



AGENCY: City Council
MEETING DATE: February 28, 2022
DEPARTMENT: Community Development
PRESENTED BY: Heather Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Conduct Public Hearing, Receive Report, and Consider Adoption of City Council Resolution to Vacate the Adoption of the Mitigated Negative Declaration with Mitigation Monitoring and Reporting Plan, Approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street

ISSUE:

BRR Architecture (Applicant), submitted an application for a Coastal Development Permit, Design Review and Parcel Merger to construct the Grocery Outlet project, which includes demolition of an existing vacant 16,436 square foot office building and associated parking lot and the construction and operation of a 16,157 square foot, one-story retail store with a 55-space parking lot and associated improvements and infrastructure.

Pursuant to Section 15074 of the California Environmental Quality Act (CEQA) Guidelines, a Mitigated Negative Declaration (MND) was prepared for the Coastal Development Permit, Design Review Permit and Parcel Merger for the Grocery Outlet proposed on Assessor Parcel Numbers: 018-120-47, 018-120-48, and 018-120-49.

The Planning Commission held a public hearing on May 26, 2021 and continued the meeting to June 9, 2021. At the June 9th meeting, the Planning Commission adopted Resolution PC 08-2021 to approve Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 and the Mitigated Negative Declaration for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street.

The project was appealed by Leslie Kashiwada and by Ken Armstrong and Fort Bragg Local Business Matters.

On July 26, 2022, the City Council adopted Resolution No. 4424-2021 to uphold the Planning Commission's approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 and adoption of the Mitigated Negative Declaration for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street.

A lawsuit was filed by Leslie Kashiwada and Fort Bragg Local Business Matters on August 24, 2021 challenging the City's adoption of the MND and the related approvals, arguing that an Environmental Impact Report (EIR) was required for the project under CEQA.

On February 2, 2022, Best Development Group (Best), the Project Applicant, sent a letter to the City requesting that the City Council vacate the approval of Coastal Development Permit

8-19, Design Review 1-19, Parcel Merger 1-19, and adoption of the MND so that Best can submit a new application for the Project based upon an EIR prepared by the City.

The letter from Best stated that “given the small size of the Project and its minimal environmental effects, a spirited legal defense of the MND could be mounted,” but added that “any such effort could consume as much as three years or more, given how slowly the California court system moves,” and concluded that, for this reason, “the better and more prudent course of action will be to have the City prepare an EIR and put the Planning Commission and, if need be, the City Council back into a position to consider the Project anew based on such an EIR.”

ANALYSIS:

While staff believes that the Mitigated Negative Declaration was an appropriate document for the project and that an Environmental Impact Report is not necessary, we understand the applicant’s desire to proceed with the project in a timely manner and there is nothing that prevents the City from agreeing to the process at the applicant’s request. However, staff believes that the revocation of these permissions and the preparation of an EIR for this project should not set a precedent for future projects of similar scope and size as the document prepared was appropriate.

RECOMMENDED ACTION:

Given the prospect of extended litigation over the MND, staff recommends that the City Council honor the project applicant’s request that the earlier City Council actions adopting the MND and approving the Project be vacated, so that an EIR can be prepared.

ALTERNATIVE ACTION(S):

City Council can decide not to vacate existing permissions.

FISCAL IMPACT:

All project costs including litigation are borne by the applicant, so there is no fiscal impact.

GREENHOUSE GAS EMISSIONS IMPACT:

N/A

CONSISTENCY:

The revocation of the approvals is consistent with the City’s General Plan and does not conflict with any specific plans.

IMPLEMENTATION/TIMEFRAMES:

Action will be effective immediately and is not appealable to the California Coastal Commission.

ATTACHMENTS:

1. Letter from Remy Moose, and Manley on behalf of the Applicant
2. Draft Resolution Vacating the Project Approvals
3. Public Hearing Notice

NOTIFICATION:

1. Terry Johnson, Best Development Group
2. Leslie Kashiwada
3. Ken Armstrong and Fort Bragg Local Business Matters