

SUPPLEMENTAL INFORMATION #2

For Planning Commission Agenda of:
August 18, 2022

- Consent Agenda Item
- Continued Hearing Item
- Public Hearing Item Nos. H-2
- Department Report
- Old Business

Project Title: **Schneider Coastal Development Permit Modification**
Record Number: PLN-2022-17762
Assessor Parcel Numbers: 402-171-030, 402-171-029
Location: Indianola Area

Attached for the Planning Commission's record and review is the following supplementary information:

1. Response to Joint Tribal Comments Regarding PLN-2022-17762 Walker Point Road, APNs 402-171-029 and -030 from Bradley B. Johnson, Esq. Everview Ltd. representing Travis Schneider.

via electronic mail to: jford@co.humboldt.ca.us

August 5, 2022

John Ford, Planning Director
 Humboldt County Planning & Building Department
 3015 H Street
 Eureka, California 95501

**Re: Response to Joint Tribal Comments Regarding PLN-2022-17762
 Walker Point Road, APNs 402-171-029 and -030**

Dear Director Ford:

Thank you again for convening the August 2 meeting between the County, Coastal Commission, and representatives of the Blue Lake Rancheria, Bear River Band of the Rohnerville Rancheria, and the Wiyot Tribe regarding the above-referenced planning application for a Coastal Development Permit modification. On behalf of applicant Travis Schneider, this letter provides comments regarding the proposed 11-point resolution discussed during the meeting, and which is articulated in the July 26, 2022 joint comment letter submitted by the Blue Lake Rancheria and Wiyot Tribe Tribal Historic Preservation Offices (**attached to this letter as Attachment 1**). We have organized Mr. Schneider’s responses in the table below.

| Proposed Resolution | Response |
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| <p><u>1. Establish a new ‘wetlands setback area’ for remainder of project, where only limited pedestrian access is permitted and all development is prohibited.</u></p> | <p>This is acceptable, with the following comments:</p> <ul style="list-style-type: none"> The extent of the “wetlands setback area” must be consistent with the approximate boundaries discussed and depicted during the August 2 meeting. |
| <p><u>2. The Tribes and other agencies, as appropriate, should be consulted about the revised limits of the wetlands setback, to ensure accuracy and clarity. Once in agreement, this setback needs to be depicted on a revised and formally recorded plot plan with instructions the area is considered off-limits to development (including mowing), except that involving pre-approved archaeological examination supported by the Tribes or remediation of sensitive vegetation per CDFW.</u></p> | <p>This is acceptable.</p> |
| <p><u>3. The wetlands setback area needs to be marked in the field (see #4 below). Mr. Schneider is the responsible party for ensuring that no prohibited development occurs. The field markings shall be inspected and signed off by County staff, the Tribes, Project Archaeologist, and other agencies as appropriate.</u></p> | <p>This is acceptable.</p> |
| <p><u>4. A wetlands vegetation restoration plan for the entire ESHA shall be prepared, shared with Wiyot Tribe ethnobotanist Adam Canter and THPOs for comments, and approved before the current stop work order is lifted;</u></p> | <p>This is acceptable, with the following comments:</p> <ul style="list-style-type: none"> At Mr. Schneider’s request, Timberland Resource Consultants has already prepared a draft Restoration |

| Proposed Resolution | Response |
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| <p><u>associated ground-disturbances shall be avoided in the mapped archaeological site area (Rich 2022:Figure 3); and the work monitored by a Tribal representative.</u></p> | <p>Plan (Jack Henry, July 18, 2022). The Restoration Plan covers all ESHA plant communities impacted by mowing/mastication activities performed onsite. No restoration work will be performed in ESHA areas that were not disturbed. Please distribute this draft Restoration Plan to Adam Canter and each THPO for comments. (Draft Restoration Plan attached as Attachment 2.)</p> <ul style="list-style-type: none"> • Timberland Resource Consultants also prepared a Supplemental Addendum for Aquatic Resource Delineation (Jack Henry, June 15, 2022) in response to Coastal Commission comments dated June 10, 2022. (Attached as Attachment 3.) • Should the Planning Commission approve the CDP Modification with conditions c Mr. Schneider requests that the current stop work order (pursuant to County Code § 331-22.1) be lifted immediately such that work may proceed simultaneous with actions to comply with the CDP Modification conditions. The existing structure has been left exposed to one rainy season already, and the structure must be weatherproofed before this coming rainy season to prevent irreversible damage. |
| <p><u>5. A simple wood fence shall be designed by the Applicant for approval by the County and the Tribes and constructed for purposes of marking the upper limits of the wetlands setback area, where no development is permitted (including mowing, brush or tree cutting) and only limited pedestrian access is allowed. The fence posts shall be placed outside the estimated limits of the archaeological site (Rich 2022:Figure 3) and the ground-disturbing work monitored by a Tribal representative.</u></p> | <p>This is acceptable, with the following comments:</p> <ul style="list-style-type: none"> • THPO Eisdness clarified that the purpose of the fence is to serve as a permanent physical barrier to prevent any future encroachment on the ESHA and archaeological setback area. Mr. Schneider proposed a simple two-rail fence, which would achieve the desired objectives. |
| <p><u>6. A Conservation Easement encompassing the archaeological site and associated wetlands habitat setting on APNs 402-171-029 and -030 shall be deeded in a permanent conservation easement to the Wiyot area Tribes, as they are the appropriate caretakers and stewards of this Tribal Cultural Resource.</u></p> | <p>This is acceptable, with the following comments:</p> <ul style="list-style-type: none"> • Mr. Schneider shall not be required to also provide an endowment for the conservation easement. |
| <p><u>7. The Applicant shall be required to submit a site drainage plan prepared by a qualified professional prior to recommencing construction that demonstrates that drainage from roof and other impermeable surfaces will be appropriately directed and dissipated away from sensitive resources and in a manner that avoids the potential for erosion and other impacts.</u></p> | <p>This is acceptable, with the following comments:</p> <ul style="list-style-type: none"> • Should the Planning Commission approve the CDP Modification with conditions consistent with the points outlined in this letter and the July 26, 2022 joint comment letter, Mr. Schneider requests that the current stop work order (pursuant to County Code § 331-22.1) be lifted immediately such that work may proceed simultaneous with actions to comply with the CDP Modification conditions. The existing structure has been left exposed to one rainy season already, and |



| Proposed Resolution | Response |
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| | the structure must be weatherproofed before this coming rainy season to prevent irreversible damage. I suggest that the Planning Commission require Mr. Schneider to submit a drainage plan within 30 days following the Commission's decision. |
| 8. A Tribal Monitor shall observe the removal of the unpermitted temporary rock road (see Figure 1), which shall be planned and executed in a manner that avoids the archaeological site and sensitive wetlands vegetation. | This is acceptable. |
| 9. Unit 6 feature stabilization and recovery. We request as a condition of the CDP Mod this feature be the target of controlled excavation (2 cubic meters) not to exceed \$38,000 to be carried out under a Tribally approved research design by Dr. Mark Tveskov, Professor of Anthropology at Southern Oregon University, in collaboration with William Rich & Associates of Bayside and the Wiyot area Tribes. | This is acceptable. |
| 10. The Inadvertent Archaeological Discovery Protocol shall be in force for the remainder of the project (see Informational Note #1 in CDP 17-016 Conditions of Approval, 8/24/17, pages 9 and 13). | This is acceptable. |
| 11. Access to monitor site conditions and compliance with these conditions shall be afforded to Tribal representatives during the course of construction, and any concerns will be immediately reported to the Humboldt County Planning Department. | This is acceptable, with the following comments: <ul style="list-style-type: none"> • Mr. Schneider requests that Tribal representatives provide at least 24 hours' notice to Mr. Schneider or a designated representative prior to any site visit. |

Our understanding, based on the recent meeting, is that the Planning Commission's approval of the proposed Coastal Development Permit modification with conditions consistent with the points outlined in this letter and the July 26, 2022 joint comment letter would comprise a "complete resolution" to this matter as respects the Coastal Commission, the County, and the three Tribes. Please circulate a copy of this letter to representatives of each.

Please let me know if you have any comments or questions regarding the foregoing. I can be reached via email at bjohnson@everviewlaw.com and by telephone at (916) 704-6393.

* * *

Sincerely,



Bradley B. Johnson, Esq.
Everview Ltd.

cc: Travis Schneider

