

RESOLUTION NO. PC -2021

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION FOR 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

WHEREAS, BRR Architecture (“Applicant”), submitted an applicant 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; and

WHEREAS, the project is located at 825, 845, and 851 S. Franklin Street (Assessor Parcel Numbers: 018-120-47, 018-120-48, and 018-120-49) in the Highway Visitor Commercial (CH) zoning district and no changes to the site’s current zoning designation are proposed under the Project; and

WHEREAS, the Project is subject to the Fort Bragg Coastal General Plan and Coastal Land Use and Development Code (CLUDC); and

WHEREAS, the Planning Commission held a duly noticed public hearing on May 26, 2021, to consider the Project, took public testimony, and continued the matter to a date certain of June 9, 2021; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) pursuant to Section 15074 of the CEQA Guidelines, a Mitigated Negative Declaration 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; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Coastal General Plan; the Fort Bragg Coastal Land Use and Development Code; the Project applications; all site plans, and all reports and public testimony submitted as part of the Planning Commission meetings of May 26, 2021 and June 9, 2021, and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg hereby finds as follows:

A. General Findings

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, Coastal Land Use and Development Code (CLUDC) and the Fort Bragg Municipal Code in general;

The proposed project, as conditioned, would be consistent with the relevant policies of the Coastal General Plan and applicable provisions of the Coastal Land Use Development Code (CLUDC) and Fort Bragg Municipal Code in general, per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

4. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;

The proposed facility would be compatible with existing government, healthcare, commercial, residential and recreational land uses in the vicinity as well as with foreseeable future uses as permitted by the CH district land use regulations.

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;

The project site would occur on three parcels, collectively 1.63 acres in size, which can demonstrably accommodate the design characteristics and operations of the proposed retail store. As such, the project meets this finding per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

B. CEQA Findings

1. For the purposes of the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration (MND) was prepared for the project and circulated for public review. The conclusion of the Mitigated Negative Declaration is there are not any potentially significant impacts that cannot be mitigated.

Environmental review for the proposed project included preparation of an Initial Study and Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA) Statute (Public Resources Code 21000 - 21189) and Guidelines (California Code of Regulations Title 14, Division 6, Chapter 3, Sections 15000 -15387). The IS/MND was circulated from January 14, 2021 to February 16, 2021, at the State

Clearinghouse. The Initial Study and Mitigated Negative Declaration included 3 mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as a part of the project.

2. The following impacts have been found to be less than significant and mitigation is not required to reduce project-related impacts: Aesthetics, Agriculture and Forestry, Air Quality, Cultural Resources, Energy, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use Planning, Mineral Resources, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities/Service Systems and Wildfire.

There is no evidence of an impact to any of the above referenced potential impact areas based on the project as proposed at this location. Initial Study/Mitigated Negative Declaration dated December 2020 and circulated for public review from January 14, 2021, to February 16, 2021.

3. *The Initial Study identified potentially significant impacts to Biological Resources, Geology and Soils and Noise, which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.*

a. Biological Resources: A bat survey shall be conducted prior to demolishing the existing building on-site. If no bats are found no further mitigation is required. If bats are discovered, prior to demolition the bats must be removed through live exclusion or similar means that do not harm bats. If bats are discovered no removal can occur during the maternity season (typically late May through mid-August) to protect flightless baby bats.

b. Geology and Soils: In the event that fossils or fossil-bearing deposits are discovered during project construction, the contractor shall notify a qualified paleontologist to examine the discovery and excavations within 50 feet of the find shall be temporarily halted or diverted. The area of discovery shall be protected to ensure that fossils are not removed, handled, altered, or damaged until the Site is properly evaluated, and further action is determined. The paleontologist shall document the discovery as needed, in accordance with Society of Vertebrate Paleontology standards (Society of Vertebrate Paleontology 1995), evaluate the potential resource, and assess the significance of the finding under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the project proponent determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project based on the qualities that make the resource important. The plan shall be submitted to the City of Fort Bragg for review and approval prior to implementation.

- c. Noise: Implementation of the following measures are required during the duration of the project construction period to reduce potential noise impacts on the nearby sensitive receptors:
 - i. Construction shall be limited to between the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday, with no construction activities permitted on Sunday, or holidays;
 - ii. All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment. Air compressors and pneumatic equipment shall be equipped with mufflers and impact tools shall be equipped with shrouds or shields.
 - iii. All unnecessary idling of internal combustion engines on-site shall be prohibited.
4. There have been comments from the public on the project and the Mitigated Negative Declaration. These comments have been considered and none of these comments change the conclusions of the Mitigated Negative Declaration.

C. 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;

The project proposes to construct a Grocery Outlet Market (retail store). The project includes the demolition of an existing 16,436-square-foot vacant former office building and associated 47-space parking lot and wooden fencing along the property line, 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. The project would be operated by 15 to 25 full-time staff and two (2) managers and would be open from 9:00 AM to 10:00 PM, 7 days per week with two (2) different shifts covering operating hours. As conditioned, the project conforms with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

2. If 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);

The project is not located between the first public road and the sea. Therefore, this finding is not applicable to this project.

3. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment;

Environmental review for the proposed project included preparation of an Initial Study and Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA) Statute (Public Resources Code 21000 - 21189) and Guidelines (California Code of Regulations Title 14, Division 6, Chapter 3, Sections 15000 -15387). The IS/MND was circulated from January 14, 2021 to February 16, 2021 at the State Clearinghouse. The Initial Study and Mitigated Negative Declaration included 3 mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as a part of the project. Conditions of approval require the applicant to adhere and implement the Mitigation Monitoring and, as conditioned, the project would not have any significant adverse effects on the environment per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

4. The proposed use is consistent with the purposes of the zone in which the site is located;

The proposed Grocery Outlet is located in the Highway Visitor Commercial (CH) Zone. The CH zoning district is applied to sites along Highway 1 and arterials at the entry points to the community. Allowable land uses include lodging, restaurants, and retail stores. Other related and office-supporting uses may also be allowed. Both grocery and retail stores are allowable permitted uses in this district, which would be compatible with the proposed Grocery Outlet project. Therefore, it is consistent with the purpose of the CH zone, in which the subject site is located.

5. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan;

As conditioned, the project conforms with the City of Fort Bragg's Coastal General Plan per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

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;

As conditioned, the project meets this finding per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

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

As conditioned, the project meets this finding per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

8. 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.

The proposed project is located in an area that is similarly developed, with commercial structures of similar size (lodging facility) and frequency of use (gas stations, restaurants). Conditions of approval have been added to ensure that the use will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

D. Design Review

1. Complies with the purpose and requirements of this Section.
Design Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community. The project complies with the purpose and requirements of Design Review per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.
2. Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community.
As conditioned, the project meets this finding per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.
3. Provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.
As conditioned, the project meets this finding per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.
4. Provides efficient and safe public access, circulation, and parking.
As conditioned, the project meets this finding per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.
5. Is consistent with the Coastal General Plan, any applicable specific plan, and the certified Local Coastal Program if located in the Coastal Zone.
As conditioned, the project meets this finding per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

6. Complies and is consistent with the City's Design Guidelines.
As conditioned, the project meets this finding per analysis incorporated herein by reference to the project staff reports, dated May 26, 2021 and June 9, 2021.

E. Parcel Merger

1. Will be merged in compliance with Map Act Chapter 3, Article 1.5 or Map Act Sections 66499.20-1/2, or 66499.20-3/4; and

The new legal descriptions conform to the minimum parcel size standards in the General Plan and Zoning Ordinance and the use proposed for the site.

2. Shall also require a Coastal Development Permit in compliance with the certified LCP and processed pursuant to Section 17.71.045 (Coastal Development Permits):

A Coastal Development is being processed for this project.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Fort Bragg does hereby make the findings contained in this Resolution and approves Coastal Development Permit 8-19 (CDP 8-19), Design Review 1-19 (DR 1-19) and Parcel Merger 1-19 (PM 1-19) for the Project subject to the following conditions of approval:

A. Standard Conditions

1. This action shall become final on the 11th working day following the decision unless an appeal to the City Council is filed pursuant to Chapter 17.92.030. 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:
 - (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.
- 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 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.
- 7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
- 8. This Coastal Development Permit, Design Review, and Parcel Merger approval shall lapse and become null and void 24 months from the date of approval unless before the passing of 24 months, a Final Map examined and approved by the City Engineer is approved by the City Council and recorded or an extension is requested and obtained.
- 9. 23. The Standard and Special Conditions of Approval shall be incorporated and printed in the Construction Plans submitted at time of building permit application.

B. Special Conditions

- 1. The applicant is required to pay its fair share of the system infrastructure and future capital improvements through the Drainage fees, Water Capacity Charges and Wastewater Capacity Charges, the applicant will be required to pay water capacity charges when they secure their Building Permit.
- 2. Pursuant to Mitigation Measure GEO-1, in the event that fossils or fossil-bearing deposits are discovered during project construction, the contractor

shall notify a qualified paleontologist to examine the discovery, and excavations within 50 feet of the find shall be temporarily halted or diverted. The area of discovery shall be protected to ensure that fossils are not removed, handled, altered, or damaged until the Site is properly evaluated, and further action is determined. The paleontologist shall document the discovery as needed, in accordance with the Society of Vertebrate Paleontology standards (Society of Vertebrate Paleontology 1995), evaluate the potential resource, and assess the significance of the finding under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the project proponent determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project based on the qualities that make the resource important. The plan shall be submitted to the City of Fort Bragg for review and approval prior to implementation.

3. Pursuant to Mitigation Measure BIO-1, a bat survey shall be conducted prior to demolishing the existing building on-site. If no bats are found no further mitigation is required. If bats are discovered, prior to demolition the bats must be removed through live exclusion or similar means that do not harm bats. If bats are discovered no removal can occur during the maternity season (typically late May through mid-August) to protect flightless baby bats. Survey methods and qualifications of biologists conducting the bat survey should be provided to CDFW prior to surveys to ensure proper assessment. The survey shall include visual surveys inside the building. If a bat survey identifies bats present in the existing building, the method and timing of exclusion activities shall be provided to CDFW for review and concurrence 30 days prior to commencement of removal.
4. If designated for removal, any habitat for nesting birds shall be removed between September 1 and February 28 to reduce nesting habitat. If nesting habitat is to remain, and construction, grading, or other project improvements are scheduled during nesting season (March 1 through August 31), A pre-construction survey for nesting birds shall be conducted no more than five-days prior to commencement of construction activities. The survey shall include the parcel and suitable nesting habitat within a 100-foot buffer. If nesting birds are detected, appropriate buffers, monitoring, and operational restrictions should be put in place with review and concurrence from CDFW.
5. Bioretention features shall be sized and designed to retain and infiltrate runoff produced by all storms up to and including the 85th percentile (0.83" in 24-hours). A Maintenance and Operations agreement for ongoing maintenance of the bioretention features installed with this project shall be submitted to the City for review and approval and shall be recorded with the County Recorder's office to ensure that the bioretention features are maintained and remain effective. Recordation of the Maintenance Agreement shall be completed prior to Certificate of Occupancy.

6. Prior to issuance of the Building Permit the applicant shall submit a Water Quality Management Plan and/or a Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the City Engineer.
7. All work shall be done in compliance with all conditions required by the City of Fort Bragg Grading Ordinance; Land Use Code Chapter 17.60-17.64 – Grading and Stormwater Runoff Requirements and Procedures. If 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.
8. The project is required to comply with existing policies of the MCAQMD regarding the control of fugitive dust during these activities, which include maintaining all construction equipment in good working condition, and limiting truck idling on-site to a maximum of five minutes, pursuant to State law. Additionally, construction is required to comply with the City's dust management plan and the site-specific Dust Prevention and Control Plan required for construction of the project, pursuant to the City CLUDC.
9. Frontage improvements are required on North Harbor Drive, and the southerly portion of South Franklin that is not improved. Public improvements shall be designed by a licensed Civil Engineer, and include pavement as needed for road widening, curb, gutter and sidewalk, per City of Fort Bragg Construction Standards.
10. Right of way dedication is required and will include the full driveway cut and be established at the back of sidewalk for both Franklin Street and North Harbor Drive.
11. The applicant shall dedicate the curb return area identified as Parcel A on Parcel Map recorded on April 14, 1981 in Map Case 2 Drawer 37 Page 79.
12. Full road closure of N. Harbor Drive is not allowed. Work shall be planned in advance to minimize impacts to visitors of the harbor area. No work requiring an encroachment on N. Harbor Drive shall be performed during any weekend or Holiday to minimize disruptions. Applicant shall be mindful of roadway and vehicular constraints (e.g. narrow road, sharp turns) when planning types of vehicles/equipment to use in the demolition activities.
13. Applicant shall notify affected residents and businesses in the project area at least 72 hours prior to any lane closures.
14. If work is to occur in the Right of Way, the applicant shall obtain an encroachment permit from the City of Fort Bragg and include a Traffic Control Plan (TCP), and insurance at least two (2) weeks prior to anticipated construction date.

15. Two EV charging stations are required to be located near the entrance of the building and identified as parking for electric vehicles only pursuant to Fort Bragg Municipal Code Chapter 10.20.215.
16. A "Fair-Share" agreement shall be entered into by the applicant to fund future traffic improvements as necessary. The agreement shall be in the form approved by the Director of Public Works and the amount shall be based on a traffic study performed by a qualified professional at the cost to the applicant. The "Fair-Share" agreement shall be executed and funds deposited with the City prior to certificate of occupancy.
17. Prior to issuance of a building permit, final lighting plan shall be approved the Public Works Director or their designee, and be consistent with the CLUDC and Dark Sky Standards.
18. A landscape plan shall be prepared for review and approval by the Community Development Director that consists entirely of drought tolerant native species. All landscaping and irrigation shall comply with the requirements of the State of California Model Water Efficient Landscape Ordinance (MWELO).
19. Pursuant to Mitigation Measure NOISE-1, implementation of the following measures are required during the duration of the project construction period to reduce potential noise impacts on the nearby sensitive receptors:
 - a. Construction shall be limited to between the hours of 7:00 AM to 7:00 PM, Monday through Saturday, with no construction activities permitted on Sunday, or holidays;
 - b. All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment. Air compressors and pneumatic equipment shall be equipped with mufflers and impact tools shall be equipped with shrouds or shields; and
 - c. All unnecessary idling of internal combustion engines on-site shall be prohibited.
20. A separate sign permit from the City of Fort Bragg will be required for this project. The permit shall be approved by the Community Development Director or designee.
21. All construction debris/soil shall be properly disposed of in accordance with the City's Construction Waste Recycling Ordinance. It is not permitted for construction debris and soil to be placed in the City right-of-way.
22. Sewer Connections. Connection fees and cleanouts required, all associated fees shall be paid prior to the issuance of the first building permit. Applicant to specify what size of connections, if any, will be needed for this project.
23. Water Connections. Connection fees and an approved backflow device is required for all water connections. All associated fees shall be paid prior to the issuance of

the first building permit. Applicant to specify what size connections, if any, will be needed for this project.

24. Prior to issuance of the Building Permit the applicant shall provide an analysis that documents the sufficiency of existing stormwater infrastructure or provide an engineer reviewed design of a new proposed drainage conveyance system for approval by the Public Works Director. If upgrades to infrastructure are required, this shall be completed by the developer and dedicated to the City.
25. The applicant shall install an all-way stop at the intersection of South Franklin St. and South St., including signage, striping, and pedestrian facilities (sidewalk, curb, and gutter) to provide crossing at all legs of the intersection. The proposed intersection improvement would require the installation of sidewalk curb and gutter to City Standard Specifications for a total length of 57 linear feet along the east side of South Franklin St. as well as a curb return to provide sufficient pedestrian landing facilities on the south east corner of the intersection.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

The above and foregoing Resolution was introduced by _____, seconded by _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 9th day of June 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

Jeremy Logan, Chair

ATTEST:

Sarah Peters, Administrative Assistant