



AGENCY:	City Council
MEETING DATE:	March 23, 2015
DEPARTMENT:	CDD
PRESENTED BY:	Marie Jones

## AGENDA ITEM SUMMARY

### **TITLE:**

**RECEIVE REPORT, CONDUCT PUBLIC HEARING AND PROVIDE DIRECTION TO STAFF REGARDING: 1) APPEAL BY EDWARD OBERWEISER, ET AL. OF THE PLANNING COMMISSION'S JANUARY 28, 2015 DECISION TO APPROVE A MITIGATED NEGATIVE DECLARATION FOR THE HARE CREEK CENTER PROJECT; LOCATION: 1250 DEL MAR DRIVE, FORT BRAGG; AND 2) APPEAL BY GROUP II REAL ESTATE OF THE PLANNING COMMISSION'S JANUARY 28, 2015 DECISION TO DENY DEVELOPMENT PERMITS FOR THE PROPOSED HARE CREEK CENTER PROJECT AT 1250 DEL MAR DRIVE (CDP 8-13, DR 7-13, USP 5-13 AND LLA 3-14)**

### **ISSUE:**

On January 28, 2015, the Planning Commission adopted a resolution to adopt (approve) the Mitigated Negative Declaration for the proposed Hare Creek Center in a 3 (in favor) to 1 (opposed) vote. The Planning Commission did not adopt a resolution to approve the permits for the project in a 2 (opposed) to 2 (in favor) vote. Due to the tied vote, the resolution did not pass, and therefore the Planning Commission effectively denied the development permits for the Hare Creek Center. The Commissioners who voted "no" to the motion to adopt the resolution to approve the permits expressed concerns about the design of the project, the traffic study for the project, water use, and the loss of open space afforded by the currently vacant parcel.

Both the approval of the Mitigated Negative Declaration ("MND") and the denial of the planning permits by the Planning Commission were appealed to City Council. The MND appeal can be found in Attachment 1 ("Oberweiser Appeal") and the Planning Permit appeal is Attachment 2 ("Patton Appeal"). The Oberweiser Appeal raises a number of issues regarding adequacy of the MND, which are addressed below. The Patton Appeal states that the denial of the planning permits was not supported by substantial evidence and that the project meets City requirements.

Section 17.92.030C of the Coastal Land Use and Development Code limits the review process for appeals as follows:

**17.92.030C Scope of planning permit appeals.** An appeal of a decision on a planning permit shall be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not known at the time of the decision that is being appealed.

The minutes of the Planning Commission Hearing are attached (Attachment 3) in order for the City Council to identify issues raised at the public hearing to help inform the scope of the appeal. Additionally all correspondence from the public regarding the project that was submitted prior to the close of the Public Hearing is attached (Attachment 4.17). Issues presented in the correspondence, raised at the hearing, and included in the appeal documents should be considered by the City Council in its review of these appeals and can be found in Table 1 below.

Please note that not all of the issues identified at the Planning Commission hearing or in letters to the Planning Commission are relevant to the appeals of the Planning Permits and/or the MND. For example the following issues are outside the scope of the review of these appeals, because they

are not relevant to the legal scope of land use and zoning issues and findings for the requested permits or the CEQA analysis:

- The quality of the food sold by Grocery Outlet;
- the need for a less expensive grocery store for low-income residents;
- desires to have a different use on the parcel and the loss of open space;
- the unionization rate of proposed tenants;
- jobs created by the project.

These issues have not been analyzed in this staff report, as they are not relevant to the CEQA review or the review of the permits under the Land Use and Development Code Regulations..

Additionally, there are issues raised in the appeal applications, which cannot be considered by the City Council because they were not “raised at the public hearing, or in writing before the hearing or based on information that was not known at the time of the decision.” Likewise, there are items that were raised during the hearing, but were not raised in the appeals.

Table 1 identifies issues which were raised in the Public Hearing or through written correspondence prior to the close of the hearing and that appeared in one or more of the appeals, and are therefore relevant to the City Council’s review and direction regarding the Mitigated Negative Declaration and permits for the Hare Creek Center.

<b>Table 1: Scope of Review for Hare Creek Center Appeal</b>		
<b>Issue</b>	<b>Venue for comments</b>	<b>Appeal source</b>
<b>1. Concerns regarding the adequacy of the Mitigated Negative Declaration (MND) identified through the Planning Commission Hearing, email comments, and letters received prior to the close of the public hearing.</b> <ul style="list-style-type: none"> <li>a) Possible traffic impacts given that traffic counts were completed in August (when traffic is at its greatest in Fort Bragg) but when Mendocino College was not in session. Concern regarding accuracy of traffic counts given additional traffic from new tenant (Dollar Tree) at the Boatyard Shopping Center.</li> <li>b) Possible impact of the project on traffic on the Hare Creek Bridge.</li> <li>c) Possible safety concern relating to the width of Hare Creek Bridge, with regard to possible increased use of the bridge by pedestrian and bicycle users due to the installation of a multi-use trail on the project site.</li> <li>d) Possible impacts of project water use on the Noyo River.</li> </ul>	PC Hearing, email comments, letters	Oberweiser Appeal (page 1)  a) Oberweiser Appeal (pg 11)  b) Oberweiser Appeal (pg 11) c) Oberweiser Appeal (pg 11)  d) Oberweiser Appeal (pg 11) e) Oberweiser

<ul style="list-style-type: none"> <li>e) Possible Green House Gas impacts of project.</li> <li>f) Possible air pollution impacts.</li> <li>g) Date of the groundwater report.</li> <li>h) Project as a possible barrier to groundwater recharge.</li> <li>i) Possible impacts of stormwater contamination by the project, especially water from paved parking lots infiltrating the groundwater.</li> <li>j) Possible visual impact of the project on partial ocean views.</li> <li>k) Possible visual impacts of street lighting.</li> <li>l) Possible visual impacts of lighting on nighttime views.</li> <li>m) Possible noise impacts during construction and during operation, especially to sensitive receptors (nearby schools).</li> <li>n) Possible visual impact of the project if it fails economically.</li> <li>o) Possible impacts to archaeological resources, request revision to Mitigation Measure to require an archaeologist's presence during all grading activities.</li> <li>p) Possibility for an increase in service calls from police, emergency &amp; fire</li> <li>q) Possible impacts on a unique geological feature</li> <li>r) Possible impacts to non-special status wildlife.</li> <li>s) Possible impacts to special status wildlife and Environmentally Sensitive Habitat Areas ("ESHA").</li> <li>t) Other issues</li> </ul>		<p>Appeal (page 7)</p> <p>f) Oberweiser Appeal (page 5)</p> <p>g/h) Oberweiser Appeal (page 8)</p> <p>i) Oberweiser Appeal (page 8)</p> <p>j) Oberweiser Appeal (page 3 &amp; 5)</p> <p>k/ l) Oberweiser Appeal (page 5)</p> <p>m) Oberweiser Appeal (pg 10)</p> <p>n) Oberweiser Appeal (page 3)</p> <p>o) Oberweiser Appeal (page 7)</p> <p>p) Oberweiser Appeal (page 10)</p> <p>q) Oberweiser Appeal (pages 7-8)</p> <p>r) Oberweiser Appeal (page 5)</p> <p>s) Oberweiser Appeal (page 6)</p>
<b>2. Request that an EIR be prepared for the project.</b>	PC Hearing, email, letter, Appeal	Oberweiser Appeal (pg 1&2)
<b>3. The quality of design &amp; compliance with <u>Citywide Design Guidelines</u>.</b> <ul style="list-style-type: none"> <li>a) Landscaping plan.</li> <li>b) Proposed building design.</li> <li>c) Design given gateway location.</li> </ul>	PC Hearing, email comments, Planning Commission comments	3. Patton Appeal (pg 1)
<b>4. Lot Line Adjustment (LLA)</b>	email	5. Patton Appeal (pg 1); new

a) Adequacy of the submitted application and fee for the LLA. b) Adequacy of the submitted documents for effective review of the LLA adjustment application.		information
<b>5. Visual Impact</b> a) Compliance with Policy CD-1.1. b) Compliance with Policy CD-1.5. c) Compliance with Policy CD-2.2. d) Compliance with Policy CD-2.5. e) Compliance with Policy CD-2.8.	Hearing, letters, email. Appeal rationale	a) Oberweiser Appeal (page 3) b, c, d, e) Oberweiser Appeal (page 4)
<b>6. Use Permit</b> a) Compliance with various Use Permit findings.	email	Patton Appeal
<b>7. Site Access</b> a) Compliance of Bay View Avenue street design with CLUDC requirements. b) Potential impact of Hare Creek Street on drainage patterns such that substantial erosion would occur to the course of a river or a stream.	email	7a) Oberweiser Appeal (pg 4) 7b) Oberweiser Appeal (pg 8)

Table 2, below, summarizes issues that came up during the public hearing process that were not part of either the Patton Appeal or the Oberweiser Appeal. An analysis of these issues is presented later in the staff report along with the issues raised in the appeals.

<b>Table 2: Items of concern identified during hearing process, but not included in either appeal application</b>		
<b>8. Visual Impacts</b> a) Buildings are too close to Highway 1. b) Visual analysis photos should include water tanks in renderings.	Hearing, letters, email.	Not in either appeal
<b>9. Policy LU-4.1</b> a) Possible impact of the proposed project on the sales and economic vitality of other grocery stores in Fort Bragg. b) Possible impact of the project on empty store fronts in downtown Fort Bragg and the potential for urban blight. c) Possible impact of the project on the performance of retail stores in downtown Fort	PC Hearing, email comment letter	Not in either appeal

Bragg.		
<b>10. Public Access</b> a) Consider special condition to extend the multi-use trail so that it connects to the Hare Creek Beach trail (MLT).	Letters, email	Not in either appeal
<b>11. Fiscal Impacts</b> b) Retail sales tax receipts from proposed project.	Letters, email	Not in either appeal
<b>12. MND</b> a) Possible impacts on downtown retail and possible urban decay. b) Need for a full geotechnical report for the project.	a) Letters, email b) This issue was not raised during the hearing process	a) Not in either appeal b) Oberweiser Appeal (page 7)

### **RECOMMENDED ACTION:**

With regard to Oberweiser Appeal of the Planning Commission's approval of the MND, the City Council should provide direction to staff regarding the following options:

1. Direct staff to prepare a resolution for Council consideration to uphold the Planning Commission's decision to approve the MND.
2. Direct staff to prepare a resolution for Council consideration to overturn the Planning Commission's decision to approve the MND.

If Council provides direction to overturn the Planning Commission's decision to approve the MND and overturns the Planning Commission's decision to deny the Planning Permits, staff requests direction on the following:

1. Should the CEQA document and project permits be revised to incorporate revisions to the project design?
2. Should a revised MND or an EIR be prepared as the CEQA document for the project?

With regard to the Patton Appeal of the Planning Commission's denial of the Planning Permits, the City Council should provide direction to staff regarding the following options:

1. Direct staff to prepare a resolution for Council consideration to: 1) overturn the Planning Commission's denial of the Planning Permits; and 2) provide findings for the approval of the Planning Permits.
2. Direct staff to prepare a resolution for Council consideration to: 1) overturn the Planning Commission's decision to deny the Planning Permits; and 2) direct staff to work with the project applicants to revise the project description.. Council should articulate specific changes that Council would like to see made to the project description.
3. Direct staff to prepare a resolution for Council consideration which would uphold the Planning Commission's decision to deny the Planning Permits. Council should articulate specific grounds for denial of the Planning Permits.

**ALTERNATIVE ACTION(S):**

See above.

**ANALYSIS:**

**Analysis of Table 1 Issues**

In order to help organize the City Council's deliberations and decisions regarding direction to staff, each of the concerns identified in Table 1 is addressed in the analysis below.

**1. Concerns regarding the adequacy of the Mitigated Negative Declaration (MND) identified through the Planning Commission Hearing, email comments, and letters received prior to the close of the public hearing and raised in the Oberweiser Appeal.**

**a) Possible traffic impacts given that traffic counts were completed in August (when traffic is at its greatest in Fort Bragg) but when Mendocino College was not in session. Concern regarding the accuracy of traffic counts given additional traffic from a new tenant, Dollar Tree, at the Boatyard Shopping Center.**

Typically the worst-case scenario for traffic impact analysis involves traffic counts during the most visitor-intensive month in Fort Bragg (August) as this is when traffic is heaviest on Main Street. Accordingly, as requested by Caltrans, the traffic study was based on traffic counts taken in August in order to ensure that the traffic study examine the impact of the project on traffic when it is at its heaviest. However this meant that the traffic study did not include the incremental increase in traffic to and from the college on Ocean View Drive. In September (when college is in session), the traffic counts on Main Street fall precipitously, so completing traffic counts in September would result in undercounts on Main Street relative to traffic in August.

It is not known whether replacement of the Rite Aid with the Dollar Tree tenant at the Boatyard Shopping Center would significantly impact traffic flow at the Ocean View Drive intersection.

*Staff recommends that a traffic engineer complete a revised traffic model of the project to determine if college related and/or Dollar Tree related traffic would result in an impact that requires additional mitigation(s). This would require modification to the CEQA documentation.*

**b) Possible impact of the project on traffic on the Hare Creek Bridge.**

The traffic study prepared for the project examined the impact of the project on the Hare Creek Bridge. No significant impact was identified by the study.

**c) Possible safety concern regarding the width of Hare Creek Bridge, with regard to possible increased use of the bridge by pedestrian and bicycle users due to the installation of a multi-use trail on the project site.**

Bicyclists and pedestrians currently use the Hare Creek Bridge, and the bridge has undersized facilities for both bicyclists and pedestrians. CEQA defines a "significant effect on the environment" as a "substantial or potentially substantial adverse change on the environment." The Hare Creek Bridge offers an existing below standard facility for bicycles and pedestrians. The multi-use trail is not proposed to connect to the Hare Creek Bridge. The proposed multi-use trail would improve bicycle and pedestrian safety on Highway 1 and does not constitute an adverse change on the environment. This is not a significant impact requiring additional mitigation.

**d) Possible impacts of project water use on the Noyo River.**

Please see the Water Analysis in the MND (page 42-44). A letter was submitted by the Department of Fish and Wildlife regarding water issues of the project, which included a number of misunderstandings about the City's water sources and water pumping requirements which were corrected in a letter by staff to the Department of Fish and Wildlife. Please see Attachments 14 and 15 of the Planning Commission Staff Report (Attachment 4). This impact has been adequately described and analyzed in the MND.

**e) Possible Green House Gas impacts of project; and**

**f) Possible air pollution impacts.**

The MND includes a comprehensive analysis of GHG emissions including a standard URBEMIS analysis of potential emissions from the project. As noted on page 23 of the MND, roughly 81% (2,975 metric tons) of the potential emissions are from customer vehicle emissions. However this estimate (produced by the URBEMIS computer model) may overstate the potential new customer emissions from this project, as many customer trips to this site would be add-on trips or replacement trips, not entirely new trips, as the shopping center is immediately adjacent (within 1 mile) of the two largest grocery stores on the coast. The additional GHG emissions would result from the amount added onto or taken off from these existing grocery trips. As noted in the MND, the project has the potential to increase GHG, although for the reasons noted above probably not to the level of 2.5% noted in the MND.

*Staff recommends that the URBEMIS analysis be recalibrated to reflect the trip patterns in Fort Bragg when calculating the customer-related GHG emissions from the project. The additional information would need to be incorporated into a revised CEQA document.*

**g) Date of the groundwater report. h) Project as a possible barrier to groundwater recharge.**

The groundwater analysis for this project was completed in 1995 as noted in the MND. Staff utilized this analysis to identify potential groundwater recharge issues. Normally the date of the report would be a concern if conditions had changed on the site or if new technologies or techniques have been developed that bring into question the adequacy of the report. However, in this case, the project was designed to result in 100% recharge of the rainwater that falls on the site through an extensive stormwater collection system and infiltration trench. Thus, as noted in the MND, the project would have a less than significant effect on groundwater supplies and would not interfere with groundwater recharge. The City Council could, however, request that additional analysis be performed with respect to groundwater.

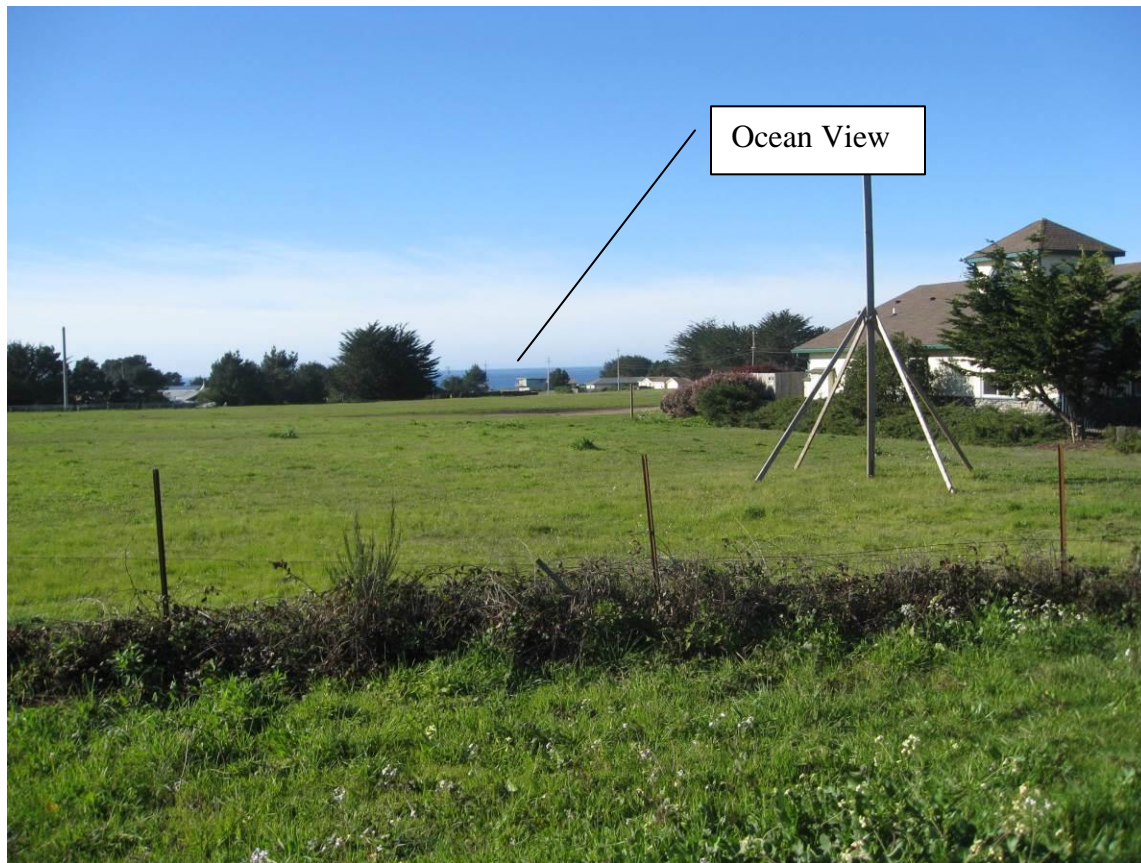
**i) Possible impacts of stormwater contamination by the project, especially water from paved parking lots infiltrating the groundwater.**

As noted in the MND, the project qualifies under the Coastal Land Use and Development Code (CLUDC) as a "Project of Special Water Quality Concern" and so will have to conform with a number of regulations to ensure that all stormwater from the parking lot is pre-treated prior to infiltration into the groundwater (see page 30 of the MND). Please see discussion under item # 8, page 27 for additional discussion of this issue, especially as it relates to the proposed access road to the Hare Creek Center.

**j) Possible visual impact of the project on partial ocean views.**

As noted on page 6 of the MND, the review authority must make a finding that the project is sited and designed to protect views to and along the ocean and scenic coastal areas. This issue was not

addressed in the MND. A filtered distant view to the ocean is visible from Main Street, if one looks directly to the west at the top 50 feet of the site. Please see the photo below.



*Staff recommends that a revised CEQA document address this issue.*

**j) Possible visual impacts of street lighting; and**

**k) Possible visual impacts of lighting on nighttime views.**

Please see page 11 of the MND and Attachment 4.9 (Hare Creek Lighting Site Analysis) of the Planning Commission Staff Report. The MND indicates that there are no significant impacts from project lighting. Street lighting was not analyzed as part of the MND.

*Staff recommends that an analysis of the potential visual impacts of street lighting be added to a revised CEQA document.*

**m) Possible noise impacts during construction and during operation, especially to sensitive receptors (nearby schools).**

Please see page 33 through 35 of the MND for the noise analysis for construction activities. A noise analysis of existing conditions (noise from Highway 1) on sensitive receptors (Mendocino College and Three Rivers School) indicated that the schools are currently exposed to decibel levels of 38 Ldn dB from Highway 1. The proposed project would produce decibel levels of 31 Ldn dB at the sensitive receptor sites from traffic on the proposed Hare Creek Ave. The lower relative decibel level is a function of the vehicle speed and distance of the street from the sensitive receptors (as detailed in the noise analysis in the project files). As sound pressure levels are on a logarithmic scale they cannot be arithmetically added. For logarithmic scale dBs from two different sources, 1 dB is added to the higher level dB sources if the difference between the sources is



between 5 and 9 dB. Thus, the additional sound from the proposed development would add only 1 dB to the overall sound impacts that currently exist on the sensitive receptors from Highway 1, for a total of 39 Ldn dB on the sensitive receptors. As this is below the 60 Ldn dB threshold set for acceptable noise for sensitive noise receptors, traffic noise would not be a significant impact of the proposed project.

**n) Possible visual impact of the project if it fails economically.**

This possible effect was not analyzed in the MND. This possible effect could be viewed as speculative and thus outside the scope of an MND (see CEQA section 15145). Staff can prepare an analysis of this potential effect, if so directed by City Council.

**o) Possible impacts to archaeological resources; request for an archaeological study, request for Mitigation Measure for an archaeologist to be present during all grading activities.**

Potential impacts to cultural resources were analyzed in the MND (see pages 18 and 19). An archaeological study was completed for the site, is in the project file and was recorded with Sonoma State University. The study found no evidence of cultural resources on the site, this includes no evidence of any human remains. An archaeologist that reviewed the archaeology report has requested that an archaeologist be present during all ground disturbing activities.

*Staff recommends that Mitigation Measure 6 be revised to include the requirement that both an archaeologist and a Native American monitor be present for all ground disturbing activities.*

**p) Possibility for an increase in service calls from police, emergency & fire**

This was analyzed in the MND starting on page 36. No significant impacts were identified and a mitigation measure was included to address securing shopping carts.

**q) Possible impacts on a unique geological feature.**

The appeal of the MND asserts that the project would “destroy a prominent landform” that is a unique geological feature. A geologic feature is considered as unique if it:

- Is the best example of its kind locally or regionally;
- Embodies the distinctive characteristics of a geologic principle that is exclusive locally or regionally;
- Provides a key piece of geologic information important in geology or geologic history;
- Is a “type locality” of a geologic feature;
- Is a geologic formation that is exclusive locally or regionally;
- Contains a mineral that is not known to occur elsewhere in the County; or
- Is used repeatedly as a teaching tool.

There is no evidence that the “knoll” meets these criteria. The knoll resulted from the cut to construct Highway 1. The cut for Highway 1 is clearly visible on both sides of the highway, indicating that the area was a continuous flat field from the boatyard center to the hare creek site, prior to construction of Highway 1. Additionally, Unique geologic features generally display unique rock formations (such as Johnson Rock on the City Coastal Trail site) or unique geologic processes (such as the sand dunes at Ten Mile or the blow hole on the Coastal Trail site). The knoll does not display rock formations as it is entirely covered in grass lands, nor does it display

unique geological processes. However, this issue could be explored further with the assistance of a geologist to determine if the knoll qualifies as a unique geological feature from a CEQA perspective.

**r) Potential impacts to non-special status wildlife.**

Under CEQA, potential impacts to non-special status wildlife such as deer, rabbits, skunks, etc. are not considered significant and do not require mitigation.

**s) Potential impacts to special status wildlife and ESHA.**

The Oberweiser Appeal claims that the project could have an impact on Environmentally Sensitive Habitat Areas (ESHAs). However, according to the Coastal Act Compliance Report, completed by a qualified biologist, neither the project site nor the adjacent 18 acre parcel (also owned by the applicant) contain ESHA.

The potential impacts to special status wildlife was reviewed in the MND, see page 16 through 18 of the MND. As noted in the MND the project will have less than significant impacts with the incorporation of Mitigation Measure 5. Please also see the Coastal Act Compliance Report (Attachment 2 of the MND).

**t) Other issues.**

Other issues raised in the Oberweiser Appeal also pertain to the Planning Permits and findings and are addressed in Sections 5 and 7 below (visual impacts and site access and roadway issues, including the impact of the road on drainage patterns).

## **2. Request that an EIR be prepared for the proposed project.**

During the Public Hearing before the Planning Commission, a number of people requested that the City prepare an EIR for this project. The Oberweiser Appeal also requested that an EIR be prepared for the project. According to CEQA statute 15064f 3 4 and 5:

(3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (Friends of B Street v. City of Hayward (1980) 106 Cal.App. 3d 988).

(4) The existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts.

As public controversy is not a sufficient reason to prepare an EIR, and staff determined that any impacts could be mitigated and necessary mitigations were agreed to by the applicant, an MND was prepared for this project in accordance with CEQA guideline 15070 which states:

**15070. DECISION TO PREPARE A NEGATIVE OR MITIGATED NEGATIVE DECLARATION**

A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

(a) The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or

(b) The initial study identifies potentially significant effects, but:

(1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and

(2) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

On January 20, 2015, the City received a letter from the California Department of Fish and Wildlife (CDFW) regarding potential impacts of the project on special status fish in the Noyo River. This letter was received on the very last day of the comment period for the MND. Staff reviewed the letter and prepared a letter in response on January 26, 2015 outlining the errors in fact that CDFW had relied on to compose their comment letter. As noted in the response to the CDFW letter, the City of Fort Bragg is not in violation of any of the code sections listed in the CDFW letter. Staff determined that the CDFW letter does not represent a fair argument that the project would have a significant effect on the environment. Additionally, CDFW has not responded to the City's response letter with any additional comments, clarifications, or further correspondence.

As noted in CEQA section 15064f1 below, the City Council should use its independent judgment to determine if an EIR is necessary. In making this determination, the City Council should determine if the CDFW has made a fair argument that the Hare Creek project will have a significant impact on special status fish in the Noyo River or whether the Oberweiser Appeal made a fair argument that the project will have a significant impact on the environment. Please see Attachments 14 and 15 of the Planning Commission staff report in order to review the letters and facts related to the potential impact on special status fish.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

In summary, regarding the MND appeal and issues, staff has reviewed the public comments from the public hearing, all written comments received during the public comment period, and the whole record for the project there is no substantial evidence that the project, as revised through required mitigation measures from the MND and special conditions from the development permits, may have a significant effect on the environment. However, the City Council can require that an EIR be prepared if the Council determines that it has been presented with a fair argument that a project may have a significant effect on the environment. As noted in the staff recommendations above (*see italicized text*), staff recommends that, at a minimum, additional analysis be included in a revised CEQA document, whether an MND or EIR.

It should be noted that courts use a different legal standard in reviewing the adequacy of an EIR than they do in reviewing the appropriateness of a Negative Declaration. Courts have held that a Negative Declaration is inappropriate "if it can be fairly argued" that the project will cause significant environmental impacts. The "fairly argued" standard of review is more stringent than the "substantial evidence" standard used to review the adequacy of an EIR, and it places a greater burden of proof on the project proponent.

### 3. The quality of design & compliance with Citywide Design Guidelines

#### A) Landscaping plan

Conformance with landscaping requirements of the CLUDC was analyzed in the staff report to the Planning Commission and is included in Table 2 below.

**Table 2: Development Standards for Proposed Parking Lot**

Development Standards	Requirements	Proposal	Compliance
Front street landscaping setback 15 feet minimum	Required landscaping strip of at least 15 feet of depth between the sidewalk and the parking area.	Proposed landscaping strip of 15 feet on Bayview Drive frontage, 15 to 25' feet of landscaping on highway frontage.	Yes
Parking lot screening	Landscaping must screen cars from view from the street to a minimum height of 36 inches.	The proposed landscaping plan does not include sufficient information to conclude that shrubs will be planted in the west and east landscaping islands sufficient to screen the view to 36 inches.	No, see special condition
Landscaping adjacent to structures	Section 17.34.050Cd requires eight feet of landscaping between parking areas and buildings, exclusive of sidewalks.	The proposed project includes eight foot wide sidewalks around all building structures, therefore landscaping on building frontages is not required.	Yes
Trees	Section 17.34.050C4av of the CLUDC requires trees be placed in the landscaping strips every 25 feet.	The proposed landscaping plan has proposed a tree at every 20 feet along the landscaping strips and throughout the parking lot.	Yes
Amount of Landscaping in Parking lot	A minimum of 10% of the parking lot must be landscaped. One shade tree shall be provided for every five parking spaces.	It is unclear from the plan if the minimum 10% landscaping threshold has been met. The plan illustrates 29 shade trees which is more than the code requires.	Maybe, see special condition
Landscaping & Stormwater Management	Section 17.34.050C3 requires that landscaping be designed for infiltration and retention of stormwater.	The project plans include the required design for infiltration and retention of stormwater from the parking lot surface.	Yes
Entrance landscaping	Provide a concentration of landscaping features at the primary entrances, including at a minimum specimen trees, flowering plants and enhanced paving.	The applicant has not submitted plans that are detailed enough to discern if these requirements have been met.	No, see special condition

As noted in the Planning Commission staff report and in the table above, Special Condition 1 was recommended to ensure that the project complies with landscaping requirements of the CLUDC.

**Special Condition 1:** 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.

If City Council would like for landscaping decisions to be decided in conjunction with the Planning Permits, staff recommends that the Council direct staff to obtain a fully compliant landscaping plan prior to bringing this item back for further consideration.

## **B) Building Design**

As noted in the staff report to Planning Commission, all projects that receive Design Review approval from the City must be found to be consistent with the **Project Review Criteria** of Section 17.71.050E of the CLUDC, as listed below.

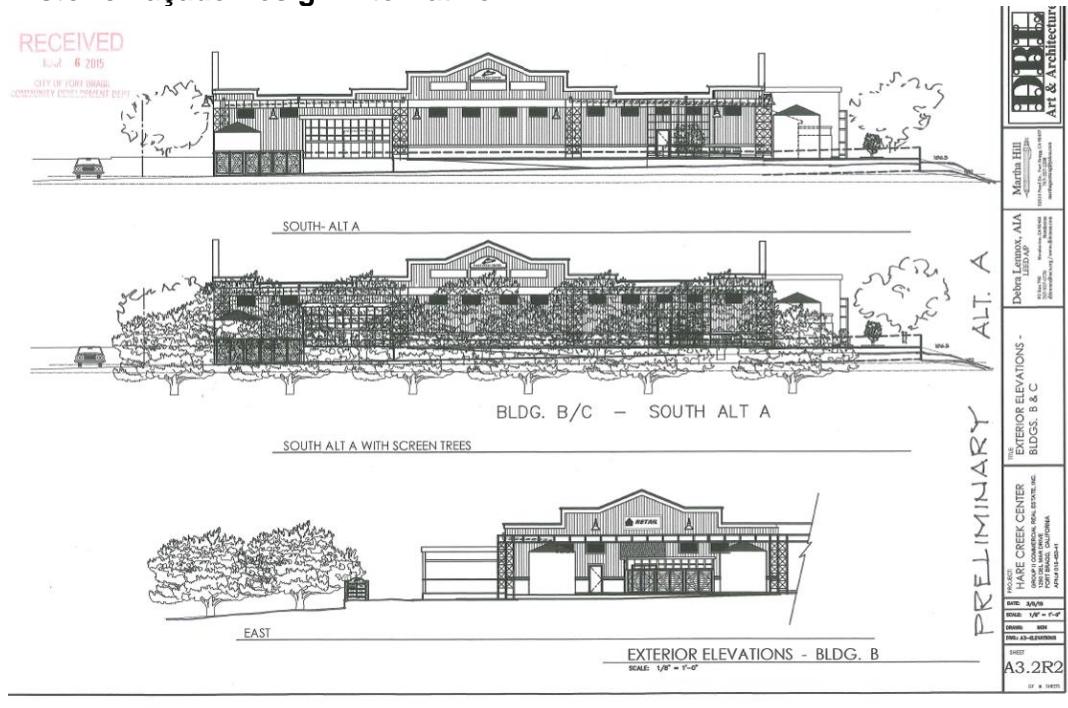
### **1. Complies with the purpose and requirements of this Section.**

Purpose: 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.

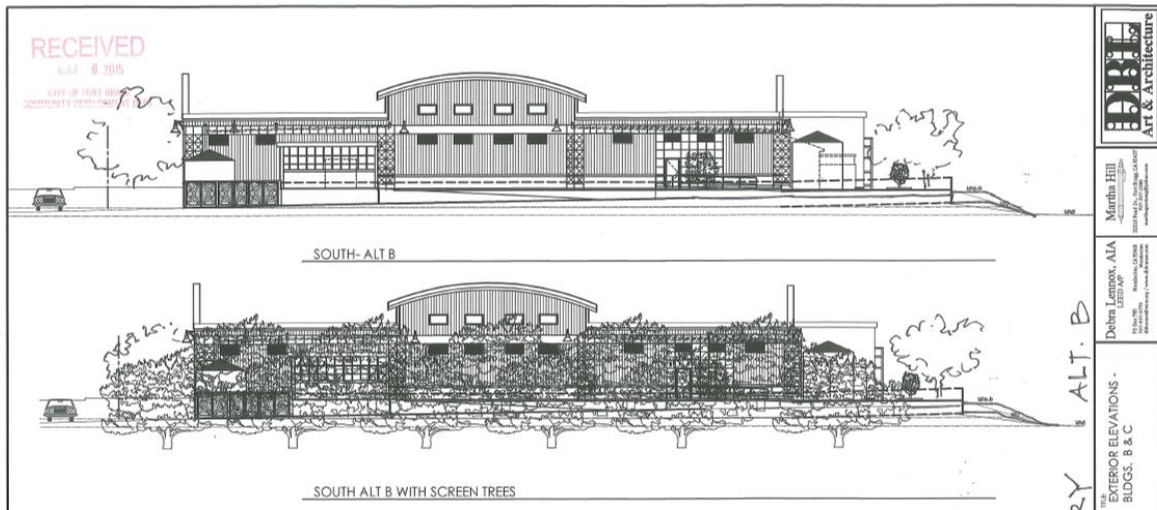
The proposed project is relatively small for a shopping center with the same total square feet as the Franklin Street strip shopping area. It is much smaller than the Boatyard Shopping Center or the Safeway grocery store. As these projects were approved in the past and found to be consistent with the small-town, coastal, historic and rural character of Fort Bragg, it would be consistent to determine that this small shopping center is also consistent with these values and descriptors. Additionally, the project design includes many sustainability features (solar power, stormwater catchment for reuse and aquifer recharge, green walls, use of daylighting, native plants, etc.) which reflect Fort Bragg's rural character. The use of the water catchment systems and murals that depict Fort Bragg's cultural, natural and historic traditions (see Mitigation Measure 3 of the MND) is consistent with the City's historic and rural character.

The applicant has prepared two alternative façade treatment designs which are in Attachment 7 and shown below. The Historic Façade Design Alternative (below) better fits with the small town, historic feel of the community.

## Historic Façade Design Alternative



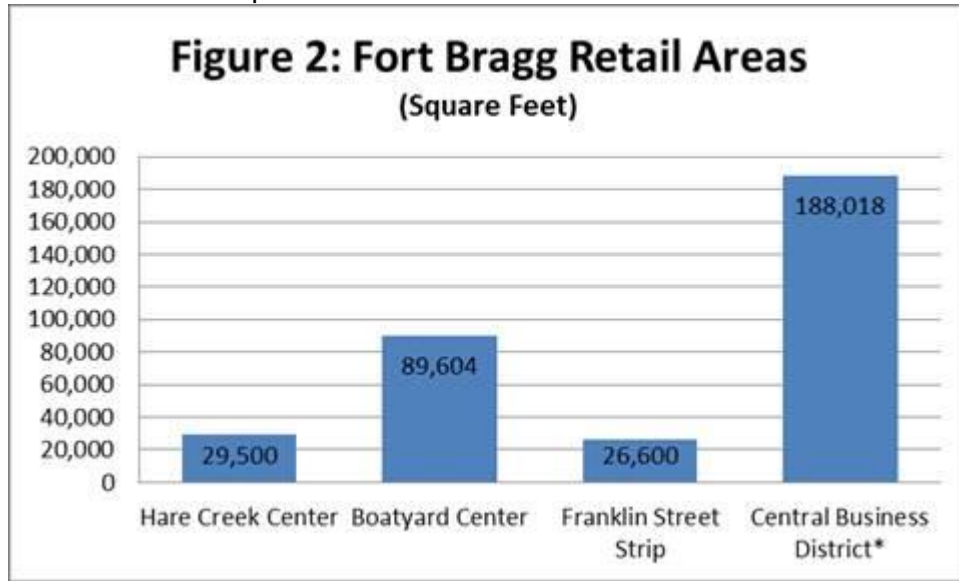
## Contemporary Design Alternative



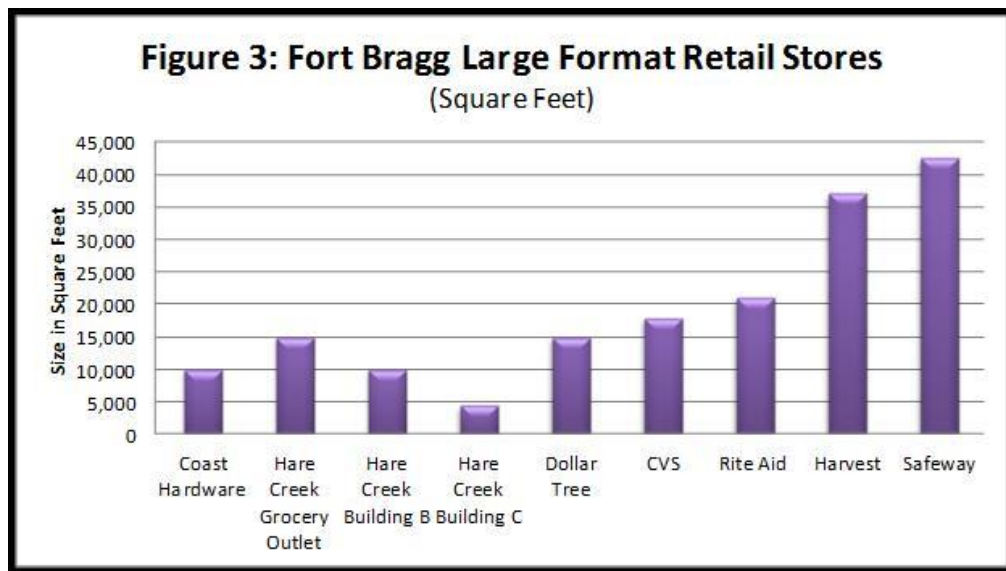
If the City Council chooses to approve the design review permit, staff recommends the the Historic Façade Design Alternative, as it conforms more with the historic character of the City of Fort Bragg. Additionally, this design alternative provides more architectural detailing on the false front of the building than the current proposed design. Staff further recommends that this level of design detailing be added to the eastern face of Building C, which fronts Main Street (see special condition 2 below). If City Council prefers some other design approach, direction should be provided to staff.

2. Provides architectural design, building massing, and scale appropriate to and compatible with the site surroundings and the community.

As noted in the staff report to the Planning Commission, the proposed Hare Creek Center is smaller than other primary shopping centers in Fort Bragg, as shown in Figure 2 below. At 29,500 SF, it would be smaller than the Boatyard Shopping Center and about the same size as the South Franklin Street Strip Mall.<sup>1</sup>



The massing of individual buildings of the proposed Hare Creek Center (Buildings A, B and C) are consistent with other larger format retail buildings in Fort Bragg as shown in Figure 3.



<sup>1</sup> The Downtown Core was calculated as the retail establishments in the 300 and 400 block of North Main, the 300 block of North Franklin, the 100 block of East and West Laurel, the 100 block of East and West Redwood and the 200 block of East Redwood.



A photo survey of other retail establishments in the gateway area and other large format retailers within Fort Bragg is presented in Attachment 5 to assist the City Council in determining whether the project is “appropriate to and compatible with the site surroundings and the community.”

To analyze the appropriateness of the design, Staff analyzed the project’s conformance with Chapter 2.56 of the Citywide Design Guidelines. Table 3 below summarizes the analysis of the project’s conformance with the required section of the design guidelines.

**Table 3: Conformance with Large Scale Retail Design Guidelines (Chapter 2.56)**

Large Scale Retail Design Guidelines	Proposed Project Compliance	Conformance with Guideline
<b>Site Planning</b>		
Large commercial sites should be separated from residential properties by public or private streets, landscaped buffers, and decorative masonry walls.	The proposed project is located within the General Commercial zone. An approximately 100 feet strip of land is zoned General Commercial between the proposed project and the Very High Density Residential zoning to the south. Thus the project will be separated from future residential development by an intervening future commercial development. The site is separated from undeveloped residential property to the west by 15 feet of landscaping and a public street.	Yes
Parking areas are strongly discouraged in the front of the building. Surface parking lots or any ground-floor parking should be wrapped with either active building space or screened with art, landscaping, etc. to provide a buffer between the sidewalk and vehicles while still allowing for visibility.	The project parking area is wrapped with active building space on three sides and with art (murals on the water catchment tanks) and landscaping that provides a buffer between the sidewalk and vehicles. However, the northeast corner of the site should be planted with at least two or three trees to further buffer the visual impact of the project.	Yes, with Special Condition below
Parking areas should provide landscaped pedestrian walkways.	The project provides a landscaped walkway through the center of the parking lot, which is connected to the building entrances with sidewalks. However, the project should provide sidewalk connections to the required multiuse trail located to the east of the site. The project should also include a sidewalk connection between the island adjacent to the RV parking and the Building C pedestrian walkways.	No, see Special Condition below
To reduce the visual impact of large paved areas, parking lots should be broken up into smaller areas separated by landscaping and drive aisles.	The parking lot has been separated into 5 smaller areas that are separated from each other by either landscaping or drive isles.	Yes
The number of entrances and exits should be designed and located to avoid interference with traffic flow along adjacent streets.	The project includes two entrances which will not interfere with traffic flow.	Yes



Storage areas, trash enclosures, fuel tanks, and loading facilities should be limited in number and should be designed, located, and screened to minimize their visibility from outside public areas, surrounding streets, freeways, and freeway on/off ramps.	As conditioned the project includes adequate screening of all such improvements. Additionally, these improvements have been designed and located to minimize visibility from the public rights of way.	Yes
Loading areas should be located and screened to minimize public view. Landscaping should be used to reduce the impact of screen walls.	As conditioned the project includes adequate screening of loading zones.	Yes
<b>Architectural Design</b>		
A variety of rooftops are encouraged. Distinct and interesting rooflines instead of flat roofed structures are encouraged, including towers, turrets, and cupolas. A substantial cornice should be used at the top of a parapet wall or roof curb, providing a distinctive cap to the building facade.	The project roof design includes a flat roof, which is not preferred. However the project does include a parapet wall, parapet peaks at entrances, skylights, and covered pediments. The project also includes a cornice on the parapet wall.	Yes. However, additional or different architectural detailing might be preferred. Staff prefers the Historic Façade Design Alternative, please see Specail Condition below.
The building should be designed with an identifiable base, extending 3 to 5 feet up from the finished grade. The base material should be highly resistant to damage, defacing, and general wear and tear. Stucco should not be utilized as a base material. Pre-cast decorative concrete, stone masonry, brick and commercial grade ceramic tile are examples of acceptable base materials.	The project design does not include an identifiable base extending 3 feet up from the finished grade.	No, please see Special Condition below.
Retail buildings that include shops along the exterior of the building ("liner shops") with entrances from the exterior of the building are desirable in order to create a more human scale and pedestrian-oriented character.	The project's Building C includes four exterior shops that have exterior entrances on both the west and east elevation of the building.	Yes, however the eastern face of Building C should receive the same architectural treatment as the southern face of Building B, as this is the face the fronts highway 1, please see special condition below.
Building walls should incorporate substantial articulation and changes in plane. Exterior wall treatments such as arcades, porticos, insets, and colonnades should be used to mitigate the flat, windowless appearance of the typical warehouse retail building.	The building walls include a covered walkway, trellises and green walls throughout the project which provide sufficient articulation and exterior wall treatment.	Yes. However, additional building articulation might be preferred. For example two of the units in Building C could be set back five feet from the facade of the other units in order to provide additional articulation of this highly visible facade. Furthermore large windows could replace the transom windows in the body of the building below the pediment walls to provide more building detail and improve the design.
Outdoor sales and storage areas should be screened to blend with the architecture of the main building. The height of the screening elements should be tall enough to screen all stored materials.	The proposed project does not include outdoor sales or storage areas, other than trash/recyclable, and propane tanks which are all adequately screened.	Yes

Staff recommends that the project will comply with Design Review guidelines with the addition of Special Condition 2 below. Alternatively, these modifications could be incorporated into a modified project description and addressed in the revised CEQA documentation would be prepared.

**Special Condition 2:** 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 northeast corner of the parcel; 2) sidewalk connections to the required multiuse trail from Buildings A and C; 3) a sidewalk connection between the island adjacent to the RV parking and the Building C pedestrian walkway; 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; 5) architectural detailing to the east face of Building C that is equivalent in detail to the detailing on the south face of Building B; and 6) installation of full size windows to replace transom windows in the base of all areas below a pediment wall.

City Council could require additional design treatments and/or submission of revised design plans with changes such as: more building articulation, different roof treatment or details, more windows, etc. Please see alternative façade designs submitted by applicant (Attachment 7).

**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, this finding could be made as the project provides attractive site layout and design.

**4. Provides efficient and safe public access, circulation, and parking.**

As conditioned, this finding could be made as the project provides safe and efficient access, circulation and parking.

**5. Provides appropriate open space and landscaping, including the use of water efficient landscaping.**

As conditioned, the project would provide open space, landscaping and use of water efficient landscaping. As noted previously in this report, the proposed stormwater catchment system would store sufficient water to irrigate the proposed landscaping elements.

The applicant has proposed to plant 11 shore pines on the southern edge of the project site. However, the applicant has proposed that these be trees be planted on the adjacent parcel. While the trees are illustrated in the site elevations, they are not shown on the landscaping plan. In order to proceed with this option, staff recommends new Special Condition 18 below.

**Special Condition 18:** Prior to issuance of the building permit, the applicant shall resubmit project site plans and elevations and the landscaping plan to illustrate the eleven shore pines. Additionally, prior to the final of the building permit the applicant shall record a landscaping easement on the adjacent property of at least twenty feet in width to accommodate the proposed landscaping and the shore pines shall be planted.

**6. 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, and as noted below in this report, the project conforms with all policies and programs of the Coastal General Plan and the certified LCP, except that the City Council must interpret Policy LU-4.1, discussed below, to determine if the project conforms with this policy.

## **7. Complies and is consistent with the City's Design Guidelines.**

As conditioned, the project complies with the City's Design Guidelines and this finding could be made. Please see Table 3 above for the complete analysis of the conformance with the City's Design Guidelines.

### **C) Design given gateway location**

In 2014, the City Council adopted a new Inland General Plan which addressed the issue of gateway design within the inland area of Fort Bragg. The City's Local Coastal Program (LCP) has not yet been modified to include the gateway policy.

The gateway policy from the Inland LUDC follows:

Policy CD-3.2 Gateway Development: Encourage a higher quality of development at the City's gateways.

Program CD-3.2.1: Consider adopting the following standards for Gateway Developments in the Citywide Design Standards:

- Define gateway development as development located south of the Noyo Harbor Bridge or north of the Pudding Creek Bridge.
- Gateway development should not detract from views to the ocean.
- Signage should be modest in scale and should not block the viewshed.
- Significant landscaping shall be installed to reinforce the transition from a wilderness environment to an urban environment in gateway development. Landscaping should include trees and drought tolerant plants. Lawns are discouraged.
- Site design should include open space around the periphery of the gateway development to reinforce the transitional quality of the area.
- Site design should include installation of bike lanes and sidewalks.
- Gateway development should model Green Building techniques and materials.

This policy cannot be applied to this project because this project is located in the Coastal Zone and this policy has not been adopted into the Coastal General Plan through a Local Coastal Program update. Regardless, the project generally complies with the standards of the Inland General Plan policy for gateway development.

## **4. Lot Line Adjustment ("LLA")**

### **A) Adequacy of the submitted application and fee for the LLA**

Section 17.80.040 – Lot Line Adjustment in the Coastal LUDC states that:

The Director (of Community Development) and the City Engineer are authorized and directed to administer and enforce the provisions of this Article (Chapter 17.80 Subdivision Regulations) and applicable provisions of the Map Act for subdivisions within the City, except as otherwise provided by this article.

Table 7-1 of the Coastal LUDC notes that the Director is the Decision Authority for LLAs and that City Council is the Appeal Authority. As this project has been appealed to the City Council, staff requested that the applicant complete a legal description and tentative map for the proposed LLA (see Attachment 6), so that the City Council could make a determination about this LLA..

The applicant has paid for all project permits including the LLA through a Development Deposit Account. Please review LUDC section 17.72.160 and 17.70.040 B for the requirements. In both instances, payment through a Developer Deposit account is required for projects with an MND.

## **B) Adequacy of the submitted documents for effective review of the LLA application**

Coastal LUDC Section 17.84.040a indicates that the required application is as follows for a Lot Line Adjustment:

- A. **Application requirements.** An application for a Lot Line Adjustment shall be filed with the Director and shall include the information required by the Director, together with the processing fee specified by the City Fee Schedule.

The applicant paid the processing fee as specified above through a Developer Deposit account. The applicant confirmed via email that their application included an LLA application and staff requested that the proposed LLA be illustrated as part of Sheet G1, where it is aptly illustrated. Typically, this is sufficient information for the Planning Commission to approve the Coastal Development Permit that is required for the subsequent approval of the LLA by the Community Development Director (the approval authority for LLAs) and recordation of the Lot Line Adjustment. However, as this entire project has been appealed to the City Council and as the City Council has appeal authority for LLAs, a complete legal description, title report and Tentative Map have been required.

The Director of Community Development and the Director of Public Works reviewed the legal description, title report and Tentative Map and determined that they are correct.

## **5. Visual Impact**

### **A. Compliance with Coastal General Plan Policy CD-1.1**

The project was analyzed for compliance with Policy CD-1.1 in the staff report to the Planning Commission. This analysis is excerpted and expounded upon below:

**Coastal General Plan Policy CD-1.1: Visual Resources: Permitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance scenic views in visually degraded areas.**

“Protect Views to and along the ocean.” 90 percent of the proposed project will not interfere with views to or along the ocean from the public rights of way because there are no ocean views across a majority of the site. A distant filtered ocean view is visible at the very northernmost 50 feet of the proposed project site, if one looks directly west across the property from Highway 1. This distant ocean view is filtered by trees and residential development. It is visible from a southbound vehicle if a driver or passenger looks over their right shoulder and behind them (i.e., to the northwest) as they pass the Emerald Dolphin Inn. The ocean is visible from the northbound lane if a driver or passenger looks directly to the west at that location. Additional distant views of the ocean can be viewed across the southern portion of the applicant’s property (not across the project site) from a location about 0.34 miles up Highway 20. As the proposed project site is located to the north of the Highway 1/Highway 20 intersection, the project would not block views down the Highway 20 corridor. The project has been designed as two buildings that are at right angles to Highway 1 with

a parking lot in between. This design is intended to minimize the view of the development from Highway 1 and to allow for views through the development to the knoll and fields to the west. As discussed above in the section on the MND, staff recommends additional visual analysis to address the distant filtered ocean view.

“Minimize alteration of natural landforms.” The proposed project would alter the small knoll atop the Hare Creek site by eliminating about 30% of the easternmost slope of the knoll. In total, about 20,000 cubic yards of material would be graded as part of the proposed project. The applicant has proposed to stockpile the graded material on site, however the stockpiling of the material would result in extra grading which is not consistent with Policy CD-1.5 (see page 10) and so the material stockpile is not allowed. The applicant has proposed a cut slope that is rectilinear and would look “man made.” Please see G-6 of the Plan Set for a cross section of the grading area through the knoll and a cross section of the grading as viewed from Highway 1 north to south. Staff recommended Special Condition 1 in the Planning Commission staff report to address this concern.

**Special Condition 3:** 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.

The applicant sited the project as close to Highway 1 as possible in order to minimize alterations to this knoll and to confine the project to the area that is zoned commercial retail. Due to the size of the project and the configuration of the area zoned for Highway Visitor Commercial uses, the project was sited fairly close to Highway 1 as noted in the MND. Some of the visual impact of the development would be minimized by the grading, as the parking lot would be located behind a berm (left after the grading) and screened by landscaping.

“To be visually compatible with the surrounding area.” The proposed project is a shopping center directly across Highway 1 from another shopping center. There are a variety of commercial buildings along Highway 1 south of Noyo Bridge that demonstrate a variety of architectural styles and levels of finish and design (See Attachment 5). A finding of visual compatibility could be made, as the proposed project is visually compatible with these existing commercial projects from a design and orientation perspective.

“Where feasible, to restore and enhance scenic views in visually degraded areas.”

This project site is not in a visually degraded area so this portion of the policy does not apply.

## **B. Compliance with Coastal General Plan Policy CD-1.5**

**Coastal General Plan Policy CD-1.5:** All new development shall be sited and designed to minimize alteration of natural landforms by:

1. **Conforming to the natural topography.**
2. **Preventing substantial grading or reconfiguration of the project site.**
3. **Minimizing flat building pads on slopes. Building pads on sloping sites shall utilize split level or stepped-pad designs.**
4. **Requiring that man-made contours mimic the natural contours.**
5. **Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.**
6. **Minimizing grading permitted outside of the building footprint.**
7. **Clustering structures to minimize site disturbance and to minimize development area.**
8. **Minimizing height and length of cut and fill slopes.**
9. **Minimizing the height and length of retaining walls.**

About 50% of the project site retains the natural topography (see Sheet G2 of Attachment 7 of the Planning Commission Staff Report), the remainder of the site will be extensively graded. As noted above, a knoll would be partially removed to accommodate the development. Strict adherence to portions of Policy CD-1.5 (sub-bullet 1 & 2) would conflict with Policy CD-1.4 and Policy CD-2.5 on this site, as the development of this project on top of the knoll without grading the site would increase the visual impact of the development from Highway 1 as the buildings would have to be built on top of the existing grade. The proposed project minimizes impacts to visual resources by grading a portion of the site so that the buildings and the parking lot will tuck slightly behind a berm that will remain between the eastern edge of the parcel and Highway 1 (see Attachment 7 cross-sections of the Planning Commission staff report). The project includes installation of a retaining wall along the east side of the parking lot and Building C as the parking lot will be located about 4 feet below the current top of grade. The natural berm and the landscaping strip will help to screen the parking lot from the view on Highway 1. The Coastal General Plan includes the following policy:

**Coastal General Plan Policy 1-2: Where policies within the Coastal General Plan overlap or conflict, the policy which is the most protective of coastal resources shall take precedence.**

Consistent with Policy 1-2, staff recommended in the staff report to the Planning Commission that Policy CD-1.1 and CD-2.5 take precedence over Policy CD-1.5 sub-bullet 1 & 2 and that a finding could be made that the project had been sited and designed to “minimize” alteration of natural landforms to the degree possible. The City Council should consider whether CD-1.1 and CD-2.5 take precedence over Policy CD 1.5 sub-bullet 1 & 2.

**Special Condition 3**, above, would ensure that the graded slopes blend with the existing terrain of the site. In total, the project would result in the grading and eventual relocation of about 20,000 cubic yards of soil, a significant amount of material. The applicant proposes to stockpile 18,000 cubic yards of soil on site for later reuse or to sell as fill to other contractors (see Attachment 7 of the Planning Commission staff report). The applicant proposes to retain the graded soil in a three foot tall berm of 400 feet in length and width. This would conflict with CD-1.5 (6) which requires minimization of grading outside the building footprint. Therefore in order to comply with CD-1.5, staff recommends Special Condition 4.

**Special Condition 4:** The 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.

Additionally, the revised environmental document would need to address potential traffic and GHG emission impacts related to the hauling of materials off site.

### **C. Compliance with Coastal General Plan Policy CD-2.2**

**Coastal General Plan Policy CD-2.2 Large Commercial Development:** Ensure that large commercial development, such as shopping centers, big box retail, and mixed use development, fits harmoniously with the scale and design of existing buildings and streetscape of the City.

Please see the discussion for Policy LU-4.1 and the discussion regarding visual impacts in the Mitigated Negative Declaration and below in the Design Review analysis of this staff report.

### **D. Compliance with Coastal General Plan Policy CD-2.5**

**Coastal General Plan Policy CD-2.5 Scenic Views and Resource Areas:** Ensure that development does not adversely impact scenic views and resources as seen from a road and other public rights-of-way.

See response to Policy CD-1.1 above, the visual analysis section of the Planning Commission staff report and the visual analysis section of the MND.

### **E. Compliance with Coastal General Plan Policy CD-2.8**

Staff did not analyze the proposed project with respect to Policy CD-2.8 in the staff report to the Planning Commission, because the proposed project is not a strip development.

**Policy CD-2.8 Strip Development:** Discourage further strip development along Main Street. Strip development is typically characterized by street frontage parking lots serving individual or strips of stores or restaurants, with no provisions for pedestrian access between individual uses and buildings arranged linearly.

The proposed project does not qualify as strip development because it includes provisions for pedestrian and bicycle access to and through the project site, the parking lot is located in the middle of the site and is not a street frontage parking lot, and the buildings are not arranged linearly.

## **6. Use Permit**

### **A. Compliance with various Use Permit findings.**

The proposed shopping center requires a Conditional Use Permit. In order to approve a Use Permit for this project, the City Council must make the findings outlined below. As noted below, staff recommended that the findings can be made.

**Table 5: Use Permit Findings**

<b>Use Permit Findings (Section 17.71.060)</b>	<b>Proposed Project Compliance</b>
1. The proposed use is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program;	This finding can be made if the Council determines that the project, as conditioned, complies with Policy LU-4.1 of the Coastal General Plan. The project is consistent with the remainder of the Coastal General Plan as conditioned.
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;	This finding can be made. As analyzed throughout this staff report, the project as conditioned complies with the CLUDC.
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;	The finding can be made. The proposed shopping center would be located across the street from a large existing shopping center. Additionally the adjacent vacant property is zoned Very High Density Residential and Highway Visitor Commercial and the proposed shopping center, as conditioned, is compatible with these adjacent zoning districts.
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	This finding can be made. The site is physically suitable in terms of location, shape and size for the proposed use. As conditioned the project design would be appropriate for the site. Staff consulted with the Police Department and Fire Department and neither indicated any cause for concern with regard to health or safety.

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.	
<p>5. The proposed use complies with any findings required by Section 17.22.030 (Commercial District Land Uses and Permit Requirements). Section 17.22.030C4 includes the following additional findings:</p> <p>4. CG (General Commercial) district.</p> <ul style="list-style-type: none"> <li>a. The use is generally oriented to clients arriving by auto rather than pedestrians;</li> <li>b. The uses generally require larger display and/or storage areas; and</li> <li>c. The use is not dependent on heavy customer traffic per square foot.</li> </ul>	<p>This finding can be made</p> <ul style="list-style-type: none"> <li>a. The use is oriented towards clients arriving by car,</li> <li>b. The use does require larger display areas; and</li> <li>c. The proposed use (a shopping mall) is not dependent on heavy foot traffic.</li> </ul>

## 7. Site Access

### a) Compliance of Bay View Avenue street design with CLUDC requirements.

The Coastal LUDC does not regulate street design. Rather street sections can be found in the City's street standards. The project plans illustrate two 12 foot travel lanes, an 8 foot parking lane, and an 8 foot sidewalk improvement along the eastern alignment of the street. The applicant has proposed that the sidewalk and parking along the western alignment of the street be developed when the parcel to the west is developed. Compliance with the City's Street Standards is analyzed in the table below.

**Table 6: Compliance with Street Standards**

Item	Street Standard	Proposed Project	Compliance
Travel lane width	12 feet	12 feet	Yes
Parking lane width	8 feet	8 feet	Yes
Bike Lane	6 feet	8 feet dedicated Multi-Use	Yes
Sidewalk	6 feet	8 feet	Yes
Street grade	Less than 7 percent	Less than 7 percent	Yes

### b) Potential impact of Hare Creek Street on drainage patterns such that substantial erosion would occur to the course of a river of a stream or which would result in flooding on or off site.

The MND appeal expresses concern that the MND did not adequately explore the potential impact of the construction of Hare Creek Street. This issue did not come up during the hearing process, nevertheless staff has analyzed this potential issue below. The appeal mistakenly assumed that construction of the access road would extend all the way to Bay View Ave. This is incorrect. As illustrated on the site plans, the applicant proposes to construct street improvements only along the western edge of the project site, the street would dead-end just after the last truck turn aisle onto the project site. Most of the stormwater from the proposed access road would flow to Ocean View Drive to the north (see G3 of the project plans). Additionally, due to the project design, the quantity of stormwater that flows to Ocean View Drive in a large storm event is actually less post-construction than pre-construction, because all of the stormwater from the project site (except for that from the road) would be infiltrated on



site instead of sheet flowing to Ocean Avenue. As noted on Sheet G5, the post construction stormwater flow (from a large storm event) to Ocean View Avenue would be 20,444 SF at a coefficient of runoff of 1, compared to preconstruction of 89,183 SF with a coefficient of 0.3. The stormwater captured on the southern portion of the access road would be infiltrated via the 1040 LF infiltration trench. The trench is designed to infiltrate 100% of stormwater from the site in a ten-year storm. The City's Coastal LUDC requires 20% infiltration in a ten year storm. As noted in the MND on page 30 the proposed project would not alter the existing drainage patterns sufficiently to result in a significant impact on erosion, streambeds, or otherwise.

The appeal also expresses concern about "toxic runoff" from the proposed Hare Creek Street into Hare Creek. As noted above, the stormwater from the access road will not runoff into Hare Creek. Additionally, as noted on G5 of the project plans, the project includes stormwater filter areas which will filter out contaminants. Additionally, all stormwater flows from City streets are regulated under the City's MS-4 permit.

The appeal raises a concern that the project would create potential habitat for mosquitoes or other vectors. While this issue was not raised during the hearing process, the following analysis is provided. (See sheet G5 and L-1.1 of the project plans). The proposed project would be graded so that all stormwater flows to an infiltration system as illustrated on sheet L1.1. The proposed infiltration system would include a system of natural stormwater treatment areas with plants and trees planted in a permeable soil base, located above filter fabric, a layer of gravel and perforated pipes that will collect, pretreat and infiltrate stormwater. The stormwater would then flow through a system of pipes to the infiltration trench. None of these systems, save for the treatment area are open to the air. Water would be kept from ponding in the infiltration areas through the use of a special drain that would drain any ponding water.

## Analysis of Table 2 Issues

Issues 9, 10, and 11 below (from Table 2) were either discussed during the public hearing process, but that were not part of either applicants appeal or vis-versa. Accordingly, staff has included an analysis of these issues for Council and the public information.

### 8. Visual Impact

#### A. Buildings are too close to Highway 1

**Zoning Standards.** The relevant site development zoning standards for the General Commercial zoning district are highlighted in Table 4 below and the proposed project conforms with the listed standards except for the front setback.

**Table 4: Conformance with Basic Zoning Standards**

Development Standards	CLUDC Requirements	Proposed Project	Compliance
Front Setback	10 Ft	19'8"	Yes, except five stormwater catchment/storage tanks are located within the front setback.
Side Setbacks	10 Ft	13'	Yes
Rear Setbacks	None	13'	Yes
FAR	0.40	0.21	Yes
Height Limit	35 Feet	26'8"	Yes
Lot Coverage	No limitation	85%	Yes

As noted above, the water storage tanks are located within the front setbacks. Generally, utility and mechanical equipment must comply with the setback requirements. Section 17.30.100F allows the Community Development Director to approve an exception to the requirement in cases where there is no feasible alternative location that complies with the setback requirements. Based on the current plans, the Community Development Director has determined that there is no feasible alternative location for the water tanks proposed for the western side of Building A or Building B because the water storage tanks must be at the lowest points of the property in order to effectively drain the roofs and tie into the stormwater management system for tank overflow. As an exception to the setback requirements for these stormwater catchment and storage tanks is needed, staff recommends **Special Condition 5** below:

**Special Condition 5:** Prior to issuance of the Building Permit, the Community Development Director shall review the final building plans and determine whether an exception to setback requirements is required for the smaller stormwater catchment tanks.

## **B. Visual analysis photos should include water tanks in renderings**

The proposed visual analysis photos from Highway 1 include the water tanks in the renderings. Please see the photos below.



Water catchment tanks



Water catchment tanks

## **9. Compliance of the proposed project with Coastal General Plan Policy LU-4.1**

**A) Possible impact of the proposed project on the sales and economic vitality of other grocery stores in Fort Bragg**

**B) Possible impact of the project on empty store fronts in downtown Fort Bragg and the potential for urban blight**

**C) Possible impact of the project on the performance of retail stores in downtown Fort Bragg**

Compliance with Coastal General Plan LU-4.1 was analyzed in the staff report for the Planning Commission and is provided below.

**Coastal General Plan Policy LU-4.1 Formula Businesses and Big Box Retail: Regulate the establishment of formula businesses and big box retail to ensure that their location, scale, and appearance do not detract from the economic vitality of established commercial businesses and are consistent with the small town, rural character of Fort Bragg.**

The policy is focused specifically on the “location, scale and appearance” of big box retail, and the following analysis addresses whether: 1) the proposed project qualifies as Formula Retail and/or Big Box Retail, and 2) the location, scale and appearance of the proposed project detract from the economic vitality of established commercial businesses, and 3) the proposed project is consistent with the small town rural character of Fort Bragg.

### **1. Does the proposed project qualify as Formula Business and/or Big Box Retail?**

Grocery Outlet is a formula business, as a Formula Business is defined in the Coastal LUDC as:

“A business which is required by contractual or other arrangement to maintain standardized services, décor, uniforms, architecture, signs or other similar features. This shall include, but not be limited to retail sales and service, and visitor accommodations.”

Big Box Retail is defined as follows by the Coastal LUDC:

**Big Box Retail.** A large formula retail establishment that is generally located on an arterial or collector roadway, requires a site of one acre or larger, and generally contains one or several businesses or structures totaling 30,000 or more square feet. They may operate as stand-alone facilities, but also in a type of shopping center called a “power center” or “value mall” having common characteristics including large warehouse-sized buildings and a reliance on auto-borne traffic. Warehouse retail stores that emphasize the packaging and sale of products in large quantities or volumes, some at discounted prices, where products are typically displayed in their original shipping containers. Patrons may be required to pay membership fees.

The proposed project conforms with some aspects of this definition, as follows:

1. Located on an arterial roadway (Highway 1);
2. Requires a site of three acres;
3. Contains several businesses that may operate as stand-alone facilities;
4. The project includes a large warehouse-sized building and relies on auto-borne traffic; and
5. Grocery Outlet will emphasize sale of products in large quantities and at discounted prices.

However, the project does not conform with some aspects of this definition, as follows:

1. It is not “a” large format retail establishment but would consist of 5 retail establishments, the largest of which at 15,000 square feet would not qualify as a Big Box retailer.
2. The project does not qualify as a power center. Wikipedia defines a power center as a shopping mall of more than 250,000 SF. At 29,500 square feet, the proposed project does not qualify as a power center.

The Planning Commission Staff Report recommends that the project is not Big Box Retail, which is consistent with the determination that the Boatyard Shopping Center is not Big Box Retail.

Thus, Policy LU-4.1 would apply to the proposed project as the project is a Formula Business. However, Policy LU-4.2, which requires preparation of a fiscal and economic analysis as part of the conditional use permit process for Big Box Retail project, does not apply to the proposed project since it is not Big Box retail.

2. Does the location, scale, and appearance of the proposed Hare Creek Center detract from the economic vitality of established commercial businesses?

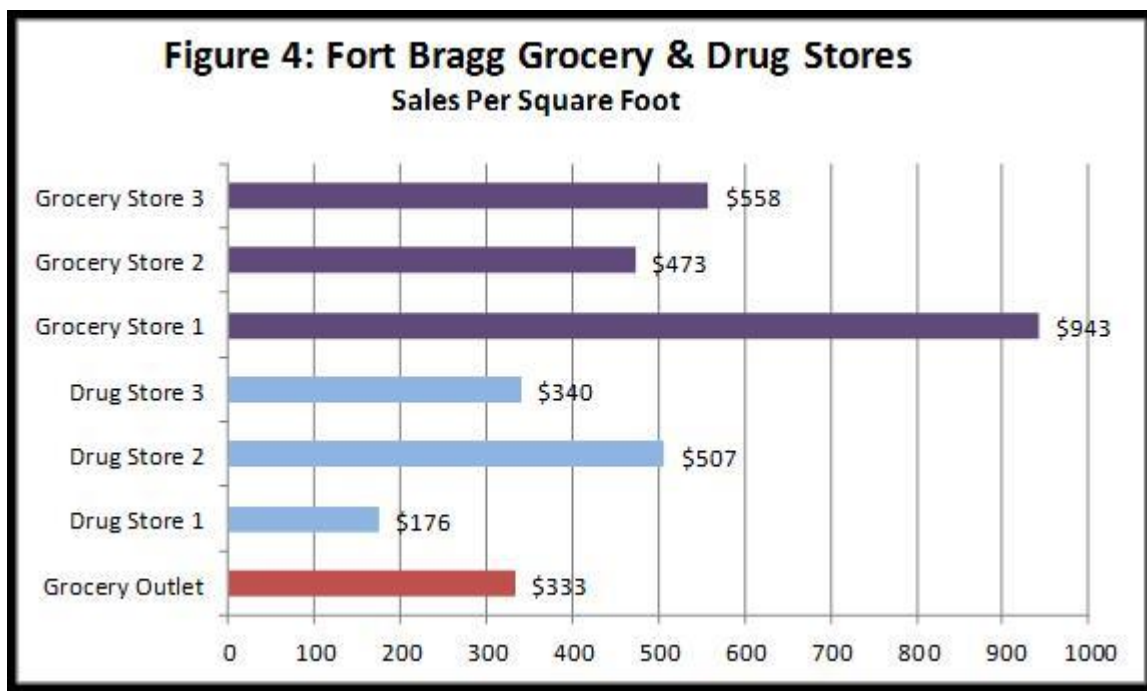
**Location.** The proposed Hare Creek Center would be located directly west of the only other large shopping center in Fort Bragg, the Boatyard Shopping Center. The proposed location of the Hare Creek Center would likely result in competition for retail tenants of the Boatyard Shopping Center, as well as other larger format and formula business tenants along Main Street in Fort Bragg. Please see the discussion below regarding economic vitality.

**Scale.** Scale is a somewhat ambiguous term as it could be applied to the physical features of the project, especially as it is in a list that includes appearance and location (also physical descriptors), or it could apply to the scale of the business in terms of total sales. Staff has prepared an analysis of both.

- **Physical Scale.** As noted previously the proposed Hare Creek Center is smaller than the Boatyard Shopping Center and similar in size to the Franklin Street Strip Mall, as shown in Figure 2 above. Additionally, the size and scale of individual buildings of the proposed Hare

Creek Center (Buildings A, B and C) are consistent with other larger format retail buildings in Fort Bragg as shown in Figure 3 above.

- **Scale of Sales.** The typical Grocery Outlet (nationwide) has \$5 million in sales/year, which represents approximately 7% of total Fort Bragg grocery sales of \$60 to \$70 million per year. By comparison, Dollar Tree, a relatively new retailer to Fort Bragg will gross about \$2 million. Together these two new retailers would attract about 8%<sup>2</sup> of total retail grocery sales in Fort Bragg. Some of these sales may be substitution sales (from shoppers who shop locally instead of online or by traveling to “stock up” on basic supplies out of town) and some will replace sales currently made by other local grocery and sundry retailers. Given the price point and quality of goods at Grocery Outlet<sup>3</sup> the store is most likely to compete with Safeway and less likely to compete with either Purity or Harvest Market.



At \$5 million in sales, the majority of these sales (\$3+ million) would come from Safeway shoppers as Grocery Outlet serves a similar market and provides similar products to Safeway. Purity is less vulnerable to competition from Grocery Outlet because it primarily serves local residents with limited mobility or people who are just picking up a few items and don't want to go to the larger grocery stores south of town. Harvest Market and Down Home Foods serve a different demographic and their customers would be less likely to shop at Grocery Outlet.

<sup>2</sup> A significant portion of Dollar Tree sales are not in the grocery category and thus are not included in the 8% estimate.

<sup>3</sup> Grocery Outlet operates 210+ stores in California, Oregon, Washington, Idaho, Nevada and Pennsylvania. Grocery Outlet's inventory comes primarily from overstocks and closeouts of name brand groceries, as well as private label groceries. The stores also carry food staples such as fresh meat, dairy and bread. Grocery Outlet sells many products past their expiration date, per their agreements with specific manufacturers. For example many cheese products are held thirty days past their expiration date. In 2014, Grocery Outlet opened 16 new stores, including locations in Willits, Ferndale, Chula Vista, Fresno and Turlock. Each new store adds about \$5 million in revenue and 40 non-union jobs.

**Appearance.** The project includes some design features to soften and detail the large format retail appearance, including windows, trellises, parapets, green façades, covered walkways, historic lighting, and entrance features. The project includes entrance doors on the façade of Building C that faces the Highway. Taken together the design features are comparable to or better than other large format retail buildings in Fort Bragg. For additional analysis of the appearance please see the design review analysis in this report. Also please review the Visual Compatibility Photo Survey of surrounding buildings and other large format retail building (Attachment 5).

### ***Impact on Economic Vitality of Established Commercial Businesses***

The proposed grocery store at the Hare Creek Center is destination retail and will compete with other grocery stores and drug stores in Fort Bragg and an analysis of this potential impact is included above and concludes that the Grocery Outlet will not have a significant effect on Urban Decay and/or the economic vitality of existing commercial businesses.

However it is unknown what retailers will lease the remaining 14,500 SF of proposed retail space, and it is therefore difficult to determine if these retailers would compete with other commercial businesses. The applicant has indicated that at least one 1,000 SF space would be developed for a restaurant. The remainder of the space would potentially house a variety of retailers, at least one of which would likely be a formula business given the size of Building B. Given that it is very difficult to know what the potential future tenant of this large space is likely to be, the analysis below assumes that 75 percent of the sales by tenants in the proposed retail space would compete directly with other existing commercial retailers in Fort Bragg. The remainder of sales would by default be capture of sales dollars that currently leave Fort Bragg, either by competing retailers outside of the City Limits or by retailers on the internet.

As mentioned above, staff has conservatively assumed therefore that 75% of the sales from these tenants would compete with existing commercial businesses in Fort Bragg. Taxable retail sales (excluding grocery sales) amount to \$173 million/year. If the remaining proposed unleased 14,500 SF averages \$150/sales per year and 75% of these sales come from customers who would have otherwise shopped at another commercial business within City limits, then the project would reduce retail sales by \$1.6 million or less than 1% of all retail sales within the City of Fort Bragg.<sup>4</sup> Even if all sales from the 14,500 SF of retail space at (\$2.1 million) came from customers who would have shopped with other commercial businesses in Fort Bragg, the impact would be 1.2% of sales. Nevertheless the proposed project would result in some reduction in sales for some businesses. At this time, as it is unknown what businesses might go into the Hare Creek Center, it is not possible to determine whether the impact of the project would detract from the economic vitality of specific established commercial businesses or not. However given the overall small impact (less than 1%) on total sales, it seems fair to say that the proposed project would not detract from the economic vitality of established commercial businesses generally.

### **Is the project “consistent with the small town rural character of Fort Bragg”?**

The mission of the Coastal General Plan is to “preserve and enhance the small town character and natural beauty that make the City a place where people want to live and visit, and to improve the economic diversity of the City to ensure that it has a strong and resilient economy which supports

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<sup>4</sup> Please note that in the Planning Commission staff report, staff compared the impact of the Hare Creek Center on downtown retail sales. However, upon careful review of the policy it is clear that the policy intent is to determine the potential impact on all commercial businesses, not just downtown retail sales and staff has revised the analysis above accordingly. The potential impact on downtown retail sales is better explored in the MND under the urban decay analysis. See # 12 analysis of this staff report.

its residents... and embraces its past and prepares for the future.” The General Plan provides the following relevant additional concepts to articulate a vision of Fort Bragg.

*“Fort Bragg is:*

- 1) A city which strives to create an environment where business and commerce can grow and flourish.*
- 2) A city that embraces its role as the primary commercial and service center on the Mendocino coast.*
- 3) A city which promotes itself as a tourist destination and which provides the necessary infrastructure and services to support a growing population of transient visitors.*
- 4) A city that supports efforts to preserve and strengthen the vitality of commerce in its central business district.*
- 5) A city that fosters a business climate which sustains and nourishes the growth and expansion of local businesses and cottage industries.”*

The determination as to whether or not the project is consistent with this vision is somewhat subjective and a matter of Council discretion.

In conclusion, Policy LU-4.1 indicates that the City should “regulate the establishment” of formula businesses and big box retail to ensure that their location, scale, and appearance do not detract from the economic vitality of established commercial businesses. From the analysis above, the location, the appearance and the physical scale of the proposed Hare Creek Center project would not detract from the economic vitality of established businesses. However the “scale” of sales from the proposed development could detract from the economic vitality of some established businesses, most notably Safeway (which is another formula retailer).

It can be argued that scale refers to the size of the buildings not the amount of sales, especially as scale is listed concurrently (within the policy) with other physical attributes of a project (location and appearance). Additionally, the policy does not explicitly include “sales” in the list of concerns to be addressed but obliquely references it with the mention of “economic vitality.” On the other hand, the City Council could interpret scale to mean the sales of the business, in which case the Grocery Outlet would have some economic impact on existing business in Fort Bragg. It should be noted, however, that this is true of any new business that comes to town. The question before the City Council is: Would the “scale” of the project “detract from the economic vitality of established commercial businesses” to a degree that it would violate Policy LU-4.1 and consequently require imposition of additional conditions or warrant denial of the application?

## **10. Public Access**

### **A) Consider special condition to extend the multi-use trail so that it connects to the Hare Creek Beach trail (MLT)**

As indicated in the Planning Commission Staff Report, the project applicant dedicated a 25 foot wide public access easement to Hare Creek as part of a previous subdivision process for this site. The proposed project would likely result in additional use of the public access trail to Hare Creek which has been accepted and developed by the Mendocino Land Trust. The project would not interfere with public coastal access.

The Mendocino Land Trust has requested that the Multi-Use Trail be extended from the site all the way to the Hare Creek beach access trail (managed and owned by the Mendocino Land Trust).

## **11. Fiscal Impacts**

### **A. Retail sales tax receipts from proposed project**

The proposed project is estimated to result in approximately \$7.1 million in retail sales, however most of these sales would be from grocery items which are non-taxable. Only about 30% of all sales (from existing Fort Bragg grocery stores) are of taxable items. Thus, the project would likely result in retail sales of about \$1.5 million in taxable items from the grocery store and an additional \$2.1 million in taxable sales from the other retailers at the Hare Creek Center, resulting in total taxable retail sales of \$3.6 million per year. The City would receive 1.5% of this retail sales tax for the General Fund, Streets & Alleys Repair Fund and CV Starr Enterprise Fund, which is estimated to total about \$54,000 in retail sales tax per year. About half of these revenues would be from sales that would have been made within the City of Fort Bragg without the project. Thus, new sales tax revenue from the project is estimated at about \$27,000 per year. Additionally, the project would generate revenues to the City through the annual business license fee.

## **12. Mitigated Negative Declaration**

### **A. Possible impacts on downtown retail and possible urban decay**

The MND did not include an Urban Decay Analysis, however the staff report to the Planning Commission did include an analysis of the potential impacts of the project on the City's downtown businesses, which is excerpted and expanded upon below.

CEQA allows the City to consider the potential economic impacts of the project in the environmental review process in accordance with Section 15064(e) which states:

"Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project."

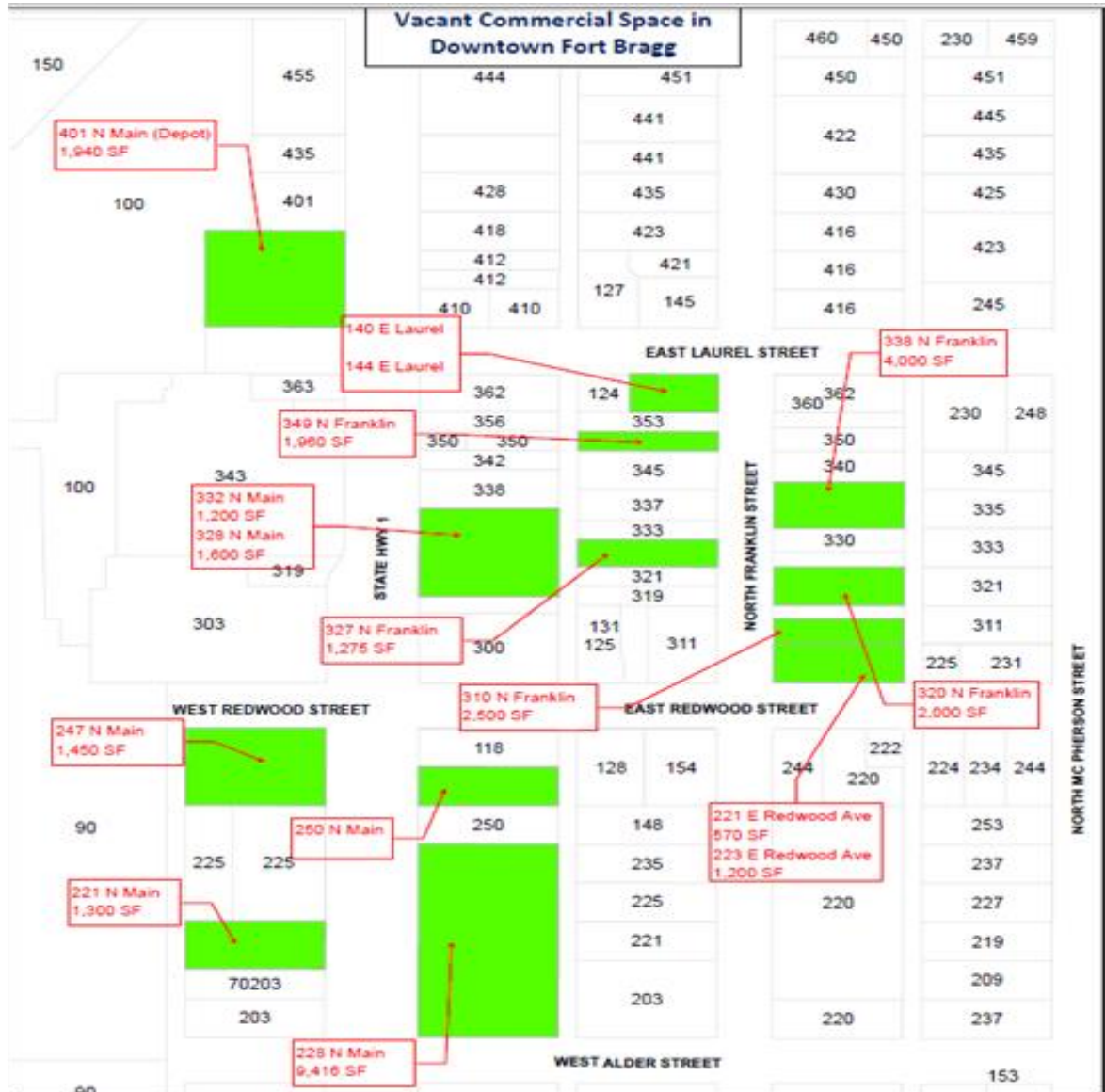
Thus, under CEQA, economic impacts on existing retailers cannot be considered unless these impacts have an indirect impact on the physical (built) environment. The relevant question is: would the project result in Urban Decay of the downtown, by increasing vacancy rates which could eventually result in the decay of the physical buildings in downtown?

As noted in the staff report to the Planning Commission, the proposed grocery store will compete with other grocery stores and drug stores in Fort Bragg. In terms of Urban Decay in the downtown, the relevant question is: what is the potential economic impact of the proposed Grocery Outlet on Purity Market, and is the impact sufficient to cause Purity to go out of business and thereby possibly contribute to the urban decay of downtown? As noted above the proposed Grocery Outlet is most likely to compete with Safeway and the economic impact on Purity Market is anticipated to be less than significant. Additionally, Purity Market has, over the course of years, survived the establishment and expansion of many competing grocery businesses including: Safeway, Harvest Market, Rite Aid, Long's (CVS), and a variety of smaller specialty grocery stores.

It is not known what retailers will lease the remaining 14,500 SF of proposed retail space at the Hare Creek Center. It is therefore difficult to determine if these retailers would compete with downtown businesses and/or if space in the proposed center would be leased to a downtown



business and therefore result in additional vacant space in the downtown and eventual urban decay. The applicant has indicated that at least one 1,000 SF space would be developed for a restaurant. The remainder of the space would potentially house a variety of retailers, at least one of which would likely be a formula business given the size of Building B. Given that it is very difficult to know what the potential future tenant of this large space is likely to be, in the analysis below, staff has assumed that half of the sales by tenants in the proposed retail space would compete directly with downtown retailers. This is conservative because the Hare Creek Center would provide destination and formula retail space and not the type of retail experience more typical of downtown. As mentioned above, the analysis conservatively assumes that 50% of the sales from new tenants would compete with existing retailers in Downtown Fort Bragg. Downtown Fort Bragg has



**Figure 1: Vacant Retail and Office Space in Downtown Fort Bragg.**

significant retail diversity which includes: galleries, restaurants, gift stores, toy stores, stationery supplies, hardware, antiques, furniture, personal services, and more. Retail sales from Downtown retailers total an estimated \$25,500,000/year (at \$150/SF/year). If the remaining proposed unleased 14,500 SF averages \$150/sales per year and half of these sales come from customers

who would have otherwise shopped in the downtown, then the project would reduce downtown retail sales by \$1,087,000 or 4.2% of all retail sales. This amount is the upper limit of impact on retail sales, and the actual impact could be less. Nevertheless the proposed project would result in some reduction in sales for some businesses. At this time, as it is unknown what businesses might go into the Hare Creek Center, it is not possible to determine whether the impact of the project would result in business closure, increased vacancy and eventual urban decay.

As shown in Figure 1, there are 13 vacant storefronts in Downtown Fort Bragg which together total about 30,000 SF of vacant space. Two of these spaces (totaling 3,000 SF) are leased and will be occupied within the next two months. The old BofA building is the largest vacant space at 9,000 SF and is an office space and so would not be impacted in terms of leasability by the opening of the Hare Creek Center. Thus there is 18,000 SF of vacant retail space in downtown Fort Bragg, which is about 4% of all retail space in the downtown (estimated at 440,000 SF). This 18,000 SF of retail space might be slower to lease due to the Hare Creek Center. The Hare Creek Center would add 4,500 SF of small tenant retail space that would compete with the 19,000 SF of vacant space in the downtown for some types of tenants. Thus the Hare Creek Center could have a minimal impact on the rate that vacant space is leased in downtown.

Based on the evidence presented herein, the project is not expected to result in indirect physical changes to the downtown, and more specifically would not result in urban decay. However, should Council direct staff to revise the environmental document, this analysis would be included.

#### **b) Concern that a geotechnical report is needed**

This concern, while raised by the Oberweiser Appeal, did not come up during the hearing process, therefore it should not be considered as part of the appeal process. Nevertheless, the following information is provided to clarify that the issue has been addressed. As noted in the MND, a Geotechnical report was prepared for the project by Krazen and Associates. Mitigation Measure 8 requires that all geotechnical recommendations of the report be adhered to for site grading, compaction and preparation of engineered fill.

#### **FISCAL IMPACT:**

The applicant has paid into a Developer Deposit Account which has covered all costs associated with processing the project permits and associated CEQA document. If the project is approved, the applicant will pay capacity and connection fees for sewer and water services as well as building permit fees. While a fiscal impact analysis of this project is not required by the Code, the project is likely to have relatively few calls for service (similar to the Boatyard Shopping Center) and a relatively modest contribution of tax revenues to the City General Fund, which will likely cover these additional costs.

#### **CONSISTENCY:**

Please see attached Planning Commission staff report, this staff report and all attachments for an analysis of project consistency with City regulations.

#### **TIMEFRAMES:**

The project timeframe will depend upon direction provided by City Council.

#### **ATTACHMENTS:**

1. MND Appeal Application

2. Planning Permit Appeal Application
3. Planning Commission Minutes of January 28<sup>th</sup> Hare Creek Center project
4. Planning Commission Staff Report
  - 4.1. Site Location Map
  - 4.2. Site Photos
  - 4.3. Site Plans & Floor Plans
  - 4.4. Project Renderings & Visual Analysis
  - 4.5. Project Elevations
  - 4.6. Landscaping Plan & Plant List
  - 4.7. Grading Plan
  - 4.8. Mitigated Negative Declaration & MND Attachments
    - Attachment 1-Project Plans
    - Attachment 2-WRA, Coastal Act Compliance Report for Hare Creek Center, March, 2014
    - Attachment 3 -Urbemis, Combined Annual Emissions Report, July 30, 2014
    - Attachment 4 -Nolan Associates, Groundwater Recharge and Water Balance Evaluation, August 23, 1995
    - Attachment 5 - Angela Liebenberg, email, July 31, 2014
    - Attachment 6 - GHD, Hare Creek Commercial Center Project Traffic Impact Study Report, March 2014
    - Attachment 7 -KASL Consulting Engineers. Water Model Study for 1250 Del Mar Drive Proposed Retail Shopping Center, Oct 2014
  - 4.9. Lighting Plan
  - 4.10. Project Colors and Materials
  - 4.11. Project Storm Water Treatment Plans
  - 4.12. Resolution for Adoption of Hare Creek Center MND
  - 4.13. Resolution for Approval of DR 4-14, USP 5-14, CDP 4-14 and LLA 2-14
  - 4.14. January 20th Letter from the California Department of Fish and Wildlife
  - 4.15. January 23rd Letter from City of Fort Bragg in Response to the CDFW letter
  - 4.16. Mitigation Monitoring and Reporting Plan
  - 4.17. Letters for Planning Commission Appeal
  - 4.18. Documents received after Planning Commission packet was distributed
5. Visual Compatibility Photo Survey
6. Tentative Map and Legal Description for Boundary Line Adjustment
7. Alternative Project Façade Treatments
8. Additional Letters

**NOTIFICATION:**

1. Hare Creek Center interest list
2. Project Applicant/Appellant
3. Appellants for MND
4. Coastal Commission

**City Clerk's Office Use Only**

Agency Action      ☐ Approved      ☐ Denied      ☐ Approved as Amended

Resolution No.: \_\_\_\_\_ Ordinance No.: \_\_\_\_\_

Moved by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Vote: \_\_\_\_\_

☐ Deferred/Continued to meeting of: \_\_\_\_\_

☐ Referred to: \_\_\_\_\_