

RESOLUTION NO. ____-2022

RESOLUTION OF THE FORT BRAGG CITY COUNCIL VACATING THE ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND APPROVAL OF THE ASSOCIATED MITIGATION MONITORING AND REPORTING PLAN, 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 submitted an application for a Coastal Development Permit, Design Review and Parcel Merger to construct the Grocery Outlet project (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 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, on June 9, 2021, the Planning Commission heard additional testimony; and

WHEREAS, 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; and

WHEREAS, on June 9, 2021, 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 to adopt the MND for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street; and

WHEREAS, the Coastal Land Use and Development Code Chapter 17.92 establishes procedures for the appeal and review of determinations of the Planning Commission to be considered by City Council; and

WHEREAS, Leslie Kashiwada filed a timely appeal with the City Clerk on June 15, 2021; and

WHEREAS, Ken Armstrong and Fort Bragg Local Business Matters filed a timely appeal with the City Clerk on June 17, 2021; and

WHEREAS, the City Council opened the public hearing on said appeals that was properly noticed in all respects on July 12, 2021 and continued the matter to July 26, 2021; and

WHEREAS, at said public hearing, a staff report was presented and the appellant(s), the Project Applicant, and the public offered testimony to be considered by City Council; and

WHEREAS, on July 26, 2021, 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 MND for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street; and

WHEREAS, 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; and

WHEREAS, sections 17.76.080 and 17.98.070(E) of the City's Coastal Land Use and Development Code provide that changes/revocations of an approved project can be made upon written request from the applicant and a noticed public hearing; and

WHEREAS, 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; and

WHEREAS, 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"; and

WHEREAS, given the prospect of extended litigation over the MND, the City Council is willing to 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.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg, based on the entirety of the record before it and finding that the circumstances surrounding the adoption of Resolution No. 4424-2021 have changed such that vacation/revocation is necessary, does hereby vacate Resolution No. 4424-2021 in its

entirety, including the approval of Coastal Development Permit 8-19, Design Review 1-19, Parcel Merger 1-19, and the adoption of the Mitigated Negative Declaration.

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

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of February, 2022, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk