



REMY | MOOSE | MANLEY

LLP

James G. Moose
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Sent via Email and US Mail

City Council of City of Fort Bragg
Fort Bragg City Hall
416 N. Franklin St.
Fort Bragg, CA 95437
citycouncil@fortbragg.com

Re: Grocery Outlet Project on South Franklin Street

Dear Honorable City Council members,

On behalf of the Best Development Group (Best), I am writing to respectfully request that the City Council act at its earliest convenience to vacate its July 26, 2021, actions approving the Grocery Outlet project (the Project) at 825 South Franklin Street. In particular, Best asks the City Council to vacate its actions adopting a Mitigated Negative Declaration (MND) for the Project and approving Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19.

These City actions were challenged in court in *FB Local Business Matters & Leslie Kashiwada v. City of Fort Bragg* (Mendocino County Superior Court Case No. 21CV00652). In that lawsuit, filed in August 2021, the petitioners argue that the City acted improperly by adopting the MND for the Project, and that the City should have prepared an environmental impact report (EIR) instead. Although Best believes that, given the small size of the Project and its minimal environmental effects, a spirited legal defense of the MND could be mounted, any such effort could consume as much as three years or more, given how slowly the California court system moves. Best has therefore concluded that 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.

If the City Council grants our request to vacate its prior actions adopting the MND and approving the Project, we will immediately request that the petitioners dismiss their lawsuit as moot. If, for reasons that I cannot imagine, they do not cooperate in bringing about the

procedural outcome they are seeking, we will file a motion with the court requesting dismissal of the lawsuit as moot. In a spirit of full transparency, I have notified petitioners' counsel that we would be making these requests, and I will be sending him a copy of this letter.

We hope that, given the small size of the Project and the fact that much detailed analysis of its environmental impacts already exists, an EIR can be completed relatively quickly. We also hope that, given the fact that the Project has already gone through an extensive public process, the City will give priority to completing an EIR and scheduling another hearing on the Project before the Planning Commission.

Since the litigation was filed, I have worked with City Attorney Keith Collins and his partner Krista MacNevin Jee, whose efforts the people at Best and I have much appreciated. Mr. Collins and Ms. Jee are aware that Best would be making these requests.

Thank you in advance for your consideration of our requests and, assuming you agree with them, for the City's future efforts to complete an EIR on a timely basis and to schedule a public hearing on the Project before the Planning Commission. Although we understand that the Planning Commission, and possibly the City Council, must review the EIR and consider the Project anew with open minds, we are hopeful that the City's land use decision-making bodies will approve the Project when it comes around again, so that Best and Grocery Outlet can bring the benefits of affordable high-quality food and other grocery products to your community. We remember well the support the community support the Project engendered the first time around, particularly from individuals with limited incomes.

Sincerely,



James G. Moose

Fort Bragg Planning Commission
David Spaur, Interim City Manager
June Lemos, City Clerk (by email)
Keith Collins, City Attorney (by email)
Heather Gurewitz, Community Development Department
Carl Best, Best Property Group (by email)
Terry Johnson, Best Property Group (by email)
Mark Wolfe (by email)