

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.  
Absent: None.  
Staff Present: Marie Jones, Community Development Director; Chris Carterette, Planner; and Nancy Philips, Administrative Secretary.

### **APPROVAL OF MINUTES**

Moved by Ellis, seconded by Linkhart, to approve the September 26, 2007, minutes as written.

VOTE: Ayes: Commissioners Cox, Ellis, Linkhart, Lucas\*, and Chair Hannon\*.  
(\*Commissioner Lucas and Chair Hannon were not present for entire meeting September 26.)

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

Andrea Luna stated that she was present at the September 26th meeting when the V'Canto use permit was approved. One of the conditions of the use permit recommends the hours that alcoholic beverages could be served. The Department of Alcoholic Beverages Control (ABC) regulates those hours, not the City. ABC is considering the terms of the use permit for V'Canto's license which is not yet finalized. Luna asked that the City make a statement that they do not regulate hours that alcohol may be served. It was noted that no one filed an appeal for the V'Canto use permit. Director Jones suggested that Luna give ABC the approved minutes from the last meeting to illustrate the point she was making. Commissioner Cox indicated that it was also his understanding that ABC is the regulatory body for the hours that alcoholic beverages could be served.

### **PUBLIC HEARINGS**

- CDP 6-07 (April 19, 2007); Fort Bragg Municipal Improvement District (owner/applicant); Dave Goble, Director, Public Works (agent); Pudding Creek Beach (APN 008-010-15); Coastal Development Permit to allow the relocation of a sewer force main. Project would include the construction of approximately 3,000 LF of 10 inch sewer force main from the Pudding Creek Lift Station to the nearest manhole on Elm Street at Elm Street's intersection with Stewart Street. The old force main will be cleaned, capped and abandoned in place. The new force main would be located along the access road for MacKerricher State Park at Pudding Creek, on the western shoulder of State Route 1, and across the Pudding Creek Bridge. A Mitigated Negative Declaration and a Mitigation Monitoring Program have been adopted.**

The Agenda Item Summary Report prepared for this item was reviewed with the Commission by Planner O'Rourke/Carterette.

**Chair Hannon opened the public hearing at 6:12 p.m.**

- Nancy Atkinson, Associate City Engineer, reported that the request for proposals was issued for this project and that she has already heard from a couple of capable engineering firms who are interested. Atkinson clarified that no raw wastewater has ever entered Pudding Creek from the sewer main, but it has surfaced on the east side of the dunes. The existing lift station would

remain.

Discussion:

- Director Jones stated that the State funded a \$1.5 million grant for this project. During the application process it was recommended the City seek additional State funding for a restroom near the lift station. Staff is working with State Parks for a temporary port-a-potty in the interim.
- Linkhart noted that there was conflicting wording in the staff report as to whether the work would be done in the dry or rainy season.
- Carterette replied that, while the City does not plan to execute the project during the rainy season, if a delay occurs it would be best to continue the work rather than delay it until the dry season.
- Responding to a question from Linkhart, Director Jones replied that only a certified archeologist or member of the Native American community could be considered qualified archeological monitors. The road area belongs to Caltrans, and the City is working with them to repave it.

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

Discussion:

**Moved by Lucas, seconded by Ellis, to approve CDP 6-07 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 Open Space (OS) and Highway Visitor Commercial (HVC) zoning districts, 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 necessary and an implied allowed use in the OS and HVC zoning districts 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 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 proposed development will not have any adverse impacts to any known archaeological or paleontological resource;
7. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
8. 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.

**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. This Coastal Development Permit approval shall lapse and become null and void two (2) years from the date of approval unless prior to the expiration of two (2) years, construction is commenced and diligently pursued towards completion or an extension is requested and obtained in accordance with LUDC Section 18.71.050.

#### **SPECIAL CONDITIONS**

1. Prior to project construction activities, the City and its contractors shall file a NOI and SWPPP with NCWQCB and obtain all necessary permits from other trustee agencies, such as Streambed Alteration Agreements from DFG. All erosion control measures specified in the Mitigated Negative Declaration shall be implemented.
2. Pursuant to consultation with U.S. Fish and Wildlife Service (the Service) for the purpose of protecting the coast wallflower; *Erysimum menziesii* ssp. *concinnum*, orange construction fencing shall be installed immediately west of the area of impact between construction and grading activities and the coast wallflower population. The project planner will identify the location of the population for the ideal location of the fencing.
3. Within thirty days prior to the start of construction, the City shall conduct surveys for cliff swallows (*Petrochelidon pyrrhonota*) and purple martins (*Progne subis*). If no cliff swallows and/or purple martins are detected, then no further mitigation is required. If cliff swallows and/or purple martins are detected, then the following will be implemented: the project engineer would consult with DFG and incorporate recommended measures to avoid or mitigate impacts to the species at this locale into the project scope, as appropriate and feasible. During operations involving attachment of the sewer line to Pudding Creek Bridge applicant shall install fabric, such as canvas or plastic tarps under the bridge during

construction to prevent debris from falling into Pudding Creek thus mitigating any potential impacts to Coho, steelhead, tidewater goby, wetlands, and Waters of the United States.

4. The City shall ensure compliance with the following requirements during construction and operation activities: 1) All equipment would be inspected for leaks immediately prior to the start of construction, and regularly inspected thereafter until equipment is removed from project area (i.e. in a location where such activities can be contained without risk to environmental resources); 2) Equipment would be cleaned and repaired (other than emergency repairs) outside the project area. All contaminated water, soil, sludge, spill residue, or other hazardous compounds would be disposed of outside the project area, at a lawfully permitted or authorized site; 3) A spill response plan shall be devised based on best management practices for use in the event of an accident or upset that causes the release of a hazardous substance as might be used on site for surface preparation (i.e. paint), heavy equipment or vehicles during the project such as paint, gasoline, diesel fuel, hydraulic fluid or motor oil.
5. In reference to site CA-MEN-1839, Temporary orange plastic fencing will be installed prior to construction to keep construction activities out of the site area. An archaeological monitor also shall be present during any trenching adjacent to the site. If site deposits are encountered, work will be halted until a suitable strategy is developed in consultation with the City Public Works Department and other parties of interest. In reference to site PC-1, 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.
6. Prior to the issuance of the Coastal Development Permit, the applicant shall submit a paint color sample for the sewer line housing to the Community Development Director or designee for approval.

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

### **CONDUCT OF BUSINESS**

2. Receive Report, Conduct Public Hearing, and Consider Adopting Resolution Recommending that the City Council Adopt Comprehensive Amendments to the Land Use & Development Code: Chapter 18.31, Density Bonuses and Affordable Housing Incentives; Chapter 18.32, Inclusionary Housing and Density Bonus Provision; and Section 18.100.020, Glossary.

Director Jones informed the Commission that staff determined that environmental review is required to amend the General Plan and adopt an inclusionary housing ordinance. It will take about six weeks to route the proposed ordinance to public agencies and allow them time for comment. In mid-December or early January this will come back to the Commission for their consideration.

**Chair Hannon opened the public hearing at 6:40 p.m.; seeing no one wishing to speak, he closed the public hearing at 6:39 p.m.**

3. **Matters from Chair/Commission/Staff**

A. Director Jones informed the Commission that the California Coastal Commission will meet in

December and consider certifying the City's Local Coastal Program. It looks like the easiest way to administer it will be to have two General Plans and two zoning codes. One set will be for properties inside the Coastal Zone and the other for the rest of the City.

- B. Director Jones announced that an appeal was filed of the Commission's decision to deny the Coastal Development Permit and Variance for 550 Casa Del Noyo. City Council will consider the appeal at a public hearing during their regular meeting on November 13<sup>th</sup>.

**ADJOURNMENT**

**Chair Hannon adjourned the meeting at 6:43 p.m.**

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**Mark Hannon, Chair**

**ATTEST:**

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**Nancy Philips  
Administrative Secretary**

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