

RESOLUTION NO. 4037-2017

RESOLUTION OF THE FORT BRAGG CITY COUNCIL DENYING THE APPEAL SUBMITTED BY DAWN FERREIRA, ANNE MARIE CESARIO AND JEAN STUBENRAUCH AND UPHOLDING THE FORT BRAGG PLANNING COMMISSION'S AUGUST 23, 2017 DECISION TO MODIFY EXISTING USE PERMIT 9-03 (USP 9-03) FOR THE HOSPITALITY HOUSE SHELTER THEREBY PLACING NEW SPECIAL AND STANDARD CONDITIONS ON THE USE PERMIT (USP 9-03/17)

WHEREAS, in 2003, the Fort Bragg Planning Commission approved Use Permit 9-03 for the Mendocino Coast Hospitality Center (MCHC) to operate an emergency shelter at 237 North McPherson Street (APN 008-155-11); and

WHEREAS, Use Permit 9-03 included two special conditions limiting the Hospitality House emergency shelter to 24 beds as follows:

1. The total number of emergency shelter beds shall not exceed 24. A Use Permit amendment shall be required prior to any increase in the number of beds at the site.
2. Prior to occupancy of the new/renovated alley "family" structure, Community Development Department staff shall conduct an inspection of the entire facility to ensure that no more than 24 beds are at the site.

WHEREAS, the City of Fort Bragg received numerous written and verbal complaints about the operation of the Hospitality House from the fall of 2016 through the present, and these complaints resulted in the City opening a code violation case regarding the Hospitality House; and

WHEREAS, during the course of the code violation investigation, staff visited the Hospitality House on two occasions, with the permission of the Executive Director of MCHC, to observe and understand how Hospitality House operates. During the visits, staff discovered what staff believed to be a violation of the Hospitality House Use Permit (USP 9-03), namely an increase in the number of beds from 24 to 35; and

WHEREAS, the City scheduled a hearing for 6:00 PM on July 26, 2017 for the Planning Commission to consider modification of Use Permit 9-03; and

WHEREAS, on July 20, 2017, MCHC requested that the July 26th public hearing be continued, to allow MCHC representatives more time to prepare for the hearing; and

WHEREAS, on July 26, 2017 the Planning Commission voted unanimously to continue the public hearing on the Hospitality House Use Permit modification to 6:00 PM on August 23, 2017; and

WHEREAS, on July 27, 2017, representatives of MCHC met with City staff and negotiated an agreement on a number of new conditions to the use permit. The only issues that remained in dispute were whether the use permit should limit the number of overnight guests or the number of beds (Special Conditions 1 and 2), the specifics of the parties' agreement to a ban list and security cameras at Hospitality House (Special Condition 8), and

the language of a proposal to ensure that Hospitality House is properly managed (Special Condition 12); and

WHEREAS, during the August 23, 2017 public hearing, the Planning Commission received a report documenting the evidence presented in the Use Permit and code violation case, received comments from the public, and deliberated; and

WHEREAS, during the August 23, 2017 public hearing, MCHC acknowledged that the resolution is binding and enforceable against the Hospitality House with regard to the Use Permit modification and all conditions, and that the Hospitality House waives any purported legal insufficiency of the resolution with regard to findings or otherwise; and

WHEREAS, on August 31, 2017, Dawn Ferreira, Anne Marie Cesario and Jean Stubenrauch appealed the August 23, 2017 Planning Commission decision to modify Use Permit 9-03/17; and

WHEREAS, the appeal seeks changes to nine of the 14 Special Conditions and the addition of three new Special Conditions, and alternatively requests a revocation of the Use Permit; and

WHEREAS, during the October 3, 2017 public hearing, the City Council received a report documenting the evidence presented in the Use Permit and code violation case, received testimony by the Appellants and received comments from the public; and

WHEREAS, the Project is categorically exempt pursuant to the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), per Section 15321CCR, for enforcement actions by regulatory agencies.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby deny the appeal submitted by Dawn Ferreira, Anne Marie Cesario and Jean Stubenrauch and upholds the Fort Bragg Planning Commission's August 23, 2017 decision to modify existing Use Permit 9-03 (USP 9-03) for the Hospitality House Emergency Shelter, thereby placing new Special and Standard Conditions on the use Permit (USP9-03/17) as follows:

The Special Conditions of USP 9-03 shall be deleted and replaced with the following Special Conditions:

SPECIAL CONDITIONS

1. The total number of overnight guests at the emergency shelter shall not exceed 24. An increase in the number of overnight guests is not permitted unless a Minor Use Permit or Use Permit Amendment is applied for and obtained. If this provision is violated, operator shall pay a code violation fee, as determined by the City's Fee Schedule for each occurrence of violation.
2. The emergency shelter operator shall permit periodic inspections by City staff, which may be conducted without prior notification, to ensure that the limitation on the number of overnight guests is not exceeded.

3. Hospitality House shall serve all food on premises. Food shall not be prepared or served "to go" for clients to carry off-site.
4. Hospitality House shall provide at least two 50-gallon trash receptacles on site for clients to dispose of personal trash. Trash cans shall be emptied on a regular basis to ensure sufficient trash capacity.
5. Hospitality House shall provide a restroom facility for non-guest clients starting one hour before the breakfast meal program each day.
6. Hospitality House shall provide a location on Hospitality House premises for clients to gather and wait for the meal program to open. The gathering area shall be available to clients starting one hour before food service each day. The gathering area shall be monitored by Hospitality House staff.
7. Hospitality House shall monitor client behavior on and adjacent to the Hospitality House premises and shall report illegal behavior to the Police Department and cooperate with the Police Department to address client behavior that disturbs the peace. "Adjacent to" means the sidewalk directly in front of the Hospitality House property and the alley directly behind the Hospitality House property.
8. Hospitality House shall establish rules of conduct for clients, aimed at curtailing behaviors that are unlawful and/or disturb the peace. Clients who violate the rules of conduct shall be denied service by Hospitality House in accordance with policies approved by the MCHC Board of Directors. The Hospitality House shall establish a "ban list" which identifies individuals who are temporarily and/or permanently banned from the Hospitality House property. The "ban list" shall be shared with the Police Department and the Police Department may recommend the addition of individuals who have been cited and/or arrested for illegal acts occurring in locations other than the Hospitality House premises. The Hospitality House shall abide by the "ban list." Closed loop surveillance cameras shall be installed in the interior and exterior public spaces of the Hospitality House. With regard to sharing video footage with the Police Department, MHCH and Hospitality House will comply with their obligations to their clients under state and federal privacy laws, including but not limited to HIPAA.
9. The Hospitality House rules of conduct shall prohibit drug use and drinking on Hospitality House property. Clients that violate these rules of conduct shall not be served meals and/or provided with a room for the evening.
10. The Hospitality House shall post signs on the front and back property entrances that prohibit drug use, drinking, intoxication and loitering. The signs shall also provide a phone number to reach a member of the Hospitality House staff during Hospitality House operating hours from 4:00 pm to 9:00 am.
11. The Extreme Weather Shelter shall not be operated from the Hospitality House.
12. The Hospitality House shall be managed by a competent person who has both the requisite training (at least 20 hours) and experience to successfully manage an emergency shelter.
13. The Hospitality House manager shall be responsible for oversight of all activities on the premises and shall work to minimize the negative impacts of the facility and its clients on the surrounding neighborhood.

14. The Hospitality House shall have a trained person on-site at all times when clients are present.
15. The Hospitality House Management shall cooperate with the Police Department and Police Officers when they respond to complaints and calls for service at the Hospitality House, or when undertaking investigations at the Hospitality House.
16. The Hospitality House shall not expand the hours of meal service. Meal service shall be limited to 20,000 meals per year (2017 use rate).
17. Other homeless services currently offered at the facility shall not be intensified or expanded, with the exception of showers and laundry.
18. The Hospitality House shall not offer new services that attract additional clients to the facility at other times of day or otherwise intensify the utilization of the facility, including but not limited to: counseling, educational services, mental health services, mail service, computer access, food pantry, etc.

The Standard Conditions of USP 9-03 shall be deleted and replaced with the following Standard Conditions:

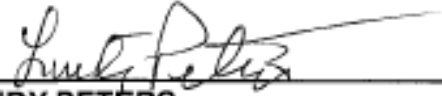
STANDARD CONDITIONS

1. This action shall become final on October 3, 2017.
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 Inland Land Use and Development Code (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 revocation or modification upon a finding of any one or more of the following:
 - (a) That such permit was obtained or extended by fraud.
 - (b) That one or more of the conditions upon which such permit was granted have been violated.
 - (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as to be a nuisance.
 - (d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.

The above and foregoing Resolution was introduced by Mayor Peters, seconded by Vice Mayor Lee, and passed and adopted at a special meeting of the City Council of the City of Fort Bragg held on the 3rd day of October, 2017, by the following vote:

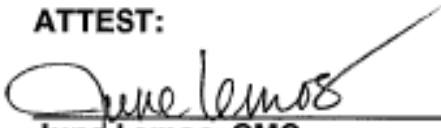
AYES: Councilmembers Cimolino, Lee, Norvell, Turner and Mayor Peters.
NOES: None.
ABSENT: None.

ABSTAIN: None.
RECUSED: Councilmember Turner.



LINDY PETERS
Mayor

ATTEST:



June Lemos, CMC
City Clerk