

RESOLUTION NO. 3591-2014

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING COASTAL DEVELOPMENT PERMIT AMENDMENT (CDP 10-10/14), DESIGN REVIEW AMENDMENT (DR 11-10/14), AND VARIANCE AMENDMENT (VAR 2-11/14) FOR THE FORT BRAGG COASTAL RESTORATION AND TRAIL PROJECT

WHEREAS, the City of Fort Bragg ("City") proposes to develop a park on an approximately 93 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 the Pudding Creek Trestle Bridge, on the east by Glass Beach Drive and the Georgia-Pacific Mill Site, on the south by Noyo Point Road and Noyo Bay, and on the west by the Pacific Ocean and MacKerricher State Park. The Project Site consists of the following APNs 008-010-22/24/34/35, 008-020-10/11/12 & 018-430-04/08/10/11; and

WHEREAS, the project ("Project") is proposed to consist of the following: removal of approximately 18 acres of asphalt and packed gravel on the Project Site, and restoration of this area with native vegetation; construction of storm water infiltration and conveyance systems; construction of 4.5 miles of new multi-use and pedestrian-only trails stretching from the Pudding Creek Trestle Bridge south to Soldier Bay, and from the City's wastewater treatment facility to the Noyo Bridge; construction of a new parking lot and access road at the end of Elm Street and a new parking lot at the southern end of the runway with an access road from either Cypress Street or Noyo Point Road; construction of two welcome centers, three restrooms, bicycle parking racks, 16 interpretive panels and a variety of safety signage, and perimeter and habitat protection fencing; 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, the City has chosen to redesign some portions of the Project to further reduce impacts to cultural resources; 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 January 13, 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 February 10, 2014; and

WHEREAS, City Council held a public hearing on February 10, 2014 regarding the City's request for a Coastal Development Permit Amendment (CDP 10-10/14), Design Review Amendment (DR 11-10/14), and Variance Amendment (VAR 2-11/14) 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), Design Review Amendment (DR 11-10/14), and Variance Amendment (VAR 2-11/14)) and incorporated it by reference; and

WHEREAS, on February 10, 2014, 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), Design Review Amendment (DR 11-10/14), and Variance Amendment (VAR 2-11/14)** for the Fort Bragg Coastal Restoration and Trail 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.

VARIANCE FINDINGS

1. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district.
2. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district.
3. The Variance or Administrative Variance is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program. In addition to any other

findings and/or conditions regarding the granting of a Variance or an Administrative Variance, the City shall only grant a Variance or Administrative Variance if the City determines that the means of accommodating the Variance or Administrative Variance: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses.

DESIGN REVIEW FINDINGS

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

SPECIAL CONDITIONS

1. The dirt trail on Johnson property will be regularly monitored for signs of erosion. If erosion takes place the City will install a natural trail surface of gravel, sand and/or bark along the length of the trail where erosion occurs.
2. Limit construction and access closure on the south side of Glass Beach headlands to May to June and September to November. As feasible, do not permit construction activities or closure of public access to the southern portion of Glass Beach headlands from July through August.


STANDARD CONDITIONS

1. This action shall become final on the 11th day following the decision unless an appeal to the Coastal Commission is filed pursuant to Coastal Land Use & Development Code (CLUDC) Chapter 17.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the CLUDC.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State, and Federal agencies having jurisdiction. All plans submitted with the required permit applications shall be consistent with this approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.

5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.
7. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - (a) That such permit was obtained or extended by fraud.
 - (b) That one or more of the conditions upon which such permit was granted have been violated.
 - (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as to be a nuisance.
 - (d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions.
8. Unless a condition of approval or other provision of the Coastal Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with CLUDC Subsection 17/18.76.070 (B).

The above and foregoing Resolution was introduced by Councilmember Hammerstrom, seconded by Councilmember Kraut, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 10th day of February 2014, by the following vote:

AYES: Councilmembers Courtney, Deitz, Hammerstrom, Kraut, and Mayor Turner.
NOES: None.
ABSENT: None.
ABSTAIN: None.



DAVE TURNER,
Mayor

ATTEST:

Cynthia M. VanWormer, MMC
City Clerk