



COUNTY OF HUMBOLDT

For the meeting of: 9/26/2023

File #: 23-1211

To: The Humboldt County Board of Supervisors

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Revocation of a Coastal Development Permit for Demolition of an Existing 1,700 Square-Foot Residence, Existing fence, and Construction of a New 2-Story Residence Consisting of a 788 Square-Foot Garage with a 788 Square-Foot, 1-Bedroom Accessory Dwelling Unit Above. Revocation is being pursued because the permit has been operated contrary to the terms and conditions of approval, the use for which the permit was granted has been conducted as to be a public nuisance, and the use for which the permit was granted has ceased for a period of 1 year or more.

RECOMMENDATION:

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by the permit holder (also referenced herein as applicant) and testimony from the public on any of the additionally submitted information; and
2. Close the public hearing; and
3. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds that the permit has been exercised contrary to the terms or conditions of approval, and that the use for which the permit has been granted has been conducted as to be a public nuisance; and
 - b. Revokes the Coastal Development Permit pursuant to Section 312-14 of the Humboldt County Code.
4. Direct the Clerk of the Board to give notice of the decision to the appellant, the Planning and Building Department, and any other interested party.

SOURCE OF FUNDING:

There is no identified funding source for this action. This is funded by the General Fund contribution to department operations.

DISCUSSION:

Executive Summary

This item requests the Board of Supervisors revoke an approved Coastal Development Permit because the property owner has pursued the CDP in a manner detrimental to the public health, safety, and welfare. The CDP was submitted and approved to address an ongoing code enforcement action to allow demolition of an existing unpermitted residence and fence, and construction of a new residence. The residence was demolished vesting the permit; however, the applicant has not submitted the information necessary to acquire the building permit for the new residence.

After demolition of the residence, the site has been utilized as a repository for material that is predominantly junk. The junk on the site has spilled over onto the street where there have been unlicensed vehicles and other junk lining the property frontage and placed in front of other properties. There are constant public complaints about this situation. This has gone on for over a year.

The impetus for the CDP was to resolve the junk on the site and in the street, but this has not changed. The property owner will take action to move toward compliance immediately before a deadline, but then allow the site to deteriorate again. The proposal to allow him to construct a new residence and clean up the site is not changing the condition of a public nuisance. Additional justification for the revocation is that the applicant has refused to pay application costs accrued during the processing of a Coastal Development Permit denied by the Planning Commission and the Board of Supervisors.

Project History

The subject site has been in the code enforcement process since 2004. The County has and continues to receive many complaints about this property. The primary complaints are currently related to junk on the property, a motorhome possibly being occupied, and inoperable vehicles and junk being left on the street. The original complaint also focused on a house being reconstructed without permits and using materials that were recycled and not approved for construction. That structure could not be brought into conformance with the Building Code.

In response to a code enforcement action started in 2013, the applicant submitted a Coastal Development Permit application to allow the unpermitted residence and associated buildings located in the front, side and rear setbacks. This application was denied by the Planning Commission in 2021 and was denied on appeal to the Board of Supervisors. The Board of Supervisors was concerned about Mr. McGuire having a home and wanted to see him pursue necessary permits to construct a legal dwelling. Mr. McGuire did not respond to repeated invoices sent regarding the accumulation of processing costs associated with this CDP and in July 2021 a past due balance of \$3,019.87 was sent to a collection agency. This past due balance has not been resolved and remains with the collection agency.

A second Coastal Development Permit application was submitted in June of 2021 for the demolition of the unpermitted and unsafe structures and construction of a new garage and residence. This CDP was issued in November of 2021 and eventually the unpermitted residence and associated structures were demolished, and the 2013 code enforcement case was closed in April of 2022. In December of 2022 a new code enforcement case was opened due to additional complaints about the condition of the property, specifically regarding the accumulation of junk, solid waste, scrap materials and

miscellaneous items and debris. Specific violations of Humboldt County Code are a violation of Section 371-2, maintaining a Junkyard; violation of Sections 521-1, 521-4 and 521-12 of improper storage and removal of solid waste; and 311-10.1 building and use in violation of zoning codes. Attachment 5 includes the Notice of Violation and photographic evidence of these violations of county code.

Demolition of the existing unsafe residence under the issued Coastal Development Permit, vested the CDP, so it will not expire even though the Building Permit has not been obtained for the new residence. A building permit for the new residence has not been obtained because the information needed to issue the building permit has not been provided by the applicant. The building permit application was submitted on December 30, 2021 (BLD-2021-55440) and the applicant was advised of additional building code requirements, such as a Flood Elevation Certificate, fire sprinkler plans, solar system plans, truss calculations and energy calculations on February 14, 2022. As of December 21, 2022 the needed information had not been submitted so the applicant was informed these items needed to be submitted by January 3, 2023 to avoid expiration of the Building Permit application. Some of the required information was then submitted in late December of 2022. Plan check corrections were sent to the applicant on January 19, 2023, and revisions were submitted on February 17, 2023, however the plans were still not sufficient and the applicant was informed of this on March 2, 2023. During this period the County continued to receive complaints about the condition of the property and there was no progress on cleaning the site up.

On May 12, 2023, a letter was sent to the applicant stating that the required corrections needed to be submitted by June 1st and the building permit obtained by June 30, 2023, or the Coastal Development Permit (CDP) would be scheduled for a revocation. Building plan corrections were submitted on July 25, 2023, however the plans redesigned the site and were now inconsistent with the approved Coastal Development Permit and with County Code in that they showed the residence detached from the garage and less than the required 6-foot setback between structures. On August 3, 2023, a letter was sent to the applicant identifying this problem, as well as the problem of the outstanding balance of \$3,019.87 and stating that both needed to be resolved by August 18, 2023 or a revocation hearing would be scheduled. As of August 24, 2023, neither issue had been resolved and a notice of public hearing to consider revocation of the Coastal Development Permit was sent to the applicant/permittee.

Grounds for Revocation

Section 312-14 of the Humboldt County code includes the findings that are required to be made in order for the Board of Supervisors to revoke a development permit. A permit may be revoked upon making any one of the four findings specified in this section of the ordinance. Three of the four findings can be made, as follows:

1. The permit has been exercised contrary to the terms and conditions of such approval (312-14.1.2).
 - a. The issuance of the Coastal Development Permit was in response to a code enforcement action related to construction of an unpermitted and un-permittable house on the property and to the property containing significant amounts of junk. The objective of the CDP was to provide a

place for the applicant to live and to see the property cleaned up.

- b. The permit allowed demolition of an unpermitted residence and construction of a new residence in compliance with the Building Code, Local Coastal Plan and provisions for flood prone areas.
 - c. The Coastal Development Permit was approved on October 26, 2021. The applicant has had nearly two years to demolish the existing structure, obtain building permits and construct the new residence. The demolition of the unpermitted house was completed on April 22, 2022.
 - d. The applicant has had since October 26, 2021 to obtain a Building Permit for the new residence. The applicant submitted information but never a complete set of plans that comply with the Building Code or approved Coastal Development Permit.
 - e. The property has continued to be used to store junk, construction materials, and other material including inoperable vehicles that have expanded beyond the perimeter of the site and are found on the street. The site has been managed as a junkyard as defined in Section 371-1 of the Humboldt County Code. Attachment 5 contains the Notice of Violation and photographic evidence of the violation.
 - f. The applicant claims that material maintained on site is associated with the construction of the new residence. The inability to obtain a building permit and storage of junk has resulted in the maintenance of this property as a junk yard. The purpose of the Coastal Development Permit was not to allow the applicant to store junk on the property in perpetuity.
 - g. The permit was issued to allow the applicant to have a place to live and to provide an avenue to clean the property so as not to be a nuisance. The applicant has neither cleaned up the property nor constructed a residence.
 - h. Condition of Approval #A1 states that: *“The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.”* The applicant has not obtained a Building Permit because he has not submitted a set of compliant plans.
 - i. Condition of Approval #A2 states that the applicant is required to cover all permit processing costs associated with processing the application. The previous Coastal Development Permit application, which was denied, has an outstanding balance which has been sent to collections.
2. The use for which the permit was granted is so conducted as to be a public nuisance (314-14.1.3).
- a. The permit is vested due to the demolition of the existing unpermitted and unsafe structures on the property, and the permit requires the construction of a new single-family residence. After effectuating the permit by demolishing the structure the use of the property has been conducted as to be a public nuisance. Attachment 5 contains the Notice of Violation and photographic evidence that the site is a public nuisance.
 - b. The applicant claims that material maintained on site is associated with the construction of the new residence. The inability to obtain a building permit and storage of junk has resulted in the maintenance of this property as a junk yard. The purpose of the Coastal Development Permit

was not to allow the applicant to store junk on the property in perpetuity.

- c. The appearance of the property as a junk yard with junk spilling out onto the streets including unlicensed and inoperable vehicles detracts from the neighborhood and is a nuisance.
 - d. This property has been in a code enforcement action since 2004. The neighborhood has been impacted by the manner in which this property has been maintained since that time. The existence of the Coastal Development Permit is a rationale for the applicant to continue to use the property to store junk.
3. The use for which the permit was granted has ceased to exist or has been suspended for one (1) year or more (312-14.1.4).
- a. The permit was granted to allow the site to be utilized for a single-family residence and accessory activity. This permit became effective on November 24, 2021.
 - b. Demolition activity on the unpermitted residence was completed in April of 2022 and since that time the property has continued to store an accumulation of junk.
 - c. In the time since April 2022 or for 16 months no positive action has been taken to obtain a building permit or exercise the Coastal Development Permit to allow construction of a residence. The site is not being used what it was permitted for, and no progress toward permitting the intended purpose has been achieved in this time period.

FINANCIAL IMPACT:

There are no funds that have been identified to cover the costs of processing this revocation.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework through its core roles to enforce laws and regulations to protect residents. Revocation of this Coastal Development Permit will help facilitate the necessary code enforcement actions to remove the public nuisance.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to revoke the Coastal Development Permit. The Planning and Building Department does not recommend this because the existence of the issued Coastal Development Permit has complicated the ability to utilize traditional code enforcement measures to resolve the on-going violations.

ATTACHMENTS:

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

1. Draft Board Resolution and Findings
2. Approved Coastal Development Permit

3. Notice of Potential Coastal Development Permit Revocation
 - A. May 12, 2023 Letter
 - B. August 3, 2023 Letter
 - C. Notice of Public Hearing to Consider Revocation
4. Code Enforcement Timeline
5. NTA/NOV and Photographic Evidence
6. Photographic Evidence of Violations
7. Public Comment

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A