

OBJECTION MEMO RE: 12 HAWKS HILL ROAD, LOLETA, CALIFORNIA 95551
APN 308-231-002-000, PLN-2022-17700

Assessed lot size: 4.67 acres

Zoning: AEG(160)

In Coastal Zone

While single-family residential is principally permitted under a Coastal Development Permit, it is considered appealable to the Coastal Commission when proposed on lands within the “Agriculture Exclusive” zone.

There are relatively few items on Accela, and this is being written prior to the completion of any staff report. Therefore, it is based only on the information currently being provided to the public. This will be supplemented if and when this project goes before the Planning Commission.

This project is concerning for several reasons, detailed further below. The current property owner has received two (2) stop work orders from the County of Humboldt. One of these was after 12,000 square feet of brush, vegetation, and trees was cleared without a coastal development permit. This clearing was clearly done in anticipation of the proposed project, as the area that was cleared is where the property owner has proposed to locate a residence, and claims that a leach field is present. This work is especially troubling, as the property owner was informed that a coastal development permit was required for *any* project by both the County and his neighbors. His blatant disregard of the law shows that he has no respect for the County or his neighbors.

ONLY ONE DWELLING PER PARCEL - PRINCIPALLY PERMITTED USE:

Humboldt County Code § 313-163: Listing of Use Type and Principal Permitted Use Classifications

163.1.9.9: **Agriculture Exclusive.** The Agricultural Exclusive Principally Permitted Use includes the following uses: Single Family Residential (**on lots sixty (60) acres or larger in size, two single detached dwellings are permitted**), General Agriculture, Timber Production, Cottage Industry; subject to the Cottage Industry Regulations, and Minor Utilities to serve these uses. Single Family Residential, Second Agriculture or Commercial Timber Production Residence (on a lot sixty (60) acres or larger in size), and Cottage Industry use types do not require a conditional use permit, but are not considered the principal permitted use for purposes of appeal to the Coastal Commission pursuant to

Section 312-13.12.3 of the Coastal Zoning Ordinance and Section 30603(a)(4) of the Coastal Act. (Ord. 2367A, 7/25/2006; Ord. 2383, 2/27/2007).

Pursuant to the Eel River Area Plan, Agriculture Exclusive/Grazing Lands (AEG(1)), permitted use includes: production of food, fiber, or plants, with residence as a use incidental to the activity, including two (2) separate residences where one is occupied by the owner/operator and the other by the parent or child of the owner/operator, and principal permitted uses under TC. (Chapter 5, page 5). Pursuant to HC § 163.1.9.9, as this parcel is smaller than 60 acres, only one single detached dwelling would be permitted. This is the same standard that neighboring parcels of even larger size have been held to, and the County should maintain that standard pursuant to Humboldt County Code.

In addition, single family residential development in agriculture exclusive zoning must not impact the property's potential agricultural use. From the two neighboring parcels' staff analysis pursuant to a coastal development permit:

“This project involves the development of a single-family residence, attached garage, detached barn, and septic system on an approximately 4.3 acre parcel. Residential uses in support of agricultural uses are principally allowed.”

“The proposed project is for a single-family residence and attached garage. The parcel is served by an existing well. The property has been historically used for grazing and may continue to be used in this capacity. Residential uses in support of established agricultural uses are principally allowed.”

“[T]he proposed development is considered a principally permitted use per Humboldt County Code Section 163.1.9.9 but remains appealable to the California Coastal Commission. The proposed improvements will not preclude future and ongoing agricultural use of the property. The development has been situated closer to the perimeter of the property, thus preserving the greatest amount of open pasture. In order to protect the agriculturally [sic] zone properties from nuisance complaints, the owner's [sic] have signed a “Right to Farm” declaration.”

“The project is for the development of a single-family residence, garage, access road, and septic system. The proposed home will be served by an existing well. The proposed improvements will not preclude future agricultural use of the property. In order to help protect agricultural operations on neighboring parcels, completion of a “Right to Farm” statement of acknowledgement has been required as a condition of approval.”

Development on the property is limited so as to preserve current and future agricultural use of the property. Development that does not preserve agricultural use should not be allowed.

ENDANGERED SPECIES:

The following language is used in a staff report for a CDP on a neighboring parcel:

“Based on the County’s resource protection maps, previous development projects in the area, and ongoing consultation with U.S. Fish & Wildlife (USFWS), it was determined that there may be sensitive and critical resource habitants in the vicinity. The California Natural Diversity Database (CNDDDB) shows the parcel to be firmly within the range of the Siskiyou Checkerbloom and at the edge of for Point Reye’s Birds’-Beak. Additionally, **a population of Western Lily is known to be located on a nearby parcel immediately west of the property and Hawks Hill Road.** In consultation with Dave Imper of USFWS, a site visit was performed on June 30, 2007, prior to application. The site visit was conducted during the appropriate season to detect both Western Lily and Checkerbloom and it was determined that no Lily or checkerbloom habitat was present on the property. The project was referred to USFWS during Coastal review and was recommended for approval.” (Biological Resource Protection: FP § 3400; ERAP § 3.40).

According to the documents uploaded to Accela, there has been no coordination with USFWS regarding the Western Lily or the Checkerbloom, despite Western Lily being present on a nearby parcel.

TIMBER CONVERSION:

The property might also require a timber conversion from CalFire. While this has apparently been referred out to CalFire, there is nothing on Accela to indicate that CalFire has reviewed the project. This must be done prior to approval of any development. “The project involves “Timberlands” (CA PRC 4526) and the project referral does not specify that trees are not to be removed. A CAL FIRE timber harvest document (CA PRC 4621) (i.e. Less Than 3-Acre Conversions Exemption (14 CCR 1104.1)) may be required to complete the project.”

DRIVEWAY:

The property owner alleges that there is an “existing driveway” on the property. This is not accurate. There has never been a driveway on the property, as evidenced by the attached pictures and historic aerials. This is simply the spot on the property where the prior owner cut a portion of the fence in order for him to close a well on the property. The well was closed due to orders from

the County of Humboldt. There is no driveway, and the location of this driveway poses a danger to those driving on Hawks Hill Road and anyone coming or going from the driveway itself.

The location of the driveway is very close to a curve in Hawks Hill Rd., and it is impossible to see the driveway location while traveling north on Hawks Hill Rd. until after this curve. (See Google Maps and photographs). The distance between the curve in the road and the proposed driveway location is approximately 67'. A car traveling at 25 mph — the speed limit is residential areas where no speed limit is posted — requires approximately 85' to come to a complete stop. This includes an approximate 2 seconds of reaction time before the driver engages the brake. This means that a car traveling the speed limit on Hawks Hill Rd. would likely be unable to stop in time if another vehicle (or pedestrian, horse, bicyclist, etc.) was exiting or entering the proposed driveway location for 12 Hawks Hill Rd. Vehicles frequently exceed the speed limit on Hawks Hill Rd. — a car traveling 30 mph requires approximately 109' to stop, 35 mph requires 136', and so on. This is a dangerous location for a driveway, and it has never been a driveway.

The danger would be further exacerbated by the fact that the driveway for the neighboring parcel is only approximately 60' from the proposed driveway. Any vehicle entering or exiting from the neighboring parcel would further obscure the proposed driveway, and any vehicle entering or exiting the proposed driveway would obscure the neighboring parcel's visibility.

Also, on at least three occasions in recent years, drivers have missed the turn entirely and plowed through the fence at the corner of the property.

In addition, on a nuisance level, the location of the proposed driveway would aim headlights directly into the house on the neighboring parcel.

WELL:

The only attempted development of this property occurred in approximately 1981. The property owners at the time drilled a well without first seeking a permit to do so, and thus received a stop work order. The property owners then obtained a permit for a separate well that was drilled on the property. It is unclear which well is permitted.

In approximately February 2017, the Humboldt County Department of Health & Human Services, Division of Environmental Health (DEH) received a complaint regarding an "illegal well installation and hazardous open bore-hole, roughly 40' deep by 4' diameter." The complaint stated that there were two (2) abandoned well casings near the bore-hole.

In approximately December 2017, DEH visited the property and could not locate the hole because of the overgrowth on the property. They left a message with the reporting party to obtain a more specific location. In March 2018, DEH returned to the property with the reporting party. The open hole was located, which was covered by mechanical equipment suspended over the hole across steel I-beams and wood. The hole was approximately 4-5' in diameter with multiple casings installed. DEH believed it was a fall and entrapment hazard, with the mechanical equipment being an attractive nuisance.

In approximately May 2018, the then-property owner applied for a well destruction permit and a construction permit. Neither permit had been signed by the well driller, and the owner was informed that the applications needed to be signed by the driller. In October 2019, DEH contacted the well driller from the permit applications as DEH had not heard from the property owner.

The first notice of violation (NOV) was issued on February 16, 2021. The second NOV was sent out on March 18, 2021. DEH visited the property on March 24, 2021 and observed that the well had not been destroyed and was still a hazard.

The well was not closed until April 4, 2021 by Rich Well Drilling. Both casings were filled with bentonite chips to 20 feet. The well destruction was deemed complete by DEH and the hazard abated.

The listing for the property in June 2021, the property was advertised as having a well on site, despite the one known well being closed. Then, sometime after escrow was opened in approximately December 2021, another well was apparently discovered. This well has not been used — if it was ever used — since the early 1980s. Pursuant to California law and regulation, a well that is not in use for one (1) year is considered abandoned and must be closed unless other conditions are met. In accordance with Section 115700 of the California Health and Safety Code, the well owner shall properly maintain an inactive well as evidence of intention for future use in such a way that the following requirements are met:

- (1) The well shall not allow impairment of the quality of water within the well and groundwater encountered by the well.
- (2) The top of the well or well casing shall be provided with a cover, that is secured by a lock or by other means to prevent its removal without the use of equipment or tools, to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes in the well. The cover shall be watertight where the top of the well casing or other surface openings to the well are below ground level, such as in a vault or below known levels of flooding. The cover shall be watertight if the well is inactive for more than five consecutive years. A pump or motor, angle drive, or other

surface feature of a well, when in compliance with the above provisions, shall suffice as a cover.

- (3) The well shall be marked so as to be easily visible and located, and labeled so as to be easily identified as a well.
- (4) The area surrounding the well shall be kept clear of brush, debris, and waste materials.

These conditions were clearly not met. However, despite a complaint being submitted to DEH on or about December 28, 2021, nothing has ever been done regarding this well. Instead, the current property owner is apparently being allowed to use this well, despite the fact that it is a violation of state law. This is especially troublesome because state law requires the destruction of abandoned wells to protect the environment and public health. This raises many concerns regarding the safety of the aquifer, especially considering that neighboring parcels' wells are at similar depths. This well has apparently been wide open for forty years. Sediment, wildlife, and other contaminants could have easily — and very likely have already — contaminated the water supply. To allow the current property owner to use this well is not only a violation of law, but a threat to environmental and public health.

In addition, on an aesthetic level, the property owner is proposing to place a water tank directly in the line of sight of a neighboring house.

ELECTRICITY:

There is not currently electricity to the property. To have electrical access on the property, an easement will be required from a neighbor.

“EXISTING” CONCRETE PAD:

There is allegedly an existing 25'x25' concrete pad on the property that was constructed in approximately 1981. It is impossible now to see this pad from any aeriels of the property due to the overgrowth. It is unclear whether this pad was ever permitted on the property, and it is unclear whether this is an appropriate location for the proposed two-car garage or if it is suitable for such a purpose. There are no photographs of this pad and it is unclear what condition it is in.

SEPTIC SYSTEM:

The septic system, just like the well, has not been used in forty years, if it was ever used.

According to documents from DEH, the septic system was only ever permitted pursuant to a single 18'x98" greenhouse on the property, for which a conditional use permit was issued in January 1982. This septic system was never permitted for residential use, but rather was permitted for commercial use in relation to a single greenhouse being used for agricultural storage. Further, the plotted point on the soil percolation test conducted on or around November 18, 1981 was shown as being on the border of “marginal” and “unacceptable.”

The septic inspection was apparently performed by Steve's Septic Service on March 29, 2022. The inspection report indicated that there was no "lush vegetation" present. However, on March 12, 2022, the property owner cleared roughly 12,000 square feet of the property, in the exact area where the alleged leach field is located. (See video taken 03/12/2022).

CEMETERY:

Local Table Bluff lore has long been that there is a cemetery on the portion of the property on the south side of Hawks Hill Rd. This cemetery was attached to the old Catholic church back prior to 1872, which has now moved to a different location on Table Bluff Rd. There is a blog post written by a life-long Loleta resident who was also the senior priest of the Diocese of Northern California. This blog post details the cemetery's location, and indicates that the bodies were never actually moved. Although no development is currently proposed by the property owner to occur on this half of the parcel, due to the likelihood that a cemetery exists, no development should *ever* be allowed on the property.

This also raises questions relevant to the archaeological status of the property. Table Bluff has been home to Native Americans for centuries, long before European colonialism began. While the cemetery — or "graveyard field" as the blog refers to it — was allegedly used by a Catholic church, there could very well be the presence of Native American archaeological items or remains as well. There does not appear to have been any archaeological study conducted on the property to date.

Signed:
Cyndy Day-Wilson
John Wilson
October 19, 2022