



COUNTY OF HUMBOLDT

For the meeting of: 7/6/2023

File #: 23-990

To: Planning Commission
From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Schneider Coastal Development Permit and Special Permit Modification and Lot Line Adjustment
Assessor Parcel Numbers: 402-171-029, 402-171-030
Record Number: PLN-2022-17662
Indianola area

A Modification to an approved Coastal Development Permit to remove the entitlement for construction of an 8,000 square foot single family residence with an attached 1,000 square foot cellar, and four car garage and 1,500 cubic yards of grading and to allow removal of an existing 21,000 square foot structure, removal of 15,000 cubic yards of fill material, restoration of the site to natural grade, restoration of Environmentally Sensitive Habitat Area and installation of protective fencing and a Lot Line Adjustment to adjust the lot lines between two parcels resulting in two vacant parcels of 2.45 acres and 3.65 acres.

RECOMMENDATION(S):

That the Planning Commission:

1. Request that staff present the project.
2. Open the public hearing and receive testimony from the public.
3. Close the public hearing and take the following actions:
4. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Find that the project is categorically exempt from CEQA per Section 15308 of CEQA Guidelines; and
 - b. Make all required findings for approval of the Coastal Development Permit, and Special Permit Modification and Lot Line Adjustment; and
 - c. Approve the Travis Schneider Coastal Development Permit and Special Permit Modification and Lot Line Adjustment as recommended by staff and subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location: The project is located in the Indianola area, on the South end of Walker Point Road,

approximately 0.56 miles South from the intersection of Hidden Valley Road and Walker Point Road, on the property known as 1506 and 1512 Walker Point Road

Present Plan Land Use Designations: Rural Residential (RR) Humboldt Bay Area Plan

Present Zoning: Rural Residential Agriculture with combining zones for design Review, Flood Hazard, Coastal Wetlands, and Archaeological Resources (RA-2.5/D,F,W,A)

Environmental Review: Categorically exempt pursuant to Section 15308 of the CEQA Guidelines (Actions by Regulatory Agencies for Protection of the Environment).

State Appeal Status: Project is located within the Appeals jurisdiction of the Coastal Zone and is therefore appealable to the California Coastal Commission. Portions of the project are also located within the retained permitting jurisdiction and may require a coastal development Permit from the California Coastal Commission.

Major Issues: ESHA and Archaeological Resource Disturbance

Executive Summary:

This application, if approved, will remove the entitlement for construction of an 8,000 square foot single family residence with an attached 1,000 square foot cellar, and four car garage and 1,500 cubic yards of grading and to allow removal of an existing 21,000 square foot structure, removal of 15,000 cubic yards of fill material, restoration of the site to natural grade, restoration of Environmentally Sensitive Habitat Area and installation of protective fencing and a Lot Line Adjustment to adjust the lot lines between two parcels resulting in two vacant parcels of 2.45 acres and 3.65 acres.

Previously approved permit: The County approved an administrative Coastal Development Permit on August 22, 2017 for a single family residence on the property. The approved project was for an approximately 8,000 s.f. residence with attached 1,000 s.f. cellar, four garage parking spaces and two driveway parking spaces. The CDP approved about 1500 c.y of cut and fill with no trees to be removed and all development was to take place at least 100 feet from any wetland habitat. As such the Coastal development Permit was not appealable to the Coastal Commission. The residence was not constructed in the location shown on the approved Coastal Development Permit, was not constructed to the permitted size, and additional ground disturbance activities that were not authorized by the permit occurred.

In late December of 2021 it was brought to the attention of the County Planning and Building Department that grading and ground disturbance in prohibited areas had occurred which may have damaged a known tribal cultural resource. A Stop Work Order was posted on the property on December 27, 2021. This Stop Work Order has not yet been lifted.

The Stop Work Order was posted due to violations of both the approved Coastal Development Permit (CDP) and Building Permit. Conditions of approval identified areas that were to remain off-limits to

disturbance due to their ecological and cultural sensitivity. Specifically Coastal Development Permit COA #8 stated that all areas below the 40-foot contour were to be marked as non-buildable and this is identified on the approved grading and erosion control plan for the Building Permit, and COA #9 required compliance with all recommendations of the June 30, 1987 biological report for the site, including observance of 100 foot wetland setbacks and prohibition on removal of vegetation within the wetland setback. In addition, the temporary access road was constructed without approval of a Coastal Development Permit. Lastly, instead of the 8,000 sf residence with 1,500 cubic yards of grading, a 21,000 square foot structure was constructed and approximately 15,000 cubic yards of fill material was imported to the site.

Associated with this project and the unauthorized work are three primary issues:

1. A temporary road was cut into the area below the 40-foot contour and within the 100-foot non-buildable area shown on the development plan and approved Coastal Development Plans. This road was also constructed within the required 100-foot wetland setback and within ESHA areas. Construction of this road required a Coastal Development Permit. A Coastal Development Permit was not obtained prior to its construction.
2. Major vegetation removal occurred with heavy equipment below the 40-foot contour and within the 100-foot protective setback established under the Coastal Development Permits and subdivision. This vegetation removal meets the definition of “major vegetation removal” in the Coastal Zoning Ordinance because it included removal of ESHA areas, specifically conflicted with the conditions of approval in the Coastal Development Permit, encroached within a one-parameter wetland (approximately 440 square feet of vegetation removal occurred within the wetland) and within a known tribal cultural resource. This removal occurred by a CAT 310 excavator fitted with a hydraulic mulcher head. Major vegetation removal in the Coastal Zone requires approval of a Coastal Development Permit. A permit was not obtained prior to this vegetation removal.
3. The residence was constructed in a location not in accordance with the approved site plans and substantially larger than permitted. The approved building permit showed the residence more than 100 feet from the on-site wetlands and approximately 130 feet from the southern property line. A survey of the location of the residence shows that the residence was constructed as close as 106.6 feet to the southern property line and within 100 feet of the one parameter wetland. While the original plans showed the residence to be more than 100 feet from the wetlands and therefore not appealable to the Coastal Commission, the location as constructed is within the Coastal Commissions appealable jurisdiction.

The resource impact of these alterations is discussed below:

Archaeological Resources

In the area of the 100-foot setback is a documented archaeological site and Tribal Cultural Resource. This resource is a historical Wiyot village site. The site is in fact one of the earliest identified village sites as it was first documented by Loud in 1918. This site is one of only a few of the original village

sites identified by Loud that has survived more modern development activity.

The blackberry clearing occurred in the archaeological resource area. This included the tracking of the CAT 310 excavator, at more than 30,000 pounds of weight over 12-inch wide metal grousered tracks. This equipment masticated the vegetation down to the ground surface and left a series of narrow shallow depressions within the archaeological site.

William Rich and Associates conducted a damage assessment in the spring of 2022 which included subsurface surveys to more completely delineate the boundaries of the site and to document the type of artifacts that would be found in the site and to determine what damage may have been done to the scientific and historical integrity of the site. A significant number of artifacts were found during this limited survey effort. The site was determined by the archaeologist to be eligible for listing to the California Register of Historic Resources due to its ability to offer information that can address a range of scientific research questions. The conclusion of the archaeologist was that the disturbance caused by the vegetation removal and tracking of heavy equipment did not affect the integrity of the site's scientific value. No evidence of cultural material destruction or damage was uncovered in this archaeological assessment. Nonetheless, the Wiyot Tribe and the Blue Lake Rancheria Tribe have both stated that the disturbance to the archaeological has been culturally significant and have expressed their desire to ensure that stronger protection measures are in place to prevent any future damage to the site.

Biological Resources

The Biological Resource Assessment found that the original wetland report associated with the 2017 CDP had incorrectly mapped the edge of the wetlands and that an accurate mapping based on the Coastal Act's definition of wetlands demonstrates that the location of the partially constructed residence is approximately 90 feet from the edge of the wetland. The biological resource assessment also found previously unmapped ESHA areas consisting of Sensitive Natural Communities (SNC) due to the prominence of native blackberry and willow communities (*rubus ursinus*/*Salix hookeriana*.) The road grading and blackberry clearing occurred in the ESHA areas and the native blackberry clearing with heavy equipment occurred in a 440 square foot portion of the single-parameter wetland. In addition, the property owner caused one willow tree and four alder trees to be removed from the ESHA areas. ESHA impacts are as follows:

- 440 square feet of *rubus ursinus* (native California blackberry) removal from a single-parameter wetland.
- 1,250 square feet of *rubus ursinus* removal from the *alnus rubra*/*salix lasiolepos* Sensitive Natural Community (SNC).
- 52,272 square feet (1.2 acres) of *rubus ursinus* removal for both the brush clearing and the temporary road construction. A very limited amount of *rubus ursinus* was removed in association with the road construction.
- Removal of one 16" willow tree.
- Removal of four alder trees ranging in size from 3" to 14".

Current Application History: This application was first in front of the Planning Commission on August

18, 2022 as a request to modify the originally approved Coastal Development Permit (CDP) and Special Permit (SP) to allow for the alteration in the configuration and location of a single-family residence and for the removal of the temporary road installed previously without permits. Because the residence was constructed in a location not approved under the CDP which was within 100 feet of a one parameter wetland and adjacent to Environmentally Sensitive Habitat areas there was concern raised over whether the modification could be found consistent with the local Coastal plan policies. Section 3.18.B.6 of the Humboldt Bay Area Plan establishes a wetland setback of a minimum of 100 feet and requires that setback reductions may only be permitted “*when the prescribed buffer would prohibit development of the site for the principal use which it is designated.*”

While the County Planning staff had substantial engagement with the California Coastal Commission and the three Wiyot Area Tribes over this proposed modification prior to the August 18, 2022 Planning Commission meeting, consensus over the project was not able to be achieved by all parties and the project was continued to the September 1, 2022 Planning Commission meeting where the applicant asked for a continuance to a date uncertain. Subsequent to this, and after extensive discussions with the California Coastal Commission it was determined that a reduction of 100-foot setback to allow for the existing footprint cannot be found consistent with the adopted coastal plan policies and the residence is therefore unable to be permitted in its current location.

Accordingly, the current proposal involves the removal of the partially constructed residence and the removal of the entitlement to construct a residence on the parcel, removal of all imported fill material, restoration of the site back to its natural grade and restoration of the Environmentally Sensitive Habitat Area and installation of protective fencing and a Lot Line Adjustment to adjust the lot lines between two parcels resulting in two vacant parcels of 2.45 acres and 3.65 acres. The Lot Line Adjustment will establish a new parcel line with the majority of the property below the 40-foot contour line to be in a single parcel to be dedicated to the three Wiyot Area tribes, and a split-rail fence or similar type of simple fence to be constructed along the 40-foot contour. These project components will ensure that any future residential development will maintain the appropriate buffers established in the Humboldt Bay Area Plan (HBAP). The dedication of the property to the Wiyot Area tribes will ensure that the important cultural resource is protected in perpetuity.

California Coastal Commission Permit Jurisdiction: Portions of the lot line proposed to be adjusted are located within the Coastal Commission’s retained permit jurisdiction, and there may be some portions of the restoration work that is also within this retained jurisdiction. The Commission’s CDP jurisdiction relates to the historic tidal wetland area, which is generally associated within the lower wetland areas of the property. The project is recommended to be conditioned to require approval from the Coastal Commission prior to completion.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and the County has worked closely with the California Coastal Commission, the California Department of Fish and Wildlife, the Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of Rohnerville Rancheria. The California Coastal Commission will likely be required to issue a Coastal Development Permit as well. Attached to this staff report is a suggested plant list for restoration purposes that was submitted by CDFW.

RECOMMENDATIONS:

Planning staff believes that approval of the Coastal Development Permit and Special Permit Modification is appropriate as it will facilitate the restoration of the property and the protection of sensitive environmental resources.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Planning Commission could elect to add or delete conditions of approval. The Planning Commission could deny approval if unable to make all the required findings.

ATTACHMENTS:

1. Draft Resolution
 - A. Conditions of Approval
 - B. Site Plans
2. Location Map
3. Applicant's Evidence in Support of the Findings
4. Referral Agency Comments and Recommendations

Applicant/Owner

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Please contact Cliff Johnson, Planning Manager, at 707-445-7541 or by email at cjohnson@co.humboldt.ca.us, if you have any questions about the scheduled item.