

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

Resolution Number 23-064

Record Number PLN-2022-17762

Assessor's Parcel Numbers: 402-171-029, 402-171-030

Resolution by THE Planning Commission of the County of Humboldt to conditionally approve the Travis Schneider Coastal Development and Special Permit Modification.

WHEREAS, On or about December 27, 2021 Humboldt County provided notice to property owners Travis Schneider and Stephanie M. Bode of violations of local and state law related to development in the Coastal Zone without appropriate permits, major vegetation removal without appropriate permits, and construction of a building/structure in violation of applicable permit requirements; and

WHEREAS, Travis Schneider submitted an application dated May 12, 2022 requesting approval of a Modification to Coastal Development Permit and Special Permit CDP-17-016 intended to address the above related violations; and

WHEREAS, on or about April 11, 2023 the Humboldt County Code Enforcement Unit served Travis Schneider and Stephanie M. Bode a Notice of Violation and a Notice to Abate Nuisance related to the existing partially constructed residence and unpermitted grading activities;

WHEREAS, Everview LTD., on behalf of Travis Schneider, submitted a revised application on April 5, 2023 and May 18, 2023 intending to address the above referenced Notice of Violation and Notice to Abate Nuisance, requesting approval of a modification to remove the previous entitlements, restore the property to its original grade, and to complete a lot line adjustment between the two parcels; and

WHEREAS, pursuant to Section 15308 (Actions by Regulatory Agencies for the Protection of the Environment) of the CEQA Guidelines, the proposed project is Categorically Exempt from environmental review; and

WHEREAS, the Humboldt County Planning Commission held a duly noticed public hearing on **July 6, 2023**, and reviewed, considered, and discussed the application for a Coastal Development Permit and Special Permit Modification, 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 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.

EVIDENCE: a) Project file: PLN-2022-17762

- 2. FINDING:** **CEQA.** The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA).

EVIDENCE: The original permit was determined to be exempt from environmental review pursuant to Section 15303 of the CEQA Guidelines (Construction of small structures). The modification will remove the entitlements that were granted as part of the original permit approval and will facilitate restoration of the property as required by a Notice to Abate Nuisance issued by Humboldt County. Actions by a regulatory agency to protect the environment are categorically exempt from environmental review pursuant to Section 15308 of the CEQA Guidelines.

FINDINGS FOR THE COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT MODIFICATION

- 3. FINDING:** The proposed development is in conformance with the Humboldt Bay Area Plan (HBAP).

EVIDENCE: a) Section 4.10 Land Use. The project site is designated Rural Residential in the Humboldt Bay Area Plan. Single family development and associated appurtenant activities are a principally permitted use within the RR plan designation. The removal of the partially constructed residence and restoration of the site, along with the proposed lot line adjustment, will reconfigure the property into a more suitable residential parcel that can be developed with future residential uses while ensuring protection of environmental resources.

b) Section 3.17 Hazards. The property located in an area of low instability per the County's Geologic Hazards maps, and Flood Zone C, in an area of minimal flooding, per FIRM Map #060060 0780 B. Additionally, the property has a low fire hazard rating and is located within an area of local fire responsibility. Removal of a partially constructed residence

and fill and restoration of the property will not result in hazardous conditions.

- c) Section 3.18 Archaeological Resources. The project is located adjacent to and within an identified archaeological site and Tribal Cultural Resource and was referred to the Blue Lake Rancheria, Bear River Band, and the Wiyot Tribe. Multiple archaeological studies of the site have been done including in 1987 (Eideness) and in 1998 (Roscoe). The studies of the area identify and map a known cultural resource site located on this parcel (CA-HUM-52) which is one of the earliest known Wiyot Village sites and was first identified in 1910 (Loud). The removal of the entitlement to construct a single-family residence and removal of imported fill materials, along with restoration of the site back to natural grade is proposed in a manner that will not impact the existing archaeological resources on the site.

The major vegetation removal that occurred without authorization did impact the archaeological site as documented by an Archaeological Damage Assessment (Rich, 2022) and per Section 3.18 of the HBAP reasonable mitigation measures shall be required. In this instance, the Archaeological Damage Assessment demonstrates that the scientific and historical value of the site has not been impacted by the major vegetation removal. However, the damage had a significant cultural impact and mitigation is necessary both for the cultural impact and to strengthen protection measures for the site. Accordingly, reasonable mitigation is proposed under Section 3.18 of the HBAP in the form of a conveyance of property which encompasses the archaeological site and appropriate area for access to the site to the three Wiyot Tribes.

- d) Section 3.30 Natural Resource Protection. No significant disruption of habitat values or non-ESHA dependent uses are proposed as part of this project. Restoration of ESHA is proposed as part of the permit modification.

ESHA areas on the property have been mapped by Timberland Resource Consultants (2022) and a biological resource damage assessment has been completed for the unauthorized major vegetation removal within the ESHA and wetland areas on the property. The assessment found that ESHA and wetland impacts from the unauthorized activities were 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".
- A corner of the residence extends approximately 8 feet into the required 100-foot wetland setback.

Section 3.18.B.6 requires that no land use or development shall be permitted in Wetland Buffer Areas which degrade the wetland or detract from the natural resource value. In this instance the buffer is the 40-foot elevation contour. The residence was partially constructed within the buffer established by the 40-foot contour in violation of the approved Coastal Development Permit and section 3.18.B.6 of the Humboldt Bay Area Plan. The current proposed project is to remove this residence and to removal all imported fill on the property, and to restore the property to its natural grade. 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).

In addition to the LLA and fence construction, pursuant to Section 3.18.B1.b of the HBAP a mitigation plan has been developed in consultation with the California Department of Fish and Wildlife (CDFW) which includes:

- Monitoring for a 3-year period to ensure that the native blackberry comes back in an equal amount and if not that it is re-seeded with native blackberry.
 - Planting of willows and alders at a 2:1 ratio for what was removed.
 - Annual monitoring for invasive species and hand-removal of invasive species from the ESHA areas and areas immediately adjacent, excluding the area associated with the archaeological site.
- e) Section 3.16 Housing. The Lot Line Adjustment will reconfigure the parcel lines to ensure that future residential development will be easily accommodated without impacting sensitive environmental resources. Neither of the parcels involved in the LLA were identified in the County's adopted housing inventory that was utilized for the Regional Housing Needs Assessment.

- f) Section 3.40. Visual Resource Protection. The subject parcel is not located in any designated coastal view or scenic area. However the site is visible from Highway 101 and Old Arcata Road. The Visual Resources findings made in the original subdivision (FMS-04-17 APN: 402-171-025) indicated that future buyers of the lots would be required to retain natural vegetation and produce a landscaping plan to “soften the visual impacts of future development of the sites at the time of development.” The project is for restoration of unauthorized native vegetation removal and as a condition of approval the applicant will be required to implement monitoring for, and removal of invasive species within the ESHA areas in the Wetland Buffer Area.

4. FINDING: The proposed development is consistent with the purposes of the existing zone in which the site is located, and the proposed development conforms to all applicable standards and requirements of these regulations.

EVIDENCE: a) Section 313-6.4 Rural Residential Agriculture Zone District. The project site is zoned Rural Residential Agriculture which establishes single family residential use as a principally permitted use. The project will not remove the ability of the properties to be developed with residential uses in the future.

b) No structural development is proposed as part of this project.

c) Section 313-16.1 Archaeological Resource Area. The proposed project is consistent with the provisions of the Archaeological Resource Area combining zone because the County is conditioning the project for reasonable mitigation measures to prevent future adverse impacts on the known archaeological resource on the property.

d) Section 313-19.1 Design Review Combining Zone. The project is consistent with the Design Review combining zone because it will restore the property to its natural grade.

e) Section 313-38.1 Wetlands Combining Zone. The proposed project is consistent with the Wetlands Combining Zone regulations because it includes wetland restoration which is a principally allowed use in the combining zone and no fill or dredging of wetlands are proposed. Further, with the implementation of conditions of approval to restore habitat and remove invasive species the project will enhance the wetland resource.

f) Section 312-39.15 Coastal Wetland Buffers. The project is consistent with this section because it involves restoration of habitat values and

the project is designed to restore impacts that occurred due to unauthorized activities.

5. **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 properties or improvements in the vicinity.

EVIDENCE: No detrimental effects to public health, safety and welfare were identified. The habitat restoration will be beneficial to the public welfare and is not expected be detrimental to property values in the vicinity nor pose any kind of public health hazard.

6. **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: The parcels were not utilized for the purposes of the County's Regional Housing Needs Assessment and therefore the project will not negatively impact the County's compliance with Housing Element Law.

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 **Travis Schneider Coastal Development and Special Permit Modification**, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on **July 6, 2023**.

The motion was made by Commissioner Peggy O'Neill and seconded by Commissioner Iver Skavdal and the following ROLL CALL vote:

AYES: COMMISSIONERS: Iver Skavdal, Noah Levy, Lonyx Landry, Peggy O'Neill,
Brian Mitchell, Sarah West

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS: Thomas Mulder

ABSTAIN: COMMISSIONERS:

DECISION: Motion Carries 6/0/1

I, John H. 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.



John H. Ford, Director,
Planning and Building Department

CONDITIONS OF APPROVAL

Approval of the Coastal Development Permit and Special Permit are conditioned upon the following terms and requirements which must be fulfilled.

For the Lot Line Adjustment

1. Prior to September 30, 2023, a Notice of Lot Line Adjustment shall be recorded for each resultant parcel. The following information must be submitted to the Planning Department for review prior to recordation:
 - a. A copy of the existing deeds and the deeds to be recorded for the adjusted parcels. If the property is not changing ownership, only the existing deeds are required.
 - b. A Preliminary Title Report regarding ownership of parcels involved. The title report documents must be current at time of submittal. Depending on the date of the report preparation, updating may be necessary.
 - c. A completed "Notice of Lot Line Adjustment and Certificate of Compliance" form for each parcel.
 - d. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$430 per notice plus \$300 for each additional legal description plus applicable notarization and recordation fees). (Fees subject to change.)
2. Prior to filing the Notice of Lot Line Adjustment, a map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$106 per parcel) as required by the County Assessor shall be paid to the Humboldt County Planning Department, 3015 "H" Street, Eureka. The check shall be made payable to the "County of Humboldt". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
3. Prior to filing the Notice of Lot Line Adjustment, the applicant shall comply with the provisions of Section 321-14 of the Humboldt County Code concerning reapportionment or payment of special assessments.
4. Prior to filing the Notice of Lot Line Adjustment, the applicant shall provide documentation from the County of Humboldt Tax Collector that all property taxes for the parcels involved in the Lot Line Adjustment have been paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the Notice of Lot Line Adjustment to satisfy this condition. Note: The purpose of this condition is to avoid possible title consequences in the event of a tax default and sale affecting the owner's real property interest. If property is acquired as a result of a Lot Line Adjustment and said property

has delinquent taxes, the property cannot be combined for tax purposes. This means, that the owner will receive two or more tax bills, and penalties and interest will continue to accrue against the land which has delinquent taxes. If five or more years have elapsed since the taxes on the subject property were declared in default, such property will be sold by the County Tax Collector for non-payment of delinquent taxes unless the amount required to redeem the property is paid before sale. Property combined by lot line adjustment but “divided” by tax sale will require separate demonstration of subdivision compliance of all resultant parcels prior to the County’s issuance of a building permit or other grant of authority to develop the subject properties.

5. A Coastal Development Permit or Coastal Waiver shall be obtained from the California Coastal Commission prior to recordation of the Notice of Lot Line Adjustment.

For Demolition and Restoration

1. Prior to July 31, 2024, the applicant shall demolish and remove all constructed elements and imported fill from the site including the partially constructed house, the temporary road partially on parcel 18, and all imported fill material and the parcel shall be returned to preconstruction grades. Director of Planning and Building may extend this deadline due to natural circumstances.
2. Prior to initiation of any grading or demolition activity and prior to December 31, 2023, the applicant shall obtain a grading permit from Humboldt County based upon plans showing both existing and reconstituted finished contours, with the finished contours being based on pre-construction LiDAR topographic data available on the Humboldt County GIS system.
3. In order to compensate for the damage to Environmentally Sensitive Habitat Area and the applicant shall implement a restoration plan to compensate for the damage on a 1.5:1 basis of compensation area to impact area. Prior to issuance of a grading permit, the Final ESHA Restoration Plan shall approved by the Planning Director in consultation with the Wiyot Area Tribes and the California Department of Fish and Wildlife. The Final ESHA Restoration Plan shall include the specific location of eight alnus rubra (red alder) and two salix hookeriana (willow) trees to be planted and shall specify the area to be monitored for re-establishment of rubus ursinus (native California blackberry). The Final ESHA restoration plan shall include success criteria for to be monitored over a 3-year monitoring period. The restoration plan shall not be deemed satisfied until the success criteria has been met for a period of 3 consecutive years.
4. Prior to issuance of a grading permit the applicant shall install a temporary construction exclusion fence around the limits of demolition and grading.
5. The applicant shall submit a restoration monitoring report documenting implementation of the Final ESHA Restoration Plan no later than December 31st of each year for the first 3 years after project approval. The report shall identify whether the success criteria established in the

restoration plan is being achieved. If the success criteria is not being achieved the biologist shall provide remedial actions to ensure the success criteria is achieved in succeeding years.

6. The property owner shall complete annual monitoring for invasive species and hand-removal of invasive species from the ESHA areas and areas immediately adjacent to the ESHA areas until a qualified biologist confirms that no invasive species are present within the ESHA areas. A report of annual invasive species monitoring shall be made available to the County upon request.
7. The split rail fence or other simple wood fence shall be constructed at or above the 40-foot elevation contour or along the relocated property line. The fence design shall be submitted for approval of both the planning Director and the Wiyot Area Tribes prior to installation. Prior to any disturbance associated with the fence the applicant shall contract with a tribal monitor to be present during construction of the support posts. The tribal monitor shall be on-site during all fence post support construction.
8. Prior to issuance of a grading permit, the applicant shall contract with a tribal monitor to be present during any earth disturbing activity.
9. The applicant is responsible for reimbursing the Tribes for all tribal monitoring required by this permit.
10. A Coastal Development Permit or Coastal Waiver or correspondence indicating that none is required shall be obtained from the California Coastal Commission prior to issuance of the grading permit.
11. The site shall be stabilized for the winter to the satisfaction of the Chief Building Official prior to October 31, 2023.