

RESOLUTION NO. 3693-2014

RESOLUTION OF THE FORT BRAGG CITY COUNCIL TO (1) UPHOLD AN APPEAL BY WALNUT MAIN GROUP OF THE PLANNING COMMISSION'S DECEMBER 18, 2013 DECISION TO DENY PERMITS FOR CONVERSION OF EXISTING OFFICE BUILDING TO RETAIL USE/DOLLAR TREE (CDP 5-2013, DR 5-2013, UP 4-2013, AND LLA 1-2013); (2) ADOPTING MITIGATED NEGATIVE DECLARATION; AND (3) APPROVING CDP 5-2013, DR 5-2013, UP 4-2013, AND LLA 1-2013 (825 AND 845 SOUTH FRANKLIN STREET)

WHEREAS, on December 18, 2013, the Fort Bragg Planning Commission took action to deny a request for Coastal Development Permit (CDP 5-2013), Use Permit (UP 4-2013), Design Review (DR 5-2013), and Lot Line Adjustment (LLA 1-2013) to authorize conversion of an 11,000 sf portion of an existing office building from "Social Service Organization" use to "General Retail, 5,000 sf or Larger" to accommodate a retail store (Dollar Tree), development of a loading zone and parking area on an undeveloped parcel to the south of the existing building, and a lot line adjustment to merge the undeveloped parcel with the parcel on which the building is located; and

WHEREAS, an Initial Environmental Study and Mitigated Negative Declaration were publicly noticed and made available for public review between with a November 27, 2013 and December 18, 2013, and eight written comments, and two petitions (one for, with approximately 500 signatures, and one against, with approximately 200 signatures) were received and considered; and

WHEREAS, on December 30, 2013, an appeal of the Planning Commission's decision was submitted by the applicant; and

WHEREAS, notice of a public hearing on the appeal before the Fort Bragg City Council was mailed to property owners and published in a newspaper of general circulation in the City, as required by law; and

WHEREAS, a public hearing on the appeal was conducted by the Fort Bragg City Council on January 27, 2014, the hearing was closed and direction was given to staff regarding findings and conditions to support a Council action to uphold the appeal and approve the requested permits; and

WHEREAS, action on the matter was continued to the February 24, 2014, City Council meeting; and

WHEREAS, the City Council directed that, with the following modifications to special conditions, the project would be consistent with the Coastal Land Use & Development Code:

1. Orient the loading zone to face the building and locate it on the rear portion of the building façade as illustrated in the site plan distributed at the meeting;
2. Add stop signs at the Franklin and South Street intersection;
3. Eliminate signs on the east side of the building;
4. Provide additional screening and landscaping; and

WHEREAS, these requirements have been added to the Special Conditions of approval for the project; and

WHEREAS, for the purposes of the environmental determination, a Mitigated Negative Declaration has been prepared for conformance with the California Environmental Quality Act (CEQA), and as mitigated, the project will not result in significant environmental impacts; and

WHEREAS, based on all of the evidence presented, the City Council finds as follows:

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;
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. For the purposes of the environmental determination, a Mitigated Negative Declaration has been prepared for conformance with the California Environmental Quality Act (CEQA);
5. On the basis of the whole record before the City Council, including all written comments and minutes summarizing oral testimony presented to the Planning Commission on November 13, 2013 and December 18, 2013, and written comments and oral testimony presented to the City Council on January 27, 2014, there is no substantial evidence supporting a fair argument that the project, as mitigated, will have a significant effect on the environment;
6. The Mitigated Negative Declaration was prepared by City staff and reviewed by the City Council and reflects the City Council's independent judgment and analysis; and
7. The City of Fort Bragg, as Lead Agency for the project, is custodian of the documents which constitute the record of proceedings upon which the decision is based. These documents are located at City Hall, 416 North Franklin Street, Fort Bragg, CA 95437.

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; and
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.

DESIGN REVIEW FINDINGS

1. The project complies with the purpose and requirements of CLUDC Section 17.71.050 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, 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 Citywide Design Guidelines.

SIGN APPROVAL FINDINGS

1. As conditioned, the proposed signs would not exceed the standards of Sections 17.38.070 (Zoning District Sign Standards) and 17.38.080 (Standards for Specific Sign Types), and are of the minimum size and height necessary to enable pedestrians and motorists to readily identify the facility or site from a sufficient distance to safely and conveniently access the facility or site;
2. As conditioned, the placement of the sign on the site is appropriate for the height and area of a freestanding or projecting sign;
3. The proposed signs do not unreasonably block the sight lines of existing signs on adjacent properties;
4. As conditioned, the placement and size of the sign will not impair pedestrian or vehicular safety;

5. The design, height, location, and size of the signs are visually complementary and compatible with the scale, and architectural style of the primary structures on the site, any prominent natural features on the site, and structures and prominent natural features on adjacent properties on the same street; and
6. The proposed signs are in substantial conformance with the design criteria in Subsection 17.38.060.F (Design criteria for signs).

USE PERMIT FINDINGS

1. The proposed use is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program;
2. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the Development Code and the Municipal Code;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located; and
5. The proposed use complies with any findings required by Section 17.22.030 (Commercial District Land Uses and Permit Requirements).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby adopt the Mitigated Negative Declaration for the Dollar Tree Store attached to the accompanying staff report and approves Coastal Development Permit 5-2013, Use Permit 4-2013, Lot Line Adjustment 1-2013 and Design Review 5-2013 subject to the following special and standard conditions (which include all mitigation measures from the Mitigated Negative Declaration):

SPECIAL CONDITIONS

1. A revised parking and circulation plan shall be submitted to the satisfaction of the Community Development Director, including a parking area lighting plan and showing one off-street RV parking space. The parking and circulation plan shall be developed on the site prior to final inspection of building permits for and prior to occupancy of the portion of building it will serve.
2. Prior to issuance of the Building Permit and as a precondition to filing a Lot Line Adjustment, the applicant shall record a deed, eliminating the lot line between parcels 018-120-49 and 018-120-48. Prior to recordation of said deed the applicant shall produce a current preliminary title report for approval of the City Engineer, showing title vested in the applicant as well as all current holders of title interest(s) in the subject parcels. If the report

identifies ownership interests in the property not held by applicant, or any deeds of trust or other title interests recorded on the property, all owners, lenders, and title interests must consent to the lot line adjustment in a writing approved by the City Engineer and any deeds of trust or other title interests must be modified or released to the satisfaction of the City Engineer before the deed is recorded. All property taxes due shall be paid prior to recordation, as evidenced by a preliminary title report or tax certificate submitted to the satisfaction of the Community Development Director.

3. Prior to issuance of the Coastal Development Permit, a revised parking and circulation plan shall be submitted for approval by the Community Development Director. The new plan shall include striping in the vicinity of the loading zone area and shall include a loading zone lighting plan. The loading zone shall face the building as illustrated by the site plan distributed by the Mayor and agreed to by the applicant at the January 27, 2014 City Council meeting - the intent of this requirement is to assure the loading zone will not face the street and will be located within the rear two thirds of the lot. The loading zone and associated driveways shall be paved prior to issuance of the building permit for the building improvements, and prior to occupancy.
4. Prior to issuance of the building permit for structural improvements, and prior to occupancy of the building, the applicant shall pay drainage fees at the current rate at time of payment, and shall obtain a grading permit for curb, gutter, sidewalk, driveway, loading zone, and parking lot improvements as applicable, and shall construct such improvements to the satisfaction of the City Engineer.
5. In order to minimize dust and keep dust from leaving the project site, a dust prevention and control plan shall be submitted for approval by the City Engineer in conjunction with the grading plan. The dust prevention and control plan shall demonstrate that the discharge of dust from the construction site will not occur, or can be controlled to an acceptable level depending on the particular site conditions and circumstances. The plan shall include all of the information required by the Coastal Land Use & Development Code.
6. Prior to issuance of the grading permit, the applicant shall submit for approval by the Public Works Director, a Runoff Mitigation Plan, including a Water Quality Management Plan and including structural treatment Best Management Practices in order to minimize impervious surfaces, minimize construction impacts to water quality, maximize infiltration of runoff, and reduce parking lot runoff pollution.
7. Trash and recycle containers shall be provided for customer use outside of the store near the entryway. These containers shall be installed to withstand heavy wind conditions, and shall be screened and covered with a rain cover.
8. Prior to issuance of the Coastal Development Permit, the applicant shall submit a revised landscape plan in compliance with Coastal Land Use and Development Code requirements. Specifically, the landscape plan shall include a combination of non-invasive, faster growing, drought resistant ground cover, trees and shrubs. Additionally, the landscaping strip in the front along Franklin Street needs to be at least 15 feet deep, and all areas that will not be paved should include some type of landscaping treatment. Drought resistant shade trees need to be provided at a rate of at least one tree per 25 linear feet. Along the south, north and west sides, the landscaping strip needs to be at least eight feet deep. Landscaped areas shall be recessed below the surface of the

pavement, to allow stormwater runoff from the parking lot to flow into the landscaped area and infiltrate into the ground. Landscaping shall be installed prior to the final of the building permit. A bond or deposit in an amount equal to 150 percent of the total value of all plant materials, irrigation, installation, and maintenance shall be posted with the City for a two-year period. Should landscaping fail, the bond or deposit shall be used by the City or an agent thereof to replace dead and dying plants, add new plants as needed, and maintain landscaping until it is well-established.

9. Prior to issuance of the Coastal Development Permit, the applicant shall apply for administrative design review, to be approved by the Community Development Director. The Design Review shall consist of new approved colors for the exterior of the building to tie the proposed green color of the signs to the building, and a revised sign plan that shall include reduction of the proposed freestanding sign to a height of 42 inches, and shall ensure no illuminated signs will be placed on the east (Franklin Street) side of the building and property.
10. Prior to issuance of the building permit, the applicant shall provide to the Community Development Department, detailed information on the refrigeration and freezer units to be installed, to illustrate that the units will all be compliant with current ENERGY STAR efficiency standards. Prior to final clearance of the building permit for improvements at the site, and prior to occupancy of the building, the Community Development Department shall inspect the installed equipment to assure that the approved current ENERGY STAR compliant equipment has been installed.
11. The HVAC units located on the west side of the exterior of the building, to the south of the proposed new entry doors, shall be removed or buffered from view with a combination of landscaping and lattice (as approved in the landscaping plan for the site under Special Condition 8).
12. Fencing around the new parking and loading areas shall consist of five foot high redwood fence, allowing for lower heights to accommodate sight distance in safety visibility areas proximal to driveways, and allowing for a 12 foot wide redwood gate on the southwest corner, for future use (as approved in the landscaping plan for the site under Special Condition 8).
13. The adjacent property to the south, also owned by the applicant, shall be landscaped with a minimal treatment to ensure adequate visual quality and so that it does not become an attractive nuisance to the new retail outlet. Prior to issuance of the building permit, the applicant shall include landscaping and/or fencing in the landscaping plan submitted for the site under Special Condition 8. The landscaping shall be installed prior to final on the building permit and prior to occupancy of the building.
14. The applicant shall pay \$500 towards the cost of installation of new stop signs at Franklin and South Streets, as his proportional share, to address safety concerns.

STANDARD CONDITIONS

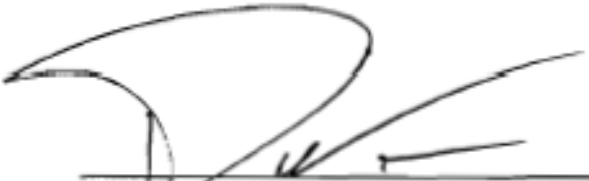
1. This action shall become final on the 11th day following the decision unless an appeal to the City Council is filed pursuant to CLUDC Chapter 17.92 - Appeals.

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 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.
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 17.76.070B.

The above and foregoing Resolution was introduced by Councilmember Hammerstrom, seconded by Councilmember Deitz, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 24th day of February, 2014, by the following vote:

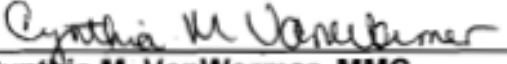
AYES: Councilmembers Courtney, Deitz, Hammerstrom, Kraut, and Mayor Turner.
NOES: None.
ABSENT: None.

ABSTAIN: None.



DAVE TURNER,
Mayor

ATTEST:


Cynthia M. VanWormer, MMC
City Clerk