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W11b

A-1-FTB-23-0021 (BEST DEVELOPMENT- GROCERY OUTLET)
SEPTEMBER 6, 2023

CORRESPONDENCE



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July 24, 2023

Via Electronic Mail
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Tatiana Garcia, Coastal Planner
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**Re: Commission Appeal No. A-1-FTB-23-0021 to City of Fort Bragg's
Approval of the Best Development Grocery Outlet: Project Developer's
Analysis and Finding of No Substantial Issues**

Dear Ms. Garcia:

Remy Moose Manley, LLP (RMM) respectfully submits this letter on behalf of Best Properties (Best), the Applicant for, and Developer of, the Best Development Grocery Outlet project (Project), which was approved by the City Council of the City of Fort Bragg (City) on June 5, 2023. This letter explains why, in our legal opinion, no substantial issues requiring a hearing by the California Coastal Commission (Commission) are raised in Appeal No. A-1-FTB-23-0021 (appeal), which was filed by M. R. Wolfe & Associates on behalf of Appellants Fort Bragg Local Business Matters, Mary Rose Kaczorowski, Leslie Kashiwada, Lee Rider, and Mitzi Rider (Appellants).

In order to orient the Commission to the relatively modest development that the Fort Bragg City Council approved, we begin this letter by providing a description of the Project. We then offer some background information to demonstrate (i) the extensive public vetting of the Project, (ii) the extensive amount of time that the Project was under consideration by the City, and (iii) the scope of the City's environmental review process. In addition to this background information, we offer a brief discussion of the legal framework governing the Commission's determination for making a "Substantial Issue Determination." Lastly, we explain why, in our judgment, the appeal does not raise any substantial issues. In doing so, we apply the five relevant factors laid out in Section 13115, subdivision (c), of Title 14 of the California Code of Regulations (CCR).

For the Commission's convenience, we attach the following documentation to this letter, although each document already exists in the administrative record for the Project:

- **Attachment A** : Letter to Fort Bragg Associate Planner from Applicant responding to comments on Draft Environmental Impact Report (EIR) (Dec. 6, 2022), with attachments (see also Appendix A of the Final EIR listed below);
- **Attachment B** : Letter to Fort Bragg City Council from Applicant responding to comments on the Final EIR (May 31, 2023), with attachments (see also Attachment 17 of the Agenda Packet listed below); and
- **Attachment C** : City of Fort Bragg Staff Report for the Special City Council Meeting on June 5, 2023.

Other record documents regularly referenced throughout this letter include:

- City of Fort Bragg Meeting Agenda Packet for the Special City Council Meeting on June 5, 2023, including the Staff Report and comment letters from the public (cited as "Agenda"), available <https://cityfortbragg.legistar.com/View.ashx?M=PA&ID=1104410&GUID=AA86FD34-B886-4692-97FD-7C25D338855A>.
- Best Development Grocery Outlet Final EIR (State Clearinghouse No. 2022050308) (Apr. 2023, certified Jun. 5, 2023) (cited as "FEIR"), available <https://www.city.fortbragg.com/departments/community-development/city-projects>;
- Best Development Grocery Outlet Draft EIR (State Clearinghouse No. 2022050308) (Sept. 2022), inclusive of the 2022 Initial Study (cited as "DEIR"), available <https://www.city.fortbragg.com/home/showpublisheddocument/4251/638192464061370000>;
- Best Development Grocery Outlet Initial Study and Mitigated Negative Declaration (MND) (Dec. 2020);
- City of Fort Bragg Coastal General Plan (Coastal General Plan) as part of the Local Coastal Program (LCP) (Adopted May 2008, certified by the Commission Aug. 2008); and
- Notice of Final Action on Coastal Development Permit, Design Review, and Parcel Merger (NOFA) (June 6, 2023).¹

We hope that the members of the Commission and Commission staff find the analysis in this letter useful as the Commission considers whether to entertain the appeal on the merits. As indicated, we do not believe that the appeal should get that far because it does not raise any substantial issues.

¹ We have not yet obtained from the City the corrected NOFA sent from the City to the Commission staff a few days after the original NOFA. We hope that the pagination from the original NOFA tracks the pagination from the corrected NOFA.

I. PROJECT DESCRIPTION

The Project will bring to Fort Bragg and the surrounding community many social, environmental, and economic benefits. These will include, but not be limited to: (i) a much-needed local affordable grocery option for Fort Bragg's residents, especially low-income and poverty-level individuals and families who currently drive to Willits to shop at the Grocery Outlet there; (ii) a regional reduction in vehicle-miles traveled (VMT), and a commensurate reduction in shopper-generated greenhouse gas (GHG) emissions, compared with existing levels, as a result of this shift in shopping habits; (iii) the beneficial reuse of an infill site on which a dilapidated and unused office structure currently attracts trespassing and other illegal activity; and (iv) increased tax revenues for the City, which translates to increased funding for important City services.

The Project consists of a 16,157 square-foot (sf) Grocery Outlet store that will replace a 16,436-sf, vacant (since 2010) and dilapidated former City office building, locally referred to as the "Old Social Services Building."² The Project site is located on 1.63 acres at the corner of S. Franklin Street between South Street and North Harbor Drive (at 825, 845, and 851 S. Franklin Street), in Fort Bragg, approximately 230 to 450 feet east of S. Main Street/Highway 1 and in the City's Coastal Zone.³ Properties in Fort Bragg within the Coastal Zone are regulated by the City's Coastal Land Use and Development Code (CLUDC), also known as Fort Bragg Municipal Code, Title 17.

Associated improvements include a 53-space parking lot, with parking for recreational vehicles (RVs), electric vehicles, and priority spots for clean-air vehicles; a loading dock and trash enclosure; circulation and access improvements, including internal walkways and crosswalks and perimeter sidewalks; utility infrastructure; stormwater drainage that redirects flows from their current pattern northwest and southwest towards the neighboring property to an existing Caltrans stormwater drainage

² In a letter to the Fort Bragg City Council and Planning Commission expressing support for the Project, the Manager of the adjacent Super 8 Motel stated that "[t]he current building on the site is neglected and has safety issues, as well as it is a magnet for homeless. I know other nearby owners frequently call the police regarding illegal activity on that site." (Attach. B: fn 13, Attach. C.)

³ The City Council's approval of the Coastal Development Permit (CDP) for the Project is appealable to Commission because the project site is within 300 feet of a coastal bluff above Noyo Harbor. (See Pub. Resources Code, § 30603, subd. (a)(2).)

system located west of the site on State Highway 1; and 19,265 sf of landscaping, including trees and vegetation, that will leave the site permeable to stormwater. The Project will be served by all existing utilities and service providers.

The new building will be situated at the far north of the Project site, at the corner of South Street and S. Franklin St., with its parking lot encompassing the southern portion of the site. This exact configuration was deemed the only workable layout by the Project engineer, TSD Engineering, Inc., for this deep and narrow lot. This design reflects the needs (i) to comply with City setbacks, specifically a 20-foot building setback from North Harbor Drive; (ii) to visibly shield the truck dock and loading area from neighboring residents and adjacent streets; (iii) to minimize noise to neighboring residents from activity at the truck dock and loading area; (iv) to minimize interference with the adjacent Super 8 Motel by placing the truck dock and loading area adjacent to a vacant property with commercial zoning; and (v) to maximize the use of existing utility infrastructure (water, sewer, electricity, etc.) coming primarily from South Street, thereby avoiding infrastructural reconfiguration that would result in environmental impacts. (See Attach. B: p. 31, Attach. B [letter from TSD Engineering, Inc.])

The store will employ up to 25 full-time employees and 10 part-time employees, including store management, and will be open from 8:00 AM to 10:00 PM, seven days per week with two different shifts covering operating hours. Project approvals and entitlements included:

- Certification of a Final Environmental Impact Report (EIR);
- Adoption of a Mitigation Monitoring and Reporting Program (MMRP); and
- Approval of:
 - CDP;
 - Zoning Clearance (ZC);
 - Design Review;
 - Parcel Merger (merging three parcels into one);
 - Sign Permit;
 - Encroachment Permit;
 - Grading Permit; and
 - Building Permit.

For more Project details, including maps, site plans, and photos, please refer to Chapter 2.0, Project Description, of the Draft EIR.

II. BACKGROUND AND LEGAL FRAMEWORK

On June 5, 2023, in a 4-0 vote, the Fort Bragg City Council approved the CDP for the Project after certifying its Final EIR. These actions were consistent with May 10, 2023, recommendations from the City's Planning Commission. This unanimous approval was a long time in coming.

The Project application was first submitted back on June 3, 2019, and became the subject of a December 2020 Initial Study that supported a Mitigated Negative Declaration (MND) put together by City staff with the assistance of a consulting firm called LACO Associates. After the Planning Commission recommended approval on June 9, 2021, the City Council approved the Project on July 26, 2021.

On August 24, 2021, Fort Bragg Local Business Matters and Leslie Kashiwada, aided by attorney Mark Wolfe, filed a Petition for Writ of Mandate challenging the adequacy of the MND under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA). A few months later, out of an abundance of caution in light of the uncertainties inherent in CEQA litigation, Best decided to withdraw its application and urged the City to prepare an EIR to satisfy the Petitioners' concerns about the MND. These actions rendered the lawsuit moot, and it was dismissed.

Another Initial Study was prepared and then, on September 15, 2022, the City published a Draft EIR for public review and comment. After preparing detailed written responses to comments on the Draft EIR, the City published a proposed Final EIR on April 26, 2023. After various persons submitted comments on this latter document, the City issued revisions to the Final EIR in late May 2023. These revisions included new analysis responding to the most recent correspondence. (For additional details on these CEQA documents, and the myriad of technical reports the support them, please refer to Sections III.A.1(intro) and III.A.2, *infra*.)

Throughout this lengthy environmental review and approval period, the public and agencies had ample opportunities to comment on the Project and its CEQA documents. And comment they did, largely in support of the Project. By our calculations, approximately 90 percent of commenters on the Final EIR expressed support for the Project just prior to the May 10th Planning Commission meeting. Notably, during the entirety of the public review periods for each CEQA document, the Commission staff did not submit any comments on the Project or on the initial MND or later EIR, presumably

because staff believed the environmental review documents were adequate.

Under Public Resources Code section 30625, subdivision (b), as it pertains here, the Commission shall not hear an appeal failing to raise a substantial issue as to conformity with the certified LCP. (See *Alberstone v. Cal. Coastal Com.* (2008) 169 Cal.App.4th 859, 863–864 (*Alberstone*); see also Cal. Code Regs., tit. 14, § 13115, subd. (b).) “A substantial issue is defined as one that presents a ‘significant question’ as to conformity with the certified [LCP].” (*Alberstone, supra*, at pp. 863-864, citing Cal. Code Regs., tit. 14, § 13115.)

Per the Commission’s Appeal Information Sheet (available at <https://documents.coastal.ca.gov/assets/cdp/Appeal-Information-Sheet.pdf>):

...there is a presumption of a substantial issue when the Commission acts on this question [of whether a substantial issue exists], and the Commission generally considers a number of factors in making that determination [see 14 CCR § 13115(c), and discussed in detail below in Section III]. At this stage, the Commission may only consider issues brought up by the appeal.

A substantial issue determination requires a hearing. Per the Information Sheet:

At the substantial issue hearing, staff will make a recommendation [ordinarily including a staff report] for the Commission to find either substantial issue or no substantial issue. If staff makes the former recommendation, the Commission will not take testimony at the hearing on the substantial issue recommendation unless at least three Commissioners request it, and, if no such hearing is requested, substantial issue is automatically found. In both cases, when the Commission does take testimony, it is generally (and at the discretion of the Commission Chair) limited to three minutes total per side, and only the applicant, persons who opposed the application before the local government (or their representatives), and the local government are allowed to testify, while others may submit comments in writing.

If, following testimony and a public hearing, the Commission determines that the appeal does not raise a substantial issue, then the first step is the only step, and the local government’s CDP decision stands. ...

Commission findings of no substantial issue are commonly upheld by courts because courts “grant broad deference to the Commission's interpretation of the [LCP] since it is well established that great weight must be given to the administrative construction of those charged with the enforcement and interpretation of a statute. [Citations.] [Courts] will not depart from the Commission's interpretation unless it is clearly erroneous.” (*Hines v. Cal. Coastal Com.* (2010) 186 Cal.App.4th 830, 849; see

also, e.g., *Alberstone, supra*, 169 Cal.App.4th at p. 866 [deference to “Commission’s interpretation because it presents a reasonable interpretation that is in keeping with the purposes of the LCP”].)

III. THE APPEAL DOES NOT RAISE ANY SUBSTANTIAL ISSUES

Appellants allege that the Project is inconsistent with twenty-six policies of the Coastal General Plan/LCP. Appellants further allege that the Project’s EIR is “flawed and biased” and does not adequately address “Traffic, Safety and Pollution”; that the Project will create excessive traffic and impede coastal access, thereby creating an environmental justice issue; and that the Project “fails to meet the California Coastal Commission and State of California goals of Green House Gas Emissions reduction targets and the Coastal Commission’s own Smart Growth Principles.” Appellants are mistaken with respect to all of these allegations.

Below we demonstrate how the record shows that the Project is consistent with these twenty-six Coastal General Plan policies and that, amongst other things, it causes no significant traffic or access issues and certainly does not result in an environmental justice issue. Quite the opposite. The Project will provide a much-needed affordable grocery option to residents who are clamoring for it—in a city in which nearly 20 percent of the population lives below the poverty line and nearly 24 percent are seniors, many on fixed incomes.⁴

Indeed, the notion that the Project raises environmental justice issues is downright perverse. We deal with this issue as a threshold matter because Best, quite frankly, takes umbrage over the notion that the Project will create an environmental injustice. Actually, the lowest-income residents of Fort Bragg and its environs will be the greatest beneficiaries of the Project.

“Grocery Outlet is a value-oriented grocery retailer that sells a mixture of everyday staple products and an ever-changing assortment of customer deals, *at prices generally 40% to 70% below conventional retailers and 20% below the leading discounters.*” (Final

⁴ See U.S. Census Bureau (Jul. 1, 2022), QuickFacts, Fort Bragg City, California, available as of July 10, 2023, at <https://www.census.gov/quickfacts/fact/dashboard/fortbraggcitycalifornia/PST045222>.

EIR, Appendix B, p. 4, italics added.) Because of the prospect of such low food prices, the vast majority of public commenters, including low-income residents, enthusiastically supported the Project. One commenter said that the Project is “critical in our small town” (FEIR, p. 2.0-39); another said the Project would be in “the best interest of our community” (*id.*, p. 2.0-43). One commenter urged that “[s]chool children need good food to thrive, single mothers need to buy good food while they work two and three jobs, young folks just starting out usually don’t make much money, [and] seniors on fixed incomes need help”; thus, she asked, “[w]hy on earth would you block a potential solution for these lower income families?” (*Id.*, p. 2.0-47.)

One local shopper described the store as a potential essential resource for the community, which sometimes suffers due to its comparative isolation from other population centers:

We need more affordable shopping options for seniors and younger families with children along with many others. Promote affordable living needs, as they go hand in hand with affordable housing. Having another store will help our area when the next rolling blackout, pandemic or natural disaster happens. Essentially we are an island and will need more resources for our community in any challenging time. 2 years ago my letter said prices will continue to grow higher and higher, and that sure happened. Having options helps promote healthy competition, which in turn helps those most in need. It’s time to think of what’s best for the many, whose voices may not be heard, and not for just the few.

(Agenda, p. 292.)

Several nearby businesses also support the Project. Locally owned and operated Emerald Dolphin Inn & Mini Golf, located south of the Project site, had this to say:

As a long time business of this community, we at Emerald Dolphin Inn & Mini Golf would very much like to see a Grocery Outlet in Fort Bragg. This would be a great asset to our community in so many ways. It would bring many long term jobs for locals as well as many temporary jobs while it's being built. We don't believe it will impact traffic because [m]any of the patrons will be locals and visiting tourists that will already be in Fort Bragg. Another positive thing about Grocery Outlet is that it not only has less expensive food and beverages but also offers many household goods and sundries. We are all for a Grocery Outlet in beautiful Fort Bragg!

(Agenda, p. 284.)

The manager for the adjacent Super 8 Motel has similar enthusiasm for the Project:

I do think it would be much safer and nicer to have a clean, new Grocery Outlet where my guests can conveniently shop. The current building on the site is neglected and has safety issues, as well as it is a magnet for homeless. I know other nearby owners frequently call the police regarding illegal activity on that site....We think it will be a better experience for our guests and will help to beautify the area. A new Grocery Outlet store would give this part of Fort Bragg a visual and safety boost. It may also mean less driving to Willits or Ukiah to shop for food for my family and the hotel.

(Attach. B: p. 17, Attach. C.)

Likewise, the manager at the locally owned and operated Harbor Lite Lodge supports the Project and stated that “this would be an asset to our community and would provide many job opportunities for our coast. This business will offer affordable food for lower income residents within our community.” (Agenda, p. 166.)

Similarly enthusiastic was the co-owner of the locally owned and operated SeaBird Lodge:

I am a local business owner of the hotel right across the street from the old Social Services office, which is the building site where the new Grocery Outlet will be built. As a local business and a neighbor to the location, I support the Grocery Outlet’s application....We will have hotel guests that can utilize the store for long term stays. It would be a value to our hotel, our customers, and the local residents who could conveniently pick up food items. I am particularly excited there will be better lighting and legitimate business activity on this corner.

(Agenda, p. 165.)⁵

Having shown the absurdity of the notion that the Project will result in an environmental injustice, we now analyze the Appellants’ other inaccurate allegations

⁵ See also, e.g., Agenda, pp. 296 (“I am on a limited income and disabled. My wife and I are seniors....Please approve the Grocery Outlet store. Tell the high price attorney to stop. Fort Bragg needs this store”), 304 (“I am the outreach program manager at Redwood Coast Senior Center. I feel the seniors would benefit from a grocery outlet, many are low income and could use any help”), 306 (“I live-in low-income housing...That is why I ask you to give the Grocery Outlet’s new store here our seal of approval. Please help the growing senior and low-income community here. Just because we are not able to work like we used to, we are valuable and want to be treated with respect”), 394 (“My husband and I are over 65 and on a fixed income. We were both born in Fort Bragg, and we have seen the cost of living go sky high in our community. We drive to Willits to buy affordable groceries, but we would much rather spend our money in our town. Please approve this much needed discount Grocery store”).

through the lens of the five factors most commonly considered by the Commission when making a Substantial Issue Determination, in the order in which they appear in section 13115, subdivision (c), of the Commission's regulations:

- (1) the degree of factual and legal support for the local government's decision;
- (2) the extent and scope of the development as approved or denied by the local government;
- (3) the significance of the coastal resources affected by the decision;
- (4) the precedential value of the local government's decision for future interpretations of its local coastal program; and
- (5) whether the appeal raises only local issues as opposed to those of regional or statewide significance.

As demonstrated by the abundant substantial evidence in the record, explained below, the appeal does not raise any substantial issues (i.e., Appellants have presented no "significant questions" about the conformity of the Project with the LCP or the Coastal Act). (See *Alberstone, supra*, 169 Cal.App.4th at pp. 863–864.)

A. There Is Ample Factual and Legal Support for the City's Decision to Approve the Coastal Development Permit for the Project (§ 13115(c)(1))

The Project has been comprehensively and exhaustively examined from both a factual and legal standpoint.

1. The City's Project approval is heavily factually supported by a panoply of expertly prepared environmental and technical documents.

As described above in the Background discussion, the Project has undergone four distinct CEQA phases of environmental review: (1) an Initial Study in 2020, leading to an MND; (2) another Initial Study in 2022; (3) a Draft EIR in 2022; and (4) a Final EIR in 2023. Each of these environmental documents was prepared by expert consultants and supported by a myriad of technical reports and data (also prepared by expert consultants) containing elaborate facts and analysis supporting the impact conclusions. Each document was independently reviewed by the City.⁶

⁶ As attorneys for Best, we believe that the City could have, and should have, processed the Project from the outset based on the so-called Class 32 "categorical exemption" from CEQA. The Project, in our judgment, was too small and innocuous to require an EIR or even an MND. Yet the City staff in 2019 and 2020 refused to proceed with an

The 2020 Initial Study was prepared by LACO Associates, and was supported by (i) cultural and tribal resource inventories prepared by Genesis Society; (ii) a Biological Review prepared by Wildland Resources Managers; (iii) a Traffic Impact Analysis prepared by KD Anderson & Associates, Inc.; and (iv) CalEEMod emissions estimates prepared by LACO.

The 2022 Initial Study was prepared by De Novo Planning Group (De Novo), in anticipation of preparation of an EIR. De Novo also prepared the 2022 Draft EIR, which was supported by the following: the 2022 Initial Study; CalEEMod air quality and GHG emissions estimates and calculations and energy output estimates prepared by De Novo; an updated Biological Review prepared by Wildland Resources Managers; a Wetland Report also prepared by Wildland; an Environmental Noise Assessment prepared by Saxelby Consultants; an Addendum to the Traffic Impact Analysis prepared by KD Anderson; and a CEQA VMT Analysis memo prepared by Fehr & Peers. The 2023 Final EIR, in addition to incorporating all of the Draft EIR analysis and documentation,

exemption. The Class 32 exemption applies to qualifying infill projects located on sites within cities that are not greater than five acres in size. (Cal. Code Regs., tit. 14, div. 6, ch. 3 (“CEQA Guidelines”), § 15332.) Although the City of Fort Bragg opted against pursuing this option, many courts have upheld agencies’ reliance on the Class 32 categorical exemption for projects far more intensive than the 16,157 square foot (sf) Project, which would replace an existing 16,436-sf former office building, for a net *reduction* of 279 square feet of physical space. (See, e.g., *Banker’s Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249 [14-story multifamily residential building with underground parking]; *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329 [five-story mixed-use building with 98 residential units, 7,770 sf of commercial space, and 114 parking spaces]; *Protect Tustin Ranch v. City of Tustin* (2021) 70 Cal.App.5th 951 [16-pump (32-fuel position) gas station with a canopy, related equipment, landscaping, and 56 new parking stalls].) In a recent Monterey County Superior Court proceeding, our law firm prevailed in defending a larger Grocery Outlet project approved by King City based on the Class 32 categorical exemption.

The Project is comparatively modest in scope compared with other types of projects for which EIRs are typically prepared. We point out this fact in order to emphasize that the elaborate amount of CEQA environmental review conducted for the Project is unwarranted, but was undertaken by the City and Applicant/Developer out of an abundance of caution and to assuage any concerns within the Fort Bragg community. From the Applicant’s standpoint, the Appellants do not appear to fully appreciate the costly and time-consuming community-oriented approach undertaken here.

included the following additional technical materials: an Urban Decay Study prepared by ALH Urban & Regional Economics; wetland data sheets prepared by De Novo; water use documentation submitted by Grocery Outlet; and an updated noise analysis from Saxelby.

This exhaustive review began in 2019, after the initial Project application was submitted to the City, and continued through May 2023, with some final technical updates to the Final EIR. The ultimate conclusions reached in each and every one of these technical environmental documents is that the Project would not cause any unmitigable significant environmental impacts.

There is nothing “flawed and biased” about any of these analyses, as claimed by Appellants. The Final EIR and supporting materials represent years of hard work by eight separate technical consultants, whose work was painstakingly reviewed by City staff, Planning Commissioners, and City Councilmembers. Appellants do not indicate exactly how and why they believe this documentation is flawed and biased. They are clear that they *disagree* with the analysis, but in all of their combined comments on Project and its EIR, and in their appeal, Appellants do not present any reliable or verifiable analysis of their own demonstrating why the EIR is wrong. Mostly, Appellants simply present their opinions, which often lack evidentiary support of any kind.

Consistent with this approach, which generally ignores the detailed evidence developed by the City and its consultants, the appeal discusses twenty-seven policies of Coastal General Plan/LCP with which the Appellants allege the Project is inconsistent. In the table below, we address these policies (in the order in which Appellants address them, for the Commission’s convenience); and we explain how the administrative record demonstrates either that the Project is consistent with the policy in question or that the policy does not apply to the Project or the Project site. The policies can be roughly classified into nine categories: illegal onsite parking, traffic, air quality, visual resources/scenic views, economic concerns, water quality and supply, location of the parking lot, biological resource concerns, and building use and design.

Please note that Table 3.5-1 in the Draft EIR analyzed Project consistency with applicable Coastal General Plan policies that could be understood to avoid or mitigate environmental effects—many of which are also discussed below. As stated there, “in City

Staff’s opinion,^[7] [the Project] is consistent with all of the applicable General Plan policies that aim to avoid or mitigate an environmental effect.” (DEIR, p. 3.5-9). In addition, the Draft and Final EIR effectively addressed all associated potential impacts the Project might have on the corresponding environmental resource area.

Policy No.	Policy Text	Consistency Analysis
Illegal Onsite Parking		
LU-5.6	The use of private lands suitable for visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.	<p>Appellants claim that the Project will “convert a visitor-serving use (i.e., an informal parking area) that provides public opportunities for coastal recreation through the adjacent access trail and stairs” because the existing empty, unpaved lot that will become the Project’s parking lot is “frequently used for parking large vehicles” and for vehicles in general. The appeal includes photographs of vehicles parked in this “informal” parking lot, dated June 5, 2020, to allegedly demonstrate that the Project “will displace an existing, albeit informal, parking area serving recreational uses and public access to the coastal resources of Noyo Harbor and Noyo Beach....”</p> <p>The photographs supplied by Appellants do <i>not</i> prove that the Project site is currently a legitimate parking area for people seeking coastal access. Any ongoing parking for the</p>

⁷ As we explain in our December 6, 2022, letter to the City (see Attach. A, pp. 23–24), the City is entitled to judicial deference for its interpretation of its General Plan policies. “It is well settled that [an agency] is entitled to considerable deference in the interpretation of its own General Plan.” (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1129–1130; see also *Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1015 [“an agency’s view of the meaning and scope of its own ordinance is entitled to great weight”]; see also *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 26 [“A reviewing court accords ‘great deference’ to an agency’s determination that a project is consistent with its own general plan, recognizing that ‘the body which adopted the general plan policies in its legislative capacity has unique competence to interpret those policies when applying them in its adjudicatory capacity’”]; *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1563.) Unless “no reasonable person could have reached the same conclusion on the evidence before it,” a court must “defer to an agency’s factual findings of consistency.” (*Endangered Habitats League, supra*, 131 Cal.App.4th at p. 782; see also *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 243 (*No Oil*); *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 637.)

Policy No.	Policy Text	Consistency Analysis
		<p>purpose of such access is illegal trespassing that should not be perpetuated in the name of facilitating public access.</p> <p>A representative of the current owner of the site, the Affinito Family Trust (AFT), has informed Best that the only authorized parking on the property in recent years was granted during the recent COVID-19 epidemic, during which time AFT allowed patients of the nearby Mendocino Clinic permission to park on the AFT property while the Clinic was providing COVID shots to those patients. AFT has granted no other permission for parking, and in fact has posted “No Parking” signs on the site. People who ignore those signs are trespassers.</p> <p>To the extent that vehicle owners may currently be using the property for illegal coastal access parking, the Commission should not treat such parking as being consistent with either the LCP or the Coastal Act. Those sources of legal authority cannot be fairly and reasonably construed to encourage illegal behavior. Any failure by AFT or the City to prevent this illegal parking is the result of a lack of resources and not any tacit or official approval of violations of law.</p> <p>Unfortunately, the vacant lot and building also attract other, more dangerous forms of illegal activity and vagrancy. (See Attach. B: p. 17, Attach. C. [letter from Super 8 Motel Manager stating that the site is “a magnet for homeless. I know other nearby owners frequently call the police regarding illegal activity on that site”]; Agenda, p. 165 [the site attracts those “partaking in drug activity” and “is a magnet for drug activity and other police activity just check the logs”].)</p> <p>It would appear that Appellants wish to preserve and promote trespassing under the notion that the cessation of such illegal activity will prevent or inhibit coastal access. We respectfully submit that the Coastal Commission, as an entity of state government, cannot reward or promote such illegal activity by treating it as a protected example of coastal access to be preserved against the will of the adversely affected property owner and its expected successor in interest. This is particularly so where the successor intends to develop the property with a land use consistent with the Coastal General Plan, LCP, and zoning.</p>

Policy No.	Policy Text	Consistency Analysis
		<p>Furthermore, contrary to statements made by the Appellants, the Project will actually <i>improve</i> pedestrian coastal access compared with existing conditions. (See discussion below of Policy C-6.2.) In addition, nearby (and better/safer) public coastal parking exists just south of the Project site at Noyo Beach off North Harbor Drive and north at Noyo Headlands Park. Additional nearby coastal public parking exists further south at Pomo Bluffs Park and the South Harbor Parking Lot.</p> <p>Appellants seemingly assume that the Project parcel is “suitable for visitor-serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation,” per the text of Policy LU-5.6. This assumption is not accurate. The parcel is located on the landward side of Highway 1, and is separated from the coast by streets without any pedestrian-friendly sidewalks. Accessing the coast from this location requires persons to walk along the unprotected edges of heavily traveled roadways and perhaps even illegally and dangerously jaywalk across busy Highway 1 (to get to the ocean as opposed to the harbor). This kind of access is neither “suitable” nor safe. Importantly, the Project will actually improve pedestrian coastal access (see discussion of Policy C-6.2 below).</p> <p>Policy LU-5.6 does not require any specific type of development on any specific parcel. The policy does not (and cannot) force a private citizen to maintain undeveloped portions of a piece of private property to facilitate trespassing as a means of maximizing coastal access. Policy LU-5.6 does not compel either the City or the Commission to commandeer private property in a manner that requires the owner to provide public parking without just compensation. The only fair reading of the policy is that it promotes recreational facilities on <i>suitable</i> sites, with the implied condition precedent that, where private property is concerned, the owner must first apply for such a use. No such application has been submitted here. Instead, the property owner has authorized Best to seek to develop the urban infill lot consistent with its Coastal General Plan and zoning designations, both of which contemplate the kind of commercial uses represented by the Project. This land use is authorized by the City’s Coastal General Plan and thus by the LCP.</p>

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		<p>Nor has the owner or operator of the adjacent Super 8 Motel applied to convert this site into additional parking for its guests, as Appellants opine would be a good use. Likewise, there is no interest or pending application to “adapt [the site] for service worker housing or another motel or hotel accommodation serving visitors,” as Appellants suggest. And even if these uses were being sought by some third-party developer, Appellants fail to acknowledge that this is a privately-owned property, which the owner may convey to another entity in a market transaction. AFT sees fit to convey the overall parcel to Best for the beneficial use as an affordably priced grocery store and the supporting parking lot needed for its customers – consistent with the existing land use and zoning designations. In any event, any service housing or hotel/motel use suggested by Appellants would create traffic, which Appellants repeatedly argue is highly problematic.</p> <p>In short, Policy LU-5.6 does not disallow commercial uses of the kind being pursued here. The property owner and Best are entitled to rely on the existing plan and zoning designations, and cannot be compelled to provide illegal parking opportunities in perpetuity.</p>
LU-5.7	<p>Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.</p>	<p>Please see the discussion above for Policy LU-5.6. Best feels certain that neither the City, when it adopted this policy, nor the Commission, when it approved the LCP, intended to require property owners to forego development authorized by the Coastal General Plan and zoning in order to force such private property owners to accommodate illegal parking in perpetuity. Moreover, as the Appellants themselves have recognized, the current illegal parking results at least in part from vehicles controlled by persons staying at the adjacent hotel facilities, and not necessarily by persons seeking access to the coast for recreational purposes.</p>
OS-16.7	<p>Mitigation measures required for impacts to public access and recreational opportunities shall be implemented prior to or concurrent with</p>	<p>Please see above discussions for Policies LU-5.6 and LU-5.7. No mitigation is warranted because the parking at issue constitutes illegal trespassing and is therefore not considered legitimate “public access.”</p>

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	construction of the approved development. Mitigation shall not substitute for implementation of a feasible project alternative that would avoid impacts to public access.	
Traffic		
C-1.2 (Program C-1.2.1)	<p>Coordinate Land Use and Transportation: Ensure that the amount and phasing of development can be adequately served by transportation facilities. (Review development proposals for their direct and cumulative effects on roadway Level of Service standards. During the development review process, City staff will determine whether traffic studies need to be carried out and the scope of such studies.)</p>	<p>Appellants claim that the traffic study prepared for the Project “concludes that the project will contribute, in a cumulatively considerable manner, to further deterioration of the LOS standards at several studied intersections established by the Coastal General Plan,” and, therefore, “the project cannot be considered to be ‘adequately served’ by the City’s transportation facilities.”</p> <p>Appellants omit the fact that a Project condition of approval alleviates any issues with this future cumulative concern.</p> <p>It is true that, under Year 2040 cumulative conditions with the Project, the Transportation Impact Analysis (TIA) for the Draft EIR (DEIR, App. F) found that delays at the one intersection of Highway 1 (Main Street) / South Street would, during weekday PM and Saturday peak hours, exceed the City’s Level of Service (LOS) D minimum standard, assuming no improvements were made to that intersection. (DEIR, App. F [p. 32].) This does not mean, however, that the Project cannot be adequately served by the City’s transportation facilities.</p> <p>As explained in the Staff Report to City Council:</p> <p>“[T]he TIA indicated that the addition of [Grocery Outlet] traffic resulted in LOS E conditions at this location with the left turn prohibition in place [by Caltrans at the intersection of S. Main Street and N. Harbor Drive]. <i>While the minimum LOS D standard had been exceeded, General Plan policy had allowed the City to accept LOS F condition on peak summer weekends.</i> With traffic diverted to N. Harbor Drive the General Plan’s minimum LOS D standard is no longer exceeded at the South Street intersection on Saturday.</p>

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		<p>Alternatively, the length of delays at the SR 1 / N. Harbor Drive intersection are longer under cumulative conditions if left turns are allowed [at the intersection of S. Main Street and N. Harbor Drive]. As indicated... the westbound approach to the SR 1 / N. Harbor Drive intersection operates at LOS D in the p.m. peak hour with the addition of [Grocery Outlet] trips. This result satisfies the City's minimum LOS D standard. On Saturday the westbound approach operates at LOS D without [Grocery Outlet] and at LOS E with [Grocery Outlet]. LOS E exceeds the General Plan's minimum LOS D standard, but as noted in the General Plan, the City of Fort Bragg is allowed to accept LOS F during peak hours during peak summer weekends. Thus, the [Grocery Outlet]'s effect during summer Saturday peak hour conditions would be acceptable under that policy."</p> <p>(Attach. C, p. 20, italics original.)</p> <p>Although the Coastal General Plan allows for these LOS exceedances, to ameliorate the Project's contribution to this future cumulative issue, the City has imposed Special Condition 3 on the Project, which requires the Developer to enter into a "Fair-Share Deferment" with Caltrans prior to final approval of the Building Permit to fund its share of the \$900,000 required to eventually signalize the intersection of Highway 1 and N. Harbor Drive, when future conditions warrant such action. Per Special Condition 3:</p> <p>"The agreement shall be in the form published by Caltrans in the Local Development Intergovernmental Review Program – Traffic Mitigation Agreements. Furthermore, the amount of fair share payment has been determined to be \$144,900 based on the traffic study and the Caltrans cost estimate. The 'Fair-Share Deferment' agreement shall be executed, and \$144,900 in funds shall be deposited with TRAMS - a fund program of Caltrans – prior to issuance of the Building Permit. The check shall be submitted per the procedure outlined in the document entitled Local Development Intergovernmental Review Program – Traffic Mitigation Agreements.</p> <p>(Attach. C, p. 21; NOFA, pp. 5-6.)</p>

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		<p>Because the “Project’s trips represent 16.1% of the future new traffic at [the intersection]...the Project should pay 16.1% of the cost of signalization.” (Attach. C, p. 20.)</p> <p>As well, the City imposed Special Condition 4, which provides that “[t]he Applicant shall apply for an encroachment permit from Caltrans and, if the permit is approved, the applicant shall install signage, stripe and paint to create a right-hand-turn only lane at the western approach of N. Harbor Drive to the intersection of N. Harbor Drive and S. Main Street. If through a traffic/safety study completed within two years of Project’s final on the Building Permit, the City determines that the left turn lane from N Harbor Drive onto Highway 1 needs to be modified, and Caltrans agrees, the Applicant shall obtain an encroachment permit and pay its pro-rata share of the cost to modify this intersection per Caltrans specs.” (NOFA, p. 6.)</p> <p>With these conditions of approval, the City found that the Project is consistent with Circulation Goal C-1 and Policy C-1.3 in the future cumulative scenario (Attach. C, p. 20–21), and most certainly can be adequately served by transportation facilities, per Policy C-1.2, at the future time when LOS becomes a concern at the one intersection of Highway 1 and N. Harbor Drive.</p> <p>Appellants also contend that “there is no discussion or analysis of the site’s access to public transportation or pedestrian-oriented facilities. Thus, this project is not consistent with C-1.2.”</p> <p>On the contrary, the Staff Report contains ample discussion on nearby pedestrian facilities:</p> <p>[T]he Planning Commission discussed at length the need for off-site pedestrian improvements at the corner of South Franklin and South Streets. There are just a few Coastal General Policies regarding pedestrian safety including:</p> <p>Policy C-9.2 : Require Sidewalks . Require a sidewalk on both sides of all collector and arterial streets and on at least one side of local streets as a condition of approval for new development.</p>

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		<p data-bbox="735 317 1325 348">Policy C-9.7 : Improve Pedestrian Safety .</p> <p data-bbox="688 390 1455 527">Therefore, the Planning Commission recommends that the City Council adopt a new Special Condition 33 to establish a safe crossing and complete sidewalks at this intersection:</p> <p data-bbox="748 569 1471 1094">Special Condition 33 : The Applicant shall pay its fair-share for the installation of either an all-way stop or pedestrian triggered flashing lights, as recommended by a traffic engineer, at the intersection of South Franklin St. and South St., including signage, striping, and pedestrian facilities (sidewalk, curb, and gutter) to provide crossing at all legs of the intersection. The proposed intersection improvement would require the installation of sidewalk curb and gutter to City Standard Specifications for a total length of 57 linear feet along the east side of South Franklin St. as well as a curb return to provide sufficient pedestrian landing facilities on the south-east corner of the intersection.</p> <p data-bbox="688 1136 1463 1272">Consistent with case law, the City is only legally able to ask for a fair share contribution to offsite improvements. <i>The Applicant has, however, agreed verbally to pay for the entire cost of these improvements.</i></p> <p data-bbox="688 1314 1325 1346">(Attach. C, p. 22, italics added; NOFA, p. 9.)</p> <p data-bbox="643 1388 1446 1566">With this condition of approval, the City found that the Project is consistent with Policies C-9.2 and C-9.7, and most certainly can be adequately served by these transportation-related facilities, per Policy C-1.2. (Attach. C, p. 22.)</p> <p data-bbox="643 1608 1187 1640">Regarding transit, the City determined:</p> <p data-bbox="688 1682 1471 1776">Transit. A transit stop is currently located on the corner of South Street and S. Franklin Street. (northeast corner), and no additional transit facilities are required.</p> <p data-bbox="688 1818 1438 1955">Bike Connectivity . The Project is located on Franklin Street which has bike lanes, and the Project includes bicycle parking and an extra wide pedestrian path of travel to the bicycle</p>

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		<p>lanes on Franklin Street. Thus, the Project is consistent with Policy C-10.2:</p> <p>Policy C-10.2. Require new development to provide on-site connections to existing and proposed bikeways, as appropriate.</p> <p>(Attach. C, p. 22.)</p> <p>Thus, the Project can be adequately served by these transit facilities, per Policy C-1.2. (Attach. C, p. 22.) Notably also, Policy C-1.2 is listed in the Draft EIR's local regulatory setting as a policy applicable to the Project (DEIR, p. 3.7-27); the EIR therefore reasonably concluded that the Project "would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities" encompasses C-1.2. (DEIR, p. 3.7-41.)</p>
C-1.3	<p>Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of pro rata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain</p>	<p>Please see above discussion for Policy C-1.2 (see also Attach. A, p. 55). Appellants mention the intersection improvements recommended in the TIA, but fail to mention that the fair-share condition of approval (discussed just above) would ensure the Project was consistent with City policies associated with LOS, specifically as it pertains to the pro-rata criteria in section "b" of this policy.</p> <p>Appellants allege that "this mitigation measure might not be feasible for that intersection," but provide no evidence or supporting analysis for this claim. Appellants then mention that "[i]n general, Caltrans has a prohibition on signalized intersections in close proximity to a bridge and the intersection of Main Street and North Harbor Drive is in close proximity to the Noyo River bridge to the south." Caltrans, however, was consulted about the future signalization of this intersection, and provided the City with the \$900,000 estimate discussed above. (Attach. C, p. 20.) Although Caltrans will ultimately determine whether a signal is needed or desirable at this intersection (as Caltrans controls state highways such as Highway 1), it seems unlikely that Caltrans would have provided the City with a cost estimate for a future signal project if Caltrans were implacably opposed to such a future improvement. Caltrans' ultimate decision will reflect its concerns about public safety.</p>

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	the established Level of Service is included as a condition or development standard of project approval.	<p>Appellants go on to tacitly acknowledge the effectiveness of this future intersection signalization by acknowledging that “[w]ithout such mitigation or other revisions to the project to prevent the LOS from deteriorating further, it is inconsistent with C-1.3.” As noted, Caltrans is the ultimate decision-maker on when this intersection gets signalized. (Attach. C, p. 21.) Presumably, Caltrans and the City will work together closely to ensure that the intersection is signalized at the correct future time (if deemed appropriate and desirable by Caltrans). With these conditions of approval, the City and Developer have done everything in their power to resolve LOS issues affecting Highway 1. Likewise, the City has done everything within its authority to ensure that the LOS at this one intersection remains acceptable and consistent with its policies.</p> <p>Moreover, in the Draft EIR and Staff Report for City Council, the City reasonably concluded that the Project was consistent with Policy C-1.3. (See DEIR, p. 3.5-20; Attach. C, p. 21.) The Project is, therefore, consistent with this policy.</p>
C-1.4	Include specific time frames for the funding and completion of roadway improvements for projects which cause adopted roadway and intersection Level of Service standards to be exceeded. Require security, bonding or other means acceptable to the City to ensure the timely implementation of roadway mitigations.	<p>Please see above discussion for Policy C-1.2, where it is noted how City goals and policies allow for certain exemptions for LOS exceedances. As we explain in our December 6, 2022, letter to the City (Attach. A, pp. 56–57), Policy C-1.4 is not triggered where a specific development is only paying a fair share fee to be used towards the completion of new public facilities required as part of a variety of past, present, and future development.</p> <p>Here, because the Project is only creating a portion of the need for certain new facilities, the policy does not require a specific time frame for completing those facilities. The construction dates for capital improvements funded by a fair share fee program are determined by the pace of development, as such development must occur before sufficient funding for the improvements has been provided to the City. The pace of development is affected by market factors and other external factors over which the City has no control (such as the need for Caltrans approval of improvements on facilities over which it has control).</p> <p>This issue was addressed in the Agenda Item Summary Report prepared in advance of the Planning Commission meeting of May 26, 2021, at which time the City was</p>

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		<p>considering the Project in connection with a Mitigated Negative Declaration. On page 21, that report stated as follows (note that, as mentioned below, dollar amounts and special condition numbering were changed in 2023):</p> <p>The impacts of the Grocery Outlet Store project have been considered within the context of future traffic conditions in this area of Fort Bragg. Long term traffic conditions have been forecast and evaluated based on growth assumptions made in other recent traffic studies and based on understanding of other approved projects in this area.</p> <p>In a project plus future buildout scenario the project's cumulative impact could be significant at the Highway 1 (Main Street)/South Street intersection based on General Plan policy, since the project will cause the intersection to operate at LOS E, which exceeds the LOS D minimum, and peak hour traffic signal warrants will be met at some time in the future. To address future conditions at this location it will be necessary to install traffic controls that stop the flow of traffic on Highway 1 in order to allow side street traffic to enter, such improvements may include a traffic signal or a roundabout.</p> <p>Any improvements within the state right of way require Caltrans approval. At this time, Caltrans has indicated that it will not permit any traffic controls at this location, and therefore agrees with the recommendation of the Traffic Study that frontage improvements and contribution to a fair-share funding mechanism be required for future improvement.</p> <p>According to the analysis, project trips represent 16.1% of the future new traffic at the Highway 1 / South Street intersection. Assuming a \$500,000 traffic signal, the project's contribution could be \$84,500. [This amount was subsequently increased to \$144,900 in June 2023.]</p> <p>In accordance with Policies C- 1.2 to C-2.1 described above, the results of the traffic study, and Caltrans comments; to ensure the project is adequately served by transportation facilities, cumulative impacts associated with nearby and future development is incorporated, and the developer is funding their pro-rata share of the</p>

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		<p>cost associated with future transportation needs the Staff recommends the addition of Special Condition 16. [This obligation was ultimately memorialized as Special Condition 3 in June 2023.]</p> <p>Special Condition 16: A “Fair-Share” agreement shall be entered into by the applicant to fund future traffic improvements as necessary. The agreement shall be in the form approved by the Director of Public Works and the amount shall be based on a traffic study performed by a qualified professional at the cost to the applicant. The “Fair-Share” agreement shall be executed and funds deposited with the City prior to certificate of occupancy.</p> <p>Notwithstanding, the specific timing of the Project’s contribution to the funding for the signalization for the intersection of Highway 1 and N. Harbor Drive, where a future cumulative LOS exceedance may occur, is detailed in Special Condition 3. As explained in the discussion for Policy C-1.3, the timing of the signalization of that intersection is outside the City’s jurisdiction and is under the sole authority of Caltrans. It is reasonably presumed that Caltrans, in consultation with the City, would prepare and present to the City a timeline for implementation of intersection signalization at the appropriate future time.</p> <p>Importantly, any future LOS exceedance at this intersection is not per se caused by the Project; rather, it would be the result of cumulative traffic produced by several current and future projects in the area, of which the Project is just one. The Project generally would not increase LOS at nearby intersections, with one marginal increase not to exceed LOS B during peak hours. (See DEIR, App. G [p.5].) Moreover, in the Draft EIR, the City reasonably concluded that the Project was consistent with Policy C-1.4. (See DEIR, p. 3.5-20.) The Project is, therefore, consistent with this policy.</p>
C-1.5	Traffic Impact Fees. When traffic impact fees are collected, establish a schedule from the date of collection of said fee for the expenditure of funds to construct	<p>Please see above discussion for Policies C-1.2 and C-1.4.</p> <p>Roadway and intersection improvements are not “necessary per the traffic study,” as Appellants claim. As explained above, the TIA concluded that the Project would cumulatively contribute, along with several other planned and future projects, to an LOS exceedance by the year 2040 at the intersection of Highway 1 and N. Harbor Drive,</p>

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	<p>roadway improvements that meets project needs. Where a project would cause a roadway or intersection to operate below the adopted traffic Level of Service standards, the roadway or intersection improvements should be completed in a timely manner but no later than five years after project completion.</p>	<p>thereby making improvements at one intersection possibly necessary by 2040 in this cumulative context.</p> <p>The City opted to address this potential future cumulative exceedance through a condition of approval requiring a fair-share contribution for the future installation of a signal at that one intersection, at the discretion of Caltrans, the regulating authority for that intersection. Also, as explained in the above discussion for Policy C-1.4, the Project does not by itself cause this exceedance. Indeed, the Project, by itself, would <i>not</i> “cause a roadway or intersection to operate below the adopted traffic Level of Service standards.” It will, by-and-large, not increase LOS at nearby intersections at all, with one marginal increase not to exceed LOS B during peak hours. (See DEIR, App. G [p.5].) Any cumulatively driven LOS exceedance would not occur within “five years” from Project completion – likely not even within 10 years. Moreover, in the Draft EIR, the City reasonably concluded that the Project was consistent with Policy C-1.5. (see DEIR, p. 3.5-20.) The Project is, therefore, consistent with this policy.</p>
C-6.2	<p>Improve Existing North Harbor Drive: Consider improvements to North Harbor Drive to increase capacity and safety for vehicles and pedestrians. Any improvements to North Harbor Drive shall be consistent with all applicable policies of the LCP including, but not limited to, the wetland, environmentally sensitive habitat area, public access, and visual protection policies.</p>	<p>This policy includes nonmandatory, flexible language (i.e., “Consider”). A proposed project is only inconsistent with the governing general plan if it “conflicts with a general plan policy that is fundamental, mandatory, and clear.” (<i>Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Supervisors</i> (1998) 62 Cal.App.4th 1332, 1341 1342; see also <i>Endangered Habitats League, Inc. v. County of Orange</i> (2005) 131 Cal.App.4th 777, 782 [“[a] project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear”]; see also Attach. A, p. 52.)</p> <p>Nevertheless, Appellants admit that “[t]his project involves improvements along a short section of North Harbor Drive (e.g., sidewalks along the project site on the north side of the road),” which will “increase capacity and safety for...pedestrians.” Appellants then claim, though, that “there is no analysis of the consistency of the proposed improvements with the applicable policies of the LCP, including policies concerning maintaining public access to coastal resources served by the informal parking area on the southern portion of the parcels.”</p> <p>These improvements are included as part of the Project and were evaluated as such throughout the Draft and Final</p>

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		<p>EIRs, including in the policy consistency analysis in Table 3.5-1 of the Draft EIR, where the Project was analyzed for its consistency with applicable Coastal General Plan policies intended to avoid or mitigate environmental effect. As well, all policy analysis performed in the Staff Report for City Council took into consideration this component of the Project. Consequently, these improvements to N. Harbor Drive have been well analyzed for policy consistency.</p> <p>Notably, too, Policy C-6.2 is listed in the Draft EIR's local regulatory setting as a policy applicable to the Project (DEIR, p. 3.7-33); thus, Policy C-6.2 was encompassed within the EIR's conclusion that the Project "would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities." (DEIR, p. 3.7-41.)</p> <p>Regarding the illegal parking that occurs on the southern portion of the site, which Appellants repeatedly mischaracterize as merely "informal," please refer to the above discussion for Policy LU-5.6.</p>
C-9.3	Where feasible, incorporate pedestrian facilities into the design and construction of all road improvements.	<p>Again, this policy includes nonmandatory, flexible language (i.e., "Where feasible"). A proposed project cannot conflict with a policy using nonmandatory language. Please refer the discussion of Policy C-6.2 for more detail on this subject.</p> <p>Please also see above discussion for Policy C-1.2, where we discuss Project-funded improvements to pedestrian facilities at the intersection of S. Franklin Street and South Street. Moreover, City of Fort Bragg pedestrian facilities, to our understanding, are not considered coastal resources—particularly those east of Highway 1. Notably also, Policy C-9.3 is listed in the Draft EIR's local regulatory setting as a policy applicable to the Project (DEIR, p. 3.7-35); thus, Policy C-9.3 is encompassed within the EIR's conclusion that the Project "would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities." (DEIR, p. 3.7-41.)</p>
C-9.7 (Program C-9.7.1)	Improve Pedestrian Safety. (Continue to provide traffic controls and well-lit intersections in areas with a high volume	Please see above discussion for Policy C-1.2, where we discuss Project-funded improvements to pedestrian facilities at the intersection of S. Franklin Street and South Street, including traffic controls such as an all-way stop or pedestrian flashing lights. Notably also, Policy C-9.7 is listed in the Draft EIR's local regulatory setting as a policy

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	of pedestrian movement.)	applicable to the Project (DEIR, p. 3.7-36); thus, Policy C09.7 is encompassed within the EIR's conclusion that the Project "would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities." (DEIR, p. 3.7-41.) The Staff Report for City Council also finds that the Project is consistent with "C-9.7, as the project will improve pedestrian safety." (Attach. C, p. 16.) Accordingly, the Project is consistent with this policy. See also above discussion of Policy C-9.3.
C-14.1	Development to Pay Its Fair Share: Require new development to pay its fair share of transportation improvements to maintain levels of service and traffic safety in the City.	Please refer to analysis on page 3.5-22 of the Draft EIR, where the City determined that the Project is consistent with this policy because the Project would contribute: (i) its fair share toward the cost of regional circulation improvements by paying adopted fees and making frontage improvements; and (ii) its fair share to the cost of cumulatively needed improvements to the SR 1 (Main Street) / South Street intersection. Notably also, Policy C-14.1 is listed in the Draft EIR's local regulatory setting as a policy applicable to the Project (DEIR, p. 3.7-40); thus, Policy C.14-1 is encompassed within the EIR's conclusion that the Project "would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities." (DEIR, p. 3.7-41.) Please also see above discussion for Policy C-1.2.
OS-16.4	New Development: Require public access from the nearest public roadway to the shoreline and along the coast in new development except where: a) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; b) adequate access exists within 500 feet of the site; or	<p>Although not in its formal policy consistency analysis, Appellants [confusingly] contend in the introduction to their appeal that the Project violates Policy OS-16.4. They appear to reason, primarily, that the Project "impacts walkability" to a public access trail to Noyo Harbor located across N. Harbor Drive and adjacent to Harbor Lite Lodge, because the Project will eliminate the illegal parking that occurs on the vacant lot on the Project site. This logic unreasonably relies on the continued illegal use of a privately-owned parcel. For more on this illegal parking, please refer to the discussion for Policy LU-5.6.</p> <p>Appellants also appear to generally claim that the Project "adds to already existing traffic issues, along with lack of safe roads and sidewalks," and that this somehow impedes coastal access.</p> <p>Appellants are incorrect, and in fact the exact opposite is true—the Project will <i>improve</i> Harbor access. In the Staff</p>

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	<p>c) access at the site would be inconsistent with other LCP policies, including but not limited to, expanded or new coastal-dependent industry or the protection of environmentally sensitive resources.</p>	<p>Report to City Council, the City had this to say on pedestrian access to the Harbor:</p> <p>Pedestrian Access to the Harbor/Ocean The proposed Project is not located between the sea and the first public road. The Project does not provide direct connectivity to the Harbor, and it is not feasible nor desirable to require public coastal access through the property to the Harbor (see General Plan Policy OS-16.4: New Development), as site sidewalks will provide good pedestrian access.</p> <p>An existing public access trail/stairway to the Harbor is located just south of the Project at the Harbor Lite Lodge (Figure 4), however the motel does not permit public parking for this access.</p> <p><i>The new sidewalks and pedestrian upgrades that are required as a condition of this Project will increase pedestrian accessibility to this existing Harbor access.</i> An optional special condition was included in the Planning Commission staff report to allow the use of the Project parking spaces for vehicular parking for the trail. However, the Planning Commission recommended that the optional special condition below be stricken from the resolution, as this is not an effective access to the Noyo Harbor given the easy drive to the harbor and the Coastal Trail and it would be problematic for the Grocery Outlet to monitor such parking.</p> <p>(Attach. C, pp. 29–30, italics added.)</p> <p>Also in the introduction to their appeal, Appellants offer several additional incorrect criticisms of the traffic analysis prepared for the project, each of which is addressed here.</p> <p>First, Appellants argue that the TIA is old. Appellants, however, appear to overlook the two supplemental technical traffic studies that were performed for the Project. The 2019 traffic study was verified and supplemented by a nine-page June 2021 addendum, prepared by the same traffic consultant (KD Anderson) (see DEIR, App. G), and a six-page June 2022 VMT analysis, prepared by a second traffic consultant (Fehr & Peers) (see DEIR, App. H). Together, these three traffic studies provide ample substantial</p>

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		<p>evidence to support the conclusions in the Draft and Final EIRs.</p> <p>Appellants than complain that the TIA only “collected [data] over a single three-day time period in late July 2019,” but fail to explain why collecting additional data over a longer period of time would be useful. Presumably, the experts and registered professional engineers at KD Anderson and Fehr & Peers used the appropriate industry standard when modeling traffic data for the Project and reaching their conclusions.</p> <p>Appellants lastly assert that the traffic analysis “does not account for newly added traffic over and above the addition of the 69-Unit DANCO Plateau housing project (which was only modeled), with added medical services per Adventists Health Mendocino Coast and Mendocino Coast Clinic, a newly opened Crisis Respite Center (517 Cypress Street) and Parent & Friends additional build out on Cypress Street.”</p> <p>Appellants do not explain why modeled data is insufficient in this scenario; but, in any event, they can rest assured that the Draft EIR’s cumulative traffic analysis accounted for all planned and currently developed land uses within the area, including any nearby medical facilities and the “Plateau” housing project. The Draft EIR’s cumulative analysis employed the “summary of projection” approach, explicitly allowed by CEQA Guidelines section 15130, subdivision (b)(1)(B), by “[using] a summary of projections in adopted General Plans or related planning documents to identify potential cumulative impacts.” (DEIR, p. 4.0-3.) These planning documents account for all current and future planned land uses, including the aforementioned ones. (See Attach. B, pp. 29-30.) For more explanation on this approach, please refer to Attachment A, page 72.</p>
Air Quality		
LU-10.5	Minimize Impacts on Air Quality and Green House Gasses. New development shall: 1) be consistent with requirements imposed by an air pollution control	1) As to the first criterion, as demonstrated in the Draft EIR, the Project will comply with Mendocino County Air Quality Management District’s (MCAQMD) requirements for operation and construction; and the Project “would not exceed any of the applicable operational-related criteria pollutant thresholds” or “any of the construction-related criteria pollutant thresholds.” (DEIR, pp. 3.2-20 to 3.2-22.)

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	<p>district or the State Air Resources Control Board as to each particular development, and 2) minimize energy consumption and vehicle miles traveled.</p>	<p>2) As to the second criterion, Appellants mischaracterize the nature of this policy. The Project, like nearly all development, will consume energy. Policy LU-10.5 does not prohibit this consumption of energy—that would be ludicrous. The policy only requires that energy consumption be <i>minimized</i>. The Project complies with this directive.</p> <p>As Stated in the Draft EIR, the Project will “comply with all applicable federal, State, and local regulations regulating energy usage” and “would incorporate several renewable energy and energy efficiency features. For example, the proposed Project is required by the California Building Energy Efficiency Standards (Energy Code) to be ‘solar ready’; specifically, the proposed Project includes a solar-ready area of 2,400 square feet.” (DEIR, pp. 3.4-39 to 3.4-40.)</p> <p>The Staff Report to City Council expounds on the Project’s energy efficiency requirements:</p> <ul style="list-style-type: none"> • “The proposed outdoor light fixtures would utilize energy efficient fixtures and lamps.” (Attach. C, p. 18.) • “The Project will achieve Title 24 energy efficiency in compliance with the State Building Code.” (Attach. C, p. 35.) • “Special Condition 20: The building permit application plans shall include solar panels on the roof, which shall be installed prior to the final of the building permit.” (Attach. C, p. 35; NOFA, p. 8.) • “[T]he building is oriented to the south to take advantage of solar access for passive and active energy need...” (Attach. C, pp. 40–41.) • “Special Condition 1b: ... Comply with the California Model Water Efficient Landscape Ordinance (MWELO).” (Attach. C, pp. 18–19; NOFA, p. 5; see also Attach C, p. 34 [Project will include “the use of water efficient landscaping”], DEIR, p. 2.0-4.) <p>Thus, with project design and conditions of approval, the Project will in fact minimize energy consumption.</p> <p>Similarly, the Draft and Final EIRs, supported by two different traffic consultants, demonstrate that the Project will result in a net <i>reduction</i> in VMT. Fehr & Peers quantitatively modeled VMT for the Project using verifiable</p>

	<p>store data showing that approximately 9 percent of the current customers at the Willits Grocery Outlet live in Fort Bragg. (DEIR, p. 3.7-44; FEIR, p. 3.0-31.) Conservatively assuming that only 1 percent of these Willits store customers divert their business to the approved Project, Fehr & Peers modeling showed that current regional VMT would be modestly reduced. (FEIR, p. 3.0-32.) If all 9 percent of those Willits store customers shop at the new Fort Bragg Grocery Outlet, as predicted (and clearly indicated in the comment letters on the Project), then by the year 2030, the Project would have sizably reduced VMT by 9,720 miles. (FEIR, p. 3.0-32.) As a result, Fehr & Peers accurately concluded that “per the significance criteria, the modeled VMT results, and the adjustments based on market information presented previously, the Project results in a less-than-significant impact.” (DEIR, Appendix H [p. 6]; see also FEIR, p. 3.0-32; Attach. A, p. 68–69.)</p> <p>KD Anderson took a more qualitative approach, but came to the same conclusion:</p> <p>Based on the location of competing stores, the most likely effect on regional travel associated with the development of the project is to slightly reduce the length of trips from areas south of the river off of SR 20 or SR 1 that are today made northbound, and to offer another option for shopping trips made by residents of areas to the north. As the proposed project is relatively close to other stores, the regional effect on VMT is likely to be small, but generally will be reduced by offering a closer option for northbound traffic.</p> <p>(DEIR, Appendix F [p. 35].)</p> <p>KD Anderson also states:</p> <p>This conclusion is consistent with the OPR presumption that the VMT effects of locally serving retail uses of 50,000 sf or less may be considered to be less than significant.</p> <p>Testimony offered at the Planning Commission supported the conclusion that the Fort Bragg Grocery Outlet Store would reduce regional VMT. Many speakers described driving to the existing Grocery Outlet Store in Willets and stated that they would patronize the new store in Fort Bragg. This redistribution of current traffic to a closer Grocery Outlet Store is consistent with</p>
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		<p>OPR guidance.</p> <p>Similarly, the Grocery Outlet Store representative also provided supporting testimony. Based on the company’s experience, the entry of Grocery Outlet Store into any community ... redistribute[s] the current shopping pattern, but based on Bureau of Labor Statistics analytics, community grocery consumption remains the same regardless of the number of grocers servicing the area. That dynamic supports the notion that the entry of Grocery Outlet actually lowers VMT and traffic congestion as consumers travel choices tend to favor convenience. Thus, the entry of any new grocer will tend to reduce travel as consumers located near the new location will gravitate to that new location making shorter trips. While traffic studies may conservatively describe trips to the Grocery Outlet Store as “new”, there is an offsetting reduction in trips to the pre-existing grocery providers.</p> <p>(DEIR, Appendix G [pp. 8 9].)</p> <p>So, when Appellants claim that the Project “adds miles traveled rather than less,” they are flat-out wrong. And they provide no evidence whatsoever to support their contention or to contravene the expert analysis provided by Fehr & Peers and KD Anderson. (See also Agenda, p. 301 [public commenter stating “[a]nd wow, can you think of the miles saved of those who are no longer have to shop out of town?”].)</p> <p>Appellants further complain that the delivery trucks used to bring groceries to the new Grocery Outlet, to feed the community, and the cars driven by Project employees and patrons “will add pollution emissions to this neighborhood”; but, again, they offer no evidence that this will cause an environmental or health concern.</p> <p>We address this issue in our May 31, 2023, letter to City Council. (Attach. B, pp. 2–7.) There we remind appellant Fort Bragg Local Business Matters that the Draft EIR clearly demonstrates that the Project results in relatively low amounts of air pollution. (See DEIR, p. 3.2-22 [Table 3.2-8, Operational Project Generated Emissions].) In all instances, for all vehicle categories, the anticipated Project-related emissions are far, far below Mendocino County Air Quality Management District (MBAQMD) significance thresholds and therefore result in a less-than-significant</p>
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	<p>impacts on air quality. (DEIR, p. 3.2-22.) For example, the MBAQMD significance threshold for PM₁₀⁸ is 82 pounds per day, while the Project will emit only 2.7 pounds. Similarly, the threshold for PM_{2.5} is 54 pounds per day, while the Project will emit only 1.1 pounds. (See DEIR, App. B.1.)</p> <p>We point out in our May 31st letter that a sample Health Risk Assessment for an industrial project in another City, which would generate 281 daily truck trips versus the 6.14 generated by the Project, was found to have a maximum cancer risk for nearby residents of only 0.12 in one million, which is far, far below MCAQMD's "10 in a million" criterion of concern. (See Attach. B, fn. 4; Attach. A)</p> <p>This data and analysis provide the so-called "ground-truth" that Appellants desire, showing a lack of Project-related significant air quality and health impacts; yet they choose to ignore this evidence.</p> <p>Appellants boldly contend that "this project is inconsistent with LU-10.5 absent the incorporation of energy reduction techniques or on-site or off-site carbon sequestration efforts as mitigation measures and/or permit conditions to offset the projected increase in GHG emissions and energy use." But the language of the policy does not require any such mitigation. And, regardless, such mitigation is entirely unnecessary here. The Project in fact incorporates energy reduction techniques, and it will have a less-than-significant impact on energy resources (DEIR, p. 3.4-40)—a conservative conclusion given that it did not account for Special Condition 20 requiring installation of solar panels prior to receiving a final building permit.</p> <p>Similarly, Project operation will have a less-than-significant impact associated with GHG emissions because: (i) the Project will not conflict with any of the GHG reduction measures contained within the applicable planning documents—the California Air Resources Board 2017 Climate Change Scoping Plan and the Mendocino Council of Government's 2017 Regional Transportation Plan & Active Transportation Plan; and (ii) the Project will "reduce overall VMT, when accounting for even a modest trip redistribution from the VMT currently generated from trips from Fort Bragg to the Willits Grocery outlet," as explained above. (DEIR, pp. 3.4-36.)</p>
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		As stated in the Draft EIR: “the proposed Project would be consistent with the State GHG reduction targets, and would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment or to conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.” (DEIR, pp. 3.4-36.) Thus, Appellants’ contention that the Project “fails to meet the California Coastal Commission and State of California goals of Green House Gas Emissions reduction targets” is unfounded, non-specific, and not supported by data or evidence. Conversely, the analysis and conclusions in the Draft and Final EIRs are supported by ample evidence prepared by a myriad of experts (listed earlier).
Visual Resources/Scenic Views		
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.	Please refer to analysis found on pages 3.1-6 and 3.5-22 of the Draft EIR, where the City determined that the Project is consistent with this policy because: (i) the “Project site is not located ‘along the ocean’ or within a ‘scenic coastal area’ within the meaning of Coastal General Plan Policy CD[-]1.1” because “the site is on the landward side of Highway 1, and there is intervening commercial development between the site and Highway 1”; (ii) the Project “is replacing an existing structure with one of the approximate same size” and other nearby structures already obstruct the ocean view from “the middle and southern portions of the project site,” thus, any supposed views “to” the ocean would not be impacted by the Project because they are already obstructed; and (iii) the other “existing view of the ocean from the far northern portion of the site” would not be impacted because, for one, it “is not easily discernible by pedestrians and is interrupted by two large trees and a Chevron Station and intervening vacant lot between the project site and Chevron Station and the ocean.”

⁸ “Respirable particulate matter (PM₁₀) consists of small particles, less than 10 microns in diameter, of dust, smoke, or droplets of liquid which penetrate the human respiratory system and cause irritation by themselves, or in combination with other gases.” (DEIR, p. 3.2-5.) “PM_{2.5} consists of fine particles, which are less than 2.5 microns in size. Similar to PM₁₀, these particles are primarily the result of combustion in motor vehicles, particularly diesel engines, as well as from industrial sources and residential/agricultural activities such as burning. It is also formed through the reaction of other pollutants.” (*Ibid.*)

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		<p>Thus, “views...along the ocean and scenic coastal areas” would not be impacted by the Project.” (DEIR, p. 3.5-22.) And, notwithstanding, the vacant lot directly west of the Project site, in between it and the Chevron station, could be developed with a sizable commercial structure, which would then “completely block the existing interrupted view of the Chevron Station and ocean,” given the by-right development allowed on that adjacent site and the comparable development in the area. (DEIR, p. 3.1-7.)</p> <p>Notably also, Policy CD-1.1 is listed in the Draft EIR’s local regulatory setting as a policy applicable to the Project (DEIR, p. 3.1-3); thus, Policy CD-1.1 is encompassed within the EIR’s conclusion that “the proposed Project would be consistent with the Fort Bragg Coastal General Plan.” (DEIR, p. 3.1-11.)</p> <p>As we state in our December 6, 2022, letter to the City, where we address this issue thoroughly (Attach. A, pp. 20–26), the City has carefully planned for this exact type of “future growth and development,” inclusive of “[c]ommercial land uses...along Franklin Street corridor[,]” in its General Plan. The City has thus set its policies accordingly to “support a concentrated development pattern by encouraging infill development on vacant and underutilized sites throughout the City.” (Coastal General Plan, p. 2-1 [Purpose]; see also p. 2-18 [Policy LU-1.1, “Implement the Land Use Designations Map by approving development...consistent with the land use designations”]; see also <i>Neighbors for Smart Rail v. Exposition Metro Line Construction Authority</i> (2013) 57 Cal.4th 439, 509 [development allowed by right in a heavily developed area is foreseeable and could possibly be in place by the time the Project commences actual operations, in which case the development could be treated as part of “existing conditions”].)</p> <p>Also in our December 6th letter, we discuss the fleeting nature of the supposed view and provide photographic evidence visually demonstrating the small span of the view and the many obstructions.</p> <p>The City’s Staff Report for City Council addresses this issue again. (Attach. C, pp. 12–14.) There, the City staff explains that the City’s Coastal Land Use and Development Code (CLUDC) Section 17.50.070B “is intended to</p>

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		<p>implement the policies of the Coastal General Plan that relate to the protection of scenic views,” including Policy CD-1.1. Section 17.50.070B lays out criteria for determining whether a project requires a visual resource analysis, as follows:</p> <ol style="list-style-type: none"> 1. Along the west side of Highway 1; 2. Along the bluff of the Noyo River including any area within viewing distance from the bluff, and the bluffs at the mouth of Pudding Creek within the Coastal Zone (CZ); 3. Along Highway 20 and Highway 1 on sites with views to the ocean; and 4. Areas designated “Potential Scenic Views toward the Ocean or the Noyo River” on Map CD-1. <p>City staff determined that:</p> <p>The Project is <i>not</i>: 1) located on the west side of Highway 1; 2) within viewing distance from a bluff; 3) along Highway 20 or Highway 1 with views to the ocean; or 4) located in an area designated as having “potential scenic views toward the ocean or the Noyo River” per Map CD-1 of the City’s Community Design Element of the Coastal General Plan.</p> <p>Further Chapter 10 of the CLUDC defines a Public Viewing Area as follows:</p> <p style="padding-left: 40px;">Public Viewing Area. A location along existing scenic public roads and trails or within public parklands or beaches where there are scenic views of the beach and ocean, coastline, mountains, ridgelines, canyons and other unique natural features or areas.</p> <p>The proposed Project is not located on a scenic public road, trail, parkland or beach. Therefore, CLUDC Section 17.50.070B does not apply to the Project.</p> <p>City staff goes on to state that, therefore, the view through the Project site does not qualify as a Public Viewing Area under the meaning of the CLUDC’s definition and that, as it pertains to Policy CD-1.1, the view is compromised in the following ways:</p>

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		<ol style="list-style-type: none"> 1. The view is visible for about 20 feet along the access road entrance from the current parking lot. 2. The view extends through four parcels, including an existing Chevron gas station, Highway 1, and the undeveloped Mill Site to the west of Highway 1. 3. The view to the ocean is only visible from a high truck or other high vehicle (see Figure 2). It is fully obscured by a solid wood fence along the Mill Site property line if one is in a car or walking as a pedestrian (see Figures 1 and 3). 4. The short high view is also interrupted by two large cypress trees and a number of bushes, which further obscure the limited high truck views of the ocean and skyline. 5. The proposed retail store would occupy a similar location to the existing structure on the northern portion of the Project site. 6. There are no views to the Pacific Ocean on the southern portion of the Project site, as all views are blocked by the existing two-story Super 8 hotel and landscaping. <p>The Staff Report includes three photographs demonstrating its analysis and further adds:</p> <p style="padding-left: 40px;">The existing view towards the ocean does not qualify as a scenic resource because it is not located in a Public Viewing Area and it is exceptionally distant, small, and highly compromised by existing interceding development and only visible from a seat in a high truck. The Project does not conflict with Policy CD-1.1, CD-2.5 nor CD-1.4.</p> <p>In an effort to undermine the City’s interpretation of its own Coastal General Plan policy, Appellants briefly mention an application for an “Auto Zone on Todd’s Point” that was denied, but included a “visual analysis of ocean views through the project site and through intervening development that partially obstructed the ocean views through that project site” and some mitigation, in the form of a visual easement, for the potential impact to the ocean view.</p> <p>We address this project in our March 31, 2023, letter. (Attach. B, pp. 35–36.) There, we point out the many</p>

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		<p>differences between the projects. The Auto Zone project is located immediately west of Highway 1, <u>oceanside</u>, with no commercial development between it and the ocean (just a couple of single-family homes). In contrast, here the Project is located east of Highway 1 (the landward side), and a two-story motel (Super 8) and a gas station (Chevron) between it and Highway 1 currently block and largely obstruct ocean views. Moreover, another undeveloped adjacent lot can, by-right, be developed at any time, which would completely block any westward view. (See FEIR, Appendix A, pp. 21–23.)</p> <p>As well, the Auto Zone site is completely undeveloped and unpaved; thus, any new development on that site could block existing direct and unobstructed views from a scenic highway (Highway 1) to the ocean. In contrast, the Project site is already developed with a large building and paved parking lot, and it is completely surrounded by urban uses. (See FEIR, pp. 25–26.)</p> <p>It makes sense that the City would analyze and require preservation of an existing panoramic unobstructed direct ocean view from a scenic highway across a currently undeveloped lot to ensure compliance with Policy CD-1.1. It also makes perfect sense that the City would decide that a developed urban infill lot east of Highway 1, with just a distant and mostly obstructed view of the ocean from only one marginal viewpoint, does <i>not</i> require the same protections. (See FEIR, Appendix A, p. 22.) The City undertakes individualized policy consistency analysis for every project; and no one project analysis sets precedent for other, different projects. This case-by-case approach is standard protocol.</p> <p>Notwithstanding, in addition to the visual resources analysis included in the Draft EIR (DEIR, pp. 3.1-6 to 3.1-9) and in the Final EIR (FEIR, p. 3.0-3, App. A [pp. 20–26]), the Staff Report for City Council included three (+) pages of discussion on the Project’s consistency with applicable codes and policies. This discussion deals with scenic views, including Policy CD-1.1, using detailed analysis and photographic evidence (Attach. C, pp. 11–14). Consequently, this issue has been robustly analyzed, with the same result each and every time—no significant impact and no inconsistency with City policies.</p>

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		Appellants disagree with the City's consistency analysis, but this difference of opinion, without more, does not undermine City staff's interpretation of the City's own planning documents.
CD-1.4	New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent.	<p>Again, this policy includes nonmandatory, flexible language (i.e., "to the maximum extent feasible"). A proposed project cannot conflict with a policy using nonmandatory language. Please refer the discussion of Policy C-6.2 for more detail on this subject.</p> <p>Please see above discussion for Policy CD-1.1. This policy does not apply here because, as discussed above, there are no "scenic area visible from scenic road or public viewing areas" on or through the Project site. Notably also, Policy CD-1.4 is listed in the Draft EIR's local regulatory setting as a policy applicable to the Project (DEIR, p. 3.1-3); thus, Policy CD-1.4 is encompassed within the EIR's conclusion that "the proposed Project would be consistent with the Fort Bragg Coastal General Plan." (DEIR, p. 3.1-11.)</p>
CD-1.10	All proposed divisions of land and boundary line adjustments shall be analyzed for consistency of potential future development with the visual resource protection policies of the LCP, and no division of land or boundary line adjustment shall be approved if development of resulting parcel(s) would be inconsistent with these policies.	Please see above discussion for Policy CD-1.1. This policy does not apply here because, as discussed above, the Project is consistent with the City's "visual resource protection policies."
CD-2.5	Scenic Views and Resource Areas: Ensure that development does not adversely impact scenic views and	Please see above discussion for Policy CD-1.1. This policy does not apply here because, as discussed above, there are no "scenic views and resources" on or through the Project site.

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	resources as seen from a road and other public rights-of-way.	
Economic Concerns		
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.	<p>Please refer to analysis on page 3.5-9 of the Draft EIR, where the City determined that the Project is consistent with this policy because: (i) the area is vehicle-oriented; (ii) the use is permitted-by-right and adheres “to the intent of the CH zoning district”; (iii) the Project is comparable in size and scope to nearby land uses, including “lodging, restaurant, café, retail and auto repair”; and (iv) the store will comply with Citywide Design Guidelines.</p> <p>As we explain in our December 6, 2022, letter to City staff (see Attach. A, p. 46), the City fully explains its consistency determination with this policy, which is supported by the fact that several comparable formula businesses exist immediately surrounding the Project Site (Chevron, Mountain Mike’s Pizza, Arco, Super 8 by Wyndham, etc.), at least one of which (Super 8) is considerably larger than the Project. The City also explains that the Project is allowed by-right within the existing zone and will include architectural and façade details that are “representative of Fort Bragg’s architectural heritage.”</p> <p>Appellants, in their flawed consistency analysis, claim that the Project will compete with existing businesses, as if this is some forbidden anomaly. Grocery Outlet will in fact compete with existing business, primarily Safeway, but also perhaps Harvest Market and other specialty grocery shops, which we understand charge more for their products than Grocery Outlet. This is, however, perfectly acceptable. In America, grocery stores are allowed to compete with one another. The healthy competition drives down prices and increases customer service, which benefits the community. (See, e.g., Agenda, p. 292 [local shopper states “Having options helps promote healthy competition, which in turn helps those most in need”].) Healthy competition is the backbone of the capitalist society that every person living here understands and tacitly, if not actively, agrees to live within.</p> <p>In any event, the expert economic and urban decay study prepared by ALH Urban & Regional Economics for the Final EIR, upon specific request from Appellant Fort Bragg</p>

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		<p>Local Business Matters (see FEIR, p. 2.0-53 [appellant request for ALH report]; see also Attach. C, pp. 19–20; FEIR, App. B), found that existing grocery stores are unlikely to experience any “strong individual store sales impacts” because any diversion of sales “will be dispersed among many of the stores, such that no one store is likely to experience sales loss sufficient to significantly impact store sales” (FEIR, p. 3.0-11). Furthermore, ALH found no indicators suggesting any retailers would be at risk of losing sales to Grocery Outlet sufficient to result in store closure.⁹ (See FEIR, pp. 3.0-10 to 3.0-12.) In its Staff Report for City Council, the City explicitly discusses this ALH analysis and determines that the threshold of detracting from economic vitality as it is understood in LU-4.1 has not been met by the Project. (Attach. C, p. 11.)</p> <p>Consequently, Appellants’ allegation that the Project will “detract from [the other stores’] economic vitality by cannibalizing and shifting existing sales to the new Grocery Outlet” is totally unsupported by any evidence in the record or any credible evidence generated by the Appellants themselves. There will be no “cannibalizing,” just some healthy competition that will benefit all City residents, especially the large percentage of fixed-income seniors and residents living below the poverty line (see Section III [intro] and footnote 4).</p> <p>The appeal discusses “Environmental Justice issues” in terms of increased vehicle trips but fails to consider the environmental justice issues associated with depriving the many vulnerable members of the Fort Bragg community of a conveniently located affordable grocery store. Appellants then vaguely and confusingly accuse the Project of failing</p>

⁹ The appeal notes that an application for Auto Zone was recently denied, supposedly on grounds that it was a “formula business” that would “detract from the overall economic and cultural vitality of the City per recommendation by the Planning Commission, as it would compete with the other auto parts supply shops already established in the City.” It is our understanding that the Auto Zone project was rejected for several reasons, not just because it is a formula business. Notably, no economic and urban decay study, such as the ALH Study prepared for the Grocery Outlet Project, was prepared for the Auto Zone project demonstrating with data that it would not significantly reduce sales in any one established local store and would certainly not lead to store closures. Notwithstanding, the City made clear, in its Staff Report to City Council, that “[t]here are no specific land use standards for a formula business in the CH zone [where the Project is located] in the CLUDC.” (Attach. C, p. 10.)

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		<p>to meet “the Coastal Commission’s own Smart Growth Principles” because the Project supposedly “does not encourage affordable housing” by, allegedly, increasing VMT and adding traffic. The lack of connection between affordable housing and VMT notwithstanding, the Project actually <i>reduces</i> shopper VMT (discussed above) and will bring to the area a source of affordable food and other groceries that can only encourage the development of affordable housing by providing an affordable grocery option for existing and future low-income residents, of which there are many (see Section III [intro] and footnote 4).</p> <p>Appellants contend, with no evidence, that because “Grocery Outlet will be built and owned by an outside corporation,”¹⁰ “[i]t will not foster a business climate that sustains and nourishes the growth and expansion of local businesses and cottage industries.” This is Appellants’ opinion, but it is not shared by the City, nearby local businesses, or the vast majority of local commenters on the Project, all of which enthusiastically support the Project (see Section III [intro]). As stated by the local co-owners of SeaBird Lodge, located across the street from the Project site: “We need this [Grocery Outlet] and so much more in Fort Bragg. Lastly, my hope is that there are no more lawsuits. A new store on that corner will bring more vitality, and versatility to Fort Bragg.” (Agenda, p. 165.)</p> <p>Appellants’ repeated false contention that Grocery Outlet will destroy other local businesses is simply not based in fact or analysis. Moreover, this unfounded opinion deals with local economics and has nothing to do with physical impacts to coastal resources.</p>
Water Quality and Supply		
OS-11.6	Use Permeable Pavement Materials. To enhance	Again, this policy includes nonmandatory, flexible language (i.e., “where appropriate and feasible”). A proposed project cannot conflict with a policy using nonmandatory language.

¹⁰ As it was explained to City Council at the June 5, 2023, meeting, by Veronica “Vee” Vargas of Grocery Outlet, the company will have a local “partner” in Fort Bragg, meaning the store will not be solely owned by Grocery Outlet. (See City of Fort Bragg recording of the June 5, 2023, City Council Meeting, available at https://cityfortbragg.granicus.com/player/clip/1235?view_id=1&redirect=true&h=fcf2d324d64d6762d54ddf98c2f033c6 [Ms. Vargas’ testimony occurs around the 3:07:19 mark].)

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	<p>stormwater infiltration capacity, development shall use permeable pavement materials and techniques (e.g., paving blocks, porous asphalt, permeable concrete, and reinforced grass or gravel), where appropriate and feasible. Permeable pavements shall be designed so that stormwater infiltrates into the underlying soil, to enhance groundwater recharge and provide filtration of pollutants. All permeable pavement that is not effective in infiltrating as designed will be replaced with effective stormwater detention and infiltration methods.</p>	<p>Please refer the discussion of Policy C-6.2 for more detail on this subject.</p> <p>Nevertheless, the “approximately 19,265 sf (0.44 acres) of the [Project] site would be landscaped and permeable to stormwater as the proposed Project would be designed to capture stormwater and pre-treat it on-site to remove dirt, oil, and heavy metals using bioretention basins located along the northwest and southwest boundaries.” (DEIR, p. 2.0-4.) This stormwater capturing and treatment system will vastly improve existing conditions wherein stormwater regularly “flows to the northwest and southwest towards the neighboring property in the developed portion of the site.” (DEIR, p. 2.0-5.)</p>
OS-12.1	<p>Developments of Special Water Quality Concern. The categories of development listed below have the potential for greater adverse coastal water quality impacts, due to the development size, type of land use, impervious site coverage, or proximity to coastal</p>	<p>Appellants accurately state that the Project is considered a Development of Special Water Quality Concern because it meets some of the criteria listed in this policy. City staff explains as much in the Staff Report to City Council: “The Project is a Development of Special Water Quality Concern per the City of Fort Bragg’s Coastal Land Use and Development Code Section 17.64.045.A.” As a result, the City will require the following, pursuant to Policy OS-12.2:</p> <p>Runoff Mitigation Plan per Section 17.64.040 of the CLUDC. The goals for the Runoff Mitigation Plan are to minimize impervious surfaces, maximize infiltration of runoff, and reduce parking lot runoff pollution. Additional requirements to meet these goals for Developments of Special Water Quality Concern</p>

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	<p>waters. A development in one or more of the following categories shall be considered a “Development of Special Water Quality Concern,” and shall be subject to additional requirements set forth in Policy OS-12.2 below to protect coastal water quality. Developments of Special Water Quality Concern include the following: [omitted for brevity]</p>	<p>include submittal of a Water Quality Management Plan, and selection of structural treatment control Best Management Practices, and 85th percentile design requirements. These requirements ensure that construction and post construction measures to reduce runoff and pollution are properly engineered and best suited to the site. The Applicant has achieved the 85th percentile design requirements with proposed drainage improvements that include post-construction BMPs, such as bioretention facilities and permeable paving that are sized to capture and treat runoff from the proposed impervious surfaces produced by the 24-hour 85th percentile rain event and landscaped areas throughout the Project site to encourage natural stormwater infiltration. The Applicant’s stormwater engineer completed stormwater calculations for the proposed Project and stormwater plans which illustrate that the Project can infiltrate the 85th percentile 24-hour storm on site (see Attachment 10). The Assistant City Engineer confirmed the calculations and so Special Condition 5 [requiring the submittal of a Water Quality Management Plan] has been deleted from the permit as this has already been achieved.</p> <p>(Attach. C, p. 24.)</p> <p>The City determined that a Water Quality Management Plan is no longer required because the required components of this plan per Policy OS-12.2—“the hydrologic calculations per City standards that estimate increases in pollutant loads and runoff flows resulting from the proposed development, and specify the BMPs that will be implemented to minimize post-construction water quality impacts”—have already been completed by the Developer’s stormwater engineer and submitted to the City.</p> <p>Appellants are either disingenuous or uninformed when they claim that the Project violates this policy “because it does not include a ‘Water Quality Management Plan (WQMP), prepared by a qualified licensed professional, which supplements the Runoff Mitigation Plan required for all development.’” A functional equivalent of a Water Quality Management Plan exists and has been approved by the City.</p> <p>The Project is, therefore, consistent with this policy.</p>

Policy No.	Policy Text	Consistency Analysis
OS-12.2	Additional Requirements for Developments of Special Water Quality Concern. All Developments of Special Water Quality Concern (as identified in Policy OS-12.1, above) shall be subject to the following four additional requirements to protect coastal water quality: ... [omitted for length]	Please see above discussion for Policy OS-12.1.
LU-10.4	Ensure Adequate Services and Infrastructure for New Development. Development shall only be approved when it has been demonstrated that the development will be served with adequate water and wastewater treatment. Lack of adequate services to serve the proposed development shall be grounds for denial of the development.	<p>Appellants allege that “[t]he record includes no meaningful analysis of the adequacy of the City’s water supply sources and infrastructure to provide water to the proposed project. LU-10.4 requires that such analysis be included and this project is thus not consistent with LU-10.4.” Appellants are incorrect.</p> <p>Please refer to analysis on pages 3.5-11 to 3.5-12 of the Draft EIR, where the City determined that the Project is consistent with this policy because the Project would use only “300 to 450 gallons of water per day (109,500 to 164,250 gallons per year) in both domestic water for the store and irrigation water for the landscaping,” which “is considerably lower than was estimated using the average commercial space rate,” and “less than 25 percent of the average water usage of other grocers in the City,” and well within the amount that can be provided given the City’s approximate water availability....” “Additionally, drought tolerant landscaping will be required.”</p> <p>We discuss Project water supply in our December 6, 2022, letter to the City. (See Attach. A, pp. 70–72.) There, we explain that, per available data, the City has an approximate 17.93 million-gallon storage capacity, an “operational treated water storage...of 3.3 million gallons,” and “water appropriations of 741 million gallons.” (DEIR, p. 3.8-16.) The Project “is estimated to demand 1,288 gallons per day” of water according to City data showing that commercial spaces utilizes approximately “78 gallons [of water]/1,000</p>

	<p>square-feet (SF) of commercial space.” (DEIR, p. 3.8-17.) The Project’s estimated water demand increases to 2,699 gallons per day when using the “the 1986 Water System Study and Master Plan...showing a rate of 1,656 gallons per day/gross acre of commercial.” (DEIR, p. 3.8-17.) Both of these numbers, however, represent a very conservative estimate because, based on current and reliable data from comparable Grocery Outlet stores in Northern California, the Project will use only between 300 to 450 gallons of water per day. (DEIR, p. 3.8-17.)</p> <p>Obviously, even an absolute maximum use of 2,699 gallons per day represents merely a tiny fraction of the City’s existing operational supply of 3.3 million gallons and its current overall appropriation of 741 million gallons. (See <i>Ocean Street Extension Neighborhood Assn. v. City of Santa Cruz</i> (2021) 73 Cal.App.5th 985, 1019–1021 [water supply impacts of multifamily housing project were less than significant because the Project would consume “less than one hundredth of one percent of the total estimated future water demand within the City’s service area”].)</p> <p>Moreover, the Project’s water demand (or the demands of any other allowable by-right commercial land use that would consume as much or more water) are accounted for in current planning documents (e.g., the Coastal General Plan), upon which the City would have predicated its water growth analysis and projections. Thus, the Project’s contribution to water demand is already accounted for in the City’s estimates.</p> <p>Appellants argue that the City water modeling and estimates are flawed because “the City’s water model does not adequately include analysis of the projected impacts of climate change and sea-level rise on the City’s future water supply.” This logic, however, is what is flawed. Appellants provide absolutely no detail or evidence showing that climate change will alter the City’s water supply in a manner that makes its current water model completely inaccurate and unusable, and also that this inaccuracy means that the water supply analysis prepared for the Project is completely wrong.</p> <p>The Final EIR acknowledges that the supply of fresh water may “be exacerbated as sea levels rise due to climate change, over the long term,” but it also explains that “the City has installed desalination equipment to reduce the</p>
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		<p>salinity of the water,” to help maintain “the water quality of the fresh water that services the City of Fort Bragg.” (FEIR, p. 3.0-8.) The EIR’s determination that the Project would have a less-than-significant impact on water supply were made in this context.</p> <p>Appellants attempt to bolster this far-fetched argument by stating that “the City’s own water model projects that the City will not have adequate water supply for existing development with a mere one-foot increase in the sea level, let alone adequate water supply for new development like this project,” yet they provide no reference or citation for this information.</p> <p>In any event, this policy requires only that it be “demonstrated that the development will be served with adequate water,” which the Draft EIR does using existing approved planning documents. The policy does not require that the environmental analysis for any given development must modify or update the City’s water model. If the City were to undertake such an update, then that would be the appropriate time for Appellants to express their City-wide concerns with water supply and sea-level rise. (See Attach. A, p. 38.) This type of planning and analysis far exceeds the scope of what is required for Project approval or what is required under CEQA for a project-level EIR, which analyzes the potential impacts of the proposed Project <i>only</i> and <i>not</i> the functionality of the entirety of the City’s water model. (See Attach. A, pp. 71–72.)</p> <p>This, the Project is consistent with this policy.</p>
Location of Parking Lot		
CD-5.1	<p>Parking Location: Wherever feasible, locate parking facilities to the rear of the development so that the building facade is contiguous with the street frontage, and parking areas are hidden from the street.</p>	<p>Again, this policy includes nonmandatory, flexible language (i.e., “Wherever feasible...”). A proposed project cannot conflict with a policy using nonmandatory language. Please refer the discussion of Policy C-6.2 for more detail on this subject.</p> <p>Nevertheless, Appellants contend that the Project violates this policy because “[t]he location of the proposed parking lot is not to the rear of the building, which is along the western (and possibly northern) side of the property because the primary street frontage of the building is along South Franklin Street as well as North Harbor Drive based on the location of the building entrance facing South</p>

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		<p>Franklin Street and North Harbor Drive.” Appellants are incorrect.</p> <p>It is not feasible to locate the store’s parking facilities anywhere but on the south side of the Project site because the only feasible location for the building, from an engineering perspective, is where it is currently planned. As stated above in the Project Description section, the current configuration was deemed the only workable layout by the Project engineer, TSD Engineering, Inc., for this deep and narrow lot, in order (i) to comply with City setbacks, specifically a 20-foot building setback from North Harbor Drive; (ii) to visibly shield the truck dock and loading area from neighboring residents and adjacent streets; (iii) to minimize noise to neighboring residents from activity at the truck dock and loading area; (iv) to minimize interference with the adjacent Super 8 Motel by placing the truck dock and loading area adjacent to a vacant property with commercial zoning; and (v) to maximize the use of existing utility infrastructure (water, sewer, electricity, etc.) coming primarily from South Street, thereby avoiding infrastructural reconfiguration that would result in environmental impacts. (See Attach. B: p. 31, Attach. B [letter from TSD].)</p> <p>As is clear from this list of considerations to be balanced, parking lot design is a matter for civil engineers, whose decisions should not be lightly second-guessed by individuals who lack their training and technical knowledge.</p> <p>Consequently, even if this policy was mandatory (which it is not), it does not apply here, and even if it did, it is non-mandatory, and, as explained just above, a Project cannot conflict with a nonmandatory general plan policy. Moreover, the site location of Project parking is not a coastal resource.</p> <p>Nevertheless, the Project parking lot will be hidden from South Street and a portion of South Franklin Street. The Project also includes landscaping “along the property boundaries within the proposed parking lot,” including “trees and vegetation,” that would serve to partially shield the parking lot from viewpoints on South Franklin Street. (DEIR, p. 2.0-4, Figures 3.1-1 to 3.1-3 [architectural renderings showing proposed landscaping].)</p>

Policy No.	Policy Text	Consistency Analysis
Biological Resource Concerns		
OS-5.1	Native Species: Preserve native plant and animal species and their habitat.	<p>Please refer to analysis on page 3.5-15 of the Draft EIR, where the City determined that the Project is consistent with this policy because: (i) “[l]imited habitat and native vegetation are located on-site; and (ii) the four trees that may be removed are ornamental.</p> <p>Appellants claim that the Project “interferes with the continued ability of native animal species observed on the site (e.g., grey herons) to access food sources and habitat provided by the existing conditions on the site so it is inconsistent with OS-5.1.” Appellants offer no evidence that any herons have been observed onsite, nor are grey herons known to exist in California. For the purposes of this discussion, we assume that Appellants meant Great Blue Heron, which is known to occur in the area, but is not listed as threatened or endangered under state or federal law. (DEIR, p. 3.3-13 [Table 3.3.3: Special Status Wildlife and Fish Species Which May Occur in Project Area].)</p> <p>As we further explain in our December 6, 2022, letter (Attach. A, pp. 30–33), Great Blue Heron habitat includes “driest part of islands...in cervices beneath loosely piled rocks or driftwood, or in caves” (DEIR, p. 3.3-13 [Table 3.3-3]) and/or, per the California Department of Fish and Wildlife (CDFW), “shallow estuaries and fresh and saline emergent wetlands, as well as perches and roosts in secluded tall trees and offshore kelp beds” (<i>id.</i>, p. 3.3-26). These definitions do not describe the Project site, which is highly developed and disturbed and is an urban infill development site, situated in the middle of other urban development. Furthermore, no aquatic resources occur onsite, as demonstrated by the following information sources: the “NRCS Web Soil Survey (2022),” which “identifies the Project site as ‘Urban land’”; the “Fort Bragg Wetland Report (Wildland Resource Managers, March 2022),” which “provides the same conclusions that there are no aquatic resources present on the Project site”; and the qualified biologists who conducted multiple field surveys for the site. (DEIR, p. 3.3-5; see also Section IV.D, <i>infra.</i>) In any event, the commenter provides no evidence that Great Blue Herons regularly occur onsite or that the site qualifies as heron or aquatic habitat. At best, the vacant parcel on the Project site offers low-quality foraging habitat for birds, but a large amount of similar foraging land exists in the Project area and bioregion. (See DEIR, p. 3.3-27.)</p>

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		<p>This makes sense given that “[t]he Great Blue Heron is the largest and most widespread heron in North America.” (Attach. A, p. 32.)</p> <p>Courts have held that, with “the absence of any sensitive biological or wetland resources” onsite, and in “urbanized areas” with “little or no remaining natural vegetation and limited wildlife habitat values...[n]o sensitive natural communities, special-status species, wetlands or important wildlife movement corridors,” a less-than-significant impact conclusion to sensitive species is appropriate. (<i>California Oak Foundation v. Regents of University of California</i> (2010) 188 Cal.App.4th 227, 281; see also Attach. A, p. 31.) This description fits the Project site, and, as stated, the Great Blue Heron is not even a sensitive species.</p> <p>Notably, the lot is disturbed by the illegal parking of large trucks and vehicles of all kinds that Appellants suggest should continue, as well as other illegal activity (refer to the discussion of Policy LU-5.6). The seeming contradiction between Appellants’ concerns with retaining this physically disruptive illegal parking and their concerns over disrupting the Great Blue Heron is noteworthy.</p>
OS-5.2	To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.	<p>Again, this policy includes nonmandatory, flexible language (i.e., “To the maximum extent feasible...”). A proposed project cannot conflict with a policy using nonmandatory language. Please refer the discussion of Policy CD-5.1 for more detail on this subject.</p> <p>Notwithstanding, as we explain in our December 6, 2022, letter (Attach. A, p. 30), the trees are only being considered for removal, with preservation being a possibility, and are “ornamental” and not protected species. (DEIR, pp. 2.0-3, 3.3-4, 3.3-25, 3.3-26.) These trees are “not part of the natural scenic landscape” and would be enhanced or replaced “with landscaping selected for the local climate, including the planting of 37 new trees.” (DEIR, p. 3.1-10.) Moreover, to our knowledge, ornamental trees are not a coastal resource. Regardless, existing Cypress trees will be preserved if feasible. (NOFA, p. 5 [special condition 1b].)</p>
Building Use and Design		
LU-3.5	Re-Use of Existing Buildings: Encourage the adaptive re-use and more complete	Again, this policy includes nonmandatory, flexible language (i.e., “Encourage...”). A proposed project cannot conflict with a policy using nonmandatory language. Please refer the discussion of Policy C-6.2 for more detail on this subject.

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	utilization of buildings in the Central Business District and other commercial districts.	<p>Nevertheless, reusing the building for the Project is not feasible, despite it being included in the EIR as a potential alternative. As we explain in our December 6, 2022, letter (Attach. A, pp. 17–18, Attach. [building reuse feasibility study]; see also FEIR, Attach. A), Thomas Jones, former Vice President of Hilbers Inc., a reputable national contracting and engineering firm specializing in office, commercial, and grocery store development, with 34 years’ construction experience and having worked on more than twenty Grocery Outlet stores, is clear that building reuse is not possible.</p> <p>The existing building on the Project site is riddled with structural and logistical issues, specifically: the building fails to meet current building codes; it does not comply with Americans with Disabilities Act; it is seismically unsound and would require major renovations to meet current codes; it is extremely energy inefficient and has insufficient and outdated electrical services; and its roof does not allow any additional mechanical loads or modifications, such as additional heating or air conditioning. Furthermore, the building has mold and asbestos that further limit modifications, and has inadequate storage for a grocery store and floors insufficient to support the forklifts needed for stocking a grocery store. Accordingly, for these reasons, and because the Building Reuse Alternative would not meet several of the Project’s objectives, the City Council determined in its CEQA findings on the Project that building reuse is “infeasible and rejected.” (Attach C., p. 148–149.)</p> <p>Moreover, the existing building, and any potential reuse, is not a coastal resource.</p>
CD-2.1	Design Review: All development that has the potential to affect visual resources shall be subject to Design Review, unless otherwise exempt from Design Review pursuant to Coastal Land Use & Development Code Section 18.71.050.	<p>Appellants argue that the Project is not consistent with this policy because it “is not consistent with numerous provisions in the Citywide Design Guidelines.” This contention is incorrect.</p> <p>In its discussion for the less-than-significant impact conclusion to visual resources, the Draft EIR states:</p> <p>The proposed Project would be subject to the policies and goals of the Fort Bragg General Plan, Citywide Design Guidelines, as well as the City’s Standards for all Development and Land Uses outlined in Chapter 17.30 of the Municipal Code. The Citywide Design Guidelines</p>

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	<p>Design Review approval requirements shall not replace, supersede or otherwise modify the independent requirement for a coastal development permit approved pursuant to the applicable policies and standards of the certified LCP. Ensure that development is constructed in a manner consistent with the Citywide Design Guidelines.</p>	<p>complement the standards contained in the City of Fort Bragg Inland Land Use and Development Code, and the Coastal Land Use and Development Code by providing good examples of appropriate design solutions, and by providing design interpretations of the various regulations. Chapter 17.30, Standards for all Development and Land Uses, of the City's Coastal Land Use and Development Code expands upon the zoning district development standards of Article 2 by addressing additional details of site planning, project design, and the operation of land uses. The intent of these standards is to ensure that proposed development is compatible with existing and future development on neighboring properties, and produces an environment of stable and desirable character, consistent with the General Plan, Local Coastal Program, and any applicable specific plan. (DEIR, p. 3.1-9, italics added.)</p> <p>The Staff Report for City Council states: "The proposed building design, as conditioned below, is consistent with the Citywide Design Guidelines, which are intended to maintain the small town, rural character of the area. Please see detailed analysis later in this report." (Attach. C, p. 10.) The Staff Report goes on to perform a 14-page "Design Review Permit Analysis" (Attach. C, pp. 31-45), in which staff exhaustively concludes that all design elements of the Project will comply with Design Guidelines because of original Project design and design modifications resulting from several design-related special conditions of approval.</p> <p>Notably, too, Policy CD-2.1 is listed in the Draft EIR's local regulatory setting as a policy applicable to the Project (DEIR, p. 3.1-4); thus, Policy CD-2.1 is encompassed within the EIR's conclusion that "the proposed Project would be consistent with the Fort Bragg Coastal General Plan." (DEIR, p. 3.1-11.)</p> <p>Appellants do not specify which design guidelines are violated, provide any evidence for a lack of consistency, or otherwise disprove the City's 14-page analysis of its own Design Guidelines. Moreover, a building's design and local design guidelines are not coastal resources, to our understanding.</p>

2. The City's Project approval is supported by a variety of statutes, regulations, and codes.

As the preceding discussions indicate, the City's approval of the Project's CDP was made in accordance with all laws and local ordinances governing the discretionary approval of a proposed project in Fort Bragg. The Developer submitted the Project application in accordance with CLUDC Code sections 17.70.040 (Application Preparation and Filing) and 17.71.045 (CDPs) and paid all applicable fees, pursuant to section 17.70.050. The City appropriately reviewed the application pursuant to all applicable codes, specifically those discussed in section 17.71.045 pertaining to CDPs.

In compliance with the CEQA statute, the CEQA Guidelines, and CLUDC chapter 17.72, Environmental Impact Assessment and Mitigation Monitoring:

The City circulated an Initial Study (IS) and Notice of Preparation (NOP) of an EIR for the proposed Project on May 19, 2022 to the State Clearinghouse, CDFW, Other Public Agencies, Organizations and Interested Persons. A public scoping meeting was held on June 7, 2022. Concerns raised in response to the NOP were considered during preparation of the Draft EIR.

...

The City published a public Notice of Availability (NOA) for the Draft EIR on September 15, 2022 inviting comment from the general public, agencies, organizations, and other interested parties. The NOA was filed with the State Clearinghouse (SCH # 2022050308) and the County Clerk, and was published in a local newspaper pursuant to the public noticing requirements of CEQA. The Draft EIR was available for public review and comment from September 15, 2022 through October 31, 2022.

...

In accordance with CEQA Guidelines Section 15088, [the] Final EIR responds to the written comments received on the Draft EIR

(FEIR, p. 1.0-2)

Then, on April 26, 2023, the City, pursuant to Public Resources Code section 21092.5, provided public notice of the availability of the Final EIR and circulated the proposed responses to comments to public agencies that had submitted comments on the Draft EIR.

On May 10, 2023, the Planning Commission reviewed the Project and Final EIR and, by Resolution No. PC04-2023, unanimously recommended the Project for approval and EIR for certification to City Council. In response to public comments on the Final EIR submitted to the Planning Commission, the City slightly revised the document by including additional noise analysis, and making some minor corrections. Thereafter, on June 5, 2023, City Council voted to approve the Project's CDP and certify its Final EIR, also by resolution. The City Council also adopted Findings of Fact pursuant to CEQA Guidelines section 15091. (See Agenda, p. 131, et. seq.) Notification of these hearings was made in accordance with the Brown Act and pursuant to CLUDC section 1.06.050

B. The Extent and Scope of the Project is Limited (§ 13115(c)(2)).

This is a small, finite project. It will be located on a 1.63-acre urban infill site with a new building that will be 279 square feet *smaller* than the existing old office building (16,157 sf versus 16,436 sf). The Project will be constructed all at once (not in phases), and the site will be fully developed, with no foreseeable subsequent development. The Project will have no significant environmental impacts, and no impact whatsoever on coastal resources (as demonstrated in the Draft and Final EIRs and in this letter and its attachments). In particular, there will be no significant impacts to scenic resources or views because, as explained above, none exist on or near the site, which is located east of Highway 1. Areas of visual concern are all west of the highway. Indeed, if the Project site were located 50 or so feet further from the bluff overlooking Noyo Harbor, the Project would not be subject to Commission jurisdiction.

Even though the Project is small in size and scope, it will have several big benefits. As described above, the Project will result in a net reduction in regional shopper VMT and a commensurate reduction in vehicle-related GHG emissions. Also, as explained above, the Project will provide a much-needed local affordable grocery option for Fort Bragg's residents, especially low-income individuals and families who currently drive to Willits to shop at the Grocery Outlet there (see Section III [intro]). The Project will increase City's tax revenues, which equates to increased funding for services, and it will beneficially reuse an urban infill site that currently hosts a dilapidated, unused office structure and a vacant lot that attracts trespassing and other illegal activity (please refer to the above discussion on Policy LU-5.6).

C. No Coastal Resources Are Affected by Approval of the Coastal Development Permit for the Project (§ 13115(c)(3)).

The appeal implicates only two possible coastal resources, to our understanding: (1) an alleged scenic view through the Project site; and (2) coastal access that supposedly will be diminished by Project traffic and the loss of illegal parking on the vacant lot on the Project Site. As demonstrated in this letter and its attachments, however, as well as the Draft and Final EIRs, the Project will not significantly impact coastal views or access.

As explained above, Appellants mischaracterize this supposed scenic view. City staff have exhaustively analyzed this alleged view and determined that, per the language in the City's Code and Coastal General Plan policies, the view from the Project site cannot fairly or reasonably be classified as a scenic coastal view. Nor can the only position from which this view is visible be classified as a public viewing area. Please refer to the above discussion for Coastal General Plan Policies CD-1.1 to CD-2.5 for more details. Thus, this marginal westward view through the Project site is not a coastal resource that requires protection or that will be significantly affected by the Project.

Similarly, exhaustive analysis determined that Project-related traffic will not result in any discernible impact to coastal access, specifically, as it concerns Appellants, pedestrian coastal access. Quite the opposite: the Staff Report for City Council finds that "the project will *improve* pedestrian safety." (Attach. C, p. 16, italics added.) Please refer to the above discussion for Coastal General Plan Policies C-9.7 and OS-16.4 for more details.

Lastly, the loss of parking on the vacant lot on the Project site discussed by Appellants is a non-issue. *This parking constitutes illegal trespassing.* The property owner has never given permission for this parking, and has no intention of converting his prime urban infill lot, located in the middle of a commercial corridor on the landward side of Highway 1, into a free public parking lot. Such a use would make no financial or practical sense for an owner that must pay taxes on property planned and zoned for commercial uses. And, in any event, the site does not offer safe coastal access. Please refer to the above discussion for Coastal General Plan Policy LU-5.6 for more details. Thus, the loss of this illegal parking does not result in the degradation of any legitimate coastal access.

In sum, *no* coastal resources will be negatively affected by the Project's CDP. In actuality, the Project will improve coastal access for pedestrians and benefit the many

members of the community who live or work near coastal resources, such as the harbor and other visitor and tourist services.

D. The City's Approval of the Coastal Development Permit for the Project Carries Limited to No Precedential Value for Future Interpretations of its Local Coast Program (§ 13115(c)(4)).

Approval of the Project's CDP sets no discernible precedent for future interpretation of the LCP or the Coastal Act. The City approved a small, finite project on an urban infill lot located east of Highway 1 in a city with its own unique Coastal General Plan. The Project will replace a dilapidated structure riddled with problems, including mold and asbestos, seismic instability, an outdated and inefficient electrical system, and violations of the Americans with Disabilities Act. (See DEIR, p. 5.0-21; Attach. A, pp. 43-44 and Attach. [building reuse feasibility study].) The Project will also resolve unsafe and illegal behavior that occurs onsite, as documented in the appeal (see the above discussion for Coastal General Plan Policy LU-5.6).

The City was tasked with interpreting the applicable Coastal General Plan policies in light of the specific Project proposed by the Developer and in consideration of the unique Project site and its location on the landward side of Highway 1, in an area designated and zoned for commercial use, and directly surrounded by a myriad of commercial uses. The City's interpretations of applicable policies, while not in conflict with any prior policy interpretations undertaken for other projects, were tailored to the Project and the Project site. This is standard protocol. The City approaches each proposed project within City limits in an individualized manner and will continue to do so, especially given the unique attributes of the area.

Another example of the City's individualized, project-level assessment can be seen in its interpretation of its policies for the Auto Zone project, which Appellants repeatedly discuss. There, the City came to some different conclusions based on (i) the nature of that proposed project, (ii) the fact that that site is undeveloped and is *not* surrounded by numerous existing commercial uses, and (iii) the site's location immediately west of scenic Highway 1 with a panoramic view of the ocean (see also the above discussion for Coastal General Plan Policy CD-1.1). The City's interpretation of policies within its Coastal General Plan/LCP for the Auto Zone project did not set a precedent for its

interpretation of those same policies for this Project, where different facts exist and different conclusions were reached. Likewise, the City's policy interpretations for this Project will not set precedent for future projects along the California coast.

E. The Appeal Raises Only Local Issues and NOT Issues of Regional or Statewide Significance (§ 13115(c)(5)).

The issues raised in the appeal are of a purely local nature and/or are completely unfounded and not supported by any actual evidence—and are often contradicted by expert evidence. Moreover, the majority of these issues do not at all relate to coastal resources. The appeal makes hay out of: illegal onsite parking (that Appellants ostensibly argue should continue), local traffic (that has been shown throughout multiple studies to be less-than-significant at the project level); energy efficiency of the building (despite efficiency measures such as solar panels being required by rules, regulations, and conditions of approval); local economic issues (disproven by an expert study requested by Appellants); one marginalized local view (which the City has repeatedly determined is not scenic); undocumented sightings of one very prolific non-special-status bird species on one small portion of the Project site (which is currently being used and damaged by illegal parking that Appellants wish would continue, despite their stated concerns over the Project's impact to this bird species); a small number of onsite ornamental trees (that will either remain onsite or be replaced with native drought tolerant native trees [see NOFA, p. 5]); site layout and building configuration (demanded by Appellants, who lack the engineering training and knowledge needed to design stores and parking lots); and reuse of the existing dilapidated, seismically unsafe, and asbestos/mold-riddled building (a project that neither the City or any known developer wishes to undertake).

Each of these issues is analyzed in detail in the above discussions on Coastal General Plan policies. None of them raises any legitimate local concerns, and certainly not any concerns of regional or statewide significance. The only regional issue discussed by Appellants is VMT, which multiple experts have shown will decrease with the Project. In essence, this is a local grocery store project that (for whatever reason) Appellants are dead set against, despite the many benefits it brings to the community and despite its miniscule environmental impacts.

Appellants acknowledge throughout the appeal that their concerns are decidedly local via their repeated claims about the local economic impact of the Project – despite the fact that an economic impact, in and of itself, is not an issue affecting the environment or any coastal resources. The appeal incorrectly alleges that, because the Project would negatively economically impact other grocers, the Project does not conform to the Coastal General Plan’s mission and vision for the localized area, “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 its residents.” (Coastal General Plan, p. 1-8.) Quite the opposite is true, however. The Project will positively contribute to this mission. Providing a low-cost grocery option within City limits will improve the financial landscape and quality of life for the citizens of Fort Bragg who are living on low incomes. (See Section III [intro] and footnote 4.) The Project will support their ability to continue to live in Fort Bragg, and in doing so will promote economic and demographic diversity within the City.

Appellants also claim that the “project does not support the City of Fort Bragg’s own self-defined efforts to preserve and strengthen the vitality of commerce in its central business district”; but they seem perfectly fine with allowing a “former County of Mendocino Social Services Building” to remain in place, despite the fact that it is blighted with illegal activity, in the middle of one of the City’s major commercial corridors. Appellants offer no explanation as to how this status quo “strengthen[s] the vitality of commerce.” In fact, allowing this dilapidated and useless building to remain in this prime commercial location would *erode* the City’s commercial vitality and contravenes the City’s approved policies for this commercial area.

★ ★ ★

We hope that this letter will be helpful to the Commission in making its Substantial Issue Determination. As evidenced in this letter, the appeal does not raise any substantial issues. The Project is consistent with all applicable Coastal General Plan/LCP policies and does not result in any significant environmental, physical, or economic impacts. To the contrary, the Project will bring a much-needed, popular, affordable

grocery option to the region and will revitalize an unused infill site that currently invites trespassing and other illegal activity.

The relentless opposition to the Project, brought by a small group of individuals and businesses, has already delayed the arrival of these community benefits for years. We encourage the Commission to see the appeal for what it is—an unsubtle attempt to prevent a Grocery Outlet from entering the City and presenting a modest amount of healthy competition to existing grocers. The outcome that Appellants seek would come at the expense of the most vulnerable members of the Fort Bragg community. As perfectly stated by a local resident in an email to City Council: “A few folks that don’t want any new development should not outweigh the needs of the community in general.” (Agenda, p. 286.)

Please feel free to contact us with any questions or to request additional information or documentation.

Very truly yours,



James G. Moose
Casey A. Shorrock

Cc: Melissa Kraemer (melissa.kraemer@coastal.ca.gov)
Terry Johnson (terry@bestprop.net)
Carl Best (carl@bestprop.net)
Scott Best (scott@bestprop.net)
John Barney (john@bestprop.net)
Keith Collins (kfc@jones-mayer.com)
Juliana Cherry (JCherry@fortbragg.com)
Marie Jones (marie@mariejonesconsulting.com)

Attachment A : Letter to Fort Bragg Associate Planner from Applicant responding to comments on Draft EIR (Dec. 6, 2022), with attachments.

Attachment B : Letter to Fort Bragg City Council from Applicant responding to comments on the Final EIR (May 31, 2023), with attachments.

Attachment C : City of Fort Bragg Staff Report for the Special City Council Meeting on June 5, 2023.

BEST DEVELOPMENT GROUP

Real Estate Development

2580 Sierra Blvd., Suite E
Sacramento, CA 95825

TEL (916) 486-2694
FAX (916) 486-0559
info@bestprop.net

June 30, 2023

Sent by email

Tatiana Garcia
Coastal Program Analyst
California Coastal Commission
North Coast District
1385 8th Street, Suite 130
Arcata CA 95521
tatiana.garcia@coastal.ca.gov

Re: Commission Appeal No. A-1-FTB-23-0021 (Fort Bragg Grocery Outlet)

Dear Ms. Garcia:

I am the applicant for the above-referenced project, which has been appealed to the Coastal Commission from the City of Fort Bragg. Through this letter, I am offering some preliminary thoughts for your consideration. I anticipate my legal counsel following up later with additional points.

After reading the grounds of appeal, I feel strongly that it includes many falsehoods that I need to address at the outset of your agency's appeal process. Throughout the appeal, the appellants make false statements to the effect that the Fort Bragg City Council failed to consider various Local Coastal Program (LCP) policies prior to approving the project, and that the project interferes with Coastal access. Nothing could be further from the truth.

This project and all the policies that govern projects such as this one in Fort Bragg has been thoroughly studied since mid-2020. At that time, the City hired an environmental consulting firm to conduct an Initial Study for this project, which resulted in a Mitigated Negative Declaration (MND) that was brought to the Planning Commission on June 9, 2021. After considerable public testimony, the Planning Commission unanimously approved the project by a 4-0 vote. The appellants (same people as now) appealed the approval to the City Council on the basis that the City should have prepared an Environmental Impact Report (EIR) rather than an MND. The City Council then denied the appeal by a 3-1 vote on July 26, 2021. Thereafter, the same Appellants filed a lawsuit against the City, demanding an EIR. My company as the Applicant decided that, rather than litigate the merits of the MND (given the backlog of cases due to the Pandemic), we would agree to fund the preparation of an EIR and bring the project back to the City for a second time at a later date.

The City Council vacated its previous approvals on Feb 28, 2022 and started over with the same project but now with an EIR. The City hired an EIR consultant and the consultant took about 14 months to complete the EIR (with public input and much scrutiny by the City planning staff and attorneys). The EIR

addressed at considerable length whether the project was consistent with various policies in the City's Coastal General Plan, which reflects policies in its approved LCP. Such policies address potential impacts on coastal resources and on views of the ocean. Coastal Commission staff did not submit any comments on the Draft EIR, thus indicating (we assumed) an absence of any concerns about the project, which is consistent with the applicable General Plan and zoning designations, and will replace an empty office building that currently creates a blighted condition on the site.

On May 10, 2023, the Planning Commission held a public hearing and again, after much debate, voted 5-0 to recommend to the City Council that the latter body certify the EIR and approve the project. On June 19, 2023, the City Council held a four-hour public hearing and certified the EIR by a 3-1 vote and approved the project on a 4-0 vote. The Council heard abundant testimony from local residents who strongly favored the project, which will bring to Fort Bragg grocery prices far below what are currently available there. Many local residents are struggling to get by with low incomes, and see the prospect of low food prices as providing them an opportunity to improve the quality of their lives. Many Fort Bragg residents currently drive to Willets to buy groceries from the Grocery Outlet store located there.

All of the 25 Fort Bragg LCP policies that the Appellants cite in their grounds for appeal have been studied, discussed, and resolved in the minds of the Planning Commission members and the City Council members in public testimony. The fact that the Appellants disagree, or claim to disagree, with these bodies' findings should not minimize the fact that the policies at issue were all discussed in detail in the EIR and during the public hearings and addressed in the lengthy staff reports prepared by City staff for both the Planning Commission and City Council.

My last point is most of people in the list of interested parties contained at the end of the appeal are in favor of the project. In fact, the last name listed by the appellants is a sitting City Council member who voted for approval of the project but was the lone dissenting vote to certify the EIR due to her concern over traffic (which is no longer an issue under the California Environmental Quality Act, which since 2020 has focused instead on vehicles miles traveled).

This project does not change any of the streets that currently allow public access to the harbor. As even the Appellants state in their grounds for appeal, the City of Fort Bragg Coastal General Plan is intended "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 its residents." That is exactly what Grocery Outlet does by bringing more affordable groceries to residents of small towns all over California.

Sincerely,

BEST DEVELOPMENT GROUP

A handwritten signature in blue ink that reads "Terry Johnson" followed by a small mark that appears to be "cp1".

Terry Johnson, Partner

RE: Project Code A-1-FTB-23-0021

Fort Bragg Local Business Matters / Best Development Group LLC, Grocery Outlet

To the California Coastal Commission / Northern California Coast

This is a letter of support for the decision made by the City of Fort Bragg, Ca. :
LCP approving the permit for the Best Development Group LLC / Grocery Outlet project.

Fort Bragg Ca. Local Business Matters has filed an Appeal objecting to the Local Coastal Permit issued by the City of Fort Bragg on June 5, 2023, which would allow the Best Development Group LLC, Grocery Outlet project to go forward. The Appeal from Fort Bragg Local Business Matters was submitted by Mark R. Wolfe, the San Francisco attorney representing Fort Bragg Ca. Local Business Matters. It is apparent from the text of the Appeal, that Mr. Wolfe is not very familiar with either Fort Bragg, its history or the proposed building site, 825, 845, and 851 South Franklin St. Fort Bragg, Ca. 95437.

The proposed building site is zoned General Commercial and has an established history of public use and prior development. The 'old Social Services building' now on the site has been abandoned for over a decade and is unquestionably an example of urban decay that this project would remedy. The Best Development Group has persistently displayed a willingness to adjust plans to comply with Fort Bragg standards and policies. In the last City Council meeting, the Best Development Group addressed the traffic issues, indicating that the traffic situation would need to be evaluated by a professional traffic engineer and CalTrans. They are the ones to determine appropriate solutions for any perceived issues. The Best Development Group has agreed to make exterior design and landscaping adjustments, pay for sidewalks, crosswalks, ADA access, benches, and a 'fair share' of a traffic light installation if needed.

Greenhouse Gas Emissions

There were numerous people who spoke and who wrote letters stating that they regularly travel across the mountain to Willits to shop at the Grocery Outlet. Some people said they go over the mountain to the Costco store in Ukiah to stock up. The result of having a Grocery Outlet in Fort Bragg would mean many fewer trips over the mountain by individual cars. This highlights an ongoing Greenhouse Gas Emission issue related to affordable food access. On the Fort Bragg financial side, the money spent over the mountain at the Willits' Grocery Outlet and Ukiah's Costco would stay in Fort Bragg.

Coastal Access: The Appeal sites as grounds to reject the permit

3000.15 (c) "Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners."

It is not clear how this applies in this situation. There is a Public Access to Noyo Harbor that goes through the grounds of the Harbor Lite Lodge. The entrance to the path is across the street and partway down the block from the proposed Grocery Outlet parking lot. Apparently, Mr.

Wolfe has designated the proposed parking lot area as “a visitor-serving use (i.e., an informal parking area) that provides public opportunities for coastal recreation through the adjacent access trail and stairs.” In fact, this ‘vacant parking lot’ mentioned in the Appeal is private property, posted with an Orca Towing sign prohibiting parking on the property. The California Coastal Commission did not include this particular path in the Coastal Access Guide book, presumably because it is so rarely used and not a very safe path. As one of the Fort Bragg Planning Commissioners said in one of the meetings, “There are better ways to the harbor, that path does not get much traffic.”

(PLEASE SEE [IMAGES IN FOLDER](#) IN REFERENCE TO AREAS MENTIONED ABOVE)

Additionally in the Appeal [Mr Wolfe states](#) as grounds for objection to the permit:

“The mission of the City of Fort Bragg 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 its residents’.”

<https://www.city.fortbragg.com/departments/community-development/general-plan-zoning-information/local-coastal-program/-folder-116>

Presumably, the assertion is that a Grocery Outlet would impair the ambiance of the area. The proposed site for the Grocery Outlet is in a General Commercial Zone. Standing on the property, the viewshed contains: a Motel 8, Seabird Lodge, Mountain Mike’s Pizza, Chevron Station, Arco Station (now Noyo Station), Harbor Lite Lodge, Mendocino County Office Building, with the police station, and more businesses down the block. The property does not have a view of the ocean or harbor. The Harbor Lite Lodge, Mountain Mike’s Pizza, Motel 8, and Seabird Lodge, businesses surrounding the proposed Grocery Outlet site, have submitted letters of support for the Grocery Outlet to the City Council. The Grocery Outlet would not impair the character of the area.

Aesthetics aside, the later part of the quote “and to improve the economic diversity of the City to ensure that it has a strong and resilient economy which supports its residents.” is in fact a strong statement that is IN SUPPORT of having a Grocery Outlet in Fort Bragg.

Fort Bragg is not an affluent community. According to the [US Census in 2021](#) the average annual per capita income in Fort Bragg Ca. was \$27,582. It hasn’t changed much since then. <https://www.census.gov/quickfacts/fact/table/fortbraggcitycalifornia/EDU685221>

People both young and old have been leaving the community because the cost of food and housing makes staying impossible. While the Grocery Outlet would not do much for the housing problem, having access to more affordable food is crucial for the health and welfare of the Fort Bragg coastal community. Grocery Outlet consistently provides good quality food for a substantially lower price than what we currently have in Fort Bragg. As per the director of the Senior Center’s meal program, there is real poverty in Fort Bragg with seniors living in their cars going between the Food Bank and the Senior Center to survive. There were a few local

teachers who spoke at City Council meetings about the serious need for more affordable food in Fort Bragg, with the students in mind. This is not a frivolous issue, this is vitally important to the many lower-income people of the whole area.

Over 1,800 people signed a petition to the City Council in support of Grocery Outlet coming to Fort Bragg. Dozens of people and businesses submitted letters and sent emails to the City Council in support of the Grocery Outlet. The City Council approved the permits for the Grocery Outlet project, but the project was delayed until an EIR was done. The EIR was performed and did not find any significant difficulties. All outstanding concerns were resolved in subsequent meetings with the Planning Commission and the City Council. This permit application has been considered very carefully for over two years. The City Council and Planning Commission both ultimately determined that the welfare of the community would best be served by approving the permits. The Grocery Outlet project would not impair coastal access or conflict with the [Fort Bragg Local Coastal Plan](#), but promote an economic diversity that would assist the lower-income population in a fundamental way.

(PLEASE [SEE IMAGES IN FOLDER](#) IN REFERENCE TO AREAS MENTIONED ABOVE)

<https://www.city.fortbragg.com/home/showpublisheddocument/684/637710004768630000>

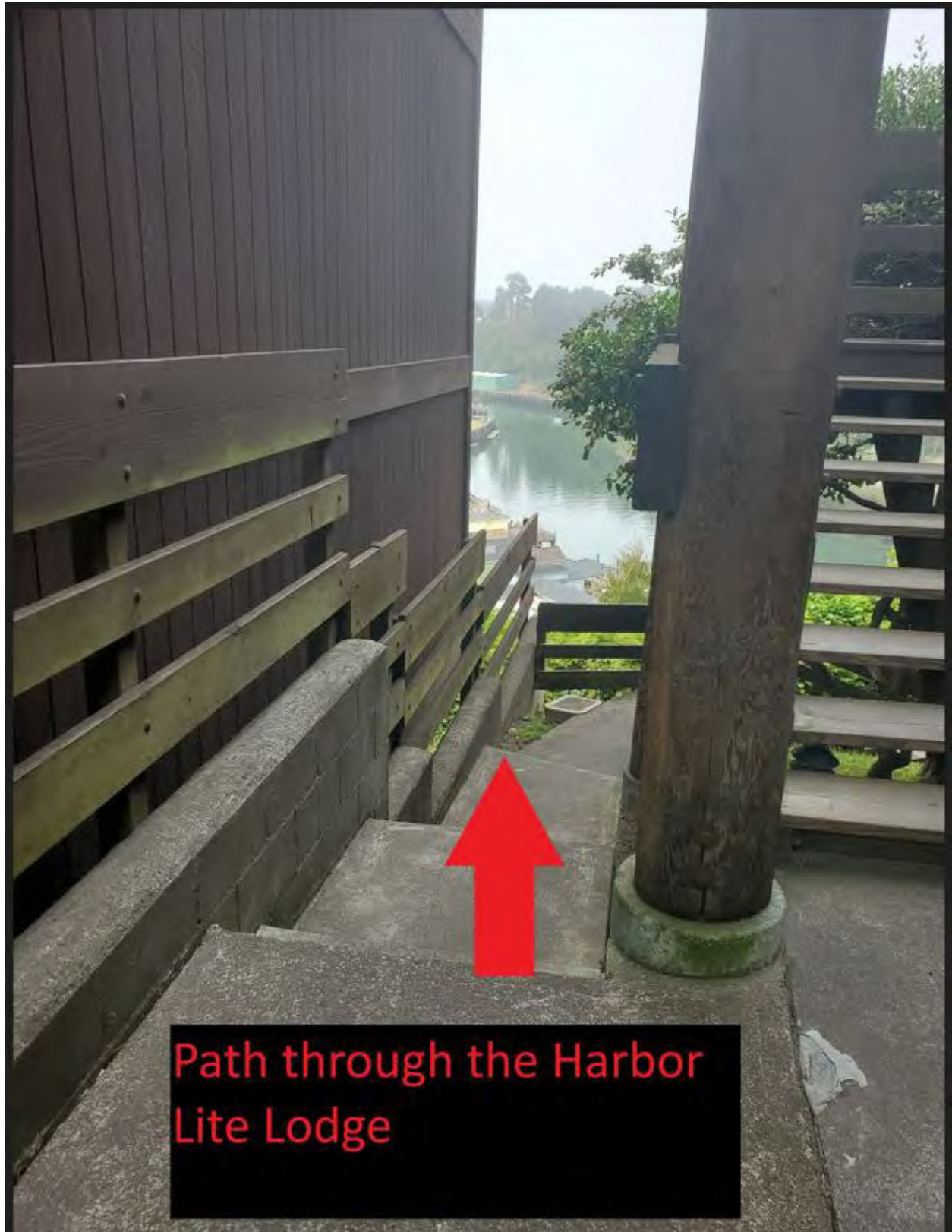
REFERENCES FROM FORT BRAGG COASTAL PLAN:

“D Mission and Vision / pg 8

- A city which strives to create an environment where business and commerce can grow and Flourish.
- A city that embraces its role as the primary commercial and service center on the Mendocino coast.
- 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.”

Deborah Shook

August 9, 2023



Path through the Harbor
Lite Lodge



Public Access Sign. Photo taken from proposed parking lot. The brown building is the Harbor Lite Lodge.



Orca towing sign on proposed parking lot site. Motel 8 is the blue building, blocking ocean view.



From: NorthCoast@Coastal
To: [Garcia, Tatiana@Coastal](mailto:Garcia_Tatiana@Coastal)
Subject: FW: Hello from the Contact Page
Date: Wednesday, June 28, 2023 2:21:31 PM

-----Original Message-----

From: Craig Johnson <seajay24@icloud.com>
Sent: Wednesday, June 28, 2023 2:17 PM
To: NorthCoast@Coastal <NorthCoast@coastal.ca.gov>
Subject: Hello from the Contact Page

Project Name and Application Number:
Grocery outlet/ Fort Bragg
Nature of Communication (In Person, Telephone, Other):
E-mail
Date and Time Requested:
6/28/2023
Full Name:
Craig Johnson
Email:
See above
On Behalf Of:

Comments:

I am responding to the appeal against grocery outlet by one group and four individuals, the majority of people in Fort Bragg want and need this business for affordable food options, I fail to see how one large commercial building being removed and replaced by another one are grounds for an appeal. I beg of you, please deny this last ditch baseless appeal.
Thank you.

Public comments submitted to the Coastal Commission are public records that may be disclosed to members of the public or posted on the Coastal Commission's website. Do not include information, including personal contact information, in comments submitted to the Coastal Commission that you do not wish to be made public. Any written materials, including email, that are sent to commissioners regarding matters pending before the Commission must also be sent to Commission staff at the same time.

Sent from my iPhone

From: [Gale Beauchamp](#)
To: NorthCoast@Coastal
Subject: Public Comment on September 2023 Agenda Item Wednesday 11b - Appeal No. A-1-FTB-23-0021 (Best Development Group, LLC, Fort Bragg)
Date: Sunday, August 27, 2023 1:38:27 PM

Dear Commissioners,

This message is sent in full support of the proposed Grocery Outlet development in downtown Fort Bragg.

The addition of a discount market will be a huge benefit to our economically challenged community. Also, the location is well-suited to access by people without vehicles who may live nearby in the many subsidized units and senior housing.

The Grocery Outlet location will be between the two major markets here that include a high-end local and expensive one and Safeway. Our Purity market is situated at the north central part of town and serves that immediate area for foot traffic as well.

Please deny the appeal to block this project. Our community will benefit by the competition in food pricing. We will also be enhanced by the elimination of a long-standing eyesore on S. Franklin St.

Thank you for your consideration,

Daryl and Gale Beauchamp
Fort Bragg residents

From: [lstanton61](#)
To: NorthCoast@Coastal
Subject: Public Comment on September 2023 Agenda Item Wednesday 11b - Appeal No. A-1-FTB-23-0021 (Best Development Group, LLC, Fort Bragg)
Date: Friday, August 25, 2023 5:35:20 PM

Please approve this project. Our grocery stores are overpriced, and those of us who are able go out of town to shop. Fort Bragg is a low income community, and Safeway and Harvest are taking advantage. Those who are appealing will find any excuse to prevent new business here. Most Fort Braggers are desperate for this store. Thank you, Linda Stanton

Sent from my Galaxy

From: [Deirdre Lamb](#)
To: NorthCoast@Coastal
Subject: Grocery Outlet Appeal A-1-FTB-23-0021
Date: Monday, August 28, 2023 3:10:05 PM

To Whom it May Concern:

Having a Grocery Outlet in Fort Bragg is not the issue. It is where this one is proposed to be, at 825, 845, and 851 S. Franklin Street in Fort Bragg, Ca. that creates an issue.

The proposed Grocery Outlet location is at the intersection of Franklin street and Harbor Drive that is the only road that goes into the Noyo Harbor and Fishing Village. There is only one road in and out of the Noyo Harbor, with one lane going each way. There is no room to expand this road.

To have a Grocery Outlet right at the top of this road, when the Noyo harbor just secured a lot of grant money to expand on the harbor, is a bad idea.

This will bring a lot of extra cars to the intersection. Already, it is supposed to be that if one is driving on Harbor Drive west to Main street drivers are supposed to take a right, as going left to the Noyo Bridge can be hazardous when driving. To get around this, many cars barrel through the service station to take a left on the bridge and get around the traffic laws.

The Noyo Harbor has just received a lot of grant money to expand the harbor for locals and tourists to visit. This will result in more traffic on Harbor Drive, going by the proposed Grocery Outlet store. The harbor is part of the community, Fort Bragg has had a long and rich history with fishing and logging, and looking to expand the harbor is a wonderful idea. To look ahead and plan for additional traffic to the harbor, not trying to navigate the nightmare of more traffic due to a grocery store at the mouth of the road going in, is looking at the future and making this important decision now before it happens.

A Grocery Outlet is not the issue here, it is where this one will be located that is a problem. For the reasons stated above, I hereby oppose the Grocery Outlet at this location.

Thank you,

Deirdre Lamb

Deirdre Lamb, Broker
Mendocino Realty Company
45005 Ukiah St., Box 897
Mendocino, CA. 95460

Office (707) 937-4040
Cell (707) 324-9401
Home (707) 937-9999

www.mendocinorealtycompany.com

Ca. BRE #01841638

From: [Robert Ross](#)
To: NorthCoast@Coastal
Subject: Appeal No. A-1-FTB-23-0021
Date: Monday, August 28, 2023 3:47:39 PM

To the Coastal Commissioners and Whom It May Concern....

Regarding Appeal No. A-1-FTB-23-0021:

I've read about the proposed Grocery Outlet, at present planned for the site of the Social Services complex. I do understand that outlets for cheap products can serve a community. However, I also understand that a business like this could seriously impact smaller local businesses such as Purity Market, for example, which has served central Fort Bragg since before I moved to the coast in 1965, and Down Home Foods. Although I live outside the city limits, on Pudding Creek Road, the town of Fort Bragg is my shopping and business center, my basic health services, and the community I've participated in for most of my life.

I am particularly concerned about the traffic which will increase considerably in a section of Fort Bragg that is given over to so many public services: the Police Station, the Courthouse, Social Services, and particularly the profusion of medical establishments including the Clinic, dental offices, the hospital, the pharmacy, and numerous individual medical offices. Will big box store traffic impact ambulance access? Will traffic congestion spill over to Highway One? Will a new stop signal on the highway be required, and if so how will this affect major north-south traffic?

Is the Commission aiming for the town to become more corporatized at the expense of small local business? If indeed Grocery Outlet is deemed desirable for the benefit of Fort Bragg, which I know is suffering from many empty small-business store-fronts, perhaps it would be better located at some distance from major traffic areas, and away from our fundamental police and medical infrastructure.

Please consider the long term effects of this plan. Who benefits? The local population, or a major real-estate developer? This is a constant dilemma for the Coastal Commission, I know, and requires cautious deliberation. We, as a town, want to improve and prosper, but at what cost to ourselves, to our community, in terms of safe *and enjoyable* daily life? Who really profits here? And what do we mean by "profit".....is it monetary income, or is it thoughtful, planned, gracious, livable neighborhoods?

I urge you to look more deeply into the long-term consequences of your decisions, for myself and my family, and for out-of-town visitors to our beautiful coast, including yourselves and your own families. We're talking about Mendocino County's front yard, California's front yard, and the nation's front yard.

Thanks for considering this request.

Best,

Robert Ross
30500 Pudding Creek Road
Fort Bragg

From: [Gary McCray](#)
To: NorthCoast@Coastal
Subject: Re AppealNo, A-1-FTB-23-0021
Date: Tuesday, August 29, 2023 2:34:22 PM

Hello,

I am Gary Richard McCray, 16951 Franklin Road, Fort Bragg, CA 95437.

I have been a home owner and resident here in the Fort Bragg area of Mendocino County for over 15 years and I am very aware of the huge efforts of "Fort Bragg Local Business Matters" efforts to prevent the Grocery Outlet from building in the area.

In spite of their continual claims to the contrary this is almost entirely an effort by our local "Harvest Market" to prevent legitimate business competition.

All of their complaints regarding parking, traffic congestion and inappropriate location are simply to prevent a genuine competitor from moving into an area they think they have sole rights to.

And the other supporters of disallowing Grocery Outlet here have identical anti competition motives and some are also directly affiliated with Harvest Market.

The only thing I and the rest of the people in Fort Bragg have to gain from standing against this is the possibility of not having to pay the exorbitant prices charged locally that are literally 30+ percent higher than 25 miles inland.

The huge majority of the population of this area is in favor of the Grocery Outlet and the only opposition is due to unconstrained greed and selfish personal direct interest.

Please at least take my heartfelt and completely honest appraisal of this situation into account when you are evaluating this appeal that is the result of self serving anti competition motives.

"Fort Bragg Local Business Matters" totally does not serve the best interests of the people of the Fort Bragg area, they serve only themselves.

Thank You for Your Consideration in this matter.

Best Regards,

Gary McCray

16951 Franklin Road

Fort Bragg, CA 95437

707-485-9122

From: [Marilyn](#)
To: NorthCoast@Coastal
Subject: comment on A-1-FTB-23-0021
Date: Tuesday, August 29, 2023 8:18:26 PM

California Coastal Commissioners and Staff

NorthCoast@coastal.ca.gov

Ref: Appeal A-1-FTB-23-0021

August 29, 2023

I submit this comment to ask that you deny this application on the Fort Bragg CA development plan for a large retail outlet along S. Franklin between N. Harbor Dr. and South Sts., or require traffic and parking mitigation that I am not sure can be accommodated in that location.

South St is the route that emergency vehicles take to the Emergency Room. We can anticipate that there will be major increase in traffic at that intersection with the addition of the proposed 16,174 sq ft retail store and 54 parking spaces. I am concerned about the traffic impacts and I see that there are other large parcels of land in the City of Fort Bragg that are close to the central district and master planned for retail. This project should be moved elsewhere if Grocery Outlet wants to come into Fort Bragg, and compete against our local small businesses.

Thank you for your consideration.

Marilyn Boese

From: [JULIE MCHENRY](#)
To: NorthCoast@Coastal
Subject: Fort Bragg Business Matters Appeal of Grocery Outlet
Date: Wednesday, August 30, 2023 12:48:21 PM

Hello,

My name Julie Mchenry my address is 30690 Pudding Creek Road Fort Bragg CA. I own my home and have been a resident of 62 years and am fifth generation Fort Bragg.

I am writing you in response to the Fort Bragg Business Matters appeal of the Grocery Outlet Store in Fort Bragg. I believe there is no merit to their appeal due to the fact the placement of the Grocery Outlet has very little to no chance of contaminating the Noyo Watershed. It does not sit on the bluff above the watershed. What sits on the bluff above is a Gas Station, Motel and Housing. The Outlet sits across the street from the Motel on the North Side.

This Appeal is a last ditch effort by the Fort Bragg Business Matters to stop the Grocery Outlet which is much needed in Fort Bragg. Harvest Market is behind Fort Bragg Business Matters they have two stores one in Fort Bragg and one ten miles down the road in Mendocino, naturally they want to keep their monopoly on our food sources and profits high.

Please do the right thing for the people of Fort Bragg and deny the appeal.

Sincerely,

Julie A. McHenry

From: [Cheryl Schuessler](#)
To: NorthCoast@Coastal
Subject: Appeal Number: A-1 FTB-23-0021
Date: Wednesday, August 30, 2023 8:57:03 PM

Dear Coastal Commission Members, I would like to convey my support for the Grocery Outlet, to be built in Fort Bragg, CA. As you are aware, Grocery Outlet has complied with each and every request made by City of Fort Bragg, Cal Trans, Coastal Commission, Planning Commission and any that I have failed to mention. They have been given the okay to proceed with the project, then a very small group of people opposed to the Grocery Outlet project have caused undue delays with their unsubstantiated claims, appeals, and frivolous lawsuits. Thank you for your time. Sincerely, Cheryl Schuessler, Fort Bragg Resident

Sent from [Mail](#) for Windows

September 1, 2023

By E-Mail

California Coastal Commission
c/o North Coast District Office
1385 8th Street, #130
Arcata, CA 95521
NorthCoast@coastal.ca.gov

**Re: Appeal No. A-1-FTB-23-0021 (Best Development Group, LLC,
City of Fort Bragg) – Agenda Item W11b, September 6, 2023
Meeting**

Dear Members of the Coastal Commission:

On behalf of Fort Bragg Local Business Matters, Mary Rose Kaczorowski, Leslie Kashiwada, Lee Rider, and Mitzi Rider, the Appellants in the above-referenced appeal, this is to urge the Coastal Commission find that the appeal raises a substantial issue, and to set the appeal for a de novo hearing at a later date. Although Commission staff have recommended a finding of no substantial issue, the Appellants believe that the record strongly supports a substantial issue finding due to the scope and extent of the proposed Project, and the precedential implications of the City of Fort Bragg's approval for future similar formula retail projects in the Coastal Zone.

Preliminarily, we encourage the Commission not to adopt an overly narrow reading of the programs and policies of the City of Fort Bragg (City)'s Local Coastal Plan, as staff have done. When those goals and policies are given an in appropriately circumscribed, parsimonious interpretation, particularly in the absence of adequate background or familiarity with the local coastal resources at issue, the Project may at first blush appear not to raise substantial issues. However, when the LCP's broader version and overarching intent are given meaningful consideration, it becomes apparent that the Project will significantly impede their achievement and will undermine the local resources the LCP was designed to preserve. The Appeal

accordingly raises a number of substantial issues warranting a de novo hearing by the Commission, as explained further below.

First, despite its nominal consistency with the existing zoning classification, the Project represents a major change in land use, replacing a low-intensity use (the former County of Mendocino Social Services Building on the quiet, Southern edge of Fort Bragg), with a high-traffic, high-impact formula retailer, specifically a Grocery Outlet supermarket. The extent and scope of the Project is therefore much larger than the staff report has characterized it, the precedential consequence of the Project's approval is substantial. Indeed, the City recently rejected another formula business, Auto Zone, partly for fear of the precedent that would be set by allowing a new formula retailer in the Coastal Zone, with its corresponding impacts on visual resources. The City's approval action therefore plainly raises a substantial issue.

The Project will also impair existing coastal access by the public. As explained in the Appeal, LCP Policy LU-5.7 prescribes a mandate that "existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided." The Project's parking lot will displace an existing, albeit informal, parking area serving recreational uses and public access to the coastal resources of Noyo Harbor and Noyo Beach without providing a "comparable replacement area." In other words, the Project replaces public coastal access parking with a private parking lot serving one private business. This likewise raises a substantial issue warranting Commission review.

Furthermore, evidence and testimony in the administrative record shows the Project will likely impair access to the City's Harbor on the Noyo River. The Harbor is reached from Highway 1 via N. Harbor Drive, a small two-lane road with no shoulder along several segments. This is a working harbor where commercial boats dock, load equipment, unload and process their catch, and load trucks that transport their product to market. There are also visitor-service facilities, kayaking, tourist fishing and whale watching excursion businesses, and other tourist attractions, cafes and restaurants, and access to beach parking. Customer and delivery traffic to the supermarket will access the site from Highway 1 via N. Harbor Drive, making a left turn onto S. Franklin Street. If this evidence and testimony is correct, Harbor access will be affected by resulting congestion, especially during large truck delivery events. This is a substantial issue warranting the Commission's consideration.

An additional substantial issue arises from the Project's likely impacts on public safety. The sidewalks across the street from the Grocery Outlet on Franklin Street and on North Harbor Drive are not continuous and connected and, with the increase in traffic that the Grocery Outlet will bring, will exacerbate an existing significant safety hazard for bicyclists and pedestrians traveling on these streets. Testimony in the record further shows the Project will likely further impede already slow response times for ambulances traveling to the emergency room at Adventist Health Mendocino Coast, located approximately 1,000 feet from the Project site. This is another substantial issue that the Commission should evaluate at a de novo hearing.

Further still, the Project will add to already heavy congestion in the area, generating hundreds of new vehicle and delivery truck trips per day along South Main Street, South Franklin Street, North Harbor Drive, South Street, Cypress Street and River Drive. These streets currently serve as entryways to busy motels, restaurants, several gas stations, Parents and Friends buildings, the Mendocino Coast Pharmacy, Adventist Health Mendocino Coast Hospital's Emergency Room & several hospital outpatient facilities, several Mendocino Coast Clinic facilities, Mendocino County Social Services, Mendocino Superior Court Ten Mile Branch, Fort Bragg Police Station, Mendocino Sports Club, various dental and physical therapy offices, other medical offices, and nine existing townhouse and apartment complexes including several that serve seniors. The record shows that the City has not adequately considered these safety impacts, underscoring the significance of this issue.

Finally, the record shows the Project will also adversely impact scenic views of the ocean through the project site as seen from the public rights-of-way along South Franklin Street and South Street. In addition, LCP Policy CD-5.1 requires new developments, wherever feasible, to locate parking facilities to the rear, so that parking areas are hidden from the street. This Policy is key to maintaining the character of visual resources in the Coastal Zone. This Project's entire parking lot is proposed on the southern end of the merged parcels, which is directly in front of the building entrance and clearly visible from both North Harbor Drive and South Franklin Street. This too raises a substantial issue warranting Commission review.

For the foregoing reasons, this Appeal presents several substantial issues stemming from the Project's scope, extent, location, and adverse impacts on Coastal Access and other goals and values as expressed in the Fort Bragg LCP. Appellants

September 1, 2023

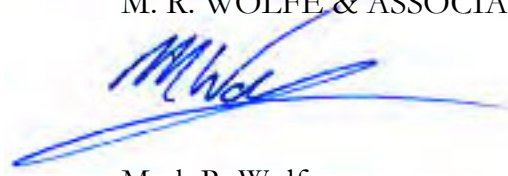
Page 4

therefore respectfully urge the Commission to find a substantial issue and order a de novo hearing on the matter at its earliest convenience.

Thank you for your consideration of these points.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C

A handwritten signature in blue ink, appearing to read 'MR Wolfe', with a long, sweeping horizontal line extending to the right.

Mark R. Wolfe

On behalf of Appellants Fort Bragg Local
Business Matters, Mary Rose Kaczorowski,
Leslie Kashiwada, Lee Rider, and Mitzi Rider

MRW:sa

cc: Tatiana Garcia (Tatiana.Garcia@coastal.ca.gov)

Fort Bragg Electric, Inc.

PO Box 1578, Fort Bragg, Ca. 95437 License #391464
707-964-9118 Fax 964-1404

9-1-23

California Coast Commission
North Coast District
1385 8th Street, Suite 130
Arcata, CA. 95521

Re: Grocery Outlet Market Appeal

Dear Members,

I am writing to you in support of the City of Fort Bragg Planning Commission and City of Fort Bragg City Council's decision to improve the vacant building and infrastructure located at 825,845 and 851 Franklin Street. This property has been vacant for over a decade and has become an eyesore. The Best Development Group, LLC has gone far and beyond by doing their own EIR and following all necessary requirements to use this property as it is zoned. Most importantly, this group is willing to invest millions of dollars in our community, create jobs and provide an affordable option for food and supplies on the coast. Please reject his appeal and let this project move forward.

Sincerely,

DocuSigned by:

Mark Mertle

46236924F562432...

Mark Mertle

President-Owner

Fort Bragg Electric,inc.

James G. Moose
jmoose@rmmenvirolaw.com

September 1, 2023

Via Electronic Mail
tatiana.garcia@coastal.ca.gov

Tatiana Garcia, Coastal Planner
California Coastal Commission
North Coast District Office
Arcata, CA 95521-8960

**Re: Commission Appeal No. A-1-FTB-23-0021 to City of Fort Bragg's
Approval of the Best Development Grocery Outlet: *Response to Letter
Submitted by M. R. Wolfe & Associates on September 1, 2023***

Dear Ms. Garcia:

Remy Moose Manley, LLP (RMM) respectfully submits this letter on behalf of the Best Development Group (Best), the Applicant for, and Developer of, the Best Development Grocery Outlet project (Project), which the City Council of the City of Fort Bragg (City) approved on June 5, 2023.

This letter responds to the letter submitted to the California Coastal Commission (Commission) regarding Appeal No. A-1-FTB-23-0021 (appeal) by M. R. Wolfe & Associates on behalf of Fort Bragg Local Business Matters, Mary Rose Kaczorowski, Leslie Kashiwada, Lee Rider, and Mitzi Rider (Appellants). This is our firm's second letter to the Commission. Our earlier, much longer letter (dated July 24, 2023) sets forth in detail the reasons why we concluded, as your Staff has done, that the Appellants' appeal fails to raise "substantial issues" and should be denied for that reason. This second, much shorter letter is limited to rebutting some of the points made most recently by the Appellants in their letter of September 1, 2023.

In that letter, Appellants rehash previously raised issues that have been effectively refuted in both RMM's July 24th letter and in the August 24, 2023, Staff Report prepared by Commission staff. Appellants also express disagreement with the Staff's conclusion that their appeal fails to raise substantial issues." Appellants paint with a broad brush, however, and fail to offer any persuasive reasoning.

For example, Appellants claim that Commission Staff has adopted an “overly narrow reading of the programs and policies” of the City’s Local Coastal Plan (LCP), suggesting that Staff’s recommendations are “inappropriately circumscribed,” “parsimonious,” and lacking in “adequate background or familiarity with the local coastal resources at issue.” We strongly disagree with Appellants’ uncharitable characterization and assessment of Staff’s work.

The Staff Report reflects the Staff’s great familiarity not only with the Project itself, but also with the City’s administrative record supporting Project approval and the relevant factual and legal issues implicated by the appeal. More specifically, the Staff Report contains abundant information describing the Project, the affected area, and the already developed (and blighted) site on which the Project would be built. The Staff Report is also supplemented by four pages of exhibits that include a map, aerial photos, and site photos (Exhibits 1 and 2), as well as by the City’s own Staff Report (Exhibit 5), which itself contains additional descriptions of the site and area and several photos of the site and from the site toward the coast. The appeal itself (Exhibit 3) also contains maps, site photos, and descriptions of the site and area. This material is in addition to other record documents, listed in the Staff Report on pages 6 and 7, that were available to Commission Staff during their review. This other material includes several documents prepared pursuant to the California Environmental Quality Act (CEQA) (two Initial Studies, a Draft Environmental Impact Report (EIR), and a Final EIR) and numerous supporting technical reports and data (including a biological review, air emissions and traffic analyses, a wetland report and data, to name just a few). Taken together, all of these documents thoroughly analyzed the Project’s effects on the surrounding area and its environmental resources, inclusive of the coastal resources implicated in the appeal.

All this to say that Commission Staff, in preparing its recommendation, had ample background and familiarity with both the Project and the local coastal resources at issue. Indeed, it is Staff’s job to be familiar with these resources, and the Staff Report reflects its authors’ expertise and professionalism. Nothing said in the recent correspondence from the Appellants undermines the reasonable and well-explained conclusions reached by Staff.

Appellants also suggest that Staff did not give “meaningful consideration” to the

LCP’s “broader version [sic]¹ and overarching intent”; but Appellants do not explain what further analysis Staff could have performed in order to meaningfully consider the LCP. Indeed, Staff thoroughly analyzed applicable LCP policies across approximately 18 pages and found that the City’s determinations as to Project consistency with these policies are legally and factually supported.

Staff’s rigorous analysis on these issues fully comports with, and supports, the LCP’s philosophy that the “[g]oals, policies, and programs are the essence of the Coastal General Plan.” (Element 1 Introduction, § F [Goals, Policies and Programs].) Notably, the LCP is the sum of its many components, including, importantly, its policies, which “bind[] the City’s action and establish[] the standard of review to determine whether land use and development decisions, zoning changes or other City actions are consistent with the Coastal General Plan [aka, the LCP].” (*Ibid.*)

Thus, the Coastal General Plan policies set the standard for consistency with the LCP; and a project’s consistency with such policies makes the project consistent with the LCP. It cannot be true, as Appellants seem to suggest, that a project could be consistent with applicable LCP policies yet somehow still be inconsistent with the LCP itself.

Even if one were to entertain such a possibility, however, the Staff Report addresses overall LCP consistency, on page 2, concluding that “none of the [Appellants’] contentions raise a substantial issue as to the approved project’s consistency with the certified LCP.” Commission Staff summarizes its conclusions persuasively as follows:

There is a high degree of legal and factual support for the City’s decision that the approved project as conditioned (1) is consistent with the purpose of and allowed uses within the Highway Commercial (CH) zoning district and will incidentally serve visitors in addition to the local community, (2) includes sufficient parking to serve the permitted use and will not displace planned coastal access parking, (3) conforms with traffic and circulation policies of the LCP and includes appropriate traffic and circulation mitigation, such as new sidewalks, street frontage improvements, and in lieu fees for future intersection improvements at the intersections of both Franklin St. and South St. and at North Harbor Dr. and Highway 1; (4) minimizes energy consumption and vehicle miles traveled by, among other things, including bicycle parking and EV-compatible parking and incorporating rooftop solar panels; (5) conforms with the Citywide Design Guidelines to protect visual resources and community character; and (6) includes water quality, water conservation, and native plant protection requirements consistent with the LCP.

¹ We assume that the Appellants meant “vision” rather than “version.”

...

Staff believes the City has thoroughly addressed the relevant coastal resource concerns, and the City's decision would not set an adverse precedent for future interpretations of the LCP. Therefore, especially given the high degree of legal and factual support for the City's decision and considering all five factors of section 13115(c) of the Commission's regulations, staff recommends that Appeal Number A-1-FTB-23-0021 does not present a substantial issue with respect to the grounds upon which the appeal was filed under section 30603 of the Coastal Act. ...

(Staff Report, pp. 2–3.)

We agree with Staff on each and every one of these points, and respectfully urge the Commission to give great weight to the judgment and expertise of its Staff, who are very familiar with the Project, the affected area, the coastal resources at issue, the relevant LCP policies, and many other issues and factors relevant to the appeal.

After generally critiquing Staff's policy consistency analysis, Appellants claim that the Project (i) represents a "major" change from existing use, (ii) has only "nominal consistency" with existing zoning, and (iii) is "much larger than the staff report has characterized it." Appellants exaggerate the consequences of what, in the scheme of things, is a relatively modest project, which will replace an unused blighted structure that is slightly larger than the Project will be, and will bring affordable food to a community with many low-income residents who are currently struggling to make ends meet.

In contrast, the Staff Report appropriately and accurately characterizes the Project. The Report's Project Description includes the site acreage (1.63 acres), the building's square footage (16,157 square feet), the number of parking spaces (54 spaces), and details regarding the loading dock, landscaping, sound wall, fencing, and other elements. (Staff Report, pp. 5–6.) The Staff Report also includes the following additional information: the hours and days of operation (9 AM to 10 PM, seven days per week); the number of staff (15 to 25 fulltime staff and two managers); delivery hours and truck volume (four to five small trucks per day and approximately eight large trucks per week between 7 AM and 9 AM); and the site location in relation to roadways and the ocean. (*Ibid.*) Exhibit 2 of the Staff Report includes Project plans; and Exhibit 5 (City Staff Report) contains additional Project information demonstrating its scope, such as its height, setbacks, Floor Area Ratio, parking and circulation specifications, and traffic

detail. (*Id.*, Exhs. 2, 5 [pp. 12–13, 15–18].) Moreover, the Staff Report explicitly discloses that “the project will result in increased traffic and the need for circulation and street improvements to protect public safety.” (Staff Report, p. 14.)

Appellants do not acknowledge these robust descriptions and explanations of the Project within the Staff Report. Nor do Appellants specify exactly which portions of the Staff Report they believe misrepresent the Project. Appellants, instead, make the conclusory claim that the Project’s “precedential consequence...is substantial.” This characterization, of course, is just a subjective opinion. As is accurately and concisely stated in the Staff Report, “[r]etail stores are principally permitted in the CH zone, and the approved project – a lower-cost grocery store – is a use consistent with the underlying zone district that will incidentally serve coastal visitors in addition to the local community. The zoning does not require prioritization of certain principal uses over others....” (Staff Report, p. 11.)

This type of retail establishment at this location was comprehensively considered and approved as part of prior planning efforts establishing Coastal General Plan land use designations and zoning. More specifically, the Project is allowed by right, has been exhaustively environmentally vetted, and was unanimously approved by City Council. The mere fact that the Project will increase usage of the site and add some traffic to City Streets and Highway 1 does not mean that the Project is inconsistent with existing zoning or land use designations, or is inappropriate for the area. To the contrary, the Project will complement the surrounding businesses within the same commercial zone, most of whose owners and operators enthusiastically support the Project. (See *id.* pp. 8–9.)

Appellants compare the Project to another example of what they call a “formula business” – a proposed Auto Zone on the seaward side of Highway 1 that was rejected by the City Council. This analogy is a red herring. As we explained on pages 37 to 38 of our July 24th letter, the Auto Zone and the Project are two very different endeavors, situated in very different areas, serving very different needs, with very different outcomes. Indeed, the City’s differing responses to the proposed Auto Zone and the Project demonstrate the absence of the “precedential consequence” asserted by Appellants. The fact that the Fort Bragg City Council denied the Auto Zone project hardly requires this Commission to deny the Project on its merits. (See RMM July 24th letter, p. 56.)

Appellants further contend that the Project will displace existing coastal access parking without providing replacement parking. Appellants argue, in effect, that the Commission must treat trespassing parked vehicles as a legitimate land use that, under the Coastal Act and the LCP, must give rise to a kind of compensatory mitigation. Such a suggestion is contrary to public policy. We address this illegal parking and accompanying vagrancy and illegal activities on pages 14 to 16 of our July 24th letter; and the Staff Report addresses this issue on pages 11 to 14. As the Staff Report explains:

The evidence in the record reflects the property owner's desire to keep the public off of the unimproved parking lot by posting "No Trespassing" signs on the property. The public has ample public parking options for coastal access purposes in the area surrounding the project site on local streets that are wide enough to accommodate on-street parking, including parking for RVs. Existing coastal access public parking also is available at Noyo Harbor via a public parking lot at the terminus of North Harbor Dr., which includes RV parking and enables public access to the coast. ... the approved project as conditioned will not reduce existing public on-street parking opportunities along adjacent streets. Currently, there is unmetered (no time limits) parking along Franklin St. and South St. near the project site, and this street parking will remain. Lastly, the City-approved project will protect public access to the coast by providing adequate parking to serve the permitted use, thereby avoiding the risk of the project's patrons' use of on-street public parking that may be used for coastal access.

(Staff Report, p. 13.)

The Report goes on to confirm that there is "a high degree of legal and factual support for the City's determination that the project includes sufficient parking to serve the permitted use, including parking to accommodate RVs, and [that] the project as conditioned, without provisions for new coastal access parking but with provisions for public safety frontage and street improvements is consistent with LUP policies...." (*Id.*, pp. 13–14.)

This loss-of-parking complaint is just another red herring attempt to undermine both the City's legitimate Project approval and the Coastal Commission Staff's informed determination that the parking issue raised by Appellants is not a "substantial issue" within the meaning of the Commission's regulations. Not only is the current illegal parking unnecessary for adequate coastal access, but record evidence also demonstrates that this parking creates public safety issues. Removal of this illegal activity will therefore be in the public interest. (See also RMM July 24th letter, p. 55.)

Appellants next allege several traffic-related issues, which have been repeatedly addressed and debunked by the City, RMM, and (most recently) the Staff Report. Appellants allege that Harbor and Noyo River Access may be impaired by Project traffic and that pedestrian and cyclist safety and emergency response time will be impacted. These traffic-related issues are addressed on pages 17 to 26 and page 55 of our July 24th letter, and in the Staff Report on pages 14 to 16. In summary, the Staff Report concluded that:

... there is a high degree of legal and factual support for the City's determination that the project as conditioned will not interfere with coastal access and will maintain levels of service and traffic safety in the City consistent with LCP requirements. Moreover, the City's findings demonstrate that the project as conditioned includes safe and multi-modal access to the site and surrounding areas and will *increase* traffic and pedestrian safety through implementation of various traffic mitigation solutions.

(Staff Report, p. 16, italics added.)

Appellants admit that Project-related traffic is not certain to affect harbor and river access, calling it only a “likely” impact. Even so, Appellants go on to assert that evidence in the administrative record supports their claim – but without citing or pointing to any specific supporting evidence. Conversely, the City has provided ample evidence in the record supporting its traffic analysis, including three distinct traffic analyses by two different traffic consultants and CEQA discussions of those analyses prepared by yet another professional consultant, all of which Commission Staff have found to be credible. (See Staff Report, pp. 6–7, 14.)

Lastly on the topic of traffic, Appellants claim that the Project will somehow cause indeterminate traffic-related safety issues, either in conjunction with traffic from existing businesses, housing, and health and government operations or at the expense of these establishments. Here, as elsewhere, Appellants make general assertions but provide no clarity on what safety issues cause them concern or how the Project would be the culprit. Given the vagueness of these contentions, the Staff Report rightly concluded the Project will actually improve traffic safety.

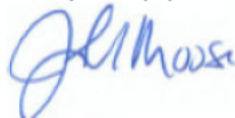
Finally, Appellants attack – unpersuasively – the Staff's policy consistency determinations associated with alleged scenic views through the site and the location of

onsite parking. RMM's July 24th letter addresses these issues on pages 34 to 39 and 47 to 48, and the Staff Report addresses them on pages 18 to 20. Notably, the Staff Report agrees with the City that the "keyhole" view to the ocean through the Project site is "small" and "heavily impeded by a gas station, two large cypress trees, bushes, and a solid wood fence along the Mill Site property across Highway 1," and "is only available at heights of about 8-feet, above the height of most pedestrians, cyclists, and average-sized vehicles." (Staff Report, p. 19.) The Staff Report also points out that "the parking lot...will be concentrated in the southern portion of the site (as is currently the case)," which makes most sense because, "[a]lthough the City's LUP and Design Guidelines suggest parking for new development should be located to the rear of primary structures *if feasible*, in this case the long and narrow site with three streets on three sides makes it infeasible to develop the project with parking located to the rear of the store. Having parking that faces the building entrance rather than located in the rear is common for grocery stores, increases accessibility, and is consistent with other grocery stores in the City." (*Id.*, p. 20, italics added.)

★ ★ ★

We strongly believe that Commission Staff correctly concluded, based on substantial evidence in the record, that Appellants' appeal fails to raise any substantial issues. Indeed, the Project is consistent with all applicable LCP policies and will bring a much-needed, popular, affordable grocery option to the region, while reducing illegal activity onsite.

Very truly yours,



James G. Moose
Casey A. Shorrock

Cc: Melissa Kraemer (melissa.kraemer@coastal.ca.gov)
Terry Johnson (terry@bestprop.net)
Carl Best (carl@bestprop.net)
Scott Best (scott@bestprop.net)
John Barney (john@bestprop.net)
Keith Collins (kfc@jones-mayer.com)
Juliana Cherry (JCherry@fortbragg.com)

From: [Leslie Kashiwada](#)
To: [Brownsey, Donne@Coastal](#); [Hart, Caryl@Coastal](#); [Turnbull-Sanders, Effie@Coastal](#); [Notthoff, Ann@Coastal](#); [Escalante, Linda@Coastal](#); [Wilson, Mike@Coastal](#); [Rice, Katie@Coastal](#); [Aguirre, Paloma@Coastal](#); [Harmon, Meagan@Coastal](#); [Uranga, Roberto@Coastal](#); [Cummings, Justin@Coastal](#); [Mann, Zahirah@Coastal](#); [O'Malley, Matt@Coastal](#)
Cc: [Kraemer, Melissa@Coastal](#); [Garcia, Tatiana@Coastal](#); [Levine, Joshua@Coastal](#); [Huckelbridge, Kate@Coastal](#); [NorthCoast@Coastal](#); [ExecutiveStaff@Coastal](#)
Subject: Regarding the Grocery Outlet in Fort Bragg
Date: Friday, September 1, 2023 5:18:20 PM
Attachments: [W11b_CCCAppeal.pdf](#)

Honorable Coastal Commissioners,

I apologize for not changing the subject line of my submittal, and I mistyped a few email addresses. Please disregard my previous email. Here it is with the correct subject line...

Please find attached a PDF of a letter regarding agenda item W11b, of which I am an appellant.

Thank you,
-Leslie Kashiwada

Honorable Commissioners,

My name is Leslie Kashiwada and I have lived and worked in the Fort Bragg area since 1999. I have sent you numerous letters and participated in public comment periods during Coastal Commission meetings many times over the last year and a half, exclusively about remediation and plans for the mill site. I write today as one of the appellants regarding the granting of a permit by the City of Fort Bragg for Best Development to construct a Grocery Outlet on South Franklin St between South St and North Harbor Dr.

This letter, based on issues of concern to the Coastal Commission will focus on impact of increased traffic on access to the harbor (and potentially to the town north of the project). Of lesser import to the Commission, but of great import to the community is the impact of traffic on access to the hospital and medical buildings in general to the east of the and the potential to increase response times of emergency vehicles to and from the hospital.

This is being described as a small project (almost quaint) by the developers, and by their standards it is. However, within the character of our community it is actually quite large as this project replaces a low-impact government building that has been closed since 2010 with a high-impact grocery store. The EIR presents a tidy picture with all the boxes checked and no significant impacts determined by studies. It all seems quite straightforward. However, the project was first proposed through a Mitigated Negative Declaration (MND) with many questions from the community about the quality of the studies and the analyses based on those studies.

Some of us in this appeal sued the City for approving a permit when the project warranted a full EIR. The developers said they could have easily contested this suit but, in consideration of the time it would take, they asked the City to withdraw their permit so they could conduct a full EIR. Those of us who filed suit do not agree that they could have easily won, but we got the result we asked for – an EIR.

Much to our chagrin, the City granted the EIR study to De Novo Planning Group. This consultant already had a working relationship with Best Development and put in a bid far below that of the other bidder. We warned the City that the resultant EIR would be like the MND dressed up as an EIR. That is exactly what occurred.

In particular, the highly deficient traffic study, conducted over 3 days in July 2019 was reused, rather than a new traffic study addressing the many concerns of the community. A new analysis was done using the same data, but no new data were generated.

At the City Council meeting where the permit was approved, one of the developer's lawyers made a sarcastic comment about there being so many traffic experts in the community. Those of us who spoke about traffic don't claim to be traffic experts, but we live here, unlike the developers or their lawyers. We see the traffic day in and day out. We experience the challenges of getting down to the harbor and back along a narrow road carved into a cliff, and know that it doesn't take much to back things up. This study didn't (couldn't) take into account the pandemic and over 300 vehicles lining up for free vaccinations and tests at Mendocino Coast Clinics – a recurring line of cars that wound down South St to S Franklin St and onto N Harbor Dr. It doesn't account for delivery trucks that line N Harbor Dr while the drivers rest overnight at nearby hotels. It doesn't account for traffic accidents, which, if they occur at the intersection of Main St and N Harbor Dr, would block access not only to the harbor but potentially to the city itself. That is not even accounting for the errors within the report (e.g., left turns not allowed from N Harbor Dr onto Main St the prohibition of which ended by the time the MND was produced, or Sat bus service for route 5 which does not exist).

Even so, the traffic study indicated significant impact to Level of Service (LOS) at several intersections that could not easily be mitigated. Somehow that all got lost in translation and waved away.

I could give you a detailed description of the inaccuracies, misrepresentations, misdirections, and outright falsehoods, but that is not the point of this letter. Instead, I ask you merely to allow us, through a de novo hearing, to show you the substantial issues that exist related to the mission and jurisdiction of the Coastal Commission with regards to this project.

Thank you for your consideration,
Leslie J Kashiwada

Appeal No. A-1-FTB-23-0021

Comments submitted via email by Mary Rose Kaczorowski, Appellant representing Fort Bragg Local Business Matters

Whether or not Grocery Outlet (GO) will bring alternative affordable nutritious food choices or solve our housing crisis is debatable and not the point of this appeal. This appeal is not about whether Grocery Outlet is needed or not. There are problems with Best Development Group, LLC's proposal, data and design of this project.

I ask the California Coastal Commission to have a hearing and to fully review this application and all documents concerning the Grocery Outlet project.

The failure of a development proposal to meet standards, provide accuracy and any comprehensive plan (Climate Action Plan, protecting access to coastal resources etc.) obligates, or at least provides a legal basis, to reject the GO project as it stands.

Tourism is now the lifeblood of our coast and promoting experiences and development that benefits tourism and our coastal assets is what will sustain tourism.

This GO project is a major change of use and replaces the former County of Mendocino Office Building on the edge of town with a high traffic, high impact retail operation. The former building has not been shown if it can be re-used if stripped down. Since the former County Building was built in the 1980's there should be no evidence of toxic materials.

This GO project is located on several parcels each with different zoning designations. This project does not support the City of Ft. Bragg's own self-defined efforts to preserve and strengthen the vitality of commerce in its central business district.

Please note that the Fort Bragg City Council rejected a formula business/ big box store called Auto Zone. One of the key reasons was that this Auto Zone commercial establishment would detract from the overall economic and cultural vitality of the City (per recommendation by the Planning Commission) as it would compete with the other Auto Parts Supply shops already established in the City.

Before I raise some key issues, please keep in mind the following statement from the City of City of Ft. Bragg Draft 2012 Climate Action Plan

“Our commitment to sustainability should be integrated into our everyday decisionmaking processes at City Council, within City departments, and throughout the community. We should all identify specific measures to work on each year. The implementation of sustainability measures, such as energy efficiency, water conservation, **waste reduction, localization of goods**, and alternative transportation methods, should become part of the normal

evaluative criteria in work plans, budgets, construction contracts, and proposals.”-

<https://www.city.fortbragg.com/home/showpublisheddocument/380/637709989995753660>

Also please note that: The site of parcels encompassing the proposed Grocery Outlet is designated as Highway Visitor Commercial

<https://www.city.fortbragg.com/home/showpublisheddocument/710/637710004853630000> and is nearby a Special Review And Runoff Sensitive Area

<https://www.city.fortbragg.com/home/showpublisheddocument/722/637710004904870000>

Lack of Accuracy and Old, Outdated Data

As pointed out in the appeal there is considerable outdated, inaccurate, flawed, incomplete or misleading statistics and data provided on behalf of the applicant. Studies done by and contracted for this development are not exactly independent. The applicants for the Grocery Outlet project did not respond timely and/or fully to public concerns.

As found in the submitted packet by the applicant— on page 3 of the June 2021 KD Anderson & Associates Inc. report (located under the **Transit Facilities** subheading) the report inaccurately states (quote): “Route 5 provides service on one-hour headways from 7:00 to 6:00 pm. Monday thru Friday, with service extending to 8:30 on Saturdays.” It is common knowledge that the Bragg About# 5 MTA Bus schedule for this route is as follows : Monday through Friday 7 a.m. to 5 p.m. and no Service on weekends. And do note the statement in this report: “Buses 7:00 to 6:00 p.m.” How does this all get through as reliable info? This is just one of many examples of erroneous and imprecise facts and information submitted by or on behalf of the applicant. Accepting this I hope is not indicative of simply a favorable treatment of the applicant.

New developments (the DANCO 69-unit housing project including multi-family, additional medical services sites and services to these new projects etc. etc.) in this neighborhood has occurred and have not been taken into account. The data is therefore inaccurate and flawed. The public and City Council and Coastal Commission Staff must have adequate time to receive updated data and check the data for accuracy in order to examine the potential impacts of this project.

Approval of the project would result in significant effects relating to traffic

This appeal is also about the traffic Impacts, pedestrian safety, pollution, increasing waste (more plastic & packaging etc.) and that do not appear to be realistically mitigated.

Do you not think it is reasonable to require that there be substantial, competent, and material evidence in the record to support the findings on any permit decision? There must be credible evidence presented.

Let's be realistic- This is about location, location and location.

Attention to traffic and pedestrian wayfinding to the GO entries needs to be all equally questioned around this GO project site. How can anyone state that there will be safe pedestrian connections from the street into the store or bicycle connections where street conditions and traffic problems are still an issue. We are dealing with human behavior in real time and not static paper studies.

Emergency vehicles, residents and visitors turn off Hwy 1 onto South Street and use South Street for straight quick access to the hospital emergency room and medical clinics and other related services. Adding a Grocery Outlet will create added problems of response times to get to these services. Note this corner on Main Street and Hwy. 1 is where the sign to the Hospital is posted. Time of day studies do not matter— people in crisis and emergencies are based on response time and happen all hours.

Mendocino Coast Clinics and has staged both COVID Testing, and COVID vaccinations for people in their cars where hundreds of vehicles were lined up along South Street. That can happen again as new vaccines come on board and Covid Cases again are rising. More traffic and parking along the Grocery Outlet corridor will in general impede these activities if this project goes through as is.

Grocery Outlet is not a small store! It is a different use than county offices and traffic impacts will not be able to be managed or directed appropriately without impacting emergency responders' response times.

Added traffic will impact safe access to coastal resources including down to the Harbor. There will be bottle necks at the Cypress St. and Franklin St. 4 way stop where traffic is already heavy during the day.

Vehicles coming off Main Street onto North Harbor Drive also access coastal resources at the Harbor. This appeal is also about parking for access to the public Coastal Trail and public access steps to the harbor by Harbor Light Lodge. Traffic will be impacted going down to Coastal resources be it to the Harbor via N. Harbor Dr. (or pedestrian steps by the hotel) or across the Main Street (aka Highway 1) to where there is another access to the Coastal Trail other than on W. Cypress St.(West of Highway 1) or to take a scenic walk or bicycle ride over the bridge that overlooks the Noyo River and Harbor and ocean. It is not ensured that the Franklin Street parking will be available since another building has already been built directly across the Street from the GO project site. Big rigs and large vacation motor homes are already having issues

with navigating down to the Harbor and back ups are happening. These are not typical RV's. Where will they park when they are towing other vehicles?

I also would like to point out that "GO's development has not been carefully planned and developed—(See Section 3001 (c) & (d) of the California Coastal Act) as in this project's impacts that ignore and erode long existing access to harbor/river.

Note per the California Coastal Act Section 3000.15

see (c) this project does not maximize public access to and along the coast.

Increased traffic will impact the already increased traffic on N. Harbor Drive going down to Noyo Harbor and along the Noyo River.

Delivery trucks create noise and pollution that can undermine the peace and health of surrounding neighborhoods. Diesel particulate matter (DPM), which is contained in the exhaust of diesel trucks, pollutes the air and, according to the EPA, is presumed to be a cause of cancer.

The bigger picture:

The city's intention is to maintain the downtown as the center of commercial activity, ensure new development is compatible with its surroundings, or minimize automobile use.

In addition, it is common knowledge that these chain stores can devastate historic downtowns and cause families to lose businesses they have owned for several generations. While the job creation benefits look attractive, especially when unemployment or under-employment is rampant, the jobs frequently pay close to the minimum wage, offer only part-time hours, and include few or no benefits. Small business creates as many as 90% of the jobs in some years. And in the immediate aftermath of the Great Recession, **new** businesses were doing all the net job creation in the U.S.

Then there is the Mendocino Coast area radius centering from Ft. Bragg and its impact on this area's carrying capacity. This impacts residents, businesses and the distances shoppers are willing to travel and to support any new business development in Fort Bragg. However, thresholds are only based on population and do not take into consideration other crucial factors such as income, nearby competition, gas prices, traffic, etc.

Where is the Ft. Bragg inventory that shows how impacts of such a store will have on the existing locally owned stores and already existing big box stores that offer groceries, or on empty existing storefronts and businesses for comparative and competitive analysis?

Again, the failure of a development proposal to meet standards, provide accuracy and any comprehensive plan (Climate Action Plan, protecting access to coastal resources etc.) obligates, or at least provides a legal basis, to reject the GO project as it stands.

The Local Coastal Program (LCP) was adopted by the Fort Bragg City Council in May 2008, and certified by the California Coastal Commission in August 2008. Even though the California Coastal Commission certified The City of Ft. Bragg Coastal General Plan, provisions were not included in the adopted LCP to address the issues raised herein or sustain public benefit as addressed. This must be done.

PHOTOS:



Figure 1 weekly delivery Trucks on N. Harbor Dr.

see photo next page

Housing or a Hotel—not a Grocery Outlet on this parcel?



Figure 2 Parking on lot & persons walking along parcel designated as Highway Visitor Commercial – Housing or Hotel not a GO?

From: [Suzi Long](#)
To: [Kraemer, Melissa@Coastal](mailto:Kraemer.Melissa@Coastal)
Subject: Grocery outlet site issues
Date: Saturday, September 2, 2023 3:12:33 PM

Maybe a heron speared a gopher on the property, maybe not, but I believe the site has not been used as “coastal access parking” nor would a grocery store actually block any more of a view than what is already/currently blocked.

This town needs a Grocery Outlet store because the variety of products carried makes it a one-stop shopping event, the prices are reasonable, and their organic produce is just fine.

I always stop at the Cloverdale store before returning to the coast! I also get gas at the casino in 101 before returning to the coast, because I find it necessary to save money when and where I can.

Thank you

Suzi Long
www.suzilongonart.com
18601 N. Hwy 1 #213
Fort Bragg CA 95437
707/779-8713

Only those who risk going too far know how far it is possible to go.

From: [sam G](#)
To: NorthCoast@Coastal
Subject: Fort Bragg Grocery outlet
Date: Saturday, September 2, 2023 7:51:41 AM

Please approve the Fort Bragg Grocery outlet to be built. The agents of large local overpriced markets are doing anything they can to postpone your approval. I see no real reason listed in the appeal for the project to be denied. Thank you for your service. Sincerely, Sam Gitchel (local resident for 40 years)

From: tboyd@mcn.org
To: NorthCoast@Coastal; Kraemer_Melissa@Coastal; Garcia_Tatiana@Coastal; Levine_Joshua@Coastal; Huckelbridge_Kate@Coastal; Brownsey_Donne@Coastal; Hart_Caryl@Coastal; Notthoff_Ann@Coastal; Turnbull-Sanders_Effie@Coastal; Escalante_Linda@Coastal; Wilson_Mike@Coastal; Rice_Katie@Coastal; Aguirre_Paloma@Coastal; Harmon_Meagan@Coastal; Uranga_Roberto@Coastal; Cummings_Justin@Coastal; Mann_Zahirah@Coastal; O'Malley_Matt@Coastal; WICK BOYD; aweibel@mcn.org
Subject: Support Grocery Outlet Fort Bragg
Date: Saturday, September 2, 2023 8:51:29 AM

This is to express my support of the approval for the Grocery Outlet development currently under consideration in Fort Bragg, California.

Fort Bragg is a tourist area where groceries are among the highest priced in the United States. As such, we have a large population of service workers who struggle to put food on the table for their families. We need alternative sources for low-income families to shop for groceries.

The people who shop at grocery outlets, dollar stores, etc. for food are not among the clientele who faithfully shop at local, independent stores and thus negates the argument that local businesses will be affected by a local grocery outlet.

Thank you for your attention to this matter.

Cathleen Boyd

From: [Georgia Ann Gregory](#)
To: NorthCoast@Coastal
Subject: Appeal Notice A-1-FTB-23-0021 (Best Development Group, LLC)
Date: Friday, September 1, 2023 7:48:40 PM

As a resident of the adjacent area I am deeply concerned about the impact this project will have on the safe public access to the beautiful coast line. Access to Noyo Harbor and the south end of the headlands trail is already impacted by heavy bridge traffic, the absence of prohibiting left hand turns on to the bridge only compounds the problem of increased retail traffic from the proposed grocery outlet. Although the proposal for the Grocery Outlet may have been before the 68 unit DANCO housing development the huge traffic issues is a current problem. Apparently the development studies and the City of Fort Bragg decision makers did not take this into account. The Noyo bridge is the main access to our coastline and should not be endangered by a high volume grocery development. There is only two lane roads to our beautiful harbor which has only a stop sign!! Not to mention that the street to the north is the main access for our ambulance service! I am deeply disappointed in our local City Council for approving this development without considering the present day traffic issues and access to our coastline. I as focused on the dying and death of close friends and this issue did not come close to my attention until the issues was a done deal per our City Council. I hope you will consider this
Location, location , location...

Thank you for your attention and concern for our coastline.
Georgia-Ann Gregory
520 Cypress St. #24
Fort Bragg CA
707-964-8157

From: [Debra Lennox](#)
To: NorthCoast@Coastal
Subject: Grocery Outlet Fort Bragg
Date: Saturday, September 2, 2023 12:58:29 PM

I am in favor of the proposed Grocery Outlet project in Fort Bragg. This project will replace an unused eyesore building with a business that will benefit many people on the coast who have to drive to Willits to get the discounted groceries offered by this business. Locating Grocery Outlet on the coast will save greenhouse gases by minimizing traffic on Highway 20 to save money shopping at a store with significant savings.

This location on the east side of Highway One is not highly scenic and will preserve ocean views for the visitors and locals alike.

Please allow the City of Fort Bragg's approval to stand.

Sincerely,

Debra Lennox

Comptche resident, Fort Bragg shopper

--

Debra B Lennox, AIA

architect

PO Box 798

Mendocino, CA 95460

707-813-7886 cell

www.dblennox.com

From: [Suzi Long](#)
To: [Kraemer, Melissa@Coastal](mailto:Kraemer.Melissa@Coastal)
Subject: Grocery outlet site issues
Date: Saturday, September 2, 2023 3:12:33 PM

Maybe a heron speared a gopher on the property, maybe not, but I believe the site has not been used as “coastal access parking” nor would a grocery store actually block any more of a view than what is already/currently blocked.

This town needs a Grocery Outlet store because the variety of products carried makes it a one-stop shopping event, the prices are reasonable, and their organic produce is just fine.

I always stop at the Cloverdale store before returning to the coast! I also get gas at the casino in 101 before returning to the coast, because I find it necessary to save money when and where I can.

Thank you

Suzi Long
www.suzilongonart.com
18601 N. Hwy 1 #213
Fort Bragg CA 95437
707/779-8713

Only those who risk going too far know how far it is possible to go.

From: [Annemarie](#)
To: [NorthCoast@Coastal](#); [Kraemer, Melissa@Coastal](#); [Garcia, Tatiana@Coastal](#); [Levine, Joshua@Coastal](#); [Huckelbridge, Kate@Coastal](#); [Brownsey, Donne@Coastal](#); [Hart, Caryl@Coastal](#); [Notthoff, Ann@Coastal](#); [Turnbull-Sanders, Effie@Coastal](#); [Escalante, Linda@Coastal](#); [Wilson, Mike@Coastal](#); [Rice, Katie@Coastal](#); [Aguirre, Paloma@Coastal](#); [Harmon, Meagan@Coastal](#); [Uranga, Roberto@Coastal](#); [Cummings, Justin@Coastal](#); [Mann, Zahirah@Coastal](#); [O'Malley, Matt@Coastal](#)
Subject: public comment appeal # A-1-FTB-23-0021 (Best Development Group, LLC, Fort Bragg) 9-6-2023
Date: Sunday, September 03, 2023 6:27:31 PM

Esteemed Commissioners and staff,

Please allow me to send to you what a community member asked me to send to you. Please confirm that you have received this e-mail and will include it for the record.

Sincerely, Annemarie Weibel

Commissioners:

There may be no specific violations of regulations, but the proposed Grocery Outlet is one more of a thousand cuts that lead to the death of this community that, as long term residents, we have relied on as a refuge from the homogenization and electrification of our world. There is no connection with the community. It is simply another form of destruction; a capitulation to big business that only offers cheaper prices for what usually prove to be less quality.

Unfortunately that seems to be of little concern to those governmental agencies that have a tremendous amount of power over the lives of those they are, in theory, to protect.

Thank you for your attention.

Peter D. Lit

From: [Liz Helenchild](#)
To: [NorthCoast@Coastal](#)
Cc: [Kraemer, Melissa@Coastal](#); [Garcia, Tatiana@Coastal](#); [Levine, Joshua@Coastal](#); [Mann, Zahirah@Coastal](#); [Huckelbridge, Kate@Coastal](#); [Brownsey, Donne@Coastal](#); [Hart, Caryl@Coastal](#); [Notthoff, Ann@Coastal](#); [Hart, Caryl@Coastal](#); [Turnbull-Sanders, Effie@Coastal](#); [Escalante, Linda@Coastal](#); [Wilson, Mike@Coastal](#); [Rice, Katie@Coastal](#); [Aguirre, Paloma@Coastal](#); [Harmon, Meagan@Coastal](#); [Uranga, Roberto@Coastal](#); [Cummings, Justin@Coastal](#); [O'Malley, Matt@Coastal](#)
Subject: Subject: public comment appeal # A-1-FTB-23-0021 (Best Development Group, LLC, Fort Bragg) 9-6-2023
Date: Tuesday, September 05, 2023 11:43:42 AM

Esteemed Coastal Commissioners,

I am Liz Helenchild, coastal resident since 1971. Please see & consider my comments & recommendations below re the approved development.

Acknowledging that the development has been approved, I am not satisfied that safety & environmental issues have been adequately anticipated or addressed. The siting itself seems unwise: too close to a concentration of medical facilities & to a major tourist attraction; also where increased vehicle traffic entering/exiting the area just north of the Noyo Bridge toward Cypress St could predictably cause more collisions. I urge a de novo hearing to more fully address the situation.

I recommend generally slowing traffic in the area, advantaging foot traffic, & improving visibility at all intersections.

Prioritize safety in the area by slowing traffic on N. Harbor Drive, S. Franklin Street, South Street and nearby streets.

Require all trucks serving Grocery Outlet to use Cypress Street---rather than N. Harbor Drive---when entering or exiting Highway One.

Require Grocery Outlet to hire full time cleanup crews to remove trash which will attract rodents & ravens, & also litter surrounding land, shore, & ocean.

Work with Adventist Health Mendocino Coast hospital so that traffic to and from Grocery Outlet will not impede emergency services (police, ambulance).

Develop an evacuation route for the Noyo Harbor area in addition to N. Harbor Dr. by re-opening the road west of Agostino's for emergency use in case of accidents, tsunami, fire in the Harbor.

Improve all sidewalks in the area. Install more curb cuts for wheelchairs.

Please acknowledge receiving my comments.

Thank you,

Liz Helenchild Box 1276 Mendocino CA 95460

To esteemed Coastal Commissioners and Coastal Commission staff,

Mr. Moose of the law firm Remy Moose Manley on behalf of Best Properties, the Applicant for the proposed Best Development project still claims that this project in his legal opinion, could have been eligible for a CEQA Class 32 categorical exemption for an infill development. The Class 32 exemption applies to qualifying infill projects that are on sites within cities that are not greater than five acres in size. He stated that the project, in their judgment, was too small and innocuous to require an EIR or even an MND. Yet the City staff in 2019 and 2020 refused to proceed with an exemption.

Mr. Moose refers to parking for recreational vehicles (RVs), but there is now only 1 space of a total of 54 spaces reserved for an RV, which is not sufficient. Where is there room for a 5th wheel, or trucks towing a boat, etc.? With the courthouse in session there is often no parking available further north on S. Franklin Street, and parking on South Street would further hinder safe and speedy access for police and ambulance. No other big store in town includes the loading dock area in the public's parking lot. To have the parking in front of the building should not be permitted in this scenic area where people primarily drive by on their way to Noyo Harbor. There was no mention where employees would park. The parking situation is not safe and appropriate.

Mr. Moose wrote that "the new sidewalks and pedestrian upgrades that are required as a condition of this Project will increase pedestrian accessibility to this existing Harbor access. An optional special condition was included in the Planning Commission staff report to allow the use of the Project parking spaces for vehicular parking for the trail. However, the Planning Commission recommended that the optional special condition below be stricken from the resolution, as this is not an effective access to the Noyo Harbor given the easy drive to the harbor and the Coastal Trail and it would be problematic for the Grocery Outlet to monitor such parking." It is my recollection from having watched that meeting that the Commissioners decided to strike that special condition after a representative from Best Properties indicated that they would not want to have people park in the parking lot unless they would be shopping there and would not want to monitor this.

The existing public parking practice, albeit informal, satisfies the requirements for a prescriptive easement for coastal access parking. The no-parking and towing signs are a more recent addition. People have been parking in that informal field (rather than on the adjacent on-street parking which isn't very safe or convenient due to the narrow N. Harbor Drive and lack of visibility) for well over 5 years. This isn't an illegal trespass that shouldn't be endorsed through government action, it is a long-established public parking practice on this property that has been used to access coastal resources. The exact same issue (and LCP policies) were concerns for the recent use permit hearings for the proposed solid waste transfer spot at the far north end of town. There it was required to retain the area that has been used as informal coastal access parking for many years and build their project around it. That project wasn't even in the coastal zone unlike this one and it shows the local interpretive planning precedent of preserving even informal and unimproved local parking areas where the requirements for a public access prescriptive easement have been met.

Mr. Moose further states in his first letter that the store will employ up to 25 full-time employees and 10 part-time employees, including store management, whereas the City Council staff report indicates that it will be operated by 15 to 25 full-time staff and two managers. Veronica Vargas of Grocery Outlet did not indicate whether they will in the future replace some of them by self check out stands, if employees get medical/dental/vision/maternity, and/or sick leave, and if they they get a minimum wage of \$15.50.

Mr. Moose wrote that “on June 5, 2023, in a 4-0 vote, the Fort Bragg City Council approved the CDP for the Project after certifying its Final EIR. This unanimous approval was a long time in coming.” I want to add that the CEQA resolution vote was not unanimous. The vote was 3:1.

The traffic study “collected [data] over a single three-day time period in late July 2019” but did not choose a holiday (4th of July) or Salmon BBQ where there would be increased traffic. It is crucial that safe and speedy access to and from the hospital and police station is facilitated to save lives.

Mr. Moose wrote that “Thus, “views...along the ocean and scenic coastal areas” would not be impacted by the Project.” (DEIR, p. 3.5-22.) And, notwithstanding, the vacant lot directly west of the Project site, in between it and the Chevron station, could be developed with a sizable commercial structure, which would then “completely block the existing interrupted view of the Chevron Station and ocean,” given the by-right development allowed on that adjacent site and the comparable development in the area. (DEIR, p. 3.1-7.)” To indicate that a property could be developed that would then “completely block the existing interrupted view of the Chevron Station and ocean” as an argument for not needing “to protect views to and along the ocean and scenic coastal areas” to me sounds like a very lame argument even if that view of the ocean is diminished by trees, bushes, a fence, and a gas station.

Mr. Moose wrote in his letter that “In sum, no coastal resources will be negatively affected by the Project’s CDP. In actuality, the Project will improve coastal access for pedestrians and benefit the many members of the community who live or work near coastal resources, such as the harbor and other visitor and tourist services.” I wonder how these coastal resources will be positively affected when people who live or work near them have to look at this horrible ugly corporate building. The Planning Commission had a chance to make it clear that they at least wanted a design for a building like the one that was shown to them by Best Development in Truckee that seems to look less corporate (at least from the outside). It was built in 2020 and already in 2023 was posted for sale. I wonder when this new building will be for sale as many franchise stores including fast food/franchise restaurants are going under. Certain Starbucks, Rite Aide’s, and CVS are closing nationally. Will Grocery Outlet wait until they no longer can afford the diesel to get here? No matter how the outside of these stores look, the inside basically looks the same. Grocery Outlet discount (bargain) stores buy goods from consumer packaged goods (CPG) manufacturers that have excess inventory or the packaging is damaged, for pennies on the dollar. Pepsi, Coca-Cola, and Nestle are such companies. Nestle is the world’s biggest CPG with a market cap value of \$349.20 Billion. This makes Nestle the world’s 23th most valuable company. Their revenue approaches \$2.13 billion. The goal of the 77 year old Grocery Outlet business is to sell as many products to as many consumers as possible. They have approx. 449 stores now compared to 300 in 2017 across the nation and more than 1.5 million shoppers. As a community member who moved here 45 years ago because of the pristine view and the environmental consciousness of the local citizens I am saddened to see that Fort Bragg allowed this town to turn into another “anywhere in the US town.” The eco tourists, our bread and butter, will bypass Fort Bragg as a destination if we do not take a close look at what we are doing to this town.

Unfortunately the City’s zoning code does not mandate that a proposed franchise store undergoes an economic or fiscal (i.e., tax) impact analysis and the City Council did not require one. A thorough study should reveal many of the hidden costs of a proposed franchise store in terms of job losses, local business closures and vacancies, and the impact on public services – giving city officials cause to reject the development. The Urban Decay Study that was completed was never circulated for public review and comment and could therefore not be reviewed to ensure that its data and methods are sound. It did not address community impacts, historic and scenic resources, and environmental impacts. There is no long range local, or regional planning that considers how best to deal with growth in one area and how

it would affect another area. For example no one looked at the needs of the harbor and how this store and the additional traffic would support or detract from the harbor's needs. The Noyo Harbor District was recently awarded a \$3.2 million grant to support the revitalization of its harbor in Fort Bragg. For more than 72 years Noyo Harbor, an all weather port received the most traffic of all ports between Bodega Bay and Humboldt Bay, and has played a central role in the region's commercial and recreational fishing industry. Consistently ranked in the top 10 commercial ports in California in terms of ex-vessel value of commercial fish landings, the harbor consistently provides important healthy food sources, enhanced careers, economic community benefits, and serves as an enduring part of the area's cultural heritage. According to the Mendocino County Coastal Element Section 4.4-3 the County shall develop an evacuation route for the Noyo Harbor area, in addition to North Harbor Drive, by re-opening the road west of Agostino's for emergency use only. Unfortunately that has not happened yet.

The developers never consulted emergency services about potential impacts of this project on travel to and from the hospital. When contacted, Davey Beak, the long-time manager of emergency transport wrote: "A significant change in the volume of traffic on South Street will absolutely have an effect on our response and return times. Code 3 (lights and sirens) help but they will have a negative effect on the residential neighborhoods to the South and East of South Street. Typically, we limit our use of lights and sirens until we are approaching the Franklin Street intersection. With the additional traffic created by this development we will need to switch to Code 3 several blocks earlier which will likely lead to angry public and reduced real estate values in the adjacent neighborhoods. Access to our Hospital will also be negatively affected. A street widening project along with a stop light at HWY 1 would definitely help. Please share this letter with any appropriate parties. Thanks, Davey" Davey Beak's comments should have been taken under consideration and would have likely required further study of traffic flow.

Mr. Moose indicated many times that the appellants are subjective and their observations and comments are "just opinions." Even with all the legal cases supporting certain CEQA rules we forget that "Impact assessment requires projection, which by its very nature can be subjective. Even quantitative models that profess to provide definitive analytical data often have large margins of error and can be manipulated by "tweaking" the inputs to result in the desired output. Further subjectivity enters into the process in determining the significance of an impact". In other words, opinion. This is a quote from a book called "Understanding Environmental Impact Assessment, A Layperson's Guide to Environmental Impact Documents & Processes written by Grosetti Environmental Consulting."

I do believe that this approval would have precedential implications for future franchise businesses.

I believe that in order for you to follow your mission "to protect and enhance California's coast and ocean through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination" it is crucial that you in this case do your utmost to protect the coastal resources and coastal access to these resources.

I am asking you to allow the appellants through a de novo hearing to show you the substantial issues that exist in regards to this project.

Sincerely, Annemarie Weibel

From: [Mary Rose Kaczorowski](#)
To: [Garcia, Tatiana@Coastal](#)
Subject: As Sent on Friday for Appeal No. A-1-FTB-23-0021 --my submission for Wed. Sept. 6
Date: Tuesday, September 5, 2023 7:35:43 PM
Attachments: [image.png](#)
[image.png](#)

This is the correct one that I sent on Friday - Thank you

On Fri, Sep 1, 2023 at 5:53 PM Mary Rose Kaczorowski <mrkaczorowski@gmail.com> wrote:

To: NorthCoast@Coastal <NorthCoast@coastal.ca.gov>, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>, <Tatiana.Garcia@coastal.ca.gov>, <Joshua.Levine@coastal.ca.gov>, <Kate.Huckelbridge@coastal.ca.gov>, Donne@Coastal <Donne.Brownsey@coastal.ca.gov>, <Caryl.Hart@coastal.ca.gov>, <Effie.Turnbull-Sanders@coastal.ca.gov>, <Ann.Notthoff@coastal.ca.gov>, <Linda.Escalante@coastal.ca.gov>, <mike.wilson@coastal.ca.gov>, <Katie.Rice@coastal.ca.gov>, <Paloma.Aguirre@coastal.ca.gov>, <Meagan.Harmon@coastal.ca.gov>, <Roberto.Uranga@coastal.ca.gov>, <Justin.Cummings@coastal.ca.gov>, <zahirah.mann@coastal.ca.gov>, <matt.omalley@coastal.ca.gov>

Corrected version doc. attached Appeal MRK A-1-FTB-23-0021--
Appeal No. A-1-FTB-23-0021

Comments submitted via email by Mary Rose Kaczorowski, Appellant representing Fort Bragg Local Business Matters

Whether or not Grocery Outlet (GO) will bring alternative affordable nutritious food choices or solve our housing crisis is debatable and not the point of this appeal. This appeal is not about whether Grocery Outlet is needed or not. There are problems with Best Development Group, LLC's proposal, data and design of this project.

I ask the California Coastal Commission to have a hearing and to fully review this application and all documents concerning the Grocery Outlet project.

The failure of a development proposal to meet standards, provide accuracy and any comprehensive plan (Climate Action Plan, protecting access to coastal resources etc.) obligates, or at least provides a legal basis, to reject the GO project as it stands.

Tourism is now the lifeblood of our coast and promoting experiences and development that benefits tourism and our coastal assets is what will sustain tourism.

This GO project is a major change of use and replaces the former County of Mendocino Office Building on the edge of town with a high traffic, high impact retail operation. The former building has not been shown if it can be re-used if stripped down. Since the former County Building was built in the 1980's there should be no evidence of toxic materials.

This GO project is located on several parcels each with different zoning designations. This project does not support the City of Ft. Bragg's own self-defined efforts to preserve and strengthen the vitality of commerce in its central business district.

Please note that the Fort Bragg City Council rejected a formula business/ big box store called Auto Zone. One of the key reasons was that this Auto Zone commercial establishment would detract from the overall economic and cultural vitality of the City (per recommendation by the Planning Commission) as it would compete with the other Auto Parts Supply shops already established in the City.

Before I raise some key issues, please keep in mind the following statement from the City of City of Ft. Bragg Draft 2012 Climate Action Plan

"Our commitment to sustainability should be integrated into our everyday decisionmaking processes at City Council, within City departments, and throughout the community. We should all identify specific measures to work on each year. The implementation of sustainability measures, such as energy efficiency, water conservation, **waste reduction, localization of goods**, and alternative transportation methods, should become part of the normal evaluative criteria in work plans, budgets, construction contracts, and proposals."

<https://www.city.fortbragg.com/home/showpublisheddocument/380/637709989995753660>

Also please note that: The site of parcels encompassing the proposed Grocery Outlet is designated as Highway Visitor Commercial

<https://www.city.fortbragg.com/home/showpublisheddocument/710/637710004853630000>

and is nearby a Special Review And Runoff Sensitive Area

<https://www.city.fortbragg.com/home/showpublisheddocument/722/637710004904870000>

Lack of Accuracy and Old, Outdated Data

As pointed out in the appeal there is considerable outdated, inaccurate, flawed, incomplete or misleading statistics and data provided on behalf of the applicant. Studies done by and contracted for this development are not exactly independent. The applicants for the Grocery Outlet project did not respond timely and/or fully to public concerns.

As found in the submitted packet by the applicant— on page 3 of the June 2021 KD Anderson & Associates Inc. report (located under the **Transit Facilities** subheading) the report inaccurately states (quote): "Route 5 provides service on one-hour headways from 7:00 to 6:00 pm. Monday thru Friday, with service extending to 8:30 on Saturdays."

It is common knowledge that the Bragg About# 5 MTA Bus schedule for this route is as follows : Monday through Friday 7 a.m. to 5 p.m. and no Service on weekends. And do note the statement in this report: "*Buses 7:00 to 6:00 p.m.*" How does this all get through as reliable info? This is just one of many examples of erroneous and imprecise facts and information submitted by or on behalf of the applicant. Accepting this I hope is not indicative of simply a favorable treatment of the applicant.

New developments (the DANCO 69-unit housing project including multi-family, additional

medical services sites and services to these new projects etc. etc.) in this neighborhood has occurred and have not been taken into account. The data is therefore inaccurate and flawed. The public and City Council and Coastal Commission Staff must have adequate time to receive updated data and check the data for accuracy in order to examine the potential impacts of this project.

Approval of the project would result in significant effects relating to traffic

This appeal is also about the traffic Impacts, pedestrian safety, pollution, increasing waste (more plastic & packaging etc.) and that do not appear to be realistically mitigated.

Do you not think it is reasonable to require that there be substantial, competent, and material evidence in the record to support the findings on any permit decision? There must be credible evidence presented.

Let's be realistic- This is about location, location and location.

Attention to traffic and pedestrian wayfinding to the GO entries needs to be all equally questioned around this GO project site. How can anyone state that there will be safe pedestrian connections from the street into the store or bicycle connections where street conditions and traffic problems are still an issue. We are dealing with human behavior in real time and not static paper studies.

Emergency vehicles, residents and visitors turn off Hwy 1 onto South Street and use South Street for straight quick access to the hospital emergency room and medical clinics and other related services. Adding a Grocery Outlet will create added problems of response times to get to these services. Note this corner on Main Street and Hwy. 1 is where the sign to the Hospital is posted. Time of day studies do not matter— people in crisis and emergencies are based on response time and happen all hours.

Mendocino Coast Clinics and has staged both COVID Testing, and COVID vaccinations for people in their cars where hundreds of vehicles were lined up along South Street. That can happen again as new vaccines come on board and Covid Cases again are rising. More traffic and parking along the Grocery Outlet corridor will in general impede these activities if this project goes through as is.

Grocery Outlet is not a small store! It is a different use than county offices and traffic impacts will not be able to be managed or directed appropriately without impacting emergency responders' response times.

Added traffic will impact safe access to coastal resources including down to the Harbor. There will be bottle necks at the Cypress St. and Franklin St. 4 way stop where traffic is already heavy during the day.

Vehicles coming off Main Street onto North Harbor Drive also access coastal resources at the Harbor. This appeal is also about parking for access to the public Coastal Trail and public access steps to the harbor by Harbor Light Lodge.

Traffic will be impacted going down to Coastal resources be it to the Harbor via N.

Harbor Dr. (or pedestrian steps by the hotel) or across the Main Street (aka Highway 1) to where there is another access to the Coastal Trail other than on W. Cypress St. (West of Highway 1) or to take a scenic walk or bicycle ride over the bridge that overlooks the Noyo River and Harbor and ocean. It is not ensured that the Franklin Street parking will be available since another building has already been built directly across the Street from the GO project site. Big rigs and large vacation motor homes are already having issues with navigating down to the Harbor and back ups are happening. These are not typical RV's. Where will they park when they are towing other vehicles?

I also would like to point out that "GO's development has not been carefully planned and developed"—(See Section 3001 (c) & (d) of the California Coastal Act) as in this project's impacts that ignore and erode long existing access to harbor/river.

Note per the California Coastal Act Section 3000.15

see (c) this project does not maximize public access to and along the coast.

Increased traffic will impact the already increased traffic on N. Harbor Drive going down to Noyo Harbor and along the Noyo River.

Delivery trucks create noise and pollution that can undermine the peace and health of surrounding neighborhoods. Diesel particulate matter (DPM), which is contained in the exhaust of diesel trucks, pollutes the air and, according to the EPA, is presumed to be a cause of cancer.

The bigger picture:

The city's intention is to maintain the downtown as the center of commercial activity, ensure new development is compatible with its surroundings, or minimize automobile use.

In addition, it is common knowledge that these chain stores can devastate historic downtowns and cause families to lose businesses they have owned for several generations. While the job creation benefits look attractive, especially when unemployment or under-employment is rampant, the jobs frequently pay close to the minimum wage, offer only part-time hours, and include few or no benefits. Small business creates as many as 90% of the jobs in some years. And in the immediate aftermath of the Great Recession, **new** businesses were doing all the net job creation in the U.S.

Then there is the Mendocino Coast area radius centering from Ft. Bragg and its impact on this area's carrying capacity. This impacts residents, businesses and the distances shoppers are willing to travel and to support any new business development in Fort Bragg. However, thresholds are only based on population and do not take into consideration other crucial factors such as income, nearby competition, gas prices, traffic, etc.

Where is the Ft. Bragg inventory that shows how impacts of such a store will have on the existing locally owned stores and already existing big box stores that offer groceries, or on empty existing storefronts and businesses for comparative and competitive analysis?

Again, the failure of a development proposal to meet standards, provide accuracy and any comprehensive plan (Climate Action Plan, protecting access to coastal resources etc.) obligates, or at least provides a legal basis, to reject the GO project as it stands.

The Local Coastal Program (LCP) was adopted by the Fort Bragg City Council in May 2008, and certified by the California Coastal Commission in August 2008. Even though the California Coastal Commission certified The City of Ft. Bragg Coastal General Plan, provisions were not included in the adopted LCP to address the issues raised herein or sustain public benefit as addressed. This must be done.



Figure 1 weekly delivery Trucks on N. Harbor Dr.

Housing or a Hotel—not a Grocery Outlet on this parcel?



Figure 2 Parking on lot & persons walking along parcel designated as Highway Visitor Commercial – Housing or Hotel not a GO?

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Please find attached

My Comments submitted via email by Mary Rose Kaczorowski, Appellant representing Fort Bragg Local Business Matters

I reside in this " Cypress Ridge area neighborhood" here in Ft. Bragg so I see and experience the changes with recent new developments and all I point out first hand.

This area is a flat ridge surrounded by Coastal resources (Noyo River on three sides) and is being way overdeveloped.

My Best Regards,

Mary Rose Kaczorowski