

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT**

**Resolution Number: 24-027**

**Record Number: PLN-2023-18117**

**Assessor's Parcel Number: 311-221-026**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Nathaniel Ludwig, Special Permit.**

**WHEREAS**, Nathaniel Ludwig provided an application and evidence in support of approving a Special Permit to resolve violations associated with unpermitted development within a Streamside Management Area; and

**WHEREAS**, The project is exempt from environmental review per Section 15304 and 15333 of the CEQA Guidelines; and

**WHEREAS**, the Humboldt County Planning Commission held a duly-noticed public hearing on May 2, 2024 and reviewed, considered, and discussed the application for a Special Permit and reviewed and considered all evidence and testimony presented at the hearing.

**Now, THEREFORE BE IT RESOLVED**, that the Planning Commission makes all the following findings:

- 1. FINDING:**           **Project Description:** A Special permit to resolve violations associated with unpermitted development within a Streamside Management Area. The project includes revegetation, building removal, a reduction to the Streamside Management Area setback around the residences and paved areas, and after the fact approval of various activities.

**EVIDENCE:** a) Project File: PLN-2023-18117

- 2. FINDING:**           **CEQA.** The project complies with the requirements of the California Environmental Quality Act.

**EVIDENCE:** a) The project is exempt from environmental review per Section 15304 (Minor Alterations to Land) and 15333 (Small Habitat Restoration) of the CEQA Guidelines.

**FINDINGS FOR SPECIAL PERMIT**

- 3. FINDING:**           The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

**EVIDENCE:** a) The after the fact permitting of the residential structures, the restoration

of streamside management areas, and the removal of the shop building are consistent with the Residential Agriculture land use designation. The removal of unpermitted structures from the streamside management area is consistent with the Open Space Plan and Open Space Action Program.

- 4. FINDING:** The proposed development is consistent with the purposes of the existing Agriculture General (AG) zone in which the site is located.

**EVIDENCE:** a) The AG zone allows primary and accessory dwelling units as principal permitted uses.

b) The removal of an unpermitted structure and restoration of streamside management areas are not prohibited and are compatible in an AG zone.

- 5. FINDING:** The proposed development is consistent with the requirements of the Streamside Management Area Ordinance.

**EVIDENCE:** a) A qualified professional has provided a Biological Assessment.

b) A qualified professional has provided a Restoration Plan.

c) Additional conditions have been added to the project in consultation with the California Department of Fish and Wildlife.

d) Restoration of streamside management areas is required.

e) Removal of the unpermitted structure within the streamside management area will protect sensitive resources.

f) The reduction of the streamside management area around the existing residential structures will not result in a significant impact.

g) Realignment of the driveway follows a logging road that existed prior to the streamside management area ordinance.

- 6. FINDING:** The issuance of the Special Permit will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

**EVIDENCE:** a) The revegetation around Willow Brook will restore riparian habitat.

b) The realignment of the driveway will allow safer access for the landowner and emergency services.

- c) The removal of the shop building from the streamside management area will improve riparian habitat and water quality.
- d) The reduction of the streamside management area setback associated with the paving and expansion of the residence will not significantly impact sensitive resources.

**7. FINDING:** The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

**EVIDENCE:** a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this parcel.

**8. FINDING:** Development permits shall only be issued for a lot that was created in compliance with all applicable state and local subdivision regulations.

**EVIDENCE:** a) The current parcel configuration is the result of a Lot Line Adjustment as depicted as Parcel E in Record of Survey Book 60 Page 60.



## DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permit for Nathaniel Ludwig subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **May 2, 2024**.

The motion was made by COMMISSIONER Iver Skavdal and second by COMMISSIONER Lorna McFarlane and the following vote:

AYES: Commissioners: Iver Skavdal, Thomas Mulder, Noah Levy, Jerome Qiriazzi, Sarah West, Lorna McFarlane

NOES: Commissioners:

ABSTAIN: Commissioners:

ABSENT: Commissioners: Peggy O'Neill

DECISION: Motion carried 6/0

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.

A handwritten signature in blue ink, appearing to read 'John Ford', is written over a horizontal line.

John Ford, Director  
Planning and Building Department

## CONDITIONS OF APPROVAL

Approval of the Special Permit is conditioned upon the following terms and requirements.

1. Within 60 days of the effective date of this Special Permit, the permittee shall notify the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 1602 for all diversion infrastructure, all culverts, and the restoration of Willow Brook and other streamside management areas. The permittee must resolve the Notice of Violation issued by CDFW dated January 13, 2023. The permittee must complete and adhere to any Lake and Streambed Alteration Agreement with CDFW.
2. Within 90 days of the effective date of this Special Permit, the permittee shall provide a professionally prepared site plan accurately depicting the features of the parcel and project. This includes but is not limited to all constructed structures, all water courses, locations of culverts, all streamside management areas, and areas to be restored.
3. Within 90 days of the effective date of this Special Permit, the permittee shall provide a management plan prepared by a qualified professional regarding the slash piles. All slash piles shall be identified with individual recommendations. Any slash pile located within the streamside management area (SMA) must be removed from the SMA. Slash piles outside the SMA may be left in place if they provide habitat for birds, invertebrates, or wildlife. If the slash pile management plan proposes burning, a suitable location outside the SMA must be identified. The slash pile management plan must be reviewed and approved by the Planning and Building Department in consultation with the California Department of Fish and Wildlife prior to implementation.
4. Within 90 days of the effective date of this Special Permit, the permittee shall provide additional evaluation by a qualified professional such as a biologist of streamside management areas affected by the realignment of the driveway. This includes whether the concrete fill taken from the previous driveway alignment that was placed south of the second dwelling unit and the fill placed near the shop building can remain without causing significant impact to the streamside management area. If the concrete fill will cause long-term significant impact to the SMA, it must be removed. The additional SMA evaluation shall be summarized in a report and include recommendations, if any, regarding any additional replanting or offsets for tree and vegetation removal associated with the improvement of the realigned driveway. The qualified professional shall also assess the portion of the previous driveway that was removed and determine whether the natural revegetation provides sufficient erosion control and management or whether additional measures are needed to protect the SMA. If additional measures are needed, the report to the Planning and Building Department shall include recommendations.



5. Within 90 days of the effective date of this Special Permit, the permittee shall provide a supplement to the restoration plan prepared by a qualified professional. The revision shall incorporate the recommendations of the California Department of Fish and Wildlife for more proactive planting of riparian species such as willow and alder in the restoration area along Willow Brook. The restoration plan revision shall also include the recommendations, if any, of the supplemental evaluations (see Condition of Approval 3) of the streamside management areas around the second dwelling unit, shop building, and realigned driveway. The supplemental restoration plan must be revised and approved by the Planning and Building Department in consultation with the California Department of Fish and Wildlife prior to implementation.
6. Within 90 days of the effective date of this Special Permit, the permittee shall provide a stormwater plan to ensure runoff from structures and the paved area does not discharge directly into streams.
7. No later than October 15, 2024, the permittee shall implement the restoration plan dated April 20, 2023, prepared by Timberland Resource Consultants. The permittee shall also implement any restoration plan supplement generated in accordance with Condition of Approval 4 above. Per the recommendations of page 4 of the restoration plan, the permittee shall:
  - a. Plant redwood trees according to the restocking plan in the area depicted on the Restoration Plan Map on page 11 of the restoration plan. Tree planting must also include riparian species such as Willow and Alder as recommended by the California Department of Fish and Wildlife.
  - b. Apply a native erosion control mix to all disturbed soil in the streamside management area at a rate of 45 pounds per acre. This mix shall consist of:
    - i. 56% California Brome
    - ii. 22% Meadow Barley
    - iii. 13% Three Weeks Fescue
    - iv. 9% Tomcat Clover
  - c. Place straw waddles in the locations show in the Restoration Plan. The erosion and sediment control measures will be operable during the rainy season (October 15-April 15). The straw waddles shall be maintained until such a time the disturbed streamside management area is revegetated to the extent that concentrated turbid surface runoff is not entering Willow Brook.
  - d. Remove the buried culvert in Willow Brook and restore the stream channel and banks.
  - e. Remove all trash and artificial debris from stream channels including water lines.
8. The shop building must be completely removed. The permittee has up to one year from the effective date of this Special Permit to obtain a demonstration permit. The

permittee has up to one year from the issuance of the demolition permit to complete the removal of the structure.

9. Within one year of the effective date of this Special Permit, the permittee shall provide a Development plan prepared by a qualified professional and cause to be recorded a Notice of Development Plan. The Development Plan shall depict the authorized and permitted structures, watercourses, and major natural features. The Development Plan shall accurately depict the boundaries of streamside management areas and include annotations describing development restrictions.
10. If cultural resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, ground-stone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.
11. The permittee is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the Planning Commission decision. All outstanding fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

**Informational Notes:**

1. The applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.



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AUG 15 2023  
Humboldt County  
PLANNING

APPROVED  
MAY - 2 2024  
Humboldt County  
PLANNING

Apr 31-221-020  
Zesty Heddingen  
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95551 707-4961496

