

<p style="text-align: center;">TRINITY COUNTY PLANNING COMMISSION STAFF REPORT</p>

PROJECT TITLE: Rescind approval for P-19-19 Grocery Outlet Project

APPLICANT: Best Development Group LLC

PROPERTY OWNER: Dana & Kimberly Ryan

REPORT BY: Deputy Director of Planning, Lisa Lozier

LOCATION: 1155 Main Street (State Route 299), Weaverville, CA 96093 (APNs 002-100-61, -62, -63, and 002-100-42)

PROJECT DESCRIPTION:

Project applicant Best Development Group LLC (Best Development) in a Letter provided by Thomas Law Group (Attachment 2) requests that approval granted for the development of a 20,000 square-foot commercial retail facility (Grocery Outlet store) be rescinded do to the fact that Best Development no longer has an interest in the land that was subject to Resolution 2020-05 and Conditional Use Permit P-19-19.

The project site is located at 1155 Main Street, which is designated as Trinity County Assessor's Parcel Numbers 002-100-61, 62, 63, and 002-100-42. The project site consists of four parcels, which total approximately 2.94 acres. The following summarizes the approval process that took place for this project:

- Approval for the project was initially granted in a public hearing at a Special Planning Commission meeting on June 4, 2020 (Attachment 4).
- An appeal filed by Attorneys representing Trinity County for Small Businesses of the decision to approve P-19-19 was filed with the Clerk of the Board of Supervisors challenging the adopted Initial Study-Mitigated Negative Declaration. The appeal was scheduled for public hearing before the Board of Supervisors on July 21, 2020. At the public hearing the Board motioned to deny the appeal and up hold the original Planning Commission approval (Attachment 5).
- On September 1, 2020, Attorneys representing Trinity County for Small Businesses filed (Attachment 6) with the Clerk of the Superior Court of Trinity County to prepare a record of proceedings necessary for court challenge of adopted Initial Study-Mitigated Negative Declaration and approved Conditional

Use Permit P-19-19. Planning Staff in conjunction with attorneys representing Best Development were working to compile the record of proceedings Best Development being unable to conclude legal challenges to the adopted Mitigated Negative Declaration and approved Conditional Use Permit P-19-19 prior to the escrow closing date of November 2020 and unable to negotiate an extension to the closing date, the property owner and Best Development agreed to cancel the purchase and sale agreement (Attachment 7).

Request for Revocation

Best Development Group no longer has an interest in the land that was subject to Resolution 2020-05 and Conditional Use Permit P-19-19 as purchase of the project site has been cancelled. As the project applicant, they have requested that the approvals be rescinded.

As provided by Trinity County Zoning Code section 17.32.070(B), the Planning Director may set a hearing on the revocation or modification of a Use Permit. When in the discretion of the Planning Director a use permitted by a use permit may be revoked (Attachment 8). This is a unique situation and Staff felt that the revocation provisions offered the best path forward to fulfill the applicant's request.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution 2021-01 to revoke/rescind approvals previously granted through the adoption of Resolution 2020-05 and including Exhibit "A" to Resolution 2020-05 (Conditions of Approval) for Conditional Use Permit P-19-19 by request of the applicant, Best Development Group LLC.

ATTACHMENTS:

- 1) Draft Resolution 2021-01
- 2) Letter from Thomas Law Group for Best Development Group LLC
- 3) Resolution 2020-05 and Conditions of Approval
- 4) Minutes June 4, 2020 Special PC meeting
- 5) Minutes July 21, 2020 Board of Supervisors meeting
- 6) Request to prepare record
- 7) Cancellation of Contract and Cancellation of Escrow
- 8) Zoning Code Section 17.32.070(B)

RESOLUTION NO. 2021-01

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF TRINITY
FOR REVOCATION OF CONDITIONAL USE PERMIT
(Best Development Group, P-19-19)**

WHEREAS, the applicant, Best Development Group LLC (Best Development) for Conditional Use Permit P-19-19 entered into escrow with the owner property located at located at 1155 Main Street (State Route 299), Weaverville and identified by APN's 002-100-61-, -62, -63, and 002-100-42) for the purpose of developing a retail grocery store (Grocery Outlet); and

WHEREAS, Best Development filed an application with the Trinity County Planning Department dated January 29, 2019 requesting approval of a Conditional Use Permit for a retail grocery store (Grocery Outlet) with a floor area over 5,000 square-feet in the C-2 zoning district and a building with architectural features over the maximum building height standard in the C-2 zoning district; and

WHEREAS, County staff has reviewed the submitted application and evidence and has referred the application and evidence to all governmental and utility agencies affected by the development to allow the opportunity for conducting site inspections and providing comments and recommendations; and

WHEREAS, the project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA). A proposed Initial Study-Mitigated Negative Declaration has been prepared with respect to said project and notice has been sent to the State Clearinghouse (SCH#: 2020039002), responsible and trustee agencies, and posted for public review for a period of 30 days as required by the CEQA Guidelines; and

WHEREAS, after due notice of public hearing in accordance with applicable laws, the matter came on for hearing before the Planning Commission of the County of Trinity on June 4, 2020; and

WHEREAS, at said public hearing, due consideration was given to all oral and written comments regarding the request for approval of the Conditional Use Permit, to the proposed Initial Study-Mitigated Negative Declaration, the environmental effect of the project, and any changes connected therewith and the Planning Commission concluded that the Conditional Use Permit should be granted subject to certain conditions hereinafter set forth; and

WHEREAS, an appeal was timely filed with the Clerk of the Board of Supervisors by attorneys representing the appellant, Trinity County for Small Businesses and requesting the approval for Conditional Use Permit P-19-19 and Initial Study-Mitigated Negative Declaration be overturned due to environmental concerns not addressed in the Initial Study-Mitigated Negative Declaration; and

WHEREAS, at a properly noticed public hearing, due consideration was given to all oral and written comments regarding the request for appeal of approval of the Conditional Use Permit, and Initial Study-Mitigated Negative Declaration. The Board of Supervisors, by motion, and second unanimously voted to uphold the approval granted by the Planning Commission; and

WHEREAS, Attorneys representing Trinity County for Small Businesses filed a request with the Clerk of the Superior Court of the County of Trinity requested the County of Trinity to prepare a record of proceedings for hearing in regard to the adoption of the Mitigated Negative Declaration and approval of the Conditional Use Permit P-19-19; and

WHEREAS, Best Development being unable to conclude legal challenges to the adopted Mitigated Negative Declaration and approved Conditional Use Permit P-19-19 prior to the escrow closing date of November 2020 and were unable to negotiate an extension to the closing date; and

WHEREAS, the property owner and Best Development agreed to cancel the purchase and sale agreement; and

WHEREAS, Best Development Group LLC (Best Development) no longer has actual or prospective interest in the land (APNs: 002-100-61, 62, 63, and 002-100-42) subject to project approvals Resolution 2020-05 and Conditional Use Permit P-19-19 and requests land use approvals for the Grocery Outlet project be rescinded and revoked.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Trinity makes the following findings:

1. Pursuant to Section 17.32.060(B) County Code of Ordinances, which includes provisions for the Planning Director to set a hearing for Revocation of a Use Permit.
2. The project applicant, Best Development no longer has interest in the property and will not develop the property as previously approved.
3. The Planning Commission of the County of Trinity hereby adopts Resolution 2021-01 for Revocation of the previously adopted Resolution 2020-05.

DULY PASSED AND ADOPTED this 11th day of March, 2021 by the Planning Commission of the County of Trinity by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

DIANA STEWART, CHAIRMAN
Planning Commission
County of Trinity, State of California

ATTEST:

By:

KIMBERLY HUNTER
Secretary of the Planning Commission
County of Trinity, State of California

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NICHOLAS S. AVDIS
ERIC E. REYNOLDS
Of Counsel

December 23, 2020

Director of Planning Kim Hunter
Department of Planning
Trinity County
61 Airport Road
Weaverville, CA 96093

Dear Director Hunter:

We submit this letter on behalf of our client, Best Development Group LLC (Best Development), to unfortunately inform the County that Best Development no longer has any interest in the land that was subject to Resolution No. 2020-05 and Conditional Use Permit 19-19.

On July 18, 2018, Best Development entered a Purchase and Sale Agreement (PSA) for 1155 Main Street, Weaverville, CA 96093 (Property). The PSA required the sale to close in 2019. However, Best Development was successfully able to negotiate a series of amendments to the PSA with the Seller to extend the close date until November of 2020. Unfortunately, Best Development and the Seller were unable to reach an agreement to extend the close date further. As a result, on December 21, 2020, Best Development and the Seller agreed to cancel the PSA. A copy of the cancellation of contract is attached for the County's files.

As Best Development no longer has any actual or prospective interest in the land subject to the project entitlements, Best Development requests that the County rescind Resolution No. 2020-05 and Conditional Use Permit 19-19.

Best Development is grateful for all of County staff's time and attention to the proposed project during the administrative process. Please let us know if Best Development needs to submit anything further in order for the County to rescind the approvals.

Thank you,


Chris Butcher
Attorney for Best Development

cc: Margaret Long
Amanda Uhrhammer

Attachment 2

RESOLUTION NO. 2020-05

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF TRINITY
APPROVING CONDITIONAL USE PERMIT
(Best Development Group, P-19-19)**

WHEREAS, Best Development Group filed an application dated January 29, 2019 for the approval of a Conditional Use Permit for a grocery store (Grocery Outlet) with a floor area over 5,000 s.f. in the C-2 zoning district and a building with architectural features over the maximum building height standard in the C-2 zoning district. The project site is located at 1155 Main Street (State Route 299), Weaverville (APNs: 002-100-61-, -62, -63, and 002-100-42); and

WHEREAS, County staff has reviewed the submitted application and evidence and has referred the application and evidence to all governmental and utility agencies affected by the development to allow the opportunity for conducting site inspections and providing comments and recommendations; and

WHEREAS, the project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA). A proposed Initial Study-Mitigated Negative Declaration has been prepared with respect to said project and notice has been sent to the State Clearinghouse (SCH#: 2020039002), responsible and trustee agencies, and posted for public review for a period of 30 days as required by the CEQA Guidelines; and

WHEREAS, after due notice of public hearing in accordance with applicable laws, the matter came on for hearing before the Planning Commission of the County of Trinity on April 23, 2020; and

WHEREAS, at said public hearing, due consideration was given to the proposed Initial Study-Mitigated Negative Declaration, the environmental effect of the project, and any changes connected therewith; and

WHEREAS, at said public hearing, due consideration was given to all oral and written comments regarding the request for approval of the Conditional Use Permit, and the Planning Commission concluded that the Conditional Use Permit should be granted subject to certain conditions hereinafter set forth;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Trinity makes the following findings:

1. Pursuant to the State CEQA Guidelines, the Planning Commission of the County of Trinity makes the following environmental findings:
 - A. The Planning Commission of the County of Trinity finds on the basis of the Initial Study and all comments received, that the proposed commercial development would have potential significant effects on the environment, which, with the inclusion of specific mitigation measures, will be rendered less than significant. Accordingly, a Mitigated Negative Declaration is adopted pursuant to the CEQA Guidelines.
2. Pursuant to Chapter 17.32 (Use Permits) of the County Code of Ordinances, the Planning Commission of the County of Trinity makes the following findings for the Use Permit:
 - A. The Conditional Use Permit allows a larger building size and greater building height for a use type (retail sales and services conducted within a building) that is allowed under the Commercial land use designation and is principally permitted in the C-2 (General Commercial) zoning district.

Attachment 3

These exceptions to the development standards in the County Code are specifically allowed through the issuance of a Conditional Use Permit. As such, this Conditional Use Permit use permit will be granted upon sound principles of land use.

- B. As conditioned and mitigated, the proposed commercial development will not be detrimental to the public health, safety or welfare, or result in the creation of a public nuisance.
 - C. The Conditional Use Permit allows exceptions to the development standards for building size and height for a grocery store along the State Route 299 corridor in an area designated by the County General Plan and Weaverville Community Plan for commercial uses. The project is also consistent with the policies of the General Plan and Community Plan related to access from State Route 299, the size of commercial developments, availability of community services, signage design, and landscaping. There are no policies in these general and specific plans that are inconsistent with the exceptions proposed by the application. Therefore, the issuance of the Conditional Use Permit for the proposed commercial development will comply with the objectives of the County General Plan and Weaverville Community Plan.
3. The Planning Commission of the County of Trinity hereby approves the Conditional Use Permit P-19-19, subject to the conditions set forth in Exhibit "A", attached hereto and made a part hereof.

DULY PASSED AND ADOPTED this 4th day of June, 2020 by the Planning Commission of the County of Trinity by motion of Commissioner McHugh, seconded by Commissioner Hoard, and the following vote:

AYES: McHugh, Hoard, Frasier

NOES: Matthews, Stewart

ABSENT:

ABSTAIN:

RECUSE:


MICHAEL "DAN" FRASIER, Chairman
Planning Commission
County of Trinity, State of California

ATTEST:

By:


KIMBERLY HUNTER
Secretary of the Planning Commission
County of Trinity, State of California

EXHIBIT "A" to Resolution PC-2020-05
CONDITIONAL USE PERMIT
CONDITIONS OF APPROVAL
(Best Development Group, P-19-19)

REVISED June 4, 2020

The following conditions of approval shall be satisfied prior to the issuance of any development permits, unless a different time for compliance is specifically noted:

Department of Transportation

The applicant shall comply with all requirements of the County Department of Transportation, including those in the July 19, 2019 referral comment letter. The requirements in the July 19, 2019 referral comment letter include the following:

1. Roadway improvements are required on Levee Road to the rear truck entrance. The east bound lane of Levee Road (delivery truck route), shall be reconstructed from the center of the existing road to include a 12' travel lane with 2' shoulders. The gutter pan of the proposed concrete curb and gutter may be counted as part of the shoulder width. The improved lane shall be engineered to accommodate truck loading, and shall be constructed so that it conforms with the west bound lane of Levee Road. If the existing surface of the west bound lane is too uneven to allow a smooth conform, a leveling course and overlay shall be applied to the west bound lane in order to produce an even driving surface across the entire roadway.
2. A five-foot-wide sidewalk with curb and gutter shall be constructed along the entire Highway 299 frontage from the Levee Road to a logical point of touchdown, as approved by Caltrans and the County Engineer. The sidewalk shall be constructed to current ADA standards, including the installation of ADA curb ramps at each end of the sidewalk. An ADA accessible path of travel must be provided from the sidewalk along Highway 299 to the store. Sidewalk plans and construction must be approved by Caltrans and by the County Engineer or his designee.
3. Levee Road is not a publicly maintained road. The applicant shall maintain Levee Road from Highway 299 to the truck access of Levee Road.
4. Parking lot grading, including slope and/or elevations, shall be shown on the plans, and shall provide sufficient detail to ensure adequate drainage. Grading and drainage plans shall be stamped by an engineer and approved by the Department of Transportation prior to construction.
5. Post construction storm water runoff shall remain consistent with the current runoff conditions. Hydrology calculations stamped by an engineer shall be provided for a 2 year and 100-year storm event, and shall show that no increased flows to roadside ditches, gutters or other offsite locations are expected for these rainfall events. Design and capacity of onsite water retention methods shall be included in these calculations.
6. Grading and drainage improvements shall be inspected and approved by the County Engineer or his designee.

7. Plan review and inspections related to improvements shall be charged to the applicant at actual cost.
8. The improvement plans shall include a grading plan and erosion and sediment control plan, which incorporates standards erosion control practices and best management practices, subject to the approval of the County Engineer for disturbed areas. The plan shall be prepared by a Qualified SWPPP Developer (QSD) and shall be included in an agreement with the construction contractor. The following measures shall be included:
 - a. Any mass grading shall be restricted to dry weather periods between April 1 and October 31.
 - b. If other grading activity is undertaken in wet-weather months, permanent erosion and sediment controls shall be in place by October 15, and construction shall be limited to areas as approved by the County Engineer. A winterization plan shall be submitted by September 15 and implemented by October 15.
 - c. In the event construction activity including clearing, grading, disturbances to the ground such as stockpiling, or excavation result in soil disturbances of at least one acre of total land area, the applicant shall obtain and provide a Notice of Intent (NOI) from the Regional Water Quality Control Board.
 - d. Should a NOI be required, Storm Water Pollution Prevention Plan (SWPPP) shall be provided prior to issuance of a construction permit. The SWPPP shall have provisions to provide at minimum monthly monitoring reports to the County during wet weather and to 1 year after completion of construction.
 - e. Project less than one acre are exempt from obtaining a NOI unless construction activity is expected to create soil disturbances that could cause significant water quality impairment.
 - f. The internet site for information and application on the NOI can be found at http://waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.
 - g. Sedimentation basins, traps, or similar BMP controls shall be installed prior to the start of grading.
 - h. Mulching, hydro seeding, or other suitable revegetation measures shall be implemented. Planting shall also occur on areas of cut and fill to reduce erosion and stabilize exposed areas of later construction phases. All disturbed areas with a slope greater than 5% shall receive erosion control.
 - i. Excavated materials shall not be deposited or stored where the materials could be washed away by storm water runoff.

Environmental Health Division

The applicant shall comply with all requirements of the County Environmental Health Division, including those in the July 11, 2019 and December 30, 2019 referral comments. The requirements in the referral comments include the following:

9. The applicant shall submit plans, plan check, and a permitting application to the County Environmental Health Division for approval prior to the beginning of construction and opening of the grocery store. Contact the Environmental Health Division for further information.
10. The design plans for the onsite stormwater detention and infiltration basin will need to be reviewed by the Environmental Health Division prior to the beginning of construction.

Building Department

11. Building permits must be obtained from the Building Department for the proposed improvements.

Weaverville Sanitary District

The applicant shall comply with all requirements of the Weaverville Sanitary District, including those in the January 2, 2020 referral comment letter. The requirements in the July 19, 2019 referral comment letter include the following:

12. The destroyed buildings were not properly disconnected from the sewer and must be addressed to further eliminate future infiltration problems.
13. The remaining buildings must have sewer rerouted or property easements established to provide access in the future.
14. An application for sewer service must be made to the District and any additional impacts fees paid before construction begins.
15. The sewer main along Levee Road and the NW side of parcel 61 and 42 is not shown on the map. Access and any necessary easements must be provided.

Planning Department

16. The proposed Lot Line Adjustment (P-19-32) required to facilitate the proposed commercial development shall be recorded prior to issuance of development permits for the project site.
17. A final landscape and irrigation plan shall be approved by the Planning Director prior to issuance of any land development or construction permit. The final landscape and irrigation plan shall be in general conformance with the size and location of the proposed landscape area as designed on the landscape plan and shall be prepared by a qualified, licensed professional in compliance with applicable State Model Water Efficient Landscape Ordinance requirements.

The following conditions of approval include the mitigation measures from the Initial Study-Mitigation Negative Declaration (SCH#: 2020039002) that was prepared for the proposed project. The responsibility for implementation and timing of these mitigation measures is identified in the Mitigation, Monitoring, and Reporting Program.

18. **AES-1:** All external lighting to be shielded and downcast to minimize lighting spillover. All external lighting shall be turned off from 11:00 p.m. to 6:00 a.m. Twenty-four-hour security lighting would be exempt from this time limitation but would be required to be shielded and

downcast. The County shall condition the project to require a photometric lighting plan be submitted for review and approval before the issuance of the building permit.

19. **AQ-1:** The following standard conditions for controlling dust emissions during construction will be required as to reduce impacts from fugitive dust generation.
- All active construction areas (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered a minimum of two times per day during the dry season.
 - Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
 - Dust-generating activities shall be limited during periods of high winds (over 15 mph).
 - Suspend excavation and grading activity when winds exceed 25 mph.
 - All haul trucks transporting soil, sand, or other loose material, likely to give rise to airborne dust, shall be covered.
 - All vehicle speeds shall be limited to 15 miles per hour within the construction area.
 - Promptly remove earth or other tracked out material from paved streets onto which earth, or other material has been transported by trucking or earth-moving equipment.
 - Conduct digging, backfilling, and paving of utility trenches in such a manner as to minimize the creation of airborne dust.
 - Pave the backfilled trenches as soon as practicable after backfilling of the trenches.
20. **BIO-1.** If project activities cannot occur outside the bird nesting season (generally Mar 1 – Aug 31), a qualified biologist will conduct nesting bird surveys within the area of impact and establish a protective buffer for any active nests found.
- Conduct surveys no more than 7 days prior to activities, covering the entire area of potential impact.
 - If an active nest is located during the survey, a no-disturbance buffer shall be established around the nest by the qualified biologist, in consultation with California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.
 - Establish protective buffers for active nests based on type of project activity to be conducted, habitat, and species of concern.
 - Physical protective buffers should be in the form of high visibility fencing, inspected weekly by a biological monitor to ensure stability.
 - If project activities are to be conducted while active nest buffers are in place, a biological monitor will be on site during project activities to ensure that no take of migratory birds occurs.
21. **BIO-2.** If larval insecticide is deemed necessary for the control of mosquitoes in the detention and infiltration basin, products with active ingredient *Bacillus thuringiensis israelensis* (Bti) is recommended by the USEPA as it specifically targets mosquito and fly larvae and has limited acute and no chronic toxicity to mammals, birds, fish, or vascular plants.
22. **CR-1.** If cultural or archaeological resources, such as chipped or ground stone, or bone are discovered during ground-disturbance activities, work shall be stopped within 50 feet of the discovery, as required by the California Environmental Quality Act (CEQA; January 1999 Revised Guidelines, Title 14 California Code of Regulations [CCR] 15064.5 (f)). Work near the cultural or archaeological find shall not resume until a professional archaeologist, who meets the Secretary of the Interior's Standards and Guidelines, has evaluated the material and offered recommendations for further action. For discoveries known or likely to be associated with Native American heritage (prehistoric sites and select historic period sites), the Tribal Historic

Preservation Officer (THPO) for the Nor-Rel-Muk Nation, the Wintu Educational and Cultural Council, the Round Valley Reservation/ Covelo Indian Tribe, and the Redding Rancheria shall be contacted immediately to evaluate the discovery and, in consultation with the project proponent, the County, and professional archaeologist, develop a treatment plan in any instance where significant impacts cannot be avoided.

23. **CR-2.** If human remains are discovered during project construction, work will stop at the discovery location, within 20 meters (66 feet), and any nearby area reasonably suspected to overlie human remains (Public Resources Code, Section 7050.5). The Trinity County Coroner will be contacted to determine if the cause of death must be investigated. If the Coroner determines that the remains are of Native American origin, it will be necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (Public Resources Code, Section 5097). The Coroner will contact the NAHC. The descendants, or most likely descendants, of the deceased will be contacted and work will not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98. Work may resume if the NAHC is unable to identify a descendant or the descendant failed to make a recommendation.
24. **GEO-1:** Adherence to all project specific recommendations of the Geotechnical Engineering Report shall be required during construction of the proposed project.
25. **GEO-2.** If a paleontological discovery is made during construction, the contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and shall immediately contact the County. A qualified paleontologist shall be retained to observe all subsequent grading and excavation activities in the area of the find and shall salvage fossils as necessary. The paleontologist shall establish procedures for paleontological resource surveillance and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of fossils. If major paleontological resources are discovered that require temporarily halting or redirecting of grading, the paleontologist shall report such findings to the County. The paleontologist shall determine appropriate actions, in cooperation with the applicant and the County, that ensure proper exploration and/or salvage. Excavated finds shall first be offered to a state-designated repository such as the Museum of Paleontology, University of California, Berkeley, or the California Academy of Sciences. Otherwise, the finds shall be offered to the County for purposes of public education and interpretive displays. The paleontologist shall submit a follow-up report to the County that shall include the period of inspection, an analysis of the fossils found, and the present repository of fossils.
26. **GHG-1.** Prior to the start of construction activities, the applicant shall purchase and retire carbon offsets for the estimated 12,000 MTCO_{2e} of operational GHG emissions that will be generated over the "project life" time frame for the proposed project. The purchase of carbon offsets for the proposed project shall occur according to the following criteria:
 - "Carbon Offset" shall mean an instrument issued by any of the following: CARB, Climate Action Reserve, California Air Pollution Control Officers Association, the APCD, or any other equivalent or verifiable registry.

- Any carbon offset that is used to reduce the project's GHG emissions shall meet the requirements of CEQA Guidelines Section 15126.4(C)(3) and meet the following criteria:
 - Real – They represent reductions actually achieved (not based on maximum permit levels).
 - Additional/surplus – They are not already planned or required by regulations or policy (i.e., not double counted).
 - Quantifiable – They are readily accounted for through process information and other reliable data.
 - Enforceable – They are acquired through legally binding commitments/agreements.
 - Validated – They are verified through the accurate means by a reliable third party.
 - Permanent – They will remain as GHG reductions in perpetuity
- For the purpose of purchasing carbon offsets, the “project life” time frame is assumed to be 30 years. This methodology is consistent with the 30-year “project life” time frame used by the South Coast Air Quality Management District’s GHG guidance (SCAQMD, 2008).

27. **NOISE-1:** The following measure will be implemented during construction activities to reduce noise levels:

- Construction activities shall be restricted to the hours between 8:00 a.m. and 5:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. and 5:00 p.m. on Saturdays.
- Construction activity will not occur on Sundays or holidays.

California Department of Transportation

The applicant shall comply with all requirements of the California Department of Transportation, including those in the September 4, 2019 and January 8, 2020 referral comments. The requirements in the referral comments include the following:

- 28. An encroachment permit will be required for all work within the State right-of-way. The encroachment permit will require that the Levee Road highway connection meet a public road width standard. The driveway for the project site off of State Route 299 shall be a curb cut type driveway (Caltrans Standard Plans A87A).
- 29. The project appears to propose to add curb and sidewalk along the State Route 299 frontage. A Drainage Analysis for this confined gutter will be required and must meet Highway Design Manual guidelines of limiting the water spread width to not encroach on the traveled way.

END OF CONDITIONS

NOTE: Approval of this use permit will expire on June 4, 2022. Any request for a time extension and accompanying fees must be received by the Trinity County Planning Department 30 days prior to this expiration date.

Liz McIntosh – Thank Commissioner Hoard for representing the 4th district. Update on the Smith Pit Mine Operation issues: expressed concern that the residents of Junction City did not know when the issues raised regarding violations of the operating conditions for the mine would be heard at a public meeting and if the issues were being documented as residents had not received any information. Ms. McIntosh also expressed an interest in persons being able to log complaints that were not anonymous in order to receive follow-up information.

Chair Frasier stated for the public that someone would be watching for commenters that they should “raise their Hand” to be recognized to speak.

7:10pm. *Excerpt from June 4 2020 PC minutes*

Item 2: Conditional Use Permit (P-19-19)/(P-19-32) A request for a Conditional Use Permit to develop an approximately 2.2-acre site along the north side of the SR-299 commercial corridor in Weaverville with a new 20,000 square-foot Grocery Outlet grocery store. The project site is designated by the General Plan as Commercial (C) and is zoned as General Commercial (C-2). The project includes the development of two driveway entrances, sidewalks, drive aisles, 67 on-site parking spaces, a loading dock, storm water improvements, landscaping, outdoor lighting, and monument signage. The proposed project site is located at 1155 Main Street, Weaverville. APNs: 002-100-61, -62, -63 and 002-100-42. Applicant: Best Development Group. Proposed CEQA Determination: Mitigated Negative Declaration. Planner: L. Lozier. (Item continued from April 23, 2020.)

Deputy Director Lozier presented the staff report.

Commissioner McHugh ask staff to clarify the Resolution 2020-05 text strikeout version is correct and asked if the lot line adjustment associated with the project would also come before the commission for approval. Lozier stated that the Lot Line Adjustment would not be brought to the Commission and would be included as a condition of approval.

Chair Frasier opened the public hearing.

Terry Johnson: Discussed history of Grocery Outlet, store locations and business model, employees, and types of products typically availability. Mr. Johnson stated that they will accept the conditions as proposed, and that his team is available to answer questions.

Commissioner Hoard asked about pre-selected contractors

Terry Johnson specified that contractors are not selected prior to approval.

Becky Diel: with law firm McKinley, Conger, Jolley, Galarneau LLP and represents local business owners. Ms. Diel requested to slow down the approval process and listed 3 items of specific concern in regard to the project: 1. Public Review Period on the Mitigated Negative Declaration was not proper under the law due to the COVID-119 shut down. 2. Conditional Use Permit: The Trinity County General Plan is not available on-line in order to confirm that the project is consistent with the General Plan. 3. CEQA Document: Ms. Diel opines that the CEQA document is incomplete because an Urban decay analysis was not prepared for the project.

John Brower: Additional public comment time is needed to review the CEQA document. Aesthetics are not addressed in a meaningful way and should be reconsidered. Three parcels being combined for this project takes way opportunity for smaller “Mom and Pop” businesses. There could be economic impacts for promoting large business and may change the character of the Weaverville community.

No other speakers were present in the meeting room. Chair Frasier asked if there were commenter on Zoom.

Director from sales and merchandising for Grocery Outlet spoke about working with and supporting the community and supports special programs for local agencies to feed hungry persons in the community. Grocery Outlet provides high quality items in their stores.

Public hearing closed at 7:43pm.

Commissioner Matthews asked to hear from County Counsel regarding the concerns raised in letters received about opposition including time frames and office closure.

County Counsel stated that the issues raised were investigated prior to the previous meeting specifically related to the closure of the office. There were issues related to COVID, the office was closed but staff was available. Counsel verified with Director Hunter

Commissioner Mike McHugh asked County Counsel about access to the General Plan. Would a member of the public been able to contact staff. County Counsel stated the intent for the office closure was to limit entry to the office. Staff would have been available to provide access to the General Plan by email or at the office.

Director Hunter confirmed that staff was available in the office by phone, email and by appointment. Staff would have been able to provide elements of the General Plan. Director Hunter also confirmed that the General Plan was, at the time of the meeting, available online.

Commissioner Stewart asked County Counsel about the on-line posting stating the office was closed. County Counsel responded that the online and office posting recommended calling the office. Counsel stated that the law requires staff to be available and they were available.

Commissioner Stewart expressed that there is no reason to hurry the project and due to the difficult time with COVID and not pushing ahead with the project would give the public more of a chance.

Commissioner Hoard commented on the Conditions of Approval for the project. Commissioner Hoard reads condition number 3: "Levee Road is not a publicly maintained road. The applicant shall create to the satisfaction of the Trinity County Counsel and the Trinity County Department of Transportation an organization or association for the maintenance of Levee Road from Highway 299 to the truck access or show evidence of the existence of such an agreement or organization", and asked staff for clarification if adjacent property owners would be required to be part of the agreement required for road improvements in condition 3. Deputy Director Lozier stated that the condition was from Department of Transportation (DOT) and would not be able to explain the intent. Commissioner Hoard felt that condition 3 would place a burden on adjacent property owners to form an association for maintenance of the Levee Road when most of the road usage will be for the project and ask for comment from other Commissioners.

Commissioner McHugh stated that truck traffic related to the store would only go as far as the loading dock. Levee Road is in terrible shape and an ongoing issue for the County. There are two other conditions the applicant had agreed to make off-site improvements in conditions 1 and 2, but agreed that condition 3 would be burdensome to adjacent land owners. Commissioner McHugh suggested

Commissioner McHugh ask County Counsel to verify involvement in condition 3. County Counsel stated that her involvement with condition 3 would be review of the agreement only.

Commissioner McHugh suggested that condition 3 might be deleted entirely. Commissioner McHugh asked if DOT was available for comment. County Counsel stated that she did not believe DOT was available.

Chair Frasier commented that he was not familiar with Levee Road, but felt that condition 1, requiring Levee Road to be paved and condition 3 requiring maintenance were redundant.

Commissioner McHugh briefly discussed conditions 1 and 3 regarding improvements and maintenance with condition 3 requiring an agreement with the project applicant to repair damages to the road.

Commissioner Matthews suggested to reopen the public hearing to discuss the conditions with the applicant.

Commissioner McHugh then recommended the Commissioners go through the conditions as a whole and consider reopening the public hearing at that time.

Commissioner Hoard questioned condition 8a, asking if the mass grading ordinance would be referenced in the condition. That mass grading does not define a time frame for grading.

Chair Frasier stated that the definition of mass grading was the same as the mass grading ordinance.

Director Hunter confirmed for the commissioners that Condition 17, addressed the lot line adjustment requirement for the project.

Commissioner McHugh asked staff if Condition 14 was to be removed. Staff confirmed the recommended removal of Condition 14.

County Counsel addressed the mass grading definition question by Commissioner Hoard stating that the conditions of approval could be more restrictive than the definition in the ordinance which is consistent with State law.

Chair Frasier reopened the public hearing to receive information from the applicant concerning only Condition 3.

Terry Johnson stated that there was no interest in creating an assessment district or having any one pay for the maintenance of Levee Road that the project would be required to improve. Customers would be using the main access from SR299 as improved by Caltrans standards. The Applicant understood the condition to be an agreement with DOT and County Counsel which they would be willing to commit. They will not be doing an assessment district or expecting neighbors to pay for their improvements.

Commissioner Matthews asking if the condition could be changed to state Grocery Outlet will maintain the road.

County Counsel recommended that if Grocery Outlet is willing to commit to funding that as part of the condition that would satisfy County Counsel review, or can meet with the applicant and establish a proposal.

Chair Frasier would like to recommend changing the wording of the condition to read that the Applicant shall maintain Levee Road from Highway 299 to the truck access to the satisfaction of the Trinity County Department of Transportation. Terry Johnson (Applicant) agreed with the condition as recommended. County Counsel also agreed that the condition would be acceptable.

Commissioner Matthews discussed comments received in support of the project and concerns identified by local businesses and recommended the Commissioners discuss if there are issues particularly in regard to the current situation (COVID-19) and the limitation on public involvement and asked for additional discussion on the impact of online posting that the County offices were listed as closed to the public.

Commissioner McHugh stated that the applicant has been working on the project for over 18 months and the applicant would like to move on with the project.

Chair Frasier agreed that a lack of public input is concerning and would be inclined to wait if an open public hearing could be provided at the next regularly scheduled meeting, however it could be months before an open meeting could be held. Chair Frasier recommended moving forward to conduct the business of the county even though the Commissioner may not be receiving all of the public comment as they normally would.

Commissioner Stewart stated that the Grocery Outlet would have the potential to impact the entire town and she expressed serious concerns about moving forward with the project without additional public comment.

Commissioner Hoard recommending moving forward with the project given that it is unknown when regular public meetings will be possible.

Chair Frasier called for a motion on the item.

Commissioner McHugh: Motion to adopt a resolution to adopt the (CEQA) determination of a Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program, and; adopt the recommended findings listed in Resolution 2020-05 as listed in the April 22 memorandum to Planning Commission and; Approve Conditional Use Permit 19-19 based on the recommended findings that are compliant with CEQA and subject to the conditions of approval as amended in the strikeout version with condition 3 as modified by verbiage as follows: The applicant shall improve Levee Road from 299 to the truck access to the satisfaction of Trinity County Department of Transportation.

Second by Commissioner Hoard

Roll Call Vote: Commissioner McHugh – Aye, Commissioner Matthews – No, Commissioner Stewart – No, Commissioner Hoard – Aye, Chair Frasier – Aye, Motion Carried by 3/2 vote.

Item 3: Appeal Of Planning Director's Decision (P-20-12): An appeal of Planning Director's Decision to deny a Commercial Cannabis Cultivation License 2019-618 for 3120 Bear Creek Rd., Weaverville. APN 010-690-02-00; Applicant/Appellant: Dina Obrenovic. (Item continued from April 23, 2020.)

Commissioner Hoard requested to recuse from Agenda Item 3.

Director Kim Hunter presented the Staff report.

Chair Frasier opened the public hearing.

Appellant Dina Obrenovic stated that she had been working since 2019 to complete all of the requirements worked hard to meet all of the conditions of the license in order to start her small business. All necessary inspections have been completed. She applied for the smallest cannabis license. She believes that her landlord is the reason she is being denied her license. She felt that she is being held responsible for the actions of her landlord who cultivated illegally on the property without her knowledge while she was out the county. In September 2018 she left the County to give birth to her child. Her intent was to come back to the property to continue her business.

- 2.13** Approved an agreement with Castle Tire, Tire Disposal & Recycling, LLC to provide tire pickup and disposal services to Solid Waste and the Department of Transportation.

Motion: Judy Morris **Second:** Keith Groves **Carried**
Ayes: Brown, Chadwick, Fenley, Groves, Morris

Transportation

- 2.14** Approved amendment number 1 to the agreement with Lenders Construction Services, LLC increasing the maximum cost by \$557,466 to provide construction support services during construction of the new Trinity County Sheriff's Detention Facility.

Motion: Judy Morris **Second:** Keith Groves **Carried**
Ayes: Brown, Chadwick, Fenley, Groves, Morris

10:00 AM Public Hearings

*Excerpt From July 21, 2020
Board Meeting*

Planning and Zoning

- 3.1** Conducted a public hearing and upheld the Planning Commission's June 4, 2020 action to approve a Mitigated Negative Declaration and Conditional Use Permit for the property located at 1155 Main Street, Weaverville, CA. (Project Applicant: Best Development Group (Grocery Outlet Project) P-19-19; Appellant: Becky Diel, counsel for Trinity County for Small Business)

Received comments from Deputy County Counsel Sophia Meyer, Director of Building and Planning Kim Hunter, Deputy Director of Planning Lisa Lozier, SHN Consultant Garry Reese, Project Applicant Terry Johnson, Attorney for Appellant Becky Diel, Attorney for Project Applicant Tina Thomas, Dero Forslund, Dana Ryan, Paul Houser, Michael Millernick, Alejandro Garibaldo, George Bates and County Counsel Margaret Long.

Denied the appeal.

Motion: John Fenley **Second:** Judy Morris **Carried**
Ayes: Brown, Chadwick, Fenley, Groves, Morris

Reports/Announcements

- 4.1** I. Did not receive reports from Department Heads.
II. Received a report from County Administrative Officer Richard Kuhns.
III. Received reports from Members of the Board of Supervisors.

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3 BECKY R. DIEL (SBN: 300622)

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5 McKINLEY, CONGER, JOLLEY & GALARNEAU, LLP

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7 Stockton, California 95219

8 Telephone: (209) 477-8171

FILED

SEP 01 2020

CLERK OF THE SUPERIOR COURT
COUNTY OF TRINITY
BY: LACY HAYTH, DEPUTY CLERK

9 Attorneys for Petitioner,
10 TRINITY COUNTY FOR SMALL BUSINESS

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 IN AND FOR THE COUNTY OF TRINITY

13 TRINITY COUNTY FOR SMALL
14 BUSINESS,

15 Petitioner,

16 vs.

17 COUNTY OF TRINITY; and DOES 1 through
18 100,

19 Respondents,

20 BEST DEVELOPMENT GROUP, LLC; and
21 DOES 101 through 200,

22 Real Parties in Interest.

Case No.: 20CV106

NOTICE AND REQUEST TO PREPARE
THE RECORD OF PROCEEDINGS
(Pub. Res. C. § 21167.6(a))

CEQA action subject to preference over all
other civil actions per Public Resources Code
§ 21167.1

23 TO COUNTY OF TRINITY:

24 PLEASE TAKE NOTICE THAT, pursuant to Pub. Res. C. § 21167.6(a), Petitioner
25 TRINITY COUNTY FOR SMALL BUSINESS, ("Petitioner") hereby requests that the COUNTY
26 OF TRINITY ("County") prepare the record of proceedings before the COUNTY OF TRINITY
27 concerning County's July 21, 2020 approval of the "Grocery Outlet" project located at 1155 Main
28 Street in Weaverville, Trinity County, California, (APNs: 002-100-61, 002-100-62, 002-100-63,
and 002-100-42) (the "Project") as memorialized in the Notice of Determination recorded on or
about August 3, 2020, including the adoption of a Mitigated Negative Declaration and approval of

1 a Conditional Use Permit for the Project. The record of proceedings shall include all those
2 documents and transcripts listed in and required by Public Resources Code section 21167.6(e).

3 In order to expedite the litigation, Petitioner requests that the County circulate a proposed
4 index of the Record of Proceedings to Petitioner for review and comment before lodging the final
5 Record of Proceedings with the Court.

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7 Respectfully submitted,

8 DATED: August 31, 2020

McKINLEY, CONGER, JOLLEY & GALARNEAU, LLP

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By: _____



BRETT S. JOLLEY

Attorneys for Petitioner

TRINITY COUNTY FOR SMALL BUSINESS



First American Title

First American Title Company

3001 I Street, Suite 100, Sacramento, CA 95816
(916)490-4512 - Fax (714)689-5184

CANCELLATION INSTRUCTIONS

To: First American Title Company
Escrow Officer: Lesley Kaufman

File No.: 3427-5755563 (LK)
Today's Date: 11/24/2020

Re: 60 Levee Rd and 1151, 1155 & 1221 M, Weaverville, CA 96093

You are instructed to cancel the above numbered escrow upon receipt of these instructions agreed to by all parties. Buyer(s) and Seller(s) hereby mutually agree to release one another and **First American Title Company** from any and all liability in connection with this escrow.

You are further instructed to disburse funds held by you in escrow, in the amount of **\$10,000.00** as follows:

\$10,000.00 to Best Development Group, LLC (Buyers)

If funds remain in escrow ninety (90) days from the date of these instructions, then a monthly FUNDS HELD FEE of \$25.00 shall accrue for each month or fraction of a month thereafter that the funds, or any portion thereof, remain in escrow. Escrow Holder is instructed to deduct the monthly Funds Held Fee directly from the funds held on a monthly, or other periodic basis (i.e. quarterly, semi-annually, etc.). By signing below, the parties acknowledge and agree to pay these sums to compensate you for your administration, monitoring, accounting, reminders and other notifications and processing of the funds so held in accordance with this Funds Held Fee agreement.

SELLER:

BUYER:

Dana L. Ryan and Kimberly A. Ryan, Trustees of
the Dana and Kimberly Ryan 2016 Trust

Best Development Group, LLC

Dana L. Ryan
Dana L. Ryan, Trustee

Kimberly A. Ryan
Kimberly A. Ryan, Trustee

By: Carl E. Best
Name: Carl E. Best
Title: Partner

12/18/20

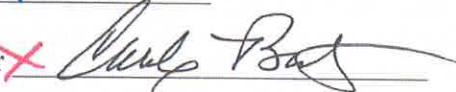
Attachment 7

CANCELLATION OF CONTRACT

In accordance with the terms and conditions of the Offer to Purchase ("Contract/Agreement"), dated July 18, 2018, including all amendments and related documents, on property known as 1155 Main Street, Weaverville, CA 96093 ("Property"), between Best Development Group LLC, a California limited liability company ("Buyer") and Dana Ryan ("Seller").

Both Buyer and Seller cancel the Agreement per mutual agreement and release Buyer's Deposit held by First American Title Company in escrow to Buyer. Buyer and Seller release each other from all claims, actions and demands that each may have against the other(s) by reason of the Agreement; and intend that all other rights and obligations arising out of the Agreement are null and void.

Date 12-21-20

Buyer ~~X~~ 

Buyer Carl E. Best

Date 12-23-2020

Seller ~~Dana Ryan~~ Dana Ryan

Seller Kimberly Ryan Kimberly Ryan

17.32.070 - Modification or revocation of a use permit.

A use permit may be modified or revoked only under the following circumstances.

- A. Modification at Request of Property Owner. The owner of property which is the subject of a use permit may apply for a modification to said permit in the manner prescribed by Section 17.32.030 of this chapter for the application for a use permit.

In considering a modification to an existing use permit the planning commission shall apply the standards set forth in Section 17.32.010 of this chapter for the issuance of a use permit. When granting a modification to a use permit, the Planning Commission may impose such additional conditions as may be required to mitigate any deleterious effect of the modification.

- B. Planning Director May Set Hearing on Revocation or Modification of Permit. When in the discretion of the planning director a use permitted by a use permit is being conducted in a manner detrimental to the public health, safety or general welfare, or in such a manner as to constitute a public nuisance, or in violation of any condition imposed by the planning commission on the use, or if conditions specified in the permit as limiting the duration of the permit have occurred, the planning director shall set a hearing before the planning commission to consider revocation or modification of the use permit. Notice of any hearing so set shall be given in the manner prescribed in Chapter 17.34, and in addition thereto notice shall be given to the owner of the property upon which the use is conducted, and to the person in possession of said property if other than the owner, which shall include a specific statement of the conditions which are deemed to constitute a detriment to the public health, safety or welfare or which constitutes a public nuisance, or which are in violation of conditions imposed by the planning commission on the use.

- C. Planning Commission May Revoke or Modify Use Permit. Upon a determination by the planning commission that the use is being conducted in a manner detrimental to the public health, safety or welfare, or in a manner so as to constitute a public nuisance, or in violation of any condition imposed by the planning commission, the planning commission may revoke the use permit. If the planning commission determines that the detrimental aspects of the use which exist may be alleviated through a modification to the use permit, it may make such modifications in lieu of revocation.

Attachment 8