

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

**Resolution Number: 23-034**

**Record Number: PLN-2020-16657**

**Assessor's Parcel Number: 510-261-034**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Bradley Miller Coastal Development Permit and Special Permit.**

**WHEREAS**, Bradley Miller has submitted an application and evidence in support of approving a Coastal Development Permit and Special Permit for the after the fact removal of five (5) Monterey pine trees and the proposed removal of four (4) additional Monterey pine trees to provide structure protection for the existing residences and safety for the occupants of the property from wind throw and limb fall; and

**WHEREAS**, the County Planning Division 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 Planning Division as the Lead Agency has determined that the project qualifies for categorical exemptions found in Section 15304 (Minor Alterations to Land) of the CEQA Guidelines; and

**WHEREAS**, Attachment 3 in the Planning Division 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-2020-16657); and

**WHEREAS**, the Humboldt County Planning Commission held a duly-noticed public hearing on April 20, 2023, and reviewed, considered, and discussed the application for the Coastal Development Permit and 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:**

A Coastal Development Permit (CDP) and Special Permit for after-the-fact tree removal of five (5) trees and the proposed removal of four (4) additional trees authorized by Humboldt County Zoning Code section 313-64.1. The CDP and Special Permit will address the previous removal of five (5) Monterey pine trees; "18-, 30-, 32-, 36- and 38- inches" in diameter and the proposed removal of an additional four (4) Monterey pine trees; "40-, 44-, 48- and 50 -inches" in diameter. The CDP/Special Permit is required because the diameter of the trees removed and to be removed exceed 12-inch diameter at 4-1/2 feet above the ground and are subject to Section 313-64.1 of the Zoning Regulations, Major Vegetation Removal. The purpose of the tree removal is to provide structure protection for the existing residences and safety for the occupants of the property from wind throw

and limb fall. The project parcel is approximately 1.38 acres in size and is currently developed with one (1) single-family residence and (1) one secondary dwelling unit. There is no development proposed at this time.

**EVIDENCE:** a) Project File: PLN-2022-16657

**2. FINDING:** **CEQA:** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has considered the project and finds the proposed project is exempt from environmental review pursuant to Section §15304 (Minor Alterations to Land) of the State CEQA Guidelines.

**EVIDENCE:** a) The Class 4 exemption applies to private alterations in the condition of vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.

b) A project can be disqualified from using a Categorical Exemption if any of the exceptions listed in 15300.2 apply. However, none of these exceptions apply to the proposed project.

#### **FINDINGS FOR COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT**

**3. FINDING:** The proposed development is in is in conformance with all applicable policies and standards in the Humboldt County General Plan (HCGP) and the McKinleyville Community Plan (MCCP).

**EVIDENCE:** a) The parcel is currently developed with a single-family residential unit and a secondary dwelling unit. The permit is an after-the-fact CDP and Special Permit for the removal of five (5) Monterey pine trees, and the proposed removal of an additional four (4) Monterey pine trees. The tree removal constitutes major vegetation removal and is a use accessory to the residential use of the property. The purpose of the tree removal is to provide structure protection for the existing residences and safety for the occupants of the property from wind throw and limb fall.

b) The parcel is located within the Urban Limit. The subject parcel and the majority of neighborhood is located in a residential neighborhood served by full community services. The tree removal is accessory to the residential single-family use of the property.

c) The project will not add to nor subtract from the Housing Inventory. The project permits the removal of nine (9) Monterey pine trees (five previously removed, and four proposed for removal) and will not affect the existing residence and second dwelling unit. The project is consistent with the County's Housing Element.

d) The project is not in an environmentally sensitive habitat area and there are

no watercourses within 100 feet of the tree removal. A raptor survey was conducted by Timberland Resource Consultants on April 27, 2022. All trees were inspected for any evidence of nesting (i.e. stick structures, white wash, pellets, etc.) and then the trees were surveyed for an hour. No evidence of nesting was observed in the trees. During the survey period these Monterey pines were only visited by a flock of ravens and crows. No raptors were observed in the area during the survey.

- e) According to the Humboldt County General Plan (HCGP) Geologic/Seismic Hazards map, the parcel is located in an area designated as "Relatively Stable". Minimal grading will be required to facilitate proposed development. The associated Flood Insurance Rate Map (FIRM) Map Number 06023C0680G, places the subject parcel in Flood Zone X, which is defined as "areas of minimal flooding". Per the HCGP Fire Hazard map, the project site is within the Low Fire rating zone, and within the Arcata Fire Protection District boundary.
- f) The project was referred to the Northwest Information Center, Blue Lake Rancheria, the Wiyot Tribe, and the Bear River Band of the Rohnerville Rancheria. Of the local Tribal Historic Preservation Officers (THPOs) referred, two had no concerns and one recommended no further study provided the standard inadvertent discovery protocol is followed. This has been included in the conditions of approval.
- g) The subject property is not within a designated coastal scenic/coastal view area. The Monterey pine trees are not a tree species native to this location and were introduced to this site. These trees have a lifespan of 80 to 90 years. As the trees grow older, they become more susceptible to limb fall. The removal of the nine trees is for structure protection and for the safety of the occupants from falling limbs. Tree removal is an allowed accessory use to the residential development of the site. There would be no significant change to visual resources as a result of the proposed project.

**4. FINDING:**

The proposed development is consistent with the purposes of the existing RS zone in which the site is located.

**EVIDENCE:**

- a) The project would authorize the removal of nine (9) Monterey pine trees. Major vegetation removal in an allowed accessory in all zones with a Special Permit. Major vegetation removal also constitutes "development" as defined by the Coastal Act requiring approval of a Coastal Development Permit. The major vegetation is not commercial timber production if the costs of tree removal and permitting exceed the value received from the wood products generated. The project is conditioned to require submittal of documentation to ensure that the tree removal is not a for-profit (i.e., commercial) activity.
- b) The project is to permit after-the-fact tree removal of five (5) trees and the proposed removal of four (4) additional trees on a developed residential lot. The trees being removed meet the definition of "major vegetation" as they exceed the diameter of 12 inches as measured at breast height (4-1/2 feet above ground). The previous removal of five (5) Monterey pine trees

measured “18-, 30-, 32-, 36- and 38- inches” in diameter and the proposed removal of an additional four (4) Monterey pine trees measure “40-, 44-, 48- and 50 -inches” in diameter. The tree removal is intended to provide for the enhanced safety of the residential occupants from possible wind throw and windfall. As a condition of approval documentation will be submitted to demonstrate that the tree removal is not a commercial timber harvest operation. Conditions have been applied to the tree removal activity to avoid injury to nesting birds, limiting hours and days of operation and specifying appropriate measures for slash disposal.

- 5. FINDING:** §313-22.1 N – Alquist-Priolo Fault Hazard Combining Zone  
The purpose of these provisions is to implement the Alquist-Priolo Special Studies Zones Act in order to address potential hazards resulting from surface faulting or fault creep.
- EVIDENCE:** a) Project is for the removal of nine Monterey pine trees for structure protection and safety of occupants from wind throw or limb fall. As the project does not involve construction, alterations, or additions to structures for human occupancy, it is exempt from the requirement to prepare a fault evaluation report HCC Section 313-22.1.5.2.
- 6. 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 subject parcel has been determined to be one legal parcel per Notice of Lot Line Adjustment and Certificate of Subdivision Compliance, Instrument No. 2020-010324, recorded June 25, 2020.
- 7. FINDING:** The Project and the 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:** a) Consistent as conditioned. The project proposes the removal of nine (9) Monterey pine trees (five previously removed, plus four additional trees to be removed). The project will not pose detrimental threats to properties in the vicinity nor pose any kind of public health hazard.
- 8. 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 existing parcel is currently developed with a permitted single-family residence, a permitted secondary dwelling unit and no additional development is proposed. The project is not expected to negatively impact 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 Coastal Development Permit and Special Permit for Bradley Miller subject to the conditions of approval attached hereto as Attachment 1A.

Adopted after review and consideration of all the evidence April 20, 2023.

The motion was made by COMMISSIONER Brian Mitchell and second by COMMISSIONER Iver Skavdal and the following ROLL CALL vote:

AYES: COMMISSIONERS: Noah Levy, Brian Mitchell, Thomas Mulder, Iver Skavdal,  
Lonyx Landry, Sarah West

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS: Peggy O'Neill

ABSTAIN: COMMISSIONERS:

DECISION: Motion carries 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.



John Ford, Director

Planning and Building Department

## CONDITIONS OF APPROVAL

Approval of the CDP and Special Permit is conditioned upon the following terms and requirements which must be fulfilled.

1. All work shall be consistent with the site plan received by the Planning Division on September 18, 2020. No trees other than what is located within the proposed project boundaries as shown on the site plan, are authorized to be removed by this permit. Tree removal is prohibited in areas of 30% slopes or greater. Tree removal is prohibited within 50 feet of the Class III intermittent waterways. No deviations shall be permitted without prior written authorization from the Planning Division. Major changes may necessitate an amendment of this permit.
2. All activities related to the removal of trees under this permit shall be in strict conformance with the Small Woodland Performance Standards.
3. Harvesting operations (including timber falling, log processing and clean up slash disposal activities, and hauling) shall be restricted to the hours between 7:00 a.m. and 4:00 p.m. Monday – Friday and 8:00 a.m. and 4:00 p.m. on Saturday. No operations on Sundays.
4. Any debris hauled off site shall be tarped or contained within an enclosed space. Any debris, dirt, mud, or rocks that are tracked out onto the street shall be removed from the street on a daily basis.
5. Tree removal and any vegetation clearing must be conducted outside of the bird breeding season (generally March 1<sup>st</sup> – August 15<sup>th</sup>) in order to avoid ‘take’ as defined and prohibited by Fish and Game Code (FGC) §3503m 3503.5, 3513, and by the Federal Migratory Bird Treaty Act (16 US Code 703 *et seq.*). If work must be conducted during the bird nesting season, a qualified ornithologist (someone who is able to identify Northern California birds, and who has experience in nest-searching for passerines and raptors) should thoroughly survey the area no more than seven days prior to tree/vegetation removal to determine whether active nests (nests containing eggs or nestlings) are present. If active nests are found, appropriate buffers should be developed in consultation with CDFW to avoid take.
6. Applicant must clean-up all brush and debris on-site. On-site chipping and grinding activities, including land application of processed materials, are acceptable for management of wood waste provided that they do not create a nuisance, or public health and safety hazard. On-site burial or disposal of wood waste and slash is not permitted by state and local regulations.
7. Within 60 calendar days after the date of approval, on a form provided by the Planning Division, the applicant shall provide evidence showing the tree cutting and removal (after the fact and proposed) will qualify as exempt from the definition of Timber Harvest in §313-155 of the Humboldt County Zoning Ordinance. Documentation can take the form of bids for tree removal from a licensed timber operator or tree removal service.

**Informational Notes:**

1. The applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.
2. This permit shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"); except where construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date. The periods within which construction or use must be commenced may be extended as provided by Section 312-10.5 of the Humboldt County Code.
3. The applicant 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 decision. Any and all outstanding Planning 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.
4. 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 as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

The Native American Heritage Commission (NAHC) can provide information regarding the appropriate Tribal point(s) of contact for a specific area; the NAHC can be reached at 916-653-4082. 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 NAHC will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to PRC 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99

The applicant is ultimately responsible for ensuring compliance with this condition.