

**RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE COUNTY OF HUMBOLDT**

Resolution Number: 24-

Record Number: PLN-2023-18299

Assessor's Parcel Numbers: 511-061-013-000

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Coastal Development Permit.

WHEREAS, Barbara Benson submitted an application and evidence in support of approving a Coastal Development Permit and Special Permit; and

WHEREAS, the Humboldt County Planning and Building Department has reviewed the submitted application and evidence and has referred the application and evidence to involved reviewing agencies for site inspections, comments, and recommendations; and

WHEREAS, the Humboldt County Planning and Building Department as the Lead Agency has found that the project qualifies for exemptions found in CEQA Sections 15301(h) (Existing Facilities), 15303(e) (New Construction or Conversion of Small Structures), and Section 15304(b) (Minor Alterations to Land); and

WHEREAS, Attachment 3 in the Humboldt County Planning and Building Department staff report includes evidence in support of making all of the required findings for approving the proposed Coastal Development Permit and Special Permit (Record Number PLN-2023-18299); and

WHEREAS, the Humboldt County Zoning Administrator held a duly-noticed public hearing on February 1, 2024, and reviewed, considered, and discussed the application for the Coastal Development Permit and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Zoning Administrator makes all the following findings:

- 1. FINDING:** The applicant is seeking a Coastal Development Permit and Special Permit for after-the-fact Major Vegetation Removal in the Coastal Zone. The application is a response to a Code Enforcement violation (CE22-1606). The applicant entered into a Compliance Agreement with the County on May 25, 2023. The proposed project includes revegetation of recently disturbed lands due to the major vegetation removal. Additionally, a Coastal Development Permit and a Special Permit is required for the construction of an accessory structure that is greater than 15' in height or greater than 1,000

square feet of gross floor area. The applicant proposes the construction of a new animal enclosure that will be no greater than 2,000 square feet and no greater than 15 feet tall, and a new fence, the repair of an existing fence, existing patio, and the house's roof, and landscaping for a new pasture, all of which would be accessory to the existing, permitted single-family residence. The final location of the animal enclosure will be determined during the building permit process. The parcel is served by the McKinleyville Community Services District and PG&E. Trees were cut down prior to application for a permit, and two additional trees are proposed for removal. No grading is proposed.

EVIDENCE: a) Project File: PLN-2023-18299

- 2. FINDING:** **CEQA:** The project complies with the requirements of the California Environmental Quality Act (CEQA). The project is exempt from environmental review per section 15301(h) (Existing Facilities), 15303(e) (New Construction or Conversion of Small Structures), and Section 15304(b) (Minor Alterations to Land);

EVIDENCE: a) As Lead Agency, the County of Humboldt determined the project is exempt per CEQA Sections 15301 (h) (Existing Facilities), which applies to maintenance of existing landscaping, native growth etc., 15303 (e) (New Construction or Conversion of Small Structures), which applies to accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences, and Section 15304 (b) (Minor Alterations to Land) which applies to new gardening or landscaping, including the replacement of existing conventional landscaping. Furthermore, none of the exceptions to a Categorical Exemption pursuant to Section 15300.2 apply to the project.

- 3. FINDING:** **General Plan:** The project is consistent with the Humboldt County General Plan, Open Space Plan and Open Space Action Program, and the McKinleyville Area Local Coastal Plan.

EVIDENCE: a) The property is designated Residential Estates (RE) in the McKinleyville Area Local Coastal Plan. The parcel is already established with a detached single-family residence, the principal use. The proposed developments are accessory uses to the residential use and are consistent with the Residential

Estates designation. The RE designation is not an open space designation and development of this property for residential accessory uses is therefore compatible with the Open Space Plan and Open Space Action Program.

- b) 2.20 Coastal Act Goals and Policies: (a) Protect, maintain and, where feasible, enhance and restore the overall quality of the Coastal Zone environment and its natural and manmade resources.

As major vegetation removal occurred without proper permits and discretion, the applicant should revegetate the area previously occupied by native trees (8,218 sf) with native plants (Condition 4). CDFW offered recommendations for the enhancement of the habitat on site. (Condition 4 - 6).

- c) 3.28 Hazards: The new development is insubstantial and doesn't include significant ground disturbance, and so would not exacerbate any hazards on site. Additionally, the major vegetation removal occurred far from the coastal bluffs at the rear of the parcel, and so is unlikely to have caused any sort of destabilization.
- d) 3.40 Resource Protection Policies and Standards: The applicant provided a Biological Assessment prepared by LACO and the County consulted CDFW on the topic of natural resources on site. The fact that this development occurred before being permitted means that referrals were sent out after natural resources were disturbed. Nonetheless, LACO found that the work caused no impact to any ESHA. CDFW recommended prohibiting seeding any species listed on the Cal-IPC Inventory, recommended scheduling construction to times of year outside of the migratory nesting bird season (March 15 – August 15), and recommended planting native shrubs, grasses, and locally appropriate native trees to restore the habitat (Condition 4-5).
- e) The subject parcel is located within an area of relative geologic stability across most of the parcel and moderate instability along the bluff edge. It is inside of an Alquist-Priolo fault hazard area. The parcel is outside a potential liquefaction area, the tsunami hazard area, and the tsunami evacuation area. The parcel is outside of any flood zone and any area of coastal vulnerability. The parcel is located within a Local Responsibility Area for wildfire protection and within a moderate fire hazard severity zone. The parcel is within the

Arcata Fire Protection District response jurisdiction, who provide structural fire protection as well as emergency medical response. Development is not projected to increase hazard risk.

- f) The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria, the Blue Lake Rancheria, and the Wiyot Tribe. NWIC responded recommending consultation with local tribe but did not recommend additional study because the area has a low likelihood of archaeological resources. The Blue Lake Rancheria THPO recommended the inadvertent discovery protocol (Informational Note 1). The Bear River Band and the Wiyot Tribe did not respond.
- g) Although the California Natural Diversity Database (CNDDDB) indicates the possible presence of some rare plant species, the proposed development site is already disturbed and the conclusion of the biological assessment found that the site is not environmentally sensitive. The project was referred to the California Department of Fish and Wildlife who recommended prohibiting seeding any species listed on the Cal-IPC Inventory, recommended scheduling construction to times of year outside of the migratory nesting bird season (March 15 – August 15), and recommended planting native shrubs, grasses, and locally appropriate native trees to revegetate (Condition 4 and 5).

6. FINDING:

Zoning: The project is consistent with the purposes of the Residential Single-Family, No Further Subdivision Allowed, Airport Safety Review, Alquist-Priolo Fault Hazard, and Noise Impact (RS-X/AP,G,N) zones. The project is also consistent with zoning regulations that apply in all or several zones.

EVIDENCE:

- a) Proposed development conforms with the allowable uses in the RS zone, as the Single-Family Residential use and pertinent accessory uses are principally permitted (HCC §313-6.1). The project includes the construction of a deck and a fence which are customarily associated with residential uses, an enclosure for large domestic equine animals pursuant to 313-43.3.3, after the fact major vegetation removal pursuant to HCC 313-64, and landscaping.
- b) The Single-Family Residential use type is described in HCC Section 313-177.13.

- c) The project meets minimum parcel size, lot width, yard setbacks, and maximum lot depth requirements. There are special yard setbacks for animal enclosures, which are memorialized in Condition of Approval 8.
- d) No Further Subdivision Allowed (X) Combining Zone: Not applicable as there is no subdivision or parcel boundary change proposed.
- e) Airport Safety Review (AP) Combining Zone: The Safety Compatibility Criteria in the Humboldt County Airports Policies limits land uses depending on the safety zone in which a parcel is located. The subject parcel is in Safety Zone 2. In Safety Zone 2 there are no restrictions on Livestock and Animal Husbandry. Limitations to Single-Family Residential uses include a reduced lot coverage (50%) and a reduced density, but these limitations don't restrict the proposed accessory uses.
- f) Alquist-Priolo Fault Hazard (G) Combining Zone: The Residential Use on site is exempt from fault evaluation report requirements per HCC 313-22.1.6 because the established use is one (1) single family wood frame dwellings that does not exceed two (2) stories. The proposed accessory uses are, therefore, also exempt (and do not fall under any exceptions to the exemptions of the G Combining Zone).
- g) Noise Impact (N) Combining Zone: The N Combining Zone does apply to this parcel. Although the site is exposed to more than 60db from the adjacent highway 101, the restrictions in the combining zone are not relevant to the proposed work.
- h) Animal Keeping (HCC 313-43.3): Applicant shall comply with the following requirements (Condition 8):
 - 1. To keep large equine animals, the minimum lot size shall be one (1) acre. Maximum animal density is two animals plus one animal for each additional 20,000 square feet of lot area. Total animal density for a 3.81-acre parcel is 8 animals.
 - 2. The animal enclosure, defined as the area an animal can access and resides in unsupervised, including shelters, pens, coops, runs, hutches, stables, barns, corrals, and similar structures used for the keeping of poultry or animals, shall be set back the following

distances:

- a. 50 feet from dwellings;
 - b. 50 feet from front lot line;
 - c. 20 feet from side lot line;
 - d. 20 feet from rear lot line.
3. An enclosure shall be constructed outside of the boundaries of the required setbacks.
 4. The animals on site shall not be allowed to roam unsupervised in the greater fenced area, and the greater fenced area shall not serve as the animal enclosure unless the fences are constructed so they conform with the required setbacks (Condition 8).
- i) Accessory Structures (HCC 313-69.1): Detached Accessory Buildings are permitted in residential zones. The proposed animal enclosure is appurtenant to Animal Keeping (HCC 313-43.3). A Special Permit is required for the construction of the animal enclosure because its gross floor area is greater than 1,000 square feet. It's final location will be determined during the building permit process.
 - j) Major Vegetation Removal (313-64.1): Major vegetation removal may be permitted with a Special Permit in all zones, as an accessory use associated with a specified principal or conditionally permitted use. Additional evidence supporting findings required for Major Timber Removal are in Finding 9.

7. FINDING: The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity.

- EVIDENCE:**
- a) The project will be an accessory to an established, vested use. There will be no extraordinary nuisance caused by the construction of an animal enclosure as long as the applicant abides by the standards outlined in Finding 6 Evidence (h).
 - b) All reviewing referral agencies that responded to the County have approved or conditionally approved the proposed project. The application is complete. Parcel to be developed is found to comply with the Subdivision Map Act. The proposal neither causes non-conformance nor increases the severity of preexisting nonconformities with zoning and building ordinances.

- 8. FINDING:** **Residential Density:** The proposed project 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 unless the following written findings are made supported by substantial evidence:
- a. The reduction is consistent with the adopted General Plan including the housing element; and
 - b. The remaining sites identified in the housing element are adequate to accommodate the County's share of the regional housing need; and
 - c. The property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.

EVIDENCE: a) Although the parcel is zoned for residential use, the parcel included in this project is not included in the 2019 Adopted Housing Element Inventory. There is no potential reduction in residential density and so the project is consistent with the General Plan. The County can continue to accommodate its share of the regional housing need.

- 9. FINDING:** **The project is consistent with Section 312-39.13 of the Humboldt County Code - Coastal Vegetation Removal, Major:**

Within Riparian Corridors:

1. There is no less environmentally damaging feasible alternative;
2. The plan includes the best mitigation measures feasible; and
3. The vegetation removal will result in no significant adverse impacts to habitat values.

Within Coastal Scenic Areas:

1. The visual effects of the vegetation removal will be subordinate to the character of its setting.

EVIDENCE: a) The major vegetation removal did not occur in a riparian corridor nor a coastal scenic area, and so the supplemental Major Coastal Vegetation Removal findings do not apply to this project.

- 10. FINDING:** Following approval of PLN-2023-18299, there will be no

violations on site.

- EVIDENCE:**
- a) On June 6, 2022, County Code Enforcement began investigating a reported violation on the property. Code Enforcement determined there were two violations on the property, the first being Major Vegetation Removal without permits and the second being development in the Coastal Zone without permits (CE22-1606). Tree and vegetation removal was estimated to be a total area 24,656.5 sq ft. The development which occurred was the Major Vegetation Removal. The issuance of PLN-2023-18299 is the prescribed corrective action required to resolve the violations.

 - b) Because the Major Vegetation Removal occurred without permits, the applicant is required to revegetate some of the area with native plants (Condition 4-6).

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Zoning Administrator does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves Barbra Benson's Coastal Development Permit and Special Permit. (Record No. PLN-2023-18299) subject to the Recommended Conditions of Approval attached hereto as Attachment 1A.

Adopted after review and consideration of all the evidence on **February 1, 2024**.

I, John Ford, Zoning Administrator 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 Zoning Administrator at a meeting held on the date noted above.

John H. Ford
Zoning Administrator
Planning and Building Department