



City of Fort Bragg

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

Meeting Agenda Planning Commission

Wednesday, March 23, 2016

6:00 PM

Town Hall, 363 N.Main Street

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

1. APPROVAL OF MINUTES

[16-047](#) Approve Minutes of February 10, 2016

Attachments: [Minutes of February 10, 2016](#)

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

3. PUBLIC HEARINGS

[16-082](#) Receive Report, Conduct Public Hearing, and Consider Approval of Use Permit UP 4-16; Use Permit for a Large Family Day Care Home at 183 S. Lincoln Street

Attachments: [Jara MUP 1-16 \(UP 4-16\) Staff Report](#)

[Attachment 1 - Location Map](#)

[Attachment 2 - Site Plan](#)

[Attachment 3 - Proximity Map](#)

[Attachment 4 - Neighborhood Correspondence](#)

4. CONDUCT OF BUSINESS

5. MATTERS FROM CHAIR/COMMISSIONERS/STAFF

ADJOURNMENT

The adjournment time for all Planning Commission meetings is no later than 9:00 p.m. If the Commission is still in session at 9:00 p.m., the Commission may continue the meeting upon majority vote.

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 _____, 2015.

June Lemos
Administrative Assistant-Community Development

NOTICE TO THE PUBLIC

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Community Development Department at 416 North Franklin Street, Fort Bragg, California, during normal business hours. Such documents are also available on the City’s website at www.fortbragg.com subject to staff’s ability to post the documents before the meeting.

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

The Council Chamber is equipped with a Wireless Stereo Headphone unit for use by the hearing impaired. The unit operates in conjunction with the Chamber’s sound system. You may request the Wireless Stereo Headphone unit from the City Clerk for personal use during meetings.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



City of Fort Bragg

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

Text File

File Number: 16-047

Agenda Date: 3/23/2016

Version: 3

Status: Minutes to be Approved

In Control: Planning Commission

File Type: Minutes

Approve Minutes of February 10, 2016



City of Fort Bragg

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

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 (_____)



City of Fort Bragg

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

Text File

File Number: 16-082

Agenda Date: 3/23/2016

Version: 1

Status: Public Hearing

In Control: Planning Commission

File Type: Planning Staff
Report

Receive Report, Conduct Public Hearing, and Consider Approval of Use Permit UP 4-16; Use Permit for a Large Family Day Care Home at 183 S. Lincoln Street

MEETING DATE: March 23, 2016

PRESENTED BY: S. Perkins

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: Use Permit 4-16 (formerly Minor Use Permit 1-16)

FILE NUMBER(S): UP 4-16

APPLICANT: Maria Jara

OWNER: Maria Jara

PROJECT: Use Permit for the establishment of a Large Family Day Care Home inside an existing residence, which currently operates a Small Family Day Care business.

LOCATION: 183 S. Lincoln Street, Fort Bragg, CA 95437

APN: 008-233-27

LOT SIZE: 0.08 acres (3,750 square feet)

ZONING: Low-Density Residential (RL)

ENVIRONMENTAL DETERMINATION: This project is exempt from CEQA per Statutory Exemption §15274(a) Family Day Care Homes, which exempts the establishment or operation of a large family day care home.

**SURROUNDING
LAND USES:**

NORTH: Residential
EAST: Residential
SOUTH: Residential
WEST: Residential

APPEALABLE PROJECT: **Can be appealed to City Council**

PROJECT DESCRIPTION

The project site is located on the west side of Lincoln Street, approximately 80 feet north of the intersection with Willow Street (Attachment 1: Location Map). The applicant is requesting a Use Permit to establish a Large Family Day Care Facility. The applicant currently operates a Small Family Day Care Facility (six or fewer children) at this location, which is permitted by right (e.g. does not require a Use Permit). The project proposes no physical alteration to the residence or property (Attachment 2: Site Plan).

The application proposes to establish a Large Family Day Care Home on the property, which would allow seven to 14 children. The Inland Land Use and Development Code (ILUDC) defines a Large Family Day Care Home as “a day care facility in a single-family dwelling where an occupant of the residence provides day care for seven to 14 children, inclusive, including children under the age of 10 years who reside in the home.” The proposed use requires a Minor Use Permit in the RL zoning district. Additionally, the Community Care Licensing Division of the California Department of Social Services regulates and licenses child care operations, including Large Family Day Care Homes.

The ILUDC allows the Community Development Director to administratively review and approve or deny Minor Use Permit applications for Large Family Day Care Homes; however, a public hearing can be held at the request of the applicant or interested persons. As a result of a written request for a public hearing, this application type changed to a Use Permit for Planning Commission review.

Site Photo – 183 S. Lincoln Street



NEIGHBORHOOD CONCERNS

City staff sent notice of the pending Minor Use Permit application to property owners within 300 feet and tenants within 100 feet of the proposed project indicating that the Community Development Director would take action on the application unless a written request for a public hearing was received prior to March 1, 2016. On February 19, 2016, Community Development

staff received a written request for a public hearing from a nearby resident. As a result of the written request for a public hearing, the Community Development Department placed the application on the March 23, 2016, Planning Commission agenda. Copies of the written correspondence are included in this report (Attachment 4- Neighborhood Correspondence).

To summarize, correspondence from nearby property owners raised the following concerns regarding the project:

1. The increased noise resulting from 14 children playing at the Large Family Day Care Home would negatively impact the neighborhood, especially on weekends and holidays.
2. The presence of a business negatively affects real estate values and will negatively impact the residential character of the community.
3. The backyard is small and cannot handle additional children.
4. The Large Family Day Care Home would impact neighbors' privacy.
5. Large Family Day Care Homes should be located in commercial zoning districts.

CONSISTENCY WITH PLANNING POLICIES

Land Use. The project site is in the Low-Density Residential (RL) zoning district, which allows Large Family Day Care Homes with Minor Use Permit approval. The ILUDC includes Section 18.42.060(C) Standards for Large Family Day Care Homes. Applications for this use must be found consistent with this code section. The following analysis evaluates the project's consistency with the individual standards outlined for Large Family Day Care Homes.

18.42.060(C)(1) Location Requirements.

In order to avoid the concentration of intensive, non-residential land uses in residential neighborhoods, maintain residential character, and compatibility with adjacent residential uses, no large family day care home shall be located within 200 feet of an existing large family day care home, or child day care center. In no case shall a residential property be directly abutted by a large family day care center on two or more sides.

Community Development staff contacted North Coast Opportunities to determine the location of other Large Family Day Care Homes and Child Day Care Centers in the City of Fort Bragg. There are seven such facilities in the City limits, with one additional facility conditionally approved. None of the seven existing Large Family Day Care Homes (nor the one conditionally approved) or Child Day Care Centers are within 200 feet of the proposed project (Attachment 3: Proximity Map).

18.42.060(C)(2) Parking, drop-off area.

a. At least two off-street parking spaces shall be provided exclusively for dropping off and picking up children. The driveway may be used to provide the off-street parking required by Section 18.36.040 (Number of Parking Spaces Required) for a single-family dwelling, if the parking will not obstruct any required drop-off and pick up areas nor block any sidewalks or other public access. Alternative parking and drop-off arrangements may be required by the review authority based on traffic and pedestrian safety considerations.

b. A home located on a street with a speed limit of 30 miles per hour or greater shall provide a drop-off/pick-up area designed to prevent vehicles from backing onto the street (e.g. circular driveway).

18.36.040 Table 3-7 Parking Requirements by Land Use (Large family day care home).

Minimum: 2 spaces; may include spaces provided to fulfill residential parking requirements and on-street parking so long as it abuts the site.

Presently, the parcel includes a two-car garage providing the required parking spaces for the existing single-family residence. There is also a driveway connecting the garage to Lincoln Street, with adequate space to park two additional vehicles. The existing driveway provides adequate space for two off-street parking spaces for the purposes of dropping off and picking up children, consistent with the parking requirements of ILUDC Section 18.42.060(C)(2).

The ILUDC gives an alternative policy to satisfy parking requirements for Large Family Day Care Homes in Section 18.36.040. This policy states that the two required parking spaces may include those required for residential parking requirements and on-street parking abutting the site. There is not adequate parcel frontage abutting Lincoln Street to accommodate two on-street parking spaces; however, on-street parking is not required as off-street parking will be provided to accommodate the proposed use (Attachment 4: Site Photos).

18.42.060(C)(3) Outdoor activity areas.

a. Any side or rear setback areas intended for day care use shall be enclosed with a fence or wall to separate the children from neighboring properties.

b. Outdoor recreation equipment over eight feet in height shall not be located within a required side setback, and shall be set back a minimum of five feet from a rear property line.

The backyard of the property is fully enclosed by a fence, separating the children from neighboring properties. The applicant proposes no outdoor recreation equipment with this application. Special Condition 1 is recommended to require the applicant to notify City staff if any outdoor recreation equipment over eight feet in height is planned for the property, so that staff can evaluate the equipment's consistency with the ILUDC.

Special Condition 1: 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).

18.42.060(C)(4) Noise.

Noise generated from the large family day care home shall not exceed the standards in the Municipal Code Chapter 9.44.

Chapter 9.44 of the Municipal Code sets standards for appropriate noise levels in the City. For residential areas, Section 9.44.020(A) states that between the hours of 10:00 p.m. and 7:00 a.m. it is unlawful for any person within a residential zone to create, cause to be created or maintain sources of noise which cause annoyance or discomfort to a reasonable person of normal sensitiveness in the neighborhood. The proposed Large Family Day Care Home would be subject to this and all other City noise standards. Standard Condition 3 allows for the revocation of this Use Permit should the proposed use be conducted in such a way as to cause a public nuisance.

18.42.060(C)(5) Additional Standards.

Each large family day care home shall comply with applicable building and fire codes, and standards adopted by the State and Social Services Department licensing requirements (California Code of Regulations, Title 22, Division 2).

Operators of Large Family Day Care Homes must be licensed by the California Department of Social Services. State licensing regulates a myriad of aspects of the facility, including but not limited to the following:

- Criminal Record Clearance
- Child Abuse Central Index Screening
- Fire Safety Clearance (for Large Family Day Care Homes, fire safety clearance by the local fire authority is required)
- Inspection Authority
- Personnel Requirements
- Reporting Requirements
- Staffing Ratio and Capacity
- Operation and Facility Standards
- Immunization Requirements
- Admission Procedures

Staff recommends Special Condition 2, requiring the applicant to supply the City with verification of compliance with all required State licensing requirements prior to initiating operation of the Large Family Day Care Home.

Special Condition 2: 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).

Although State licensing requirements regulate site and facility standards including capacity and size, an approved Use Permit for a Large Family Day Care Home must also be consistent with the required findings for approval. ILUDC Section 18.71.060(F)(3) requires that “the design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.” One of the neighborhood concerns relayed to City staff regarding the proposed use is the potential for children to create a nuisance for neighboring residents. Staff recommends Special Condition 3, requiring that all children attending the Large Family Day Care Home be under full supervision by a caregiver when outside the home.

Special Condition 3: At no time shall children attending the Large Family Day Care Home be off the property (183 S. Lincoln Street) without the full supervision of a caregiver, with the exception that children traveling to and from public transportation may proceed unaccompanied.

Staff recommends that the project is consistent, with the recommended conditions of approval, with all specific standards for a Large Family Day Care Home, as outlined in ILUDC Section 18.42.060(C). Additionally, all findings of approval required to grant a Use Permit for the Large Family Day Care Home can be made.

PLANNING COMMISSION ACTION

1. Hold a hearing, close the hearing, deliberate and approve Use Permit 4-16 (UP 4-16) subject to all standard and special conditions.

ALTERNATIVE ACTION

1. Hold a hearing, close the hearing, deliberate without a decision, and revisit the application at the next scheduled meeting for a decision and the addition of any new findings.
2. Hold the hearing, and continue the hearing to a date certain if there is insufficient time to obtain all input from all interested parties. At the date certain, the Commission may then deliberate and make a decision.
3. Deny the Use Permit.

RECOMMENDATION

Staff recommends approval of Use Permit 4-16 (UP 4-16) for the project based on the following findings and subject to the conditions cited below:

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, Inland Land Use and Development Code (ILUDC), 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 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 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.

2. 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).

3. At no time shall children attending the Large Family Day Care Home be off the property (183 S. Lincoln Street) without the full supervision of a caregiver, with the exception that children traveling to and from public transportation may proceed unaccompanied.

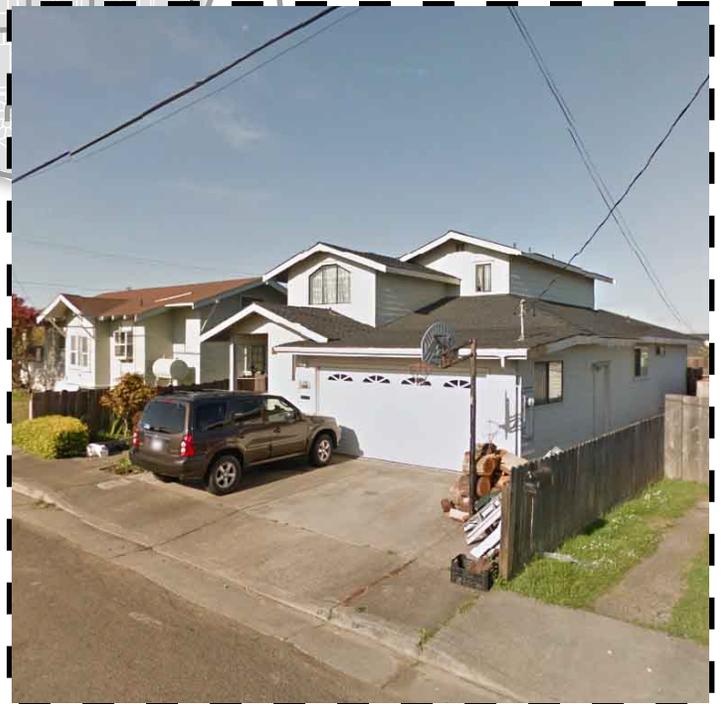
STANDARD CONDITIONS

1. This action shall become final on the 11th day following the decision unless an appeal to the City Council is filed pursuant to ILUDC 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 ILUDC.
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 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.
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 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.
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.
8. 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

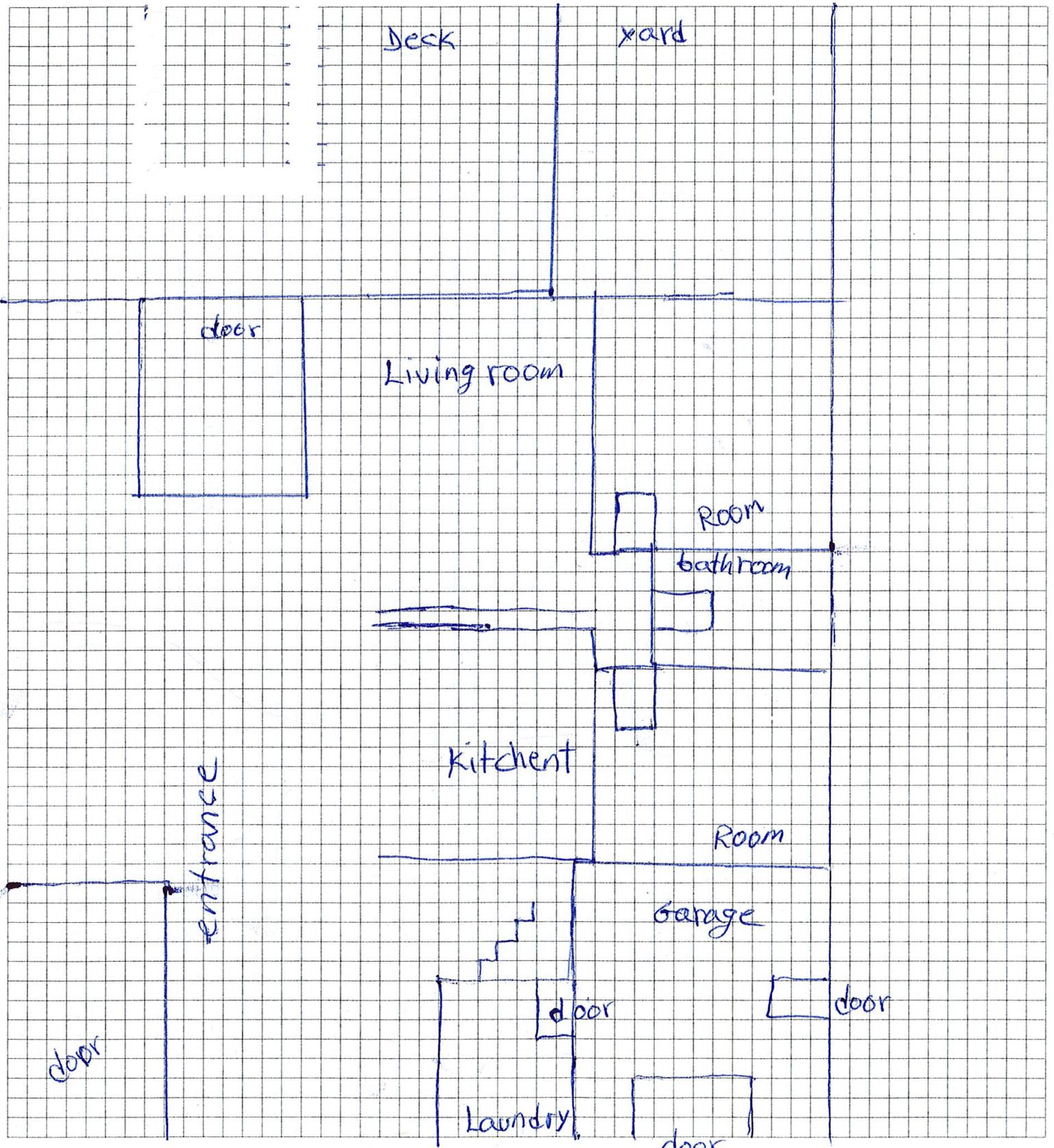
months of approval shall expire and become void, except where an extension of time is approved in compliance with ILUDC Subsection 18.76.070(B).

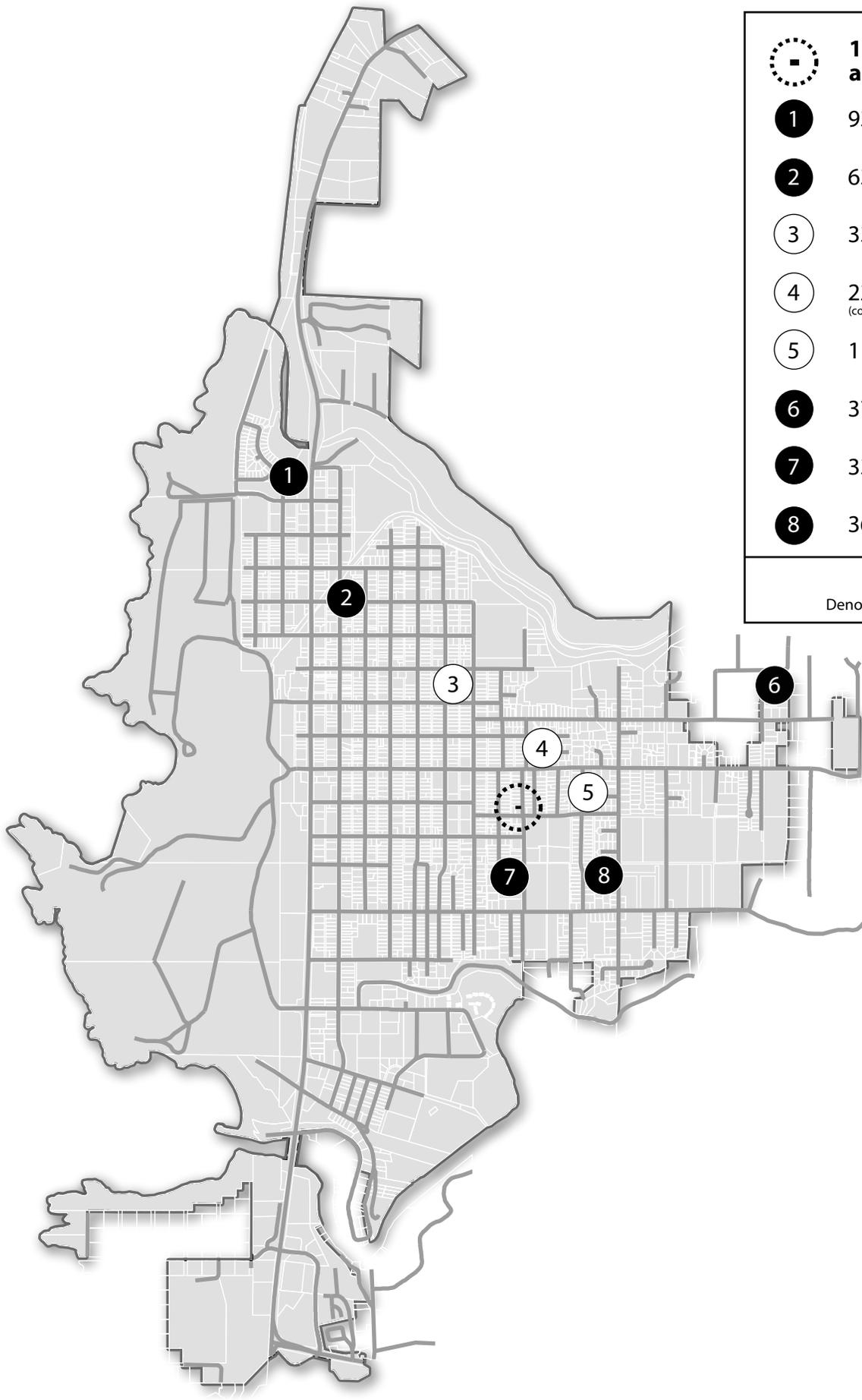
ATTACHMENTS

1. Location Map
2. Site Plan
3. Proximity Map
4. Neighborhood Correspondence



0 1,500 3,000 Feet





 **183 S. Lincoln Street and 200 foot radius**

-  930 Stewart Street
-  634 N. Franklin Street
-  334 N. Corry Street
-  221 McKinley Street
(conditionally approved)
-  118 Wall Street
-  370 Dennison Lane
-  330 S. Lincoln Street
-  367 S. Sanderson Way

Denotes Child Care Center 
 Denotes Large Family Day Care Home 



**Robert & Cointa Hubik
825 Willow Street
Fort Bragg, CA 95437
(707) 964-0236**

WORK: 964-8283

February 22, 2016

Community Development Department
City of Fort Bragg
416 North Franklin Street
Fort Bragg, CA 95437

RE: Minor Use Permit 1-16 (MUP 1-16) 02-03-2016; Maria Socorro Jara; 183 S. Lincoln Street, Assessor's parcel # 008-233-27; establishment of a Large Family Day Care Home inside an existing residence.

To Whom It May Concern:

This letter serves as the written request for a public hearing on the use permit matter specified above. As adjacent neighbors to the parcel in the above matter we are opposed to its approval for many reasons.

- 1) The Jara's, our back yard neighbors, already pose a noise nuisance with the day care business they already have. We definitely do not want this noise to increase with the additional children this use permit would grant; especially on weekends and holidays when we are trying to enjoy our own backyard without the constant obnoxious noise of loud screaming children and crying toddlers in their tiny back yard, fighting over toys, etc.; not to mention their screaming babysitter, Mrs. Jara. It would be different if these were their own children.
- 2) We purchased our property in 1991 specifically to be in a normally quiet neighborhood many years before the Jara's moved in and started their child care business. We were never notified then and would have opposed it from the beginning if we had the chance. We believe that this business lessens the desirability of our neighborhood and makes our property, as well as the other surrounding properties, of less value in the real estate market. Increasing the Jara's child care business would only add to the existing problem and make matters worse. We would more than likely suffer financial hardship if we had to sell our home with the expanded child care business operating next door. The business and noise would probably be a necessary real estate disclosure that would decrease the marketability and value of my household as well as others in the neighborhood.

RECEIVED

FEB 19 2016

CITY OF FORT BRAGG
COMMUNITY DEVELOPMENT DEPT

- 3) Our property was purchased with the specific knowledge that our immediate area was not zoned for operating a business and we want to keep it that way. If any business did request an operation in our area, at a minimum, it should be quiet and not bring additional vehicular or pedestrian traffic to our surrounding area. This is not the case with an expanding child care business sharing my back yard fence.
- 4) The Jara's back yard is tiny and can't handle any additional children without becoming even more crowded, loud, and dangerous to the children hurting each other in the limited space to play.
- 5) The children have already become a burden to my other neighbor that has adjacent property directly south of the Jara's. My neighbor is retired and can't stand the loud children next door at the child care facility. She has even had to plant special shrubbery and add fence extenders to keep the children from peering into her yard and ruining her privacy.
- 6) If the Jara's want to operate a larger daycare they should relocate to a commercially zoned property rather than try to turn my neighborhood into one.

Please deny this use permit and let us retain what little peace and serenity the Jara's presently allow us to have in our backyard with their existing childcare facility. Please notify us when and where the public hearing will be held.

Respectfully submitted,



Robert Hubik



Cointa Hubik