners, and everyone else approved the project. Cox stated that engineers are the experts, and we should accept their word. We do not know that they cannot make sandstone hold.

Moved by Lucas, seconded by Ellis, to direct staff to prepare findings for denial of the rear yard variance request and denial of the project.

**VOTE: Ayes: Commissioners Ellis, Lucas, and Chair Hannon
Noes: Commissioners Linkhart and Cox**

2. CDP 7-07; April 23, 2007; David Sarti (applicant/agent); Rossi's Building Materials (owner); 745/749 West Street & 260 West Spruce Street; APN: 008-041-01/02 & 008-042-01; Coastal Development Permit for construction of four approximately 1,600 sq. ft. single family residences and four 2nd residential units of approximately 1,250 sq. ft. (including 500 sq. ft. garage). One SFR and 2nd unit proposed on each of four separate parcels (after Certificate of Compliance to make APN 008-041-02 two separate lots). Primary residences proposed to be 28'9" maximum height above grade, and secondary residences proposed to be 28'4" maximum height above grade.

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

Chair Hannon opened the public hearing at 7:40 p.m.

4. David Sarti, applicant/agent, gave a PowerPoint presentation comparing design features to existing homes in the neighborhood. The homes would feature sustainable elements including a rainwater storage system for irrigation, passive solar heating, drought-tolerant landscaping, and use of green building materials. The houses have plug-in features so that the builder or buyer could choose from room components such as a mudroom, art studio, deck, and bay window. The property was never an official park. Years ago the City decided not to lease the property because it was not being used, and they did not want to maintain it. The majority of houses on West Street are built close to the sidewalk. The code allows calculating the average front yard setback and using that as the setback. Sarti estimated that the average setback is 13', but he can increase it to 20' without impacting the project. The mudrooms are a very valuable component to the houses so he would not like to see them eliminated, but the houses could be moved back. The second units may be used as rentals to offset the mortgage.
5. Laura Rogers said that she lives across the street from a property known for decades as Rossi Park. There may be a prescriptive easement, but she has nothing in writing. She read aloud and submitted a petition signed by neighbors in opposition of the project. She shops at Rossi's, but they do not treat neighbors well. It is likely some of these houses would be rentals. Many houses in the neighborhood are small, but these houses are 1,600 square feet with a second unit.
6. Rich Jung stated that he drove around the neighborhood northwest of the Brewery looking for similar two-house/two-story units, but did not find one. Alleys are not properly maintained, and he rarely sees police patrolling the area. He inquired how power would be brought to the site. Jung added that he would prefer to see the parcels sold separately and owners building homes individually. The metal roofs may be reflective.
7. Alan Cherry, said that parking enforcement is awful in the neighborhood, and everyone parks in the street. This project could yield 16 more cars in a small area. The City should have more infrastructure in place before allowing piecemeal development. New homeowners would not be so tolerant of noise from the Rossi's yard, and this will be the beginning of the end of building materials in that location.
8. Scott Dietz, noted that the neighbors are good for Rossi's as they provide a presence after workers have gone home. Second units mentioned by Sarti in his presentation are actually garages. He would rather see people build single family homes and not build eight rental units.
9. Lilia Parrish informed the Commission that her husband built a swing for kids on the property, watered the lawn, planted bushes, and maintained it for six years before his death.
10. Jonathan Byer, said that the metal roof should be painted with factory paint, but added that it might be better to go with a corrugated roof that would diffract light better and have less glare. The 20' width of the alley may be insufficient for emergency vehicles if cars are parked there.
11. Stephanie Wood, noted that the General Plan refers to parks for every 1,000 people. There is no park in the neighborhood.

Discussion: Director Jones replied that, while the City has added more acreage to parks, the Georgia-Pacific Specific Plan process may yield one in the west neighborhood. The fact that the property was willingly used as a park does not provide a prescriptive easement. The lease between the City and Rossi's expired in 1974.

Chair Hannon closed the public hearing at 8:48 p.m.

Discussion: Lucas stated that change is a terrible thing, but the project could be so much worse. A two-story apartment building or rental duplexes would be harder to bear than single family homes. Linkhart concurred, adding that it would be less shocking to the character of the neighborhood if the colors were toned down to more earth tone, natural hues.

Moved by Lucas, seconded by Cox, to approve CDP 7-07 based on the following findings and subject to the conditions cited below:

FINDINGS

- 1. The proposed project is in conformity with the certified Local Coastal Program and applicable regulations of the Fort Bragg Municipal Code;**
- 2. The proposed project is consistent with the purpose and intent of the Duplex Triplex Multiple Family Zone (DTMR), as well as all other applicable provisions of Title 18 of the Fort Bragg Municipal Code, and applicable provisions of the Fort Bragg Municipal Code in general;**
- 3. The proposed use is an allowed use in the DTMR zoning district in the Coastal Zone;**
- 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 project is consistent with the applicable Design Review criteria as set forth in Section 18.71.050 (E) of the Land Use and Development Code;**
- 6. 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;**
- 7. As conditioned (see Special Condition #5), the proposed development will not have any adverse impacts to any known archaeological or paleontological resource;**
- 8. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and**
- 9. 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.**

SPECIAL CONDITIONS

- 1. Prior to issuance of building permits, plans shall be submitted that reflect setbacks in compliance with all LCP setback requirements.**
- 2. Prior to the issuance of the any building permit pertaining to this project, correct property corners for all four lots shall be marked.**
- 3. Sufficient deeded access easements to parking and garage areas across parcels intervening with public right way shall be required in order to ensure that such access is available in perpetuity. Prior to issuance of any building permits for the parcels on the west side of West Street, the property owner shall record the necessary access deeds with the Mendocino County Recorder's Office. Proposed access deeds shall be approved by the Public Works Director prior to recordation.**
- 4. Prior to issuance of any building permits pertaining to the project, the applicant shall submit to the Community Development Director a paint sample to paint the zinc coated aluminum or provide a roofing sample that is non reflective for review and approval by the Community Development Director.**
- 5. Prior to issuance of building permits on existing Assessor's Parcel 008-041-02 or 008-042-01 additional archaeological investigation (including subsurface techniques and more detailed historical research) shall be conducted under the direction of a professional archaeologist.**

Results of such investigations shall be presented for acceptance by the Community Development Director.

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 18.61.063. This action is appealable to the California Coastal Commission pursuant to Chapter 18.61.065.
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 certified LCP.
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.
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.
8. 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.
9. 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 building permit is issued and construction has commenced and diligently pursued towards completion or an extension is requested and obtained.

VOTE: Ayes: Commissioners Cox, Ellis, Linkhart, Lucas, and Chair Hannon

CONDUCT OF BUSINESS

3. Matters from Chair/Commission/Staff

- A. Jones informed the Commission that there were no matters ready for their August 8 meeting so it will be cancelled. The August 22 meeting would include inclusionary housing.

ADJOURNMENT

Chair Hannon adjourned the meeting at 8:55 p.m.

Mark Hannon, Chair

ATTEST:

**Nancy Philips
Administrative Secretary**

INDEXED: _____ (____)

IMAGED: _____ (____)