

## RESOLUTION NO. 3771-2015

### RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING COASTAL DEVELOPMENT PERMIT AMENDMENT (CDP 10-10/14/14), DESIGN REVIEW AMENDMENT (DR 11-10/14/14), AND USE PERMIT (USP 11-14) FOR PHASE II OF THE FORT BRAGG COASTAL RESTORATION AND TRAIL PROJECT

**WHEREAS**, the City of Fort Bragg ("City") proposes to develop a park on an approximately 25 acre site ("Project Site") on the western edge of the City adjacent to the Pacific Ocean. The Project Site is bordered on the north by Fort Bragg Coastal Trail, on the east by the Georgia-Pacific Mill Site, on the south by the Fort Bragg Coastal Trail, and on the west by the Pacific Ocean. The Project Site consists of the following APNs 008-02-009, 008-01-024; and

**WHEREAS**, the project ("Project") is proposed to consist of the following: 1) site restoration of an approximately 5 acre gravel covered area; 2) construction of a 1 mile 8 foot wide multi-use trail comprised of two segments (one over the beach berm and the other around the mill pond) that would connect the north and south trail alignments of the Phase I Fort Bragg Coastal Trail project; and 3) installation of related improvements such as benches, stairs to the beach, safety signage and interpretive panels; and

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

**WHEREAS**, on August 8, 2011, the City Council certified an Environmental Impact Report (EIR) for the Project pursuant to CEQA; Title 14, California Code of Regulations, Section 15000 *et seq.* ("CEQA Guidelines"); and the City's CEQA Implementation Procedures; and

**WHEREAS**, on August 24, 2011, the Planning Commission approved Coastal Development Permit (CDP 10-10), Design Review (DR 11-10), and Variance (VAR 2-11); and

**WHEREAS**, on August 8, 2011, the City Council certified an Environmental Impact Report (EIR) for the Project pursuant to CEQA Guidelines; and the City's CEQA Implementation Procedures; and

**WHEREAS**, between August 2011 and February of 2014 the City of Fort Bragg engaged in Consultation with the Sherwood Valley Band of Pomo and redesigned the project to address tribal concerns; and

**WHEREAS**, on February 10, 2014, the City Council approved Coastal Development Permit (CDP 10-10/14), Design Review (DR 11-10/14), and Variance (VAR 2-11/14); and

**WHEREAS**, on February 10 2014, the City Council certified a Subsequent Environmental Impact Report (SEIR) for the Project pursuant to CEQA; Title 14, California Code of Regulations, Section 15000 *et seq.* ("CEQA Guidelines"); and the City's CEQA Implementation Procedures; and

**WHEREAS**, the City intends to expand the scope of this project to include an addition 1 mile of trail and 5 additional acres of restoration as described above; and

**WHEREAS**, the City prepared a Subsequent Environmental Impact Report for the Project pursuant to CEQA; Title 14, California Code of Regulations, Section 15000 et seq. ("CEQA Guidelines"); and the City's CEQA Implementation Procedures; and

**WHEREAS**, a Notice of Preparation of the EIR ("NOP") a Draft Subsequent EIR, and a Notice of Completion were prepared by the City and circulated as required by CEQA; and a Public Hearing was held on December 9, 2014 to receive comments on the Draft Subsequent EIR; and a Final Subsequent EIR was prepared that addressed public and agency comments received during the comment period; and City Council certified the Final Subsequent EIR by resolution which included all required findings and a Mitigation and Monitoring Plan on January 12, 2015; and

**WHEREAS**, City Council held a public hearing on January 12, 2015 regarding the City's request for a Coastal Development Permit Amendment (CDP 10-10/14/14), Design Review Amendment (DR 11-10/14/14), Use Permit (USP 11-14) for the above described project; and

**WHEREAS**, City Council has reviewed the staff report prepared for this project (Staff Report for Coastal Development Permit Amendment (CDP 10-10/14/14), Design Review Amendment (DR 11-10/14/14), Use Permit (USP 11-14)) and incorporated it by reference; and

**WHEREAS**, on January 12, 2015, the City Council held a noticed public hearing, received public testimony and considered all information related to the Fort Bragg Coastal Restoration and Trail Project permit amendments, including the staff report, and all attachments prepared or presented by City staff, pertinent documents provided during previous public meetings, all oral and written testimony and the full record of proceedings on the Project to date.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Fort Bragg, that the City Council approves **Coastal Development Permit Amendment (CDP 10-10/14/14), Design Review Amendment (DR 11-10/14/14), and Use Permit (USP 11-14)** for the Fort Bragg Coastal Restoration and Trail Phase II Project based on the following findings and subject to the conditions and Special Conditions cited below:

### **GENERAL FINDINGS**

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the Coastal General Plan, Coastal Land Use and Development Code (CLUDC) and the Fort Bragg Municipal Code in general.
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.
3. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be

materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

4. The project complies with Specific Use Regulations established for the project.
5. For the purposes of the environmental determination, a Subsequent Environmental Impact Report was prepared and certified for the project in accordance with the Environmental Quality Act (CEQA). The City has passed a resolution to certify the Subsequent EIR which includes the requirement to implement the Mitigation and Monitoring Program for the project.

### **COASTAL DEVELOPMENT PERMIT FINDINGS**

1. The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources.
2. The project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).
3. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.
4. The proposed use is consistent with the purposes of the zone in which the site is located.
5. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan.
6. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
7. Services, including but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development.
8. The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site, or other reasons.
9. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood, or fire hazards due to required project modifications, landscaping, or other conditions.
10. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.
11. The resource as identified will not be significantly degraded by the proposed development.
12. There is no feasible less environmentally damaging alternative; and
13. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

## **CONDITIONAL USE PERMIT FINDINGS FOR BLUFF TOP DEVELOPMENT**

1. No feasible, less environmentally damaging, alternative is available; and
2. Feasible mitigation measures have been provided to minimize all adverse environmental impacts.

### **DESIGN REVIEW FINDINGS**

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

### **SPECIAL CONDITIONS**

1. The applicant shall implement all mitigation measures identified in the Draft and Final Subsequent Environmental Impact Report (SEIR) for this project and listed in the Final Mitigation and Monitoring Plan for the project
2. Project activities will maintain a 25 feet buffer around the population of Blasdale's Bent Grass and include habitat protective fencing to preclude human disturbance of this area
3. In the event that coastal erosion results in damage to the beach berm, the City shall not undertake shoreline revetment in order to protect the trail from the forces of natural shoreline erosion.
4. Prior to issuance of the grading permit the project contractor or Public Works Director shall submit a dust prevention and control plan and shall identify best management practices for sedimentation and erosion control for approval by the Community Development Director.
5. Prior to issuance of the grading permit the project contractor or Public Works Director shall submit a Stormwater Runoff Mitigation Plan for approval by the Community Development Director.
6. Prior to issuance of the grading permit the Community Development Director shall review and approve bench designs that complement the natural setting and the overall park design.

### **STANDARD CONDITIONS**

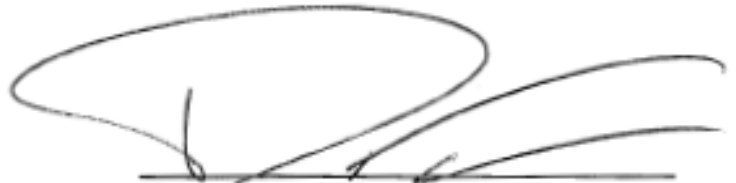
1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal to the Coastal Commission is filed pursuant to Coastal Land Use & Development Code (CLUDC) Chapter 17.92 - Appeals.

2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the CLUDC.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State, and Federal agencies having jurisdiction. All plans submitted with the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.
5. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - (a) That such permit was obtained or extended by fraud.
  - (b) That one or more of the conditions upon which such permit was granted have been violated.
  - (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as to be a nuisance.
  - (d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
1. Unless a condition of approval or other provision of the Coastal Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with CLUDC Subsection 17/18.76.070 (B).

**The above and foregoing Resolution was introduced by Councilmember Peters, seconded by Councilmember Hammerstrom, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 12<sup>th</sup> day of January 2015, by the following vote:**

**AYES: Councilmembers Peters, Cimolino, Deitz, Hammerstrom, and Mayor Turner.**  
**NOES: None.**  
**ABSENT: None.**

ABSTAIN: None.

A large, stylized handwritten signature in black ink, consisting of several sweeping loops and a long horizontal stroke at the end.

DAVE TURNER,  
Mayor

ATTEST:

Cynthia M. VanWormer  
Cynthia M. VanWormer, MMC  
City Clerk