



COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

3015 H Street, Eureka, CA 95501
Phone (707) 445-7541 • Fax (707) 268-3792
www.co.humboldt.ca.us/planning

California Coastal Commission
Eureka Office
710 E Street Suite 200
Eureka CA 95501

RECEIVED
FEB 22 2012
CALIFORNIA
COASTAL COMMISSION

Notice of Action Taken

Date February 21, 2012 **Appealable Status** Appealable

Applicant Brian Smith
Address 848 Greenwood Heights Drive
Kneeland, CA 95549

Assessor Parcel No. 517-231-073

Permit CDP-11-18

EXHIBIT NO. 9
APPEAL NO. A-1-HUM-12-006 SMITH, BRIAN NOTICE OF FINAL LOCAL ACTION & COUNTY FINDINGS FOR APPROVAL (1 of 13))

Description

A Coastal Development Permit for the development of an approximately 2,090 square foot single family residence including an attached garage and greenhouse.

Contact Karen Meynell - 268-3731

Action Taken

Following a noticed public hearing the County of Humboldt Planning Commission approved the referenced application on February 2, 2012.

Appeal Completion

Notice of appeal period completed. The appeal period for this project has been completed.

Effective Date

Coastal Development Permit CDP-11-18 will become effective at the end of the California Coastal Commission appeal period and will expire 12 months from the effective date.

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**ATTACHMENT 1
RECOMMENDED CONDITIONS OF APPROVAL**

APPROVAL OF THE COASTAL DEVELOPMENT PERMIT IS CONDITIONED UPON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE FULFILLED BEFORE A BUILDING PERMIT MAY BE ISSUED OR USE INITIATED:

Conditions of Approval:

1. Four (4) non-tandem, independently accessible parking spaces shall be constructed on-site and must be constructed prior to occupancy of the dwelling or before a "final" is issued for the building permit.
2. The applicant shall apply for and obtain an encroachment permit for a driveway on Westgate Drive. The permit will require the applicant to construct a residential driveway entrance surfaced with asphalt concrete or as approved by the Department of Public Works.

The driveway shall intersect the County roadway at a 90 degree angle. The driveway grade shall not exceed 2% in the first 25 feet and have a staging area before entering the roadway for visibility reasons.

The applicant shall adhere to all conditions as stated in the memo dated 11/08/11 by the Department of Public Works.
3. Applicant shall submit water service connection fees and provide for the installation of water service to the satisfaction of the Seawood Estates Mutual Water Company.
4. Applicant shall adhere to the Small Woodland Performance Standards, and the following additional mitigation measures:
 - i) Applicant shall conform to the erosion control measures as identified in §3432(8) of the Framework Plan and implement Best Management Practices (BMP's). In addition, all areas cleared to bare mineral soil by the harvesting activities shall be reseeded with grass prior to the onset of winter rains to establish a stable ground surface that will prevent surface erosion. This needs to stay or change Natural Resource Protection
 - ii) If burning is used for slash removal, the applicant shall notify all neighbors within 300 feet of the property of the burn date no less than 48 hours prior to the burning.
 - iii) Harvesting operations (including timber falling, log processing and clean up slash disposal activities) shall be restricted to the hours between 8:00 a.m. and 6:00 p.m. on weekdays ONLY. Tree removal shall occur outside of the nesting/breeding season from March 15 to August 15. No operations on weekends.
 - iv) Leach field areas shall be flagged on the ground as no equipment/no fall zones.
5. Applicant must clean-up all brush and debris. 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. Applicant shall contact the local fire district (Burn Permit) and air quality management district (Air Quality Smoke Management Permit) for any approvals for on-site burning activities. (See also item #4.b and ii) above).
6. The applicant shall:
 - a) use dust control techniques when excavating to minimize dust problems on adjacent parcels,
 - b) re-vegetate all disturbed areas prior to winter rain, and

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- c) take all precautions necessary to avoid the encroachment of dirt or debris on adjacent properties.
7. The plot Plan submitted for the Building Permit shall indicate that all ground bared during construction shall be landscaped and/or seeded and mulched prior to October 1st.
 8. The applicant must obtain an approved sewage disposal system permit through the Division of Environmental Health prior to issuance of building permits.
 9. The applicant shall adhere to the recommendations set forth in the Geologic Hazard and Engineering Soils report, prepared by SHN Consulting Engineers & Geologists, dated February 8, 2011.
 10. The applicant shall cause to be recorded a "Quitclaim and Reconveyance (for development restrictions)" on forms provided by the Humboldt County Planning Division. 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 \$66.00 plus applicable recordation fees) will be required.
 11. A landscaping plan shall be provided to the satisfaction of the Planning Division. At a minimum, the landscaping plan shall include native tree species, which are non-pyrophitic, and identify the location, type (by species and common name), size, method for irrigation, and maintenance program, including replacement of plantings over time. The goals of the landscaping plan shall be to soften the visual impact of the project. Landscaping shall not be vertically intrusive to the viewshed and shall conform to the visibility ordinance as required by the Department of Public Works. This condition shall be satisfied **before the Building Inspection Division's "final" or occupancy, whichever comes first.**

On-going Requirements/Development Restrictions Which Must Continue to be Satisfied for the Life of the Project:

1. All new and existing outdoor lighting shall be compatible with the existing setting and directed within the property boundaries.
2. Where feasible, new utilities shall be underground or sited unobtrusively if above ground.
3. The project shall be conducted in accordance with the project description and approved project site plan.
4. Applicant shall adhere to the terms of the Humboldt County Code relating to Fire Safe Regulations, including maintenance of all fuel modification and construction mitigations for the life of the project.
5. Applicant shall re-vegetate along the southern boundary of the parcel where the Cypress trees will be removed with mature, native, fire resistive trees. The trees shall be maintained for the life of the project.

Informational Notes:

1. If buried archaeological or historical resources are encountered during construction activities, the contractor on-site shall call all work in the immediate area to halt temporarily, and a qualified archaeologist is to be contacted to evaluate the materials. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, dietary bone, and human burials. If human burial is found during construction, state law requires that the County Coroner be contacted immediately. If the remains are found to be those of a Native American, the California Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains.

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

2. The applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.
3. 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 be commenced may be extended as provided by Section 312-11.3 of the Humboldt County Code.
4. The October 15, 2008 document, "Project Review Input Basic to All Development Projects" is considered part of any input from the California Department of Forestry and Fire Protection (CDF) regarding this project. CDF suggests that the applicant have access to that document's input at the earliest contact possible. Handouts which describe that document are available from the Planning Division.
5. **NEW DEVELOPMENT TO REQUIRE PERMIT.** Any new development as defined by Section 313-139 of the Humboldt County Code (H.C.C.), shall require a coastal development permit or permit modification, except for Minor Deviations from the Plot Plan as provided under Section 312-11.1 of the Zoning Regulations.

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ATTACHMENT 2
Staff Analysis of the Evidence Supporting the Required Findings

Required Findings: To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

The Coastal Zoning Ordinance, Section 312-17.1 of the Humboldt County Code (Required Findings for All Discretionary Permits) specifies the findings that are required to grant a Coastal Development Permit:

1. The proposed development is in conformance with the County General Plan;
2. The proposed development is consistent with the purposes of the existing zone in which the site is located;
3. The proposed development conforms with all applicable standards and requirements of these regulations; and
4. 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 property or improvements in the vicinity.
5. In addition, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The project either:
 - a) is categorically or statutorily exempt; or
 - b) has no substantial evidence that the project will have a significant effect on the environment and a negative declaration has been prepared; or
 - c) has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

Staff Analysis of the Evidence Supporting the Required Findings

To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

1. The proposed development must be consistent with the General Plan. The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards of the Framework Plan (FP) and the Trinidad Area Plan (TAP).

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Land Use: §2700 (FP) §4.30 (TAP)	Residential Exurban (RX). Primary uses include single-family residential. Density: 2 dwelling units per acre.	The development proposed consists of the construction of a single family residence with an attached garage on an existing parcel of approximately 0.3 acre in size. The parcel is outside the TAP's Urban Limit Line; water will be provided by the Seawood Estates Mutual Water Company and an onsite sewage disposal system will be installed. All other utilities will be undergrounded where possible.
Arch. and Paleo. Resources §3500 (FP) §3.29 (TAP)	Protect cultural resources, including historic, archaeological, and scenic resources.	The Department does not have record of any culturally sensitive sites located in or around the project location. NCIC was referred for a Lot Line Adjustment in 2002 and the Yurok Tribe and Trinidad Rancheria were sent referrals for this project. The referral comments from these agencies did not recommend further study, however, an informational note has been added to the Conditions of Approval regarding legal requirements should ground-breaking activities reveal presence of archaeological resources or human remains.
Hazards: §3200 (FP) §3.28 (TAP)	New development shall minimize risk to life and property in areas of high geologic, flood and fire hazards.	The County's Alquist-Priolo Earthquake Fault Zoning Maps indicate that the proposed location of the primary residence is outside the zone. According to Geologic Hazards maps, the project site is located in an area of low slope instability. Minimal grading is anticipated and the BID referral was returned with a recommendation of approval and to follow all recommendation of the Soil Report. According to the Flood Insurance Rate Map (FIRM) Panel No. 060060 0450 B, the project site is located in Flood Zone C, which is defined as "areas of minimal flooding". The project site is located outside the 100- and 500-year floodplains according to the FIRM. The project site is not within a mapped dam or levee inundation area, and outside the areas subject to tsunami run-up. All reviewing agencies have recommended approval or conditional approval of the project and identified no issues related to hazards.

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<p>Natural Resource Protection §3400 (FP) & §3.30 (TAP)</p>	<p>Protect designated sensitive and critical resource habitats.</p>	<p>There are no known sensitive habitats on or within the vicinity of the subject parcel. A site visit by planning department staff did not identify any sensitive or critical habitats.</p> <p>No watercourses or other wet areas are located near the project site. Nonetheless, as a Condition of Approval, the applicant shall adhere to the standard erosion control measures as specified in §3432(9) of the Framework Plan and implement "Best Management Practices" for erosion and sediment control during the construction phase of the project.</p>
<p>Visual Resource Protection § 3540 (FP) & § 3.40 (TAP)</p>	<p>Protect scenic and visual qualities as a public resource.</p>	<p>See discussion below.</p>

§3.40(B)(1) of Trinidad Area Plan states "No development shall be approved that is not compatible with the physical scale of development as designated in the zoning for the subject parcel".

The parcel is zoned RA which has a maximum building (structure) height of 35'. The residence averages approximately 29 feet in height. The conditioned area of the proposed residence is 1,613 square feet in a neighborhood averaging approximately 2,100 square feet. The project is located outside the urban limit and is a residential use which is principally permitted in the zone. The proposed development can be found compatible with the physical scale of the existing development in the "neighborhood" because there are only single-family residences in the immediate vicinity.

§3.40(B)(3)c states "All permitted development shall be subject to the following standards for siting design except for structures integral to agricultural land use and timberland management subject to CDF requirements for special treatment areas."

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|--|--|
| <p>1. Siding and roofing materials shall not be of reflective materials, excepting glass and corrugated roofing.</p> | <p>The proposed project has a non-reflective, metal roof with a majority of the residence sided with Hardi lap siding. Smaller portions of the residence have corrugated steel or stucco as design elements.</p> |
| <p>2. The highest point of a structure shall not exceed 30 feet vertically measured from the highest point of the foundation, nor 40 feet from the lowest point of the foundation.</p> | <p>The residence will average approximately 29 feet in height. The height from the highest point of the foundation is 30 feet. The height from the lowest point of the foundation is 36 feet.</p> |

3. Setbacks from property lines and public roads shall be no less than 50 feet from a public road, nor 30 feet from a property line. In areas significantly developed, 50% or greater, where the setbacks shall be the average of the setbacks of existing structures.

The proposed development is on a 0.3 acre legal parcel with a width of 113 feet and depth of 153 feet. Due to the limited size of the parcel and the restrictions related to the sewage disposal system, there is only one location for the building pad. The surrounding development has an average setback approximately 44 feet from public roads and 55 feet from property lines (see Methodology, at left). These setbacks are controlling for this project. The subject parcel proposes an 85' and 15' setback from roads and a 6' and 42' setback from property lines. Consequently, the 15' rear setback (along Patrick's Point Drive) and the 6' side yard setback from the south property line are less than the distance set under the standard. Section 3.40-B.3.d of the Trinidad Area Plan allows for the setback standard to be modified under Design Review if it can be demonstrated that the scenic

METHODOLOGY: Setbacks were captured by taking on-site measurements from public roads and property lines for six neighboring parcels. All six parcels have Westgate Dr. frontage and identical zoning to the subject parcel. Four of them have Patrick's Point frontage and are in the Coastal Scenic Area similar to the subject parcel.

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- 4. Exterior lighting shall be shielded so that it is not directed beyond the boundaries of the property.
- 5. New homesites shall be sited and designed to concentrate development on level areas so that disturbance of steeper hillsides is minimized. Where the size and location of existing parcels requires development on hillsides sites, new construction or grading shall follow the natural contours of the landscape, fitting the site rather than altering the landform to accommodate buildings designed for level sites and concentrating development near existing major vegetation.
- 6. New development on ridgelines shall be sited adjacent to existing major vegetation, prohibiting removal of tree masses which destroy the ridgeline silhouette, and limiting the height of structures so that they maintain present ridgeline silhouettes.
- 7. Timber harvest and activities related to timber management exempt from CDF regulation shall conform to timber harvesting visual standards for Special Treatment Areas.

and visual qualities of the site are protected. The development of the subject parcel to meet the "average" setbacks for existing structures is not feasible due to the building pad location and constraints on the parcel. The applicant is proposing a modest-sized residence on a highly constrained parcel. The applicant has made an effort to design the residence to tier with the natural slope of the parcel and minimize the visual disturbance while keeping with the character of the neighborhood. Therefore, staff believes the proposed project is in conformance and compatible with the goals and objectives of this section except for meeting setback requirements.

All exterior lighting will be shielded so that it is not directed beyond the boundaries of the property.

The proposed single family dwelling takes maximum advantage of the natural slope of the parcel and requires minimal grading. The proposed residence is tiered to slope with the land, requiring minimal grading.

The proposed development is not located on a ridgeline, nor is it visible from Patrick's Point Road or the beaches or waters of the Pacific Ocean.

The applicant proposes to remove 13 trees all located within 30 feet of the proposed development. The removal of these trees will improve the view for several of the neighboring residences. The lumber will remain on site to be used in construction. Any wood not suitable for construction will be used as firewood or chipped and used for landscaping. The applicant will replace the removed Cypress trees with mature native, fire resistive trees to maintain the privacy of adjacent residences. A referral was sent to CALFIRE and a site visit was conducted resulting in no additional comment from that agency. A Condition of Approval has been added to ensure the applicant follows the Small Woodland Performance Standards (COA#4).

§3.40(B)(3)d states "Proposed development which cannot satisfy these prescriptive standards but is in conformance and compatible with the goals and objectives of this section and the Area Plan, may be submitted to the Design Committee for review and approval.

The proposed development meets all of the above criteria except the setback requirement. Due to the limited size of the parcel and the restrictions related to the sewage disposal system, there is only one location for the building pad. Development of the parcel to meet the average setbacks of existing structures is not feasible due to the building pad location and constraints on the parcel. The applicant is proposing a modest-sized residence on a highly constrained parcel. There are no requests for exceptions to height or bulk. The project includes tree removal which will offset the visual impact of the proposed residence by creating scenic qualities that do not currently exist. The applicant has made an effort to design the residence to tier with the natural slope of the parcel and minimize the visual disturbance while keeping with the character of the neighborhood. Therefore, staff believes the proposed project is in conformance and compatible with the goals and objectives of this section.

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§3.40B.5. Trinidad Area Plan Design Assistance Committee

Ensures that the proposed development is compatible with the goals and objectives of this plan.

- a. Consistency with General Plan;
- b. Protection of natural landforms;
- c. Setback to protect scenic and visual qualities;
- d. Exterior lighting;
- e. Screen visual impacts;
- f. Utilities underground;
- g. Off-premise signs;
- h. Timber harvest activities;
- i. Views from public roads to the coast;
- j. Views from public recreation areas;
- k. Solar collectors exempt

Framework Plan

§313-19.1.5.1 The project is consistent with the General Plan. In Coastal Scenic Area, measures are included in the project design so that it will be subordinate to the character of the surrounding setting.

§313-19.1.5.2 Protection of natural landforms through the minimization of alterations.

§313-19.1.5.3 Exterior lighting.

§313-19.1.5.4 Screening visual impacts through vegetative plantings.

§313-19.1.5.5 New utilities.

§313-19.1.5.6 Development standards.

§313-19.1.5.7 Off-premise signs.

- a. As stated in the discussions above, single family residences are principally permitted in the RX designation.
- b. The applicant states that minimal grading will be required. The proposed residence has been designed to take advantage of the existing slope to minimize grading.
- c. Due to the limited size of the parcel and the restrictions related to the sewage disposal system, there is only one location for the building pad. The proposed residence meets the required development standards and setbacks for the zone. The applicant is proposing a modest-sized residence on a highly constrained parcel. The applicant has made an effort to design the residence to tier with the natural slope of the parcel and minimize the visual disturbance while keeping with the character of the neighborhood.
- d. All exterior lighting will be compatible with the surrounding setting and will not be directed beyond the boundaries of the parcel.
- e. The applicant proposes to remove 13 trees. The parcel will be re-vegetated with mature, native, fire resistive trees and plants to provide visual screening and soften the impact of the new development. The removal of the trees has been requested by the neighbors and will improve the views for the neighboring parcels. A landscaping plan is required as a condition of approval (COA #11).
- f. New utilities will be under ground wherever possible.
- g. No off-premise signs are proposed.
- h. See "e" above for discussion.
- i. Due to the limited size of the parcel and the restrictions related to the sewage disposal system, there is only one location for the building pad. Any development in this area would, to some degree, impact the view from Westgate Drive. This impact is unavoidable given the site constraints of the parcel that require the building pad to be located in the southwest corner of the parcel. The applicant is proposing a modest-sized residence on a highly constrained parcel and designed the residence to tier with the natural slope of the parcel and minimize the visual disturbance to the neighborhood. The project includes tree removal (and re-vegetation) which will offset the visual impact of the proposed residence. The tree removal will create scenic qualities that do not currently exist by improving views along Westgate Drive and from neighboring properties. The view from the public recreational land nearby would not be affected by development on this parcel. The parcel is not visible from Patrick's Point Drive nor Highway 101 and certainly not from the beaches or waters of the Pacific Ocean.
- j. See discussion in "i" above.
- k. Solar collectors are not part of the proposed project.

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Based on the above discussion, staff believes that the project is in conformance with the General Plan.

2. The proposed development conforms with all applicable zoning regulation requirements and 3. The proposed development conforms with all applicable standards and requirements of these regulations.

The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards in the Humboldt County Coastal Zoning Regulations.

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
§313-6.4 Rural Residential Agriculture (RA-X/D)	Single Family Residential is a principally permitted use.	The proposed project is for the construction of a single family residence.
Min. Lot Size	No Further Subdivision Allowed	Approximately 0.3 acre
Min. Lot Width	150 feet	Average of 113'
Max. Density	One dwelling unit per lawfully created lot.	One single family residence is proposed.
Max. Lot Depth	Three x lot width = 339'	Average depth is 153'
Yard Setbacks	Front: 20' Interior Side: 5' Rear: 10'	Front: 85' Interior Side: 6' & 42' Rear: 15'
Max. Lot Coverage	35%	8%
Max. Bldg. Height	35'	29' avg.
§313-109.1	Four parking spaces required.	Four parking spaces are provided and shown on the plot plan outside of the required front yard setback.

§313-19.1 Design Review Combining Zone	
<p>§313-19.1.5.1 The project is consistent with the General Plan. In Coastal Scenic Area, measures are included in the project design so that it will be subordinate to the character of the surrounding setting.</p> <p>§313-19.1.5.2 Protection of natural landforms through the minimization of alterations.</p> <p>§313-19.1.5.3 Exterior lighting.</p>	<ol style="list-style-type: none"> As stated in the discussions above, single family residences are principally permitted in the RA zone. The residence averages approximately 29 feet in height. The conditioned area of the proposed residence is 1,613 square feet in a neighborhood averaging approximately 2,100 square feet. This parcel is in a Coastal Scenic Area and the applicant has designed this residence to tier with the natural slope of the parcel and minimize the visual disturbance to the neighborhood. Although the proposed residence has a non-reflective metal roof unlike the surrounding residences which have asphalt shingles, the residence does share many of the same design elements as surrounding structures such as height, contemporary architecture and lap siding. The applicant states that minimal grading will be required. The proposed residence has been designed to take advantage of the existing slope to minimize grading.

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<p>§313-19.1.5.4 Screening visual impacts through vegetative plantings.</p> <p>§313-19.1.5.5 New utilities.</p> <p>§313-19.1.5.6 Development standards.</p> <p>§313-19.1.5.7 Off-premise signs.</p>	<ol style="list-style-type: none"> 3. All exterior lighting will be compatible with the surrounding setting and will not be directed beyond the boundaries of the parcel. 4. The applicant proposes to remove 13 trees. The parcel will be re-vegetated with mature, native, fire resistive trees and plants to provide visual screening and soften the impact of the new development. The removal of the trees has been requested by the neighbors and will improve the views for the neighboring parcels. A landscaping plan is required as a condition of approval (COA #11). 5. New utilities will be under ground wherever possible. 6. Due to the limited size of the parcel and the restrictions related to the sewage disposal system, there is only one location for the building pad. The proposed residence meets the required development standards and setbacks for the zone. The applicant is proposing a modest-sized residence on a highly constrained parcel. The applicant has made an effort to design the residence to tier with the natural slope of the parcel and minimize the visual disturbance while keeping with the character of the neighborhood. 7. No off-premise signs are proposed.
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<p>§313-39.1 No Further Subdivision Allowed Combining Zone</p>		
<p>The purpose of these regulations is to prohibit further subdivision of the parcel.</p>	<p>§313-39.1.1 Development standard for the sole purpose of prohibiting future subdivisions.</p>	<p>No subdivision of the existing parcel is proposed.</p>

<p>§312-39.3 Supplemental Coastal Resource Protection Impact Findings</p>		
<p>Coastal Scenic Areas</p>	<p>§313-39.3.1 The project is sited and designated to be subordinate to the character of the setting.</p>	<p>Refer to Section 1, Visual Resources Protection and Section 2, Design Review discussion and evidence above. The setting is a low density residential subdivision (Seawood Estates) and adjacent residentially zoned properties that are topographically separate from Patrick's Point Drive. The project proposes to construct a principally permitted residence on an existing lot. The applicant has made an effort to design the residence to tier with the natural slope of the parcel and minimize the visual disturbance while keeping with the character of the neighborhood. No exceptions to building height or bulk are requested. Tree removal is proposed but the area will be landscaped to screen and soften views of the development from the adjacent public road.</p>

Based on the above comparison, staff believes that the project is consistent with the development standards of the zone.

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4. Public Health, Safety and Welfare, and 5. Environmental Impact: The following table identifies the evidence which supports finding that the proposed development will not be detrimental to the public health, safety and welfare or materially injurious to properties or improvements in the vicinity, and will not adversely impact the environment.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
§312-17.1.4	Proposed development will not be detrimental to the public health, safety and welfare or materially injurious to properties or improvements in the vicinity and will not adversely impact the environment.	All reviewing referral agencies have approved the proposed development. There is no evidence that the project as described and conditioned will have any detrimental effects. The applicant has demonstrated compliance with all development standards. Adequate parking has been demonstrated consistent with the intended use and occupancy. Based on the foregoing, no direct physical impacts on properties or improvements in the vicinity are anticipated.
§15303 of CEQA	Categorically exempt from State environmental review.	Class 3, Section 15303(a); new construction or conversion of small structures. Per the submitted evidence and agency responses, none of the exceptions to the Categorical Exemption per Section 15300.2 of the State CEQA Guidelines apply to this project.

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SUPPLEMENTAL INFORMATION

For the Planning Commission Agenda of:

February 2, 2012

- Administrative Agenda Item }
- Continued Hearing Item }
- New Hearing Item } No. 5
- Old Business Item }
- New Business Item }

Re: Project: **Brian Smith**
 File No.: **APN: 517-231-73**
 Case No.: **CDP-11-18/SP-11-22**

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

1. The applicant has submitted a revised Neighborhood Design Review Survey and supporting photographs that show how some of the neighboring residences are taller than the original Survey and photographs (found on pages 23-27 of the staff report) depict. Some of these residences appear to be single story from the street but have additional levels due to the topography of the parcels. These additional submittals further demonstrate the compatibility of the proposed project with the character of the neighborhood.
2. The applicant has also submitted a letter from Kathy Moley at Pacific Watershed Associates Inc. regarding the proposed septic system at 183 Westgate Drive. The letter summarizes the historical site investigations and reports concerning the onsite wastewater treatment system for the proposed project.
3. Comment letter dated 1/24/12 from Violette Hornecker to supplement a previous comment letter dated 12/3/2011 which is included in the staff report on page 49.
4. Letters from James Poulcott, Mark Sanderson, Kathleen Baker, Stephanie Richter and Phyllis Persechini who are all neighbors of the proposed project and will be unable to attend the Planning Commission meeting. All of the letters request that additional time be given to Mr. Jody Poulcott so he may convey their concerns in a PowerPoint presentation during the public comment period of the public hearing.
5. Letter from Jody Poulcott dated 1/24/12 requesting he be given additional time (more than the allotted 3 minutes) during the public hearing to provide testimony and present a PowerPoint slide show on behalf of himself and other neighbors who cannot attend the public hearing.

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CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833 FAX (707) 445-7877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Jody L. Poulcott

Mailing Address: P.O. Box 136 170 Westgate Drive

City: Trinidad

Zip Code: 95570

Phone: 707 677-9143

SECTION II. Decision Being Appealed

1. Name of local/port government:

Humboldt County Planning Commission

2. Brief description of development being appealed:

Two- story plus, single family residence with greenhouse, garage and basement totaling approx. 2700 square foot on 0.3 acre lot.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

183 Westgate Drive, Trinidad, CA 95570; APN: 517-231-073

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

EXHIBIT NO. 10
APPEAL NO. A-1-HUM-12-006
SMITH, BRIAN
APPEAL (1 of 8)

RECEIVED

MAR 07 2012

CALIFORNIA
COASTAL COMMISSION

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

<u>TO BE COMPLETED BY COMMISSION:</u>	
APPEAL NO:	<u>A-1-HUM-12-006</u>
DATE FILED:	<u>3/7/12</u>
DISTRICT:	<u>North Coast</u>

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: February 02, 2012

7. Local government's file number (if any): CDP: 11-18; SP: 11-22

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Brian Smith
848 Greenwood Heights
Kneeland, CA 95549

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) The Baker Family
101 Westgate Drive
Trinidad, CA 95570

(5) The Hornecker Family
197 Westgate Drive
Trinidad, CA 95570

(9) Stephanie Richter
P.O. Box 853
Trinidad, CA 95570

(2) The Sanderson Family
138 Westgate Drive
Trinidad, CA 95570

(6) The Speaker Family
208 Westgate Drive
Trinidad, CA 95570

(10) James L. Poulcott
P.O. Box 100
Bishop, GA 30621

(3) The Koutouzos Family
161 Westgate Drive
Trinidad, CA 95570

(7) The Persechini Family
322 Westgate Drive
Trinidad, CA 95570

(4) The Poulcott Family
170 Westgate Drive
Trinidad, CA 95570

(8) Mark Sanderson
5966 12th Ave.
Sacramento, CA 95820

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see the attached four pages and included Power Point Slideshow CD.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on File

Signature of Appellant(s) or Authorized Agent

Date: March 6, 2012

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

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SUBJECT: Appeal of Humboldt County Planning Commission decision on Application Number CDP-11-18 & SP-11-22 (1-HUM-11-125)

APPLICANT: Brian Smith

LOCATION: 183 Westgate Drive, Trinidad, CA 95570

A.P.N. 517-231-073

DATE: February 28, 2012

APPEAL ISSUES

The proposed development as approved is inconsistent with the General Plan

The Applicant (Smith) has failed to provide evidence which supports findings that the proposed development is in conformance with all applicable policies and standards of the Framework Plan (FP) and the Trinidad Area Plan (TAP). In fact, the Applicant has demonstrated and the County has confirmed that compliance is “**not feasible.**” This is documented in the County “*Agenda Item Transmittal Report*” and the County “*Executive Summary Report.*” Included with this Appeal is the Power Point Slideshow that was presented to the County Planning Commission on February 2, 2012 that identifies several areas of non-compliance.

This parcel was first purchased from Georgia Pacific Lumber Company in August 1969 and first documented by the county in August 1970 by Mr. Edward T. Howell. There have been *six* property owners of this parcel since its creation and the last *three* previous owners have attempted to build on the site but were unsuccessful because of problems with the parcel itself.

The County has identified *two* “Major Issues”:

1. Neighborhood Compatibility;
2. Visual Resources Protection

TAP § 3.21 B (2)(a) WESTGATE DRIVE is currently comprised of parcels less than one acre in size; the area is planned for a minimum (1/2) acre density. This parcel is only (**0.3**) acres. In fact, this parcel is the smallest and *only undeveloped* parcel on the west side of Westgate Drive.

There are a few explanations for this variance.

- (1) This parcel *historically* has been documented as a parcel with a “high instability” slope rating and it was never intended to have any proposed development. Much of this finding has to do with the fact that this parcel is bordered by a 70 foot sheer cliff that is

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constantly eroding. The County documented this several times over the years, the *latest* was in 2003 when the previous owners (Stone) accomplished a Lot Line Adjustment in their effort to appease the County when seeking to build at the site. The Stones abandoned their efforts after 10 years and sold the property to Mr. Smith. *See the staff report and conditions of approval in Humboldt County file (LLA 02-25).*

(2) This parcel has had “joint ownership” up until 1994 with the adjoining parcel to the south (517-231-047). When the proposed residence was constructed at 161 Westgate Drive in 1977, the County granted a “setback variance” of **5 feet** with the property line because of the issues related to the “Smith” parcel. *See the staff report and conditions of approval in Humboldt County file (SP 77-108187).*

TAP §3.40 (B)(3)(c)(3) requires that in areas significantly developed, 50% or greater, setbacks shall be the average of the setbacks of existing structures.

(1) Documentation provided to the County by the Applicant and acknowledged by the County in the “Executive Summary,” identifies the **setback average** in the area to be **55 feet** from property lines. The proposed project setback is **6 feet** from the property line to the south which we know since 1977 has had an existing structure with a **5 foot** setback with the same property line.

TAP §3.40 (B)(1)(a)(2)(a) requires that development be visually compatible with the character of the surrounding area.

(1) Houses in the surrounding area, regardless of their setbacks from property lines, are separated by at least 50 feet, which provides visual spaciousness.

(2) The project as proposed, will have far less space from the adjoining property, the parcel is smaller than all other neighborhood parcels and even after the 2003 lot line adjustment negotiated by the previous owner. The constraints on its development make the buildable space much smaller. Further the proposed house, though presented as a two-story structure, clearly has three levels.

There are two questions that remain unanswered. Is the parcel actually located in the “Coastal View Area” or in the “Coastal Scenic Area?” and What happened to the established view easement that ran through the property parallel to Westgate Drive that suddenly was erased in the October 20, 2005 AP Book? *See Power Point Slideshow.*

TAP §3.40 (B)(4)(b)(1) requires that new structures or building sites are not visible from public roads or would not block any part of the view (which exists at the time of the application) to the beach/ocean.

TAP §3.40 (B)(3)(c)(2) requires that the highest point of a structure shall not exceed 30 feet vertically measured from the highest point of the foundation, nor 40 feet from the lowest point of the foundation.

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(1) The *multiple* elevations documented including that of a “maximum building height of 35 feet” is unclear? The plot plans for the structure show two “0” elevation lines, making the height of the structure unclear. Furthermore, findings submitted by the Applicant on February 02, 2012 as (#2 Supplemental Information) introduce the concept of an average roof height, thereby adding a new guideline to the TAP without benefit of public hearing or Coastal Commission Certification.

Humboldt County Zoning Regulation §312-39.3.1 requires that the project be sited and designated to be subordinate to the character of the setting.

(1) Siting the project as proposed gives precedence to the project, not to the neighborhood setting.

(2) Staff findings for the compatibility of the project with the neighborhood ignore the above items, indicating that because the project requests no variations in bulk or height, accepting significant property line variations is acceptable.

The project as proposed is inconsistent with section 30253 of the Coastal Act, section 3200 of the Humboldt County Framework Plan and section 3.16 of the TAP

It has not been demonstrated that the bluff is stable enough to support the proposed development. The County has stated that the Applicant shall adhere to the recommendations set forth in the “Geologic Hazard and Engineering Soils Report, prepared by SHN Consulting Engineers & Geologists, dated February 8, 2011.”

(1) The report identifies that its findings are based on information provided by the Applicant for a “single-story wood framed two bedroom house.” The structure proposed is actually two-three stories w/ a proposed basement.

(2) The report identifies that “Final configuration of the residential structure and garage was still in development at the time of this writing.”

(3) The report identifies that the “setback” from the break in slope from the cliff edge shall be **20 feet**. The proposed project has a **15 foot** setback.

(4) The County Land Use Division identified that the Applicant shall submit a letter from a certified arborist stating that the trees to be removed from the cliff / within the county right of way of Patricks Point Drive are hazardous. This was never accomplished.

(5) The mature 60-70 fir trees are on the cliff edge and the large root ball is exposed. There is evidence of significant erosion on the bluff edge and these trees significantly add to the question of the stability of the parcel to the west.

(6) The removal of the trees also brings into question the impact they will have on the bluff edge. Not only the immediate shock from the removal of heavy weight of the trees,

but how the bluff edge will further destabilize from the natural decomposition process of the large root system that currently fills the voids in the cliff edge. This process is inevitable and will further reduce the area along the west side of the property as it relates to "safe" setback distances for the proposed structure.

(7) The Geological and Hazards Report that was prepared lacks the scientific detail and depth required by the Bluff Stability Analysis **establishing development setbacks from coastal bluffs**, presented in the Mark Johnsson Memo of January 16, 2003. Specifically, it did not contain an estimate of the rate of coastal erosion to be expected for its 75 year expected life nor did it contain a quantitative slope stability analysis of the *adjacent* coastal bluff.

(8) The negative effects of the proposed septic system coupled with the pre-existing septic system located on the adjoining parcel at 197 Westgate Drive were not addressed in the report. The possible effects the two systems would have by increasing the elevation of the ground water table, the added runoff generated by impervious surfaces not only to the cliff but to the foundation of the pre-existing down-hill residence located at 161 Westgate Drive.

(9) The Geological and Hazards Report was not provided to the Humboldt County Planning Commissioners for review prior to their approval of the application.

There are several other issues that were identified in the numerous letters submitted to the County and the Power Point Slideshow. We are very concerned about wildfires in our area. This project as proposed goes against the State's Fire Safe Regulations. We believe that CalFire was not properly briefed on the project proposed and numerous "changes" to the project occurred after they completed their initial review. This included the "removal" of the "**SRA Standard Exceptions for Small Parcels**" form as part of the On-going requirements/development restrictions which must continue to be satisfied for the life of the project. We would request, if practical, that CalFire be included in this appeal to bring their attention our concerns regarding the issues of the setbacks and fire suppression.