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James A. Jackson

April 23, 2015

Fort Bragg City Council  
City of Fort Bragg  
416 N. Franklin Street  
Fort Bragg CA 95437

Re: Patton Appeal (CDP 8-13), (DR 7-13), (USP 5-13), (LLA 3-2014)  
1250 Del Mar Drive, Fort Bragg (APN 018-450-40, 018-450-41)

Dear Council members and City Staff:

This letter will follow up on the recent hearing regarding the captioned Project. At the conclusion of that hearing, the City Council voted to direct staff to prepare two resolutions. The first resolution is intended to require an Environmental Impact Report (EIR) for the revised Hare Creek Center Project. The second resolution identified a number of issues which the City Council believes require further study or redesign including the minimization of grading, the relocation of Building C, adoption of the "historic design", discussion of a multi-use trail, the addition of trees, a prohibition on stockpiling graded soils on site, and an admonition to work together with Coastal Commission staff on these issues. This letter is intended to identify and discuss some issues raised by the City Council as to which the applicant would hope we could receive further clarification and direction from the Council.

As we noted at the hearing, we believe that this Project met all City criteria for a project of this type and accordingly should have been approved. Evidently members of the City Council disagree with that conclusion. It is unfortunate that a project that took four years to design (including a year or more of staff review) could only receive a 20 minute review by the City Council. This is a fairly complex project, and making changes to one aspect of the project necessarily has effects on other aspects. As staff noted at the hearing, there were issues which staff has not yet completely reviewed, and I believe it would benefit both the City and the applicant if staff could complete her review and we could receive an informal hearing and review of the redesigned project before proceeding to conduct whatever environmental review may be necessary for the Project.

## 1. Environmental Document:

In order to require an EIR, there must be substantial evidence in the record that the Project may have a significant environmental impact. Given the incomplete staff review of the Project, and the requirement by the City Council that the Project be significantly redesigned, it seems premature to direct staff to draft a resolution requiring an EIR for a project that is neither

completely designed nor completely reviewed by City staff. Whether or not an EIR is ultimately the appropriate document to be prepared for this Project, I believe the preferred procedural approach would be to send the Project back to staff and the applicant for further redesign and further review. Depending on the outcome of that redesign and review, the Council could then determine if there was substantial evidence that the Project may have a significant environmental impact. Otherwise, the Council is required to identify the significant impacts and the substantial evidence supporting that claim at this point in the Project.

2. Water:

As noted in my prior letter, the Project applicant is depending upon the City to supply water for this Project. Comments from some Council members seem to imply that the City may be "saving" its water for other Projects. If that is the case, the applicant needs to know right now that water will or will not be available for this Project. Based on all of the evidence provided in the staff report for this Project, there seems to be more than adequate water to support this Project. Before spending additional tens of thousands of dollars on redesign and environmental documents, the applicant should be provided with some assurance that (so long as all other requirements are met) the City will supply this Project with water.

3. Grading:

Part of the draft resolution directed by the Council is to minimize grading for the Project. The applicant would appreciate some direction from the City Council regarding what constitutes "minimizing" grading in the context of a three acre commercial development. I do not believe it is possible to construct a commercial parking lot to City specifications without grading the property. In addition, the sophisticated storm water recharge system will likely need to be significantly reduced if the Council is directing the applicant to build this Project at grade level. It should also be considered that the Project's emphasis on "green design" (which is another City criteria) was in part the driving force behind the proposed grading plan. The applicant believes that the proposed plan is the best solution that addresses all California State storm water requirements, universal access and pedestrian safety, and City general plan parking and loading dock requirements on this site. There are competing policies in the City's requirement for commercial projects, and the applicant would appreciate some direction from the City Council regarding which criteria it deems most important. The applicant looks forward to working with an ad hoc committee from the City to analyze the project design (including alternatives) to develop a feasible project for the City.

4. Landform:

It appears to be generally agreed that the landform on the western edge of the proposed project is not a unique geological feature (and is likely the remains of highway spoils deposited at the time the new State Highway 1/Highway 20 interchange was constructed in the late

1940's.) The entire site is sloping and part of the landform. Any grading changes at all to the project site will reconfigure the landform. There are significant conflicts between City Land Use Requirements and Policy CD 1.5 and CD 1.1. These conflicts need to be clarified, and to the extent the Council can provide further guidance regarding this issue it would be appreciated by the applicant.

5. Design:

The project applicant has continued to work with staff on the design of the Project, and had already proposed an additional fourteen screen trees on the southern end of the Project prior to the hearing. The project applicant proposes to remove eight existing trees and plant a significant number of new trees. It is our understanding that the Council prefers the "historic design" proposed in one of the alternatives. The applicant looks forward to working with the City's ad hoc committee to develop the best visual interpretation of the City Council's directions.

6. Multi-use trail:

The staff report indicates that there is no nexus for requiring this project applicant to construct a multi-use trail as part of this Project. Please clarify the basis for such a requirement if that is contained in the proposed resolution.

7. Asphalt:

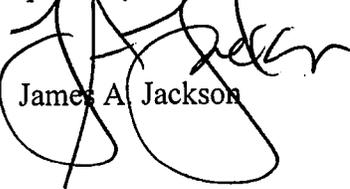
It does not appear that this issue will be set forth in the Council resolution, but it must be noted that it is somewhat surreal for a long time asphalt contractor to claim that asphalt is too toxic to place on a commercial parking lot when he has spent decades doing exactly that to other people's property. Roads are constructed throughout the City and surrounding county, all of which are paved with asphalt. Air quality considerations mandate the use of a sealed surface such as asphalt, and gravel roads are accordingly disfavored. I would respectfully submit that this is not an issue which requires further study.

The project applicant is determined to meet all reasonable requirements established by the City, and would appreciate an opportunity to clarify the concerns of the City Council and also to engage in an interim dialogue or two with the City Council while the Project is redesigned. As noted by staff, this Project meets if not exceeds the design guidelines prevalent in the City of Fort Bragg. It provides economic opportunities for jobs and will provide goods and services including competition which should lead to lower food prices for the community. The City has anticipated a shopping center in this location since 1981 and in every general plan adopted by the City since that time. This project applicant has tried to follow the rules, and thought it had designed a project which met your requirements. This is a state of the art commercial center which will be a

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great addition to the commercial architecture of our City. We look forward to working with the City to make it a reality.

Respectfully submitted,



James A. Jackson

cc: Client