



AGENCY:	City Council
MEETING DATE:	July 25, 2016
DEPARTMENT:	CDD
PRESENTED BY:	Marie Jones

## AGENDA ITEM SUMMARY

**TITLE: RECEIVE REPORT AND CONSIDER ADOPTING CITY COUNCIL RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL BAKER INTERNATIONAL FOR PREPARATION OF HARE CREEK CENTER ENVIRONMENTAL IMPACT REPORT AND AUTHORIZING CITY MANAGER TO EXECUTE SAME (AMOUNT NOT TO EXCEED \$66,105; FUNDED BY DEVELOPER DEPOSIT ACCOUNT DDA-016)**

### **ISSUE:**

On January 28, 2015, the Fort Bragg Planning Commission considered an application by Group II Commercial Real Estate, Inc. (Group II) for a Coastal Development Permit, Use Permit, Design Review and Lot Line Adjustment to develop a new shopping center at 1250 Del Mar Drive, Fort Bragg (APN: 018-450-40, 018-450-41) known as the Hare Creek Center Project. The Planning Commission adopted a Mitigated Negative Declaration (MND) for the project, but on a 2-2 vote, effectively denied the application. On February 4, 2015, Group II filed an appeal of the Planning Commission's denial of the project; and on February 9, 2015, Edward Oberweiser, et al. filed an appeal of the Planning Commission's approval of the MND.

On March 23, 2015, the Fort Bragg City Council considered both appeals and took action to uphold the Oberweiser appeal thereby overturning the Planning Commission's adoption of the MND. The City Council denied the Group II appeal. The Council directed that staff should: 1) work with Coastal Commission staff, a Council ad hoc committee (comprised of Councilmembers Hammerstrom and Cimolino), and the applicant to consider revisions to the project design to address Coastal Commission and City Council concerns; and 2) prepare a Request for Proposals (RFP) for consultant services to prepare an Environmental Impact Report (EIR), review proposals and provide a recommendation to City Council regarding a contract with an EIR consultant.

On November 13, 2015, Group II Commercial Real Estate, Inc. submitted a new, revised application for a Coastal Development Permit, Use Permit, Design Review and Lot Line Adjustment for development of a new shopping center. The application included design changes to address some of the concerns identified at the March 23, 2015 City Council meeting. Changes to the project design included:

- 1) Reconfiguration of the site layout so that the buildings are located further back from Highway 1 and the access road is located between the buildings and Highway 1;
- 2) Reconfiguration of the Lot Line Adjustment;
- 3) Reduction in the quantity of site grading and retention of the knoll;
- 4) Retention of views to the ocean at the north end of the property;
- 5) Revisions to the external design treatments of the buildings;
- 6) Addition of more landscaping to screen the project from the highway; and
- 7) Various other changes.

Upon receipt, staff determined that the new application was incomplete and sent the applicant a “completeness letter” that identified all of the documents that would need to be submitted in order for the application to be considered complete. On March 8, 2016 the applicant resubmitted the plans with some revisions. A revised set of plans was again submitted on April 25, 2016 which addressed some inconsistencies between the original plan set and the Fort Bragg Municipal Code. The applicant still has some outstanding documents that must be submitted in order for the application to be considered complete for the purposes of the Permit Streamlining Act.

In order to process the application, the City must complete an environmental review of the project in compliance with California Environmental Quality Act (CEQA). As directed by the City Council, an EIR will be prepared for the project.

This item is brought forward for Council consideration and approval of an EIR consultant. This staff report summarizes the EIR consultant selection process and the qualifications of the recommended EIR consultant (Michael Baker International) for the Hare Creek Center EIR. This is not a public hearing on the application itself or on the project. A consultant contract is the first step in kicking off the CEQA process. The City Council will take action on the EIR and the Planning Commission will consider action on the project application only upon completion of the EIR process and once the project application is deemed complete.

The environmental and City review process will include multiple opportunities for public input on project issues. As described below, there will be at least two public hearings for the EIR itself, including on the Draft EIR to obtain public input and at the Council’s consideration of the Final EIR. Additionally, the Draft EIR will be available for a 45 day public review period.

The City Council cannot make any decision on the project prior to completion of an EIR.

#### **RECOMMENDED ACTION:**

Adopt City Council Resolution Approving Professional Services Agreement with Michael Baker International for Preparation of Hare Creek Center Environmental Impact Report and Authorizing City Manager to Execute Same (Amount Not to Exceed \$66,105; Funded by Developer Deposit Account DDA-016)

#### **ALTERNATIVE ACTION(S):**

- 1) Direct staff to re-issue the RFP to solicit proposals from additional qualified consultants; or
- 2) Direct staff to prepare a contract with DUDEK for the Hare Creek Center EIR; or
- 3) Provide alternative direction to staff.

#### **ANALYSIS:**

##### **Purpose of CEQA**

CEQA’s purpose is to disclose the potential impacts of a project, suggest methods to minimize those impacts, and discuss project alternatives, so that decision-makers will have full information upon which to base their decisions. The *CEQA Guidelines* explains CEQA’s purpose as follows:

“Identify the ways that environmental damage can be avoided or significantly reduced, prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible, and to disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.” (Section 15002(a))

**CEQA Authority**

Under CEQA, the City is the Lead Agency for the completion of the environmental review for the proposed project. CEQA requires that the Lead Agency consider an environmental document (an EIR in this case) prior to considering permits (discretionary review) for the project.

**Application Process to Date**

At the March 23, 2015, City Council meeting, City Council directed staff to initiate a procurement process for a consultant to prepare an EIR for the Hare Creek Center project after the applicant resubmitted an application for a revised project.

On November 13, 2015, Group II submitted a new, revised application for a Coastal Development Permit, Use Permit, Design Review and Lot Line Adjustment to develop a new shopping center. Staff determined that the new application was incomplete and sent the applicant a "completeness letter" that identified all documents that would need to be submitted in order for the application to be considered complete. On March 8, 2016 the applicant resubmitted the plans with some revisions. A revised set of plans was again submitted on April 25, 2016.

The applicant still has a few outstanding documents that must be submitted in order for the permit application to be considered complete. This is fairly typical of projects of this size. Over the coming months the outstanding documents must be submitted by the applicant in a timely manner in order for the project to be analyzed by staff (for permits) and the EIR Consultant (for EIR).

Group II has established a Developer Deposit Account to fund City staff activities associated with the processing and review of the Hare Creek Center application and related activities including the preparation of the EIR. The DDA currently holds a positive balance of approximately \$65,000. These funds will be utilized to pay for the EIR and all staff time associated with processing the permits.

**EIR Consultant Selection Process**

The City of Fort Bragg released a Request for Proposals (RFP) on December 17, 2015 seeking professional services for preparation of an EIR for the project (see Attachment 2, RFP). The RFP was sent to 13 environmental consulting firms located in California that specialize in preparation of EIRs (See Attachment 3, list of EIR consultants). Additionally, the RFP was posted on the City's website and distributed by third-party distributors of government RFPs, thus it is likely that other consulting firms also reviewed the RFP. All interested consultants were provided with a complete record of the project to review prior to submittal of proposals. Staff received email and phone questions from four consultant teams interested in submitting a proposal.

On February 19, 2016, proposals for the Hare Creek Center project EIR were received from Michael Baker International and DUDEK. The two proposals were reviewed, evaluated, scored and discussed by the Director of Community Development, the Director of Public Works and the Associate Planner. Proposals were evaluated on the basis of the following criteria:

- Qualifications and experience of key individuals, including the Project Manager and key analysts (30%)
- Capabilities and resources of the firm (10%)
- Project understating and detailed scope of work (25%)
- Work sample and demonstrated ability to produce an effective quality document that has an excellent summary, a minimum of authors and styles, effective, cogent and well distilled data analysis, focus on relevant issues, excellent graphics, well explained and articulated decisions, and quality control. (10%)
- Cost and schedule for completion of work (20%)

- Preference for consultant teams that include a local (Mendocino Coast) subcontractor or prime contractor on the project team (5%).

Michael Baker International's proposal was rated as the best proposal by all three reviewers on the basis of qualifications, capabilities, experience, project understanding, detailed scope of work and cost as described above. (See Attachment 6, Michael Baker International Proposal). If the contract is approved, Michael Baker International would work directly for the City and all communications regarding the project would take place through City staff.

### **EIR Content**

An EIR is required, by law, to include the following:

1. An EIR must contain a table of contents or an index to assist readers in finding the analysis of different subjects and issues.
2. An EIR must contain a brief summary of the proposed actions and its consequences. The language of the summary should be as clear and simple as reasonably practical. The summary should not exceed 15 pages and must identify:
  - a. Each significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect;
  - b. Areas of controversy known to the Lead Agency including issues raised by agencies and the public; and
  - c. Issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects.
4. The description of the project should contain the following information but should not supply extensive detail.
  - a. The precise location and boundaries of the proposed project should be shown on a detailed map, preferably topographic. The location of the project should also appear on a regional map.
  - b. A statement of the objectives sought by the proposed project.
  - c. A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.
  - d. A statement briefly describing the intended uses of the EIR which should include:
    - A list of the agencies that are expected to use the EIR in their decision-making, and
    - A list of the approvals for which the EIR will be used.
5. All the public agency's decision on a project should be listed, preferably in the order in which they will occur.
6. An EIR must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both a local and regional perspective. The description should be no longer than is necessary to understand the significant effects of the proposed project and its alternatives.
7. Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project.
8. The EIR should discuss any inconsistencies between the proposed project and applicable general plans and regional plans.
9. Where a proposed project is compared with an adopted plan, the analysis should examine the existing physical conditions as well as the potential future conditions discussed in the plan.

10. The EIR should identify all federal, state, or local agencies, other organizations, and private individuals consulted in preparing the draft EIR, and the persons, firm, or agency preparing the draft EIR, by contract or other authorization.
11. Cumulative impacts shall be discussed when they are significant.
12. All significant effects on the environment of the proposed project. The significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence.
13. Any significant effect on the environment that cannot be avoided if the project is implemented.
14. Mitigation measures proposed to minimize significant effects on the environment.
15. Alternatives to the proposed project. The Alternatives Section is very important part of an EIR as it identifies alternative project designs that could mitigate impacts. Alternatives can include alternative location and/or configuration of the buildings on the site, reduced number or size of buildings and even the alternative of no development.
16. The growth-inducing impact of the proposed project.
17. A statement briefly indicating the reasons for determining that various effects on the environment of a project are not significant and consequently have not been discussed in detail in the environmental impact report.
18. Any significant effect on the environment limited to substantial, or potentially substantial, adverse changes in physical conditions which exist within the area.
19. Previously approved land use documents, including but not limited to, general plans, specific plans, and local coastal plans.

### **Project Description and Background Studies for CEQA**

The CEQA process is started when the project is adequately defined to begin the review process. This includes submittals of site plans, floor plans, elevations and a project narrative. State planning law requires that the CEQA process and the permit application process occur concurrently. Some of the resource studies for this project have already been prepared and have been found to be adequate by the City. These include the following:

1. Coastal Act Compliance Report for Hare Creek Center, WRA, March 2014
2. Hare Creek Commercial Center Project Traffic Impact Study Report, GHD, March 2014
3. Water Model Study for 1250 Del Mar Drive Proposed Retail Shopping Center, KASL Consulting Engineers, October 2014

The applicant will hire consultants to complete the following additional studies, which will be peer-reviewed for technical quality by technical experts from Michael Baker International.

1. Drainage Study – Lee Welty Associates
2. Ground Water Recharge Study - Unknown
3. Geotechnical Study – SHN or BACE
4. Archaeology Study – Thad Van Bueren

Additional studies may be required by the City if other environmental issues are identified through the EIR scoping process or thereafter. Additionally, the applicant may be required to submit additional documents for the permit review as required by the Community Development Director.

### **CEQA Process Going Forward and Community Input**

The selected consulting firm must prepare an EIR in compliance with CEQA and the State's CEQA Guidelines. These regulations define a process to solicit community input on the potential environmental impacts that will be analyzed in the EIR. Community input will be obtained through the EIR scoping process and through public comment on the Draft EIR. See Attachment 5 for a

flow chart overview of the CEQA process and Attachment 4 for the scope of work of the consultant team for a detailed overview of the CEQA process for this project.

Some key features of the EIR process are described in further detail below:

1. The City will issue a **Notice of Preparation (NOP)**. The purpose of the NOP is to invite input from the public and other relevant agencies on the environmental topics to be addressed in the EIR. This process is called scoping. The NOP is posted on the City website, posted on the City bulletin board, and sent out to interested parties including the State Clearinghouse for distribution to appropriate State agencies. Issuance of the NOP triggers a 30-day period during which comments may be submitted on the scope of the issues to be evaluated in the EIR. Comments received on the NOP are summarized in the EIR and are taken under consideration during the EIR analysis process.
2. The City will also hold a noticed **Scoping Meeting** during the 30-day NOP period. The public will be provided information about the project and will help to identify potential environmental impacts that should be studied in the EIR. At the Scoping Meeting, the public can also suggest project alternatives to be analyzed in the EIR. Possible alternatives that could be analyzed could include different building orientations, size, locations and even number, along with the CEQA-mandated “no project” alternative. The NOP will be accompanied by an Initial Study which provides preliminary findings on the project’s potential impacts.
3. **Preparation of Draft EIR.** The consultant will prepare a Draft EIR which will be circulated for public comment for a 45-day public review period. During this period, the community will have an opportunity to provide written comments and oral comments at a public hearing. Responses to these comments will be presented in the Final EIR. The community will be notified about the availability of the Draft EIR through the publication of a Notice of Completion and a Notice of Availability and through the City’s website and email lists, a notice in the Fort Bragg Advocate News, and direct mailing to property owners located within 300 feet of the project site. The Draft EIR, along with supporting documentation, will be available for review on the City’s website. Hard copies will be available at City Hall and at the Fort Bragg Library.
4. **Preparation of Final EIR.** At the close of the 45-day public review period, the consultant will complete a Final EIR, which will include responses to all comments received within the 45-day period. The consultant will also prepare a Mitigation Monitoring and Reporting Program, which is used to ensure that all mitigation measures are carried out in the project if the project is approved.
5. **City Council Consideration of the Final EIR.** The City Council will then hold a public hearing and consider certification of the Final EIR. If the Final EIR is certified, then the project permits would go to the Planning Commission for action.
6. **Planning Commission Consideration of Project Permits.** The Planning Commission will conduct a public hearing and at the close of the hearing, the Commission will deliberate and provide direction to staff regarding project approval or denial and will direct staff to prepare a resolution for denial or approval for consideration at a later Planning Commission meeting.
7. **Appeals.** If the Planning Commission approves the project, that decision may be appealed to the City Council and/or the California Coastal Commission.

#### **FISCAL IMPACT:**

The applicant has deposited \$65,000 into a Developer Deposit Account with the City to cover costs associated with processing the project permits and preparation of the EIR.

**CONSISTENCY:**

The EIR and planning permit review process will determine if the proposed project is consistent with State and local regulations.

**TIMEFRAMES:**

The EIR process is anticipated to take between six months and a year to complete, depending on the issues identified and the speed with which the applicant provides the required resource studies.

**ATTACHMENTS:**

1. Resolution
2. Request for Proposals EIR
3. Consultant Mailing List for the RFP
4. Michael Baker International Contract & Scope of Work
5. CEQA Flow Chart
6. Michael Baker International Complete Proposal
7. DUDEK Complete Proposal

**NOTIFICATION:**

1. Hare Creek Center interest list
2. Project Applicant
3. Coastal Commission
4. Michael Baker International

**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: \_\_\_\_\_