

RESOLUTION NO. -2015

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION APPROVING COASTAL DEVELOPMENT PERMIT (CDP 8-13), DESIGN REVIEW (DR 7-13), USE PERMIT (USP 5-13) AND LOT LINE ADJUSTMENT (LLA 3-2014) FOR THE HARE CREEK CENTER PROJECT

WHEREAS, Group II Real Estate ("Group II") proposes to develop an approximately 3 acre site ("Project Site") on the western edge of Highway 1. The Project Site is bordered on the north by the a mini-golf course & hotel, on the east by Highway 1 and the Boatyard Shopping Center, on the south by a vacant parcel, and on the west by a parcel and a Community College. The Project Site consists of the following APNs 018-450-40, 018-450-41; and

WHEREAS, the project ("Project") is proposed to consist of the following: Construction of a shopping center anchored by Grocery Outlet and consisting of three buildings, including: Building A at 15,000 square feet, Building B at 10,000 square feet and Building C at 4,500 square feet, for a total of 29,500 square feet of retail space. Associated development includes a new access road, located on the western edge of the proposed development, to connect to Bay View Avenue (CR #439A) to the southwest and to Ocean View Drive to the north. Other associated development includes a new 99 space parking lot, loading zones, pedestrian improvements, rain water storage tanks, utility connections, drainage improvements, utilities, signage, and landscaping.; and

WHEREAS, the California Environmental Quality Act, Public Resources Code, Section 21000 *et seq.* ("CEQA"), requires that the City consider the environmental effects of the Project prior to approving any entitlements for the Project; and

WHEREAS, the City prepared a Mitigated Negative Declaration for the Project pursuant to CEQA; Title 14, California Code of Regulations, Section 15000 *et seq.* ("CEQA Guidelines") and the City's CEQA Implementation Procedures. The CEQA document consists of a Mitigated Negative Declaration and all technical appendices, dated December 16, 2014 ("MND"); and

WHEREAS, the MND (State Clearinghouse No. 2014102014) was prepared by the City and circulated for more than a 30+ day public review and comment period, beginning on December 18, 2014 and ending on January 28, 2015. During this period, on January 28, 2015, a public hearing was held by the Planning Commission to receive comments on the MND. By the end of the public review and comment period, the City received one comment letter which was from California Department of Fish and Wildlife (see Attachment 14 of the Staff report); and

WHEREAS, the City has prepared a response letter to the comment letter received from the California Department of Fish and Wildlife ("CDFW"); and

WHEREAS, no revisions were necessary to the Subsequent Draft EIR in response to the comments received (see Attachment 15 of the Staff Report) and the Planning Commission

has determined that the CDFW letter does not identify any new significant impact that would require additional mitigation measures; and

WHEREAS, pursuant to Public Resources Code Section 21092.5, on December 19, 2014, the City provided notice regarding the availability of the MND; and

WHEREAS, on January 28, 2015, the Planning Commission held a noticed public hearing, received public testimony and considered all information related to the Project and the MND, including all reports and attachments prepared or presented by City staff, all oral and written testimony and the full record of proceedings on the Project and the MND.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Fort Bragg, that the City Council approves **Coastal Development Permit (CDP 8-13), Design Review (DR 7-13), Use Permit (USP 5-13) and Lot Line Adjustment (LLA 3-2014)** for the Hare Creek Center based on the following findings and subject to the Standard Conditions and Special Conditions cited below:

GENERAL FINDINGS

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the Coastal General Plan, Coastal Land Use and Development Code (CLUDC) and the Fort Bragg Municipal Code in general.
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.
3. 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.
4. The project complies with Specific Use Regulations established for the project.
5. For the purposes of the environmental determination, a Mitigated Negative Declaration was prepared and certified for the project in accordance with the Environmental Quality Act (CEQA). The City has passed a resolution to adopt the MND and the Mitigation Monitoring and Reporting Plan

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.
2. 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).

3. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.
4. The proposed use is consistent with the purposes of the zone in which the site is located.
5. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan.
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.
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.
8. The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site, or other reasons.
9. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood, or fire hazards due to required project modifications, landscaping, or other conditions.
10. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.
11. The resource as identified will not be significantly degraded by the proposed development.
12. There is no feasible less environmentally damaging alternative; and
13. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

DESIGN REVIEW FINDINGS

1. The project complies with the purpose and requirements of CLUDC Section 17/18.71.050 Design Review;
2. The project provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community;
3. The project provides attractive and desirable site layout and design, including building arrangement, exterior appearance and setbacks, drainage, fences and walls, grading, landscaping, lighting, signs, etc.;
4. The project provides efficient and safe public access, circulation, and parking;
5. The project provides appropriate open space and landscaping, including the use of water efficient landscaping;
6. The project is consistent with the Coastal General Plan, any applicable specific plan, and the certified Local Coastal Program; and
7. The project complies and is consistent with the City's Design Guidelines.

USE PERMIT FINDINGS

1. The proposed use is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program;
2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. 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.

SPECIAL CONDITIONS

1. Prior to issuance of the building permit, the applicant shall submit, for review and approval by the Community Development Director, a revised grading plan that includes revised elevation contours along the knoll to result in a more curvilinear and natural appearance.
2. That applicant shall not engage in additional grading activities in order to stockpile graded soils on the adjacent parcel. An alternative solution for the removal/storage of these soils will have to be utilized.
3. Prior to approval of the building permit, the applicant shall submit a Water Quality Management Plan for review and approval of the Director of Public Works that complies with Section 17.64 of the Coastal LUDC.
4. Prior to issuance of the building permit, the applicant shall receive an exception to setback requirements for the stormwater catchment tanks placed within the front setback from the Community Development Director.
5. Prior to issuance of the building permit, the applicant shall resubmit a site plan illustrating the truck loading space for Building C as a delivery space and parking shall be limited to two hours in this space. The delivery space will be labeled on the asphalt with the term "delivery parking only" and will include a warning sign that limits parking in the zone to two hours or less. Additionally the loading zones for Building A and B shall be labeled with the words "Loading Only" and the access roads to the loading zones will include signage that indicates "Truck Loading Only" at the back of sidewalk and "Wrong Way" sign will be installed at the exit of the truck lane for Buildings A and B.
6. Prior to issuance of the building permit, the applicant shall provide specifications for approval by the Community Development Director for all lighting standards that indicate a maximum height of 18 feet.

7. Prior to issuance of the building permit, the applicant shall provide specifications for approval by the Community Development Director for a solid redwood fence with a maximum height of 6 feet along the northern and southern property line to screen the buildings from adjacent uses.
8. Prior to issuance of the building permit, the applicant shall resubmit the site plan for approval by the Community Development Director illustrating a five foot landscaping strip to the east of the trash enclosure on Building C.
9. Prior to approval of the building permit, the applicant shall resubmit the Landscaping Plan to the Community Development Director for review and approval. The revised Landscaping Plan shall include detailed information about the proposed placement of the landscaping plants (identified in the landscaping palette) to facilitate the Director's determination as to whether the proposed plan complies with the landscaping requirements outlined in Section 17.34 of the CLUDC.
10. Prior to approval of the building permit, the applicant shall resubmit the signage program for the Grocery Outlet and the Monument sign to the Community Development Director for review and approval. The signage program for Grocery Outlet shall not exceed 83 square feet and the monument sign shall include an illuminated street address.
11. The applicant shall implement all Mitigation Measures identified in the MND for this project as required pursuant to the California Environmental Quality Act (CEQA).

Mitigation Measure 1: Prior to issuance of the Building Permit, the applicant shall resubmit the landscaping plan, for approval by the Community Development Director, illustrating: 1) nine Shore Pines (or coastal native tree equivalents) along the eastern edge of the proposed parking lot; 2) local coastal trees for the remainder of the landscaping plan; 3) the plant variety proposed for the trellis shown on the eastern edge of the parcel; and 4) types and locations of climbing plants that are appropriate to the coastal environment for all trellises of the project.

Mitigation Measure 2: Prior to issuance of the Building Permit, the applicant shall revise the Project Site Plan to set back the east face of Building C by an additional 5 feet and shall submit a landscaping plan to include installation of a five foot wide vegetative area along the east face (highway facing) elevation of Building C.

Mitigation Measure 3: The rainwater catchment tank shall be of a non-reflective material in a natural and neutral tone. Prior to approval of the Building Permit, the applicant shall submit the colors for the cisterns and a mural design for the southernmost rainwater catchment tank on the east side of the property and the northernmost rainwater catchment tank on the west side of the property, for review and approval by the Director of Community Development. The mural shall depict a historic, cultural or natural theme related to the Mendocino Coast.

Mitigation Measure 4: In order to minimize dust and keep dust from leaving the project site, a dust prevention and control plan shall be submitted for approval by the City Engineer in conjunction with the Storm Water Pollution Prevention Plan (SWPPP). The dust prevention and control plan shall demonstrate that the discharge of dust from the construction site will not occur, or can be controlled to an acceptable level depending on the particular site conditions and circumstances. The plan shall include the following information and provisions:

1. The plan shall address site conditions during construction operations, after normal working hours, and during various phases of construction.
2. The plan shall include the name and the 24 hour phone number of a responsible party in case of emergency.
3. If the importing or exporting of dirt is necessary as demonstrated by the cut and fill quantities on the grading plan, the plan shall also include the procedures necessary to keep the public streets and private properties along the haul route free of dirt, dust, and other debris.
4. When an entire project is to be graded and the subsequent construction on the site is to be completed in phases, the portion of the site not under construction shall be treated with dust preventive substance or plant materials and an irrigation system.
5. Grading shall be designed and grading activities shall be scheduled to ensure that repeat grading will not be required, and that completion of the dust-generating activity (e.g., construction, paving or planting) will occur as soon as possible.
6. The area disturbed by clearing, demolition, earth-moving, excavation operations or grading shall be minimized.
7. All visibly dry disturbed soil road surfaces shall be watered to minimize fugitive dust emissions. Dust emissions shall be controlled by watering a minimum of two times each day, paving or other treatment of permanent on-site roads and construction roads, the covering of trucks carrying loads with dust content, and/or other dust-preventive measures (e.g., hydroseeding, etc.).
8. All unpaved surfaces shall have a posted speed limit of 10 miles per hour.
9. Earth or other material that has been transported by trucking or earth moving equipment, erosion by water, or other means onto paved streets shall be promptly removed.
10. Water or suitable chemicals shall be applied on materials stockpiles, and other surfaces that can give rise to airborne dusts.
11. All earthmoving activities shall cease when sustained winds exceed 20 miles per hour.
12. The operator shall take reasonable precautions to prevent the entry of unauthorized vehicles onto the site during non-work hours.

Mitigation Measure 5: Minimize Potential Disturbance of Breeding Birds through the following techniques:

1. Work Windows. Conduct as much ground disturbance and vegetation (tree and shrub) removal as is feasible between September 1 and January 15, outside of the breeding season for most bird species.
2. Preconstruction Surveys. If ground disturbance or removal of vegetation occurs between January 16 and August 31, preconstruction surveys will be performed prior to such disturbance to determine the presence and location of nesting bird species.
3. Buffers. If nests are present, establishment of temporary protective breeding season buffers will avoid direct mortality of these birds. The

appropriate buffer distance is species specific and will be determined by a qualified biologist as appropriate to prevent nest abandonment and direct mortality during construction.

Mitigation Measure 6: A Native American monitor shall be present during all ground disturbing activities. Additionally the project applicant shall provide five day notice to the Sherwood Valley Band of Pomo Indians in advance of ground disturbing activities on the site so the SVBP can schedule a Native American monitor for the site. If any cultural resources are discovered during construction activities the applicant shall follow state and local laws requiring that the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department immediately of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with the Sherwood Valley Band of Pomo.

Mitigation Measure 7: If human remains are identified during project construction that applicant shall follow the following procedures. All development shall cease immediately and shall not commence until so directed by the Community Development Director. The Director and county corner shall be notified immediately. The applicant shall follow the procedure defined in 17.50.030E of the Coastal Land Use and Development Code.

Mitigation Measure 8: The recommendations of the Krazen & Associates geotechnical report shall be followed for site grading, compaction and preparation of engineered fill.

Mitigation Measure 9: The Applicant shall secure all necessary permits for the proposed development from City and State agencies having jurisdiction, including a Grading Permit, NPDES Permit, Building Permit and others as required.

Mitigation Measure 10: Prior to issuance of the Building Permit, the applicant shall submit a Storm Water Pollution Prevention Plan for review and approval by the Community Development Director, that shall include measures for prevention of gasoline, oil and lubricant spills, and an action plan for clean-up of any accidental fluids or other contaminants spilled or encountered during conversion and construction activities.

Mitigation Measure 11: During construction the areas slated for bioswales will be protected from excessive grading and compaction with construction fencing. The efficacy of the bioswales will be demonstrated prior to final of the building permit, by testing the permeability of the soil with a perc test. Once the Hare Creek Center is operational, the bioswales will be inspected for clogging at least monthly. If clogging is identified it shall be addressed immediately to ensure the effective operation of this stormwater system.

Mitigation Measure 12: The project landscaping plan shall not include any species of broom, pampas grass, gorse, or other species of invasive non-native plants, such as Monterey Cypress deemed undesirable by the City or other regulatory agency. Nor will the applicant plant any of these invasive plants on the property now or in the future.

Mitigation Measure 13: Grading and earthwork activity shall be limited to the hours of 8:00am to 5:00pm Monday through Friday.

Mitigation Measure 14: Shopping Carts at the Hare Creek Center shall include lock out technology so that the carts cannot be removed from the parking lot.

Mitigation Measure 15: Prior to issuance of the Building Permit, the applicant shall submit plans to the Director of Public Works for review and approval for: 1) widening the eastbound approach of Ocean View Drive (at Highway 1 and Ocean View Drive); 2) adding a right turn only lane, and; 3) completing related relocation/redesign of sidewalks and signals. The right turn only lane shall be of a length, determined by the Director of Public Works, to ensure effective queuing of traffic prior to turn movements. Prior to the final approval of the Building Permit, the Director of Public Works shall confirm that the plans for widening Ocean View Drive and adding the right turn only lane and relocating sidewalks and other infrastructure have been completed as approved by the Director of Public Works.

Mitigation Measure 16: Prior to approval of the Building Permit, the applicant shall submit a new site plan to the Community Development Director illustrating the addition of two fire hydrants: one to be located between Building A and Bayview Drive and the other hydrant located between Building B and Bayview Drive.

Mitigation Measure 17: Prior to issuance of the Building Permit, the applicant shall submit a new site plan to the Community Development Director illustrating the sidewalk improvements along Highway 1 as part of this project. The sidewalk improvements will conform with the requirements of the South Fort Bragg Pedestrian Access Plan, which include a sidewalk of at least 6 feet in width with a 5 foot landscaped buffer between the sidewalk and the Highway 1 right of way.

Mitigation Measure 18: Prior to issuance of the building permit, the applicant shall pay all capacity charges associated with the project.

Mitigation Measure 19: Prior to issuance of a final on the Building permit, the applicant shall record an easement for the infiltration trench.

Mitigation Measure 20: Prior to approval of the Building Permit, the City of Fort Bragg shall prepare a study at the applicant's expense which will determine the fair share cost to upgrade the four culverts and outfall and to re-grade the drainage ditch along Ocean View Drive if needed to accommodate additional stormwater from the site. Prior to the approval of the Building Permit, the applicant will either pay the City for the applicant's proportional share of the cost for the improvements or install the improvements.

Mitigation Measure 21: Prior to issuance of the Building Permit, the applicant shall submit a revised site plan to the Community Development Director illustrating a recycling enclosure for segregation of green and food waste (compostable materials) for both the restaurant and the grocery store.

12. Prior to issuance of a final on the Building Permit, the applicant shall record a ten foot wide easement for the infiltration trench noted on Sheet G-2. Additionally, prior to issuance of the Building Permit the applicant shall resubmit plans for the infiltration trench that clearly illustrate drain rock placed around the HDPR pipe to the top of the pipe to encourage maximum infiltration.
13. Prior to issuance of the Building Permit the applicant shall submit a revised landscaping plan that illustrates the relocation of the trees in the middle island of the parking lot to the islands on either end of the easternmost rows of parking in the parking lot. Prior to issuance of the Building Permit the applicant shall submit a stormwater management monitoring and maintenance program, for review and approval by the Director of Public Works, that specifically indicates how the

stormwater catchment overflow system will function and how the overall stormwater management, infiltration and bio-filtration components of the system will be monitored and maintained. Ongoing monitoring and maintenance shall occur as described and approved in the plan.

14. Prior to issuance of the Grading Permit that applicant shall obtain a Construction General Permit from the Regional Water Quality Control Board (RWQCB) for the project.
15. Prior to issuance of the building permit the applicant shall resubmit project site plans and elevations for approval by the Community Development Director that illustrate: 1) at least two additional trees in the landscaping plan on the north east corner of the parcel; 2) sidewalk connections to the required multiuse trail from Building A and C; 3) a sidewalk connection between the island adjacent to the RV parking and the Building C pedestrian walkway; and 4) an identifiable base, extending 3 to 5 feet up from the finished grade that is highly resistant to damage, defacing, and general wear and tear and composed of either pre-cast decorative concrete, stone masonry, brick, commercial grade ceramic tile or equivalent approved by the Community Development Director.
16. Prior to issuance of the Coastal Development Permit, the applicant shall record a deed, eliminating the lot line between parcels 018-120-49 and 018-120-48. All property taxes due shall be paid prior to recordation, as evidenced by a preliminary title report submitted to the satisfaction of the Community Development Director. Additionally, all property interests effected by the LLA shall be notified of the proposed LLA and concur with the LLA in writing to the City of Fort Bragg.
17. Prior to issuance of the building permit for structural improvements, and prior to occupancy of the building, the applicant shall pay drainage fees at the current rate at time of payment, and shall obtain a grading permit for curb, gutter, sidewalk, driveway, loading zone, and parking lot improvements as applicable, and shall construct such improvements to the satisfaction of the City Engineer.

STANDARD CONDITIONS

1. This action shall become final on the 11th day following the decision unless an appeal to the Coastal Commission is filed pursuant to Coastal Land Use & Development Code (CLUDC) Chapter 17.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the CLUDC.
3. 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.
4. 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 the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.

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 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.
8. Unless a condition of approval or other provision of the Coastal Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with CLUDC Subsection 17/18.76.070 (B).

The above and foregoing Resolution was introduced by Commissioner _____, seconded by Commissioner _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 28th day of January, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair,

ATTEST:

June Lemos,
Administrative Assistant

