



CITY OF FORT BRAGG

Incorporated August 5, 1889

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NOTICE OF FINAL ACTION ON USE PERMIT

On October 19, 2022, final action was taken by the City on the following Minor Use Permit application:

PERMIT TYPE & NO.: Use Permit 4-22 (UP 4-22)
APPLICANT/OWNER: Bruce McCracken, C&S Waste Solution
LOCATION: 1280 N. Main St.
APN: 069-231-21
DESCRIPTION: Construct and operate fleet parking on a previously developed vacant portion of a vacant parcel; Zoning Determination to construct and operate a direct transfer station on a previously developed vacant portion of a vacant parcel; and associated site improvements including security fencing, site signage, lighting, and stormwater improvements.

DATE OF ACTION: October 19, 2022

ACTION BY: Fort Bragg Planning Commission

ACTION TAKEN: Approved (See attached Findings and Conditions)
 Denied (See attached Findings)

THIS PROJECT IS: Appealable to the Fort Bragg City Council. Decisions of the Planning Commission shall be final unless appealed to the City Council within ten (10) days after the decision is rendered. An appeal shall be submitted in writing along with the appeal fee of \$1,000.00 to the Community Development Department, and shall specifically state the pertinent facts and the basis for the appeal. Appeals shall be limited to issues raised at the administrative public hearing, or in writing before the public hearing, or information that was not known at the time of the decision.

Heather Gurewitz
Associate Planner

10/20/2022
Date

FINDINGS

1. *The proposed use is consistent with the General Plan and any applicable specific plan because:* Fort Bragg's Inland General Plan defines the Light Industrial zoning intent as follows: *This designation is intended for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses which do not generate a significant amount of on-site customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Manufacturing uses are permitted provided they occur within an enclosed structure. Other uses permitted in this designation include offices ancillary to permitted uses, agricultural sales and services, construction yards, and automobile repair shops.*

The proposed facility would engage in Fleet Storage associated with a principally permitted truck transfer operation within the IL district. Special conditions are recommended and included that would minimize the potential for off-site impacts including dust, odors, light, and noise. This use would be consistent with the General Plan, and the Planning Commission can make this finding. The proposed project would result in no on-site customer traffic. The Planning Commission can make this finding. The project is in compliance with the Inland General Plan as described and conditioned in the staff report dated October 19, 2022. The Planning Commission can make this finding.

2. *The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code because:* as determined by the Planning Commission at the October 19, 2022 hearing, the proposed land use is determined to be Freight Terminal, which is conditionally allowable in the Industrial Light Zoning District with a Use Permit. As analyzed and presented in the October 19, 2022 hearing, the project, as conditioned complies with City development standards. The Planning Commission can make this finding.
3. *The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity because:* the proposed project site is 6.9 acres and bordered by other industrial uses to the north south, and immediately to the east. There are residential and Highway Visitor Commercial properties to the west, however, the project activities will take place on the east side of the site and residential properties to the west are buffered by the state highway and 4.3 acres of natural areas. The eastern portion of the site has a berm and natural area as well as another property that creates a buffer between the proposed use and the residential uses to the east. Further, the use of the site for the proposed transfer station will not impact the prescriptive easement for parking and coastal access to MacKerricher State Park. Thus, the Planning Commission can make the finding that the site design, location, size, and operating characteristics are compatible with the existing and future land uses in the vicinity.
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 because: the project areas identified for development have been previously developed and would provide sufficient space for fleet storage and the operation of a direct truck-to-truck transfer facility. Further, the associated improvements which include: an upgrade to the driveway encroachment on Main Street to Caltrans State standards; Low Impact Development features for stormwater runoff; and fencing/gate to provide for site security and protect natural area would improve the safety of the site and reduce impacts from the site on stormwater and illegal activity. Thus, as conditioned and per the analysis in the staff report dated and presented on October 19, 2022, the finding is made that the proposed project 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 around said property.

Zoning Determination 1-22 that a waste transfer station is a permitted use by right in Light Industrial Zoning District, based on the following findings and determinations:

1. *The proposed Transfer Station is a permitted use by right and consistent with the Light Industrial zoning district because: a waste transfer station is similar in nature and activity to the land use, Freight Terminal, which is permitted by right in Light Industrial Zoning District. A freight terminal is defined by Wikipedia, includes “a processing node for freight which may include trucking terminals.” The Direct Transfer operation is most similar to a freight terminal because it involves the transfer of materials directly from one type of truck to another with no onsite storage or processing.*

The proposed project, as presented and conditioned, would not result in high levels of noise, dust, odors or other off site nuisance conditions. The proposed project would generate no customer traffic and would have similar employee traffic as other typical light industrial uses in the area. While the purpose of the zoning district notes that all manufacturing uses must be within entirely enclosed structures the proposed project is not a manufacturing use. Additionally, the surrounding area also includes many comparable unenclosed uses: vehicle storage, lumber storage and milling, and outdoor materials storage. The proposed project is consistent with the purpose of this zoning district.

2. *The use would be consistent with the purpose of the zoning district because: the proposed activity is an industrial use proposed within Light Industrial Zoning, which is intended for a variety of commercial, manufacturing, wholesale and industrial uses.*
3. *The use would be consistent with the Inland General Plan and any applicable specific plan because: as analyzed in the staff report dated and presented on October 19, 2022, the project is conditioned in order to comply with the City’s Inland General Plan.*

4. *The use will be compatible with other uses allowed in the district because:* the land use Freight Terminal is permitted by right in the Light Industrial Zoning District. The Direct Transfer operation involves the transfer of materials from one type of truck to another with no onsite storage or processing.

The C&S Transfer Station is also subject to the following general findings and determinations, based on analysis and testimony presented at the October 19, 2022 hearing, incorporated herein:

1. The foregoing recitals are true and correct and made a part of this Resolution;
2. The documents and other material constituting the record for these proceedings are located at the Community Development Department;
3. 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;
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.

SPECIAL CONDITIONS

1. Applicant shall pave the existing driveway from the entrance to the proposed transfer area or use “dust off” or equivalent treatment to minimize tracking of sediment, per City Standard 209.
2. The operator shall take measures to minimize the creation, emission, or accumulation of excessive dust and particulates. Measures to control dust should be implemented as needed or at the direction of the Community Development Director and may include, but are not limited to, reduced transferring during periods of high winds, daily sweeping and cleaning, and watering systems.
3. The applicant shall install all onsite lighting to comply with the requirement of 18.30.070 including: the new outdoor light fixture shall be limited to a maximum height of 18 feet in height, use energy-efficient fixtures and lamps, be shielded and directed downward and away from adjoining properties, light source shall not be visible from off the site.
4. All equipment that holds or transfers waste shall be rain-tight and leak tight. The operator shall maintain all surface water management facilities in good operating condition. This includes periodic cleaning and removal of silt and debris from

drainage structures and bioswales. Operator shall respond immediately to all exterior spills to prevent waste materials from entering the surface water system, by cleaning up all liquid spills with absorbent material rather than hosing them into the stormwater system (absorbing materials shall be kept on site in a watertight container).

5. To minimize noise transmission, the operator shall utilize the best available OSHA-compliant technology for all backup alarms for both route trucks and transfer trailers.
6. Trucks shall be parked facing exit roads in the evenings, so that they can be driven from the site in the morning without requiring backing and the consequent backing beeping.
7. No solid waste odors shall be detectable beyond the facility's boundaries. In the event that odors are detectable beyond the immediate vicinity of the transfer trailers and re-load area, the operator shall take immediate action to prevent the further spread of the odor either by hauling the transfer trailer to an appropriate disposal site, sealing the transfer trailer, applying deodorizer, or utilizing other prevention or abatement measures.
8. No recyclables or solid waste will remain on-site in the collection trucks or transfer trailers longer than 24 hours. The purpose of the special condition is to reduce odors and associated vector issues (crows, rats, etc.).
9. Solid waste and compostable materials shall never be stored on the ground or in an unclosed container.
10. At the close of each operating day, all transfer trailers containing solid waste shall have the on-board tarp closed and covering the roof of the trailer and the rear doors shall be securely closed.
11. City of Fort Bragg grading permit shall be obtained prior to any ground disturbance per Municipal Code Section 18.60 [Grading Permit Requirements and Procedures]. An engineered grading plan shall be submitted to the City at time of Building Permit application. All grading shall be performed in compliance with Municipal Code Section 18.62 [Grading, Erosion and Sediment Control Standards].
12. All runoff from impervious areas on the back of property shall be directed to proposed bioretention features.
13. A Drainage Fee shall be collected at the time of building permit. The drainage fee will be based on the proposed increase in impervious surface at an estimated \$0.15 per square foot. Actual fee will be calculated and collected at the time of grading permit submittal.
14. The facility shall be operated and maintained to prevent the creation of any nuisance conditions. Measures to control nuisances shall be implemented as needed, or at the direction of the Community Development Director, and may include, but are not limited to regular maintenance and cleaning of the transfer area, vector control devices, and other measures necessary to control vectors.
15. The operator shall utilize portable litter fences around the direct transfer area to prevent and capture all windblown litter.
16. The operator shall install a large sign in the Transfer Station area that is fully legible with the following facility rules:
 - a) Back all trucks into parking spaces at the end of the day.
 - b) Immediately clean up all spills and all trash that falls to the ground or get caught in the trash fences.

- c) At the end of your shift, close the on-board roof tarp and the rear doors of your trailer.
 - d) Solid waste and compostables may never be stored on site.
 - e) Trucks and trailers with trash or compostables on board must be removed from the facility within 24 hours of arrival.
17. The Grading Permit Application shall include an ADA space and at least two bicycle spaces.
18. Prior to issue of Building Permit the applicant shall submit plans for a Caltrans approved encroachment onto Highway 1. To streamline the permit approval process, Caltrans requires the applicant to schedule and participate in a pre-submittal meeting with the Caltrans encroachment permits staff in Ukiah, prior to submitting a permit application. For more information or to request an encroachment permit, please contact the Ukiah permits office at 707-463-4743, and refer to the guidance found in the following website: <<https://dot.ca.gov/programs/traffic-operations/ep>>. The encroachment shall be constructed prior to issuance of the certificate of occupancy.
19. Prior to issuance of Certificate of Occupancy, the applicant shall install a stop sign and stop bar at the exit from the driveway onto Main Street.
20. The 5 foot wide planting and bioswale areas located between all parking lots and adjacent property lines shall be planted with native local drought tolerant plants, with trees installed every 25 feet. The Landscaping Plan species and overall plant density for the parking areas and bio-retention areas that were submitted for the earlier version of this project will suffice and include: #1 Amelanchier Alnifolia Spp. Semiintegrifolia (Western Serviceberry), and #5 Lithocarpus Densiflora (TAN OAK); additionally the bioswale area shall be planted with a Matrix Planting On Center With Equal Species Distribution: Carex Obnupta (Torrent Sedge) - Salvaged From Site; Juncus Brewerii (Brewer's Rush) - Salvaged From Site; Carex Barbarae (Valley Sedge); Juncus Effusus (Common Bog Rush) Designer To Be Present At Time Of Plant Layout. Or landscaping may be installed per the Landscaping Plan submitted to the Planning Commission on 10-19-2022.
21. ~~DUPLICATE: see Condition 11. A City of Fort Bragg grading permit shall be obtained prior to any ground disturbance per Municipal Code Section 18.60 [Grading Permit Requirements and Procedures]. An engineered grading plan shall be submitted to the City at time of Building Permit application. All grading shall be performed in compliance with Municipal Code Section 18.62 [Grading, Erosion and Sediment Control Standards].~~
22. Applicant to ensure that there is no increase in runoff to Highway 1/North Main Street or adjacent properties due to site development.
23. All transfer trailer tarps shall be closed during any rain events to prevent the generation of any stormwater leachate.
24. If more than one acre of disturbance is proposed, the applicant will be required to submit a construction Stormwater Pollution Prevention Plan (SWPPP) to the State Water Board to obtain a Construction General Permit. If required, submit draft SWPPP to demonstrate the project meets the requirements established by local, state and federal regulations and to ensure the project is in compliance prior to filing for a Notice of Intent (NOI) with the state.

- ~~25. DUPLICATE – see Condition 12. All runoff from impervious areas shall be directed to proposed bioretention features.~~
26. Applicant shall execute an agreement with the City for the long-term maintenance of the post-construction BMP's identified in the plans, which shall remain functional in perpetuity. The responsibilities shall be set forth in an Operations and Maintenance plan to be approved by the Public Works Department. A Notice of Intent to Preserve Bio Retention Facility, or equivalent document, shall be recorded with the County Recorder. Submit draft agreement and operations and maintenance plan to the Department for approval. Documents shall be recorded/executed prior to final of the building permit.
27. If any construction is to be conducted between October and April (the rainy season) approval from the Public Works Department and additional construction BMP's will be required.
28. All construction debris/soil shall be properly disposed.
- ~~29. DUPLICATE – see Condition 13. A Drainage Fee shall be collected at the time of building permit. The drainage fee will be based on the proposed increase in impervious surface at an estimated \$0.15 per square foot. Actual fee will be calculated and collected at the time of building permit submittal.~~
30. Prior to commencement of grading/construction, the applicant shall hire a qualified tribal monitor to assist in implementation of all cultural resources mitigation measures. To protect cultural resources, prior to construction, the tribal monitor shall flag the extent of the cultural resources site and 25 buffer. The tribal monitor will be notified at least three weeks in advance of grading/construction and provide a construction schedule detailing when excavations will occur three weeks before such activities begin. The monitor will be notified when construction begins and will inspect the construction area as necessary during excavation work to ensure that the site is protected and to monitor for any new site discoveries. The monitor will notify the City of Fort Bragg and the State Historic Preservation Officer within 48 hours of any ESA violation or unanticipated discovery to determine how it will be addressed. After Construction, the monitor shall supervise removal of the temporary fencing.
31. The applicant shall engage in a five year long weed abatement program that includes hand and mechanical pulling of pampas grass and other invasive plants (sea fig) on an annual basis. Herbicide use is prohibited due to the sensitive and rare plants located on the site. The applicant shall provide a \$3,000 bond to the City of Fort Bragg to ensure implementation of this Special Condition. Bond will be returned at the end of five years upon inspection by the City that the invasive plants have been eliminated from the site.
32. The applicant may be obliged to pay their "fair share" of future improvements to the system at the time of any extension that benefits the property. The applicant shall connect to City services once they become available and shall pay all required capacity and connection fees in place at the time of connection. Connection to City water will require installation of an approved backflow device.
33. The applicant shall implement all mitigations contained in the Mitigated Negative Declaration for this project.

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 proposed development from City, County, State, and Federal agencies having jurisdiction. 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).