RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE COUNTY OF HUMBOLDT

Resolution Number 22-021

Record Number PLN-2020-16840
Assessor's Parcel Number: 109-351-061

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Bell CDP/SP/CUP Modification and Notice of Merger.

WHEREAS, James and Colleen Bell, submitted an application and evidence in support of approving the Coastal Development Permit, Special Permit, and Conditional Use Permit Modification and Notice of Merger; 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 project is exempt from environmental review pursuant to Section 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15305 (Minor Alterations in Land Use Limitations) of the CEQA guidelines; and
WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed project (Case Number: PLN-2020-16840); and
WHEREAS, the Humboldt County Zoning Administrator held a duly noticed public hearing on April 21, 2022 and reviewed, considered, and discussed the application for the Modification reviewed and considered all evidence and testimony presented at the hearing.

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

FINDING: **Project Description:** The project is a Modification to a previously issued Coastal Development Permit, Conditional Use Permit, and Special Permit (CDP-46-90/CUP-35-90/SP-44-90) to authorize the after-the-fact permitting of the following development: 1) Construction of a 120 square foot garden shed, 2) Construction of a 15 square foot concrete pad for the installation of a generator, 3) Construction of a 2-inch deep, quarter inch-wide underground coaxial cable, 4) Addition of 192 square foot extension of an existing deck and two staircases on either side of the deck on the western side of the existing residence, 5) repair of existing 45" fence on the eastside of the residence using existing footings and 6) Removal of 11 dead/dying trees (<12" DBH) within 30-feet of a residence. All of the work was completed prior to County review. The parcel is developed with an existing single-family residence, gravel driveway and served community water and sewer by the Shelter Cove Resort Improvement District. The original CDP authorized construction of a Bed and Breakfast. The project requires a Notice of Merger to merge three parcels to remedy a violation of development across property lines and encroaching on property lines. The residence is no longer used as a bed and breakfast; therefore, a modification to the CUP is required to authorize the change of the use to a single-family residence.

EVIDENCE: Project File: PLN-2020-16840

2. **FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Zoning Administrator has considered the project to be exempt from environmental review pursuant to Section 15301, 15303, and 15305 of the CEQA guidelines.

EVIDENCE:

a) The project is Categorically Exempt from environmental review pursuant to 15301 – Existing Facilities, 15303(a) - New Construction or Conversion of Small Structures of the CEQA Guidelines, because the project is for the after-the-fact permitting of small structures, including a deck extension, garden shed, fence repair/replacement, concrete pad, underground cable, and the removal of dead/dying trees. The Notice of Merger is exempt due to 15305(a) Minor Alterations in Land Use Limitations because a new parcel is not being created, and there is no change in land use or density because of the Merger.

3. **FINDING** The project, as conditioned, is consistent with the development policies of the South Coast Area Plan (SCAP) and County General Plan.

EVIDENCE

a) The purpose of the Commercial Recreation (CR) land use designation intended to protect sites suitable for the development of commercial recreational facilities, and for visitor serving facilities appropriate to assure recreational opportunity for visitors to the area. Single-family residence and accessory structures are conditional uses in the CR Zone. The project is consistent with the CR land use with a Conditional Use Permit.

b) The project complies with the County's Housing Element as it will authorize the use of a former Bed and Breakfast into a single-family residential unit.

c) The parcel is located within a high geologic slope area due to its location along a coastal bluff. An R-2 Soils Report was prepared for the original structure and on file for the original permit which authorized the main structure. The report included recommendations to not build into the moderate to high hazard zone, which is measured about 130 feet from the eastern edge of the parcel; making the western ~20 feet of the parcel toward the bluff unbuildable. The L-shaped deck was permitted with the originally approved CDP, and the deck extension does not extend any further toward the bluff edge or into the moderate to high hazard zone.

The deck extension was built to make the permitted L-shaped deck into a rectangle. The deck did not extend any further toward the bluff edge. Coastal Commission staff recommended adding conditions of approval to prohibit any new development encroaching toward the bluff edge, prohibit any anchoring that would attempt to slow natural erosion processes down, and prohibit landscape watering that may speed up erosion of the bluff. Contingencies for bluff failure are also included in the conditions of approval.

The parcel is not within a designated flood area. The parcel is located within a high fire hazard severity area, and within the States Responsibility

Area (SRA) for fire response. Due to the small parcel size, the project is subject to the Small Parcels Exception and subject to zone setbacks.

As conditioned, the project is not expected to increase risks of hazards.

d) According to the California Natural Diversity Database (CNDDB), there are several reported rare species that may occur within the vicinity of the project area. Given the majority of the lot is developed, and the small structures would not extend into undeveloped areas, it is highly unlikely these species will be affected by the proposal. There are no wetlands, streams, or riparian areas near the project area. The project was referred to the Coastal Commission and CDFW. Coastal staff did not discuss species impacts in their comments. The project is consistent with the Natural Resource policies identified in the SCAP.

e) The parcel is not within a designated Coastal Scenic Area. The development, as proposed is not expected to have any negative impacts on the visual quality of the area. The deck addition and stairs are similar in design to the permitted existing deck. No threats to visual resources are anticipated. The project is consistent with the physical scale and visual compatibility of the neighborhood. Exterior lighting will be shielded so that it is not directed beyond the boundaries of the property. This has been added as a condition of approval. No timber harvest or related activities are proposed. Eleven dead and dying trees less than 12 inch-dbh have been removed. The project is consistent with the Visual Resources policies in the SCAP.

f) The project was referred to the Bear River Band of the Rohnerville Rancheria. The Bear River Band of the Rohnerville Rancheria requested an archeological survey, but after learning that all the work has already occurred, they rescinded their request. The standard inadvertent archaeological discovery protocol has been added to the Conditions of Approval.

4. FINDING The proposed development is consistent with the purposes of the existing CR/Q/D zones in which the site is located.

EVIDENCE

a) The project is conditionally permitted in the CR Zone, and will authorize after-the-fact development of small structures which are accessory to the existing residence. The project also includes a Notice of Merger to merge three separate legal parcels to remedy development encroachment issues.

b) The project will comply with all development standards including setbacks, 35-foot height limits, off-street parking, and lot coverage when the parcels are merged.

c) The project is consistent with the Design Review Standards (D combining zone) as follows:

The proposed work would not be incompatible with the existing neighborhood; nor would the project alter natural landforms. All new exterior lighting is required to be shielded within the existing boundaries of the project site. No landscaping is proposed as part of the project. Existing underground utilities include water and sewer connections. All setbacks are met or exceeded. No signs are proposed. No additional eaves are proposed. The deck extension is compatible with the existing structure. There are no improvements that are altering the eaves, foundation, width of the house, or the roof.

d) The project is consistent with the Qualified combing zone, as the accessory structures are accessory to the existing principally permitted residence.

5. FINDING The proposed project conforms with all applicable standards and requirements of these regulations.

EVIDENCE

a) The subject property is comprised of three legal separate parcels (lot 22, 23, and 24 of Block 116 of Tract 42 of the Shelter Cove Subdivision) as shown on Tract Map recorded on Book 14 of Maps, page 83 (Sheet 11 of 66 sheets).

b) The three Assessor Parcels were merged into one APN for tax purposes. However, there has been development across all three parcels. The Notice of Merger will remedy this violation by merging all three parcels into one legal parcel.

6. 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) The parcel is located within a high geologic slope area due to its location along a coastal bluff. An R-2 Soils Report was prepared for the original structure and on file for the original permit which authorized the main structure. The report included recommendations to not build into the moderate to high hazard zone, which is measured about 130 feet from the eastern edge of the parcel; making the western ~20 feet of the parcel toward the bluff unbuildable. The L-shaped deck was permitted with the originally approved CDP, and the deck extension does not extend any further toward the bluff edge or into the moderate to high hazard zone.

The deck extension was built to make the permitted L-shaped deck into a rectangle. The deck did not extend any further toward the bluff edge. Coastal Commission staff recommended adding conditions of approval to prohibit any new development encroaching toward the bluff edge, prohibit any anchoring that would attempt to slow natural erosion processes down, and prohibit landscape watering that may speed up

erosion of the bluff. Contingencies for bluff failure are also included in the conditions of approval.

The parcel is not within a designated flood area. The parcel is located within a high fire hazard severity area, and within the States Responsibility Area (SRA) for fire response. Due to the small parcel size, the project is subject to the Small Parcels Exception and subject to zone setbacks.

As conditioned, the development would not be detrimental to the public health, safety, or welfare.

7. 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 parcel is developed with an existing residential structure that was originally permitted as a bed and breakfast. The proposed project would not add or reduce the number of houses in the County. However, the Modification to the CUP will permit the structure to be used as a single-family residence and not as a bed and breakfast. The project is consistent with the Housing Element.

8. FINDING Humboldt County Code 327.5-18: A merger pursuant to the provisions of this section shall not be approved unless the Advisory Agency determines that the parcel resulting from the merger meets applicable health, building, and zoning requirements and that approving the merger would create health and safety problems.

EVIDENCE There is no evidence that the merger will create any health or safety problems.

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 the Bell Coastal Development Permit, Special Permit, Conditional Use Permit Modification and Notice of Merger 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 **April 21, 2022**.

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

ATTACHMENT 1

CONDITIONS OF APPROVAL

APPROVAL OF THE COASTAL DEVELOPMENT PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE WORK IS INITIATED:

A. General Conditions

1. The applicant shall comply with the following conditions to protect coastal resources and maintain natural bluff erosion rates, as recommended by the Coastal Commission:

    a. No bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to PLN-2020-16840, including, but not limited to the deck, including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, bluff retreat, landslides, or other coastal hazards in the future, and as may be exacerbated by sea-level rise. By acceptance of this Permit, the applicant hereby waives, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under applicable laws.

    b. By acceptance of this Permit, the applicant further agrees, on behalf of himself/herself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, if the County or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the deck is currently and permanently unsafe for occupancy or use due to coastal hazards, and that there are no measures that could make the structures suitable for occupancy or use without the use of bluff or shoreline protective devices. If any portion of the development authorized by this permit at any time encroaches onto public property, the permittee shall either remove the encroaching portion of the development or apply to retain it. Any application to retain it must include proof of permission from the owner of public property. The permittee shall obtain a CDP or its equivalence for removal of approved development, unless the Planning Director provides a written determination that no CDP is legally required.

    c. In the event that the edge of the bluff-top recedes to a point where any portion of the structure becomes threatened, but no government agency has ordered that the structures not be occupied or used, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist, retained by the permittee, that addresses whether any portions of the authorized development are threatened by coastal hazards. The report shall identify all those immediate or potential future measures that could stabilize the deck <u>without</u> bluff or shoreline protective device(s), including, but not limited to, removal or relocation of portions of the deck. The report shall be submitted to the Director of the Planning Department. If the geotechnical investigation concludes that any portion of the deck is unsafe for operation or use, the permittee shall, within 90 days of submitting the investigation, apply for a coastal development permit amendment to remedy the hazard.

    d. Prior to removal/relocation, the permittee shall submit two copies of a Removal/Relocation Plan to the Humboldt County Planning Department for review

and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to best protect coastal resources, including the Pacific Ocean. In the event that portions of the development fall to the bluffs or ocean before they are removed/relocated, the landowner shall remove all recoverable debris associated with the development from the bluffs and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a CDP or its equivalence.

e. Drainage and runoff shall be directed away from the edge of the bluff, and soils and vegetation shall not be irrigated near the edge of the bluff.

2. The applicant is required to obtain a building permit for the deck extension and generator set-up.
3. The applicant is responsible for receiving all necessary permits and/or approvals from state and local agencies.

4. 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

B. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:

1. 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 period within which construction or use must commence may be extended as provided by Section 312-11.3 of the Humboldt County Code.

Informational Notes:

1. 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, groundstone 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.