

CALIFORNIA COASTAL COMMISSION

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Th7a

Staff: C. DeSmet-A

Date: 9/28/2018

ADMINISTRATIVE COASTAL DEVELOPMENT PERMIT AMENDMENT

- Application No.:** 1-92-086-A1
- Applicant:** Sarah Betsy Buckley & Susan Worsham
- Location:** 44025 Iversen Road, Gualala, CA, Mendocino County (APN 142-19-014)
- Description of Previously Approved Project:** Develop a single-family residence by (1) clearing approximately 29,000 square feet of forest lands; (2) constructing a 4,915-square-foot two story single-family house; (3) converting a test well to a production well; (4) installing a septic system; (5) paving a carport; (6) installing a 1,080-square-foot prefabricated metal barn; (7) demolishing an existing shack; and (8) temporarily occupying an existing travel trailer while constructing the new residence.
- Proposed Amendment:** Reduce the size of the house to a single story and 1,280 square feet, replace the approved carport with a 480-square-foot two-car garage, and eliminate the previously authorized barn and use of a travel trailer as a temporary residence.

I. EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination and any special conditions appear on subsequent pages.

Note: Public Resources Code Section 30624 provides that this permit amendment shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the

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application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit amendment will be reported to the Coastal Commission at the following time and place:

Thursday, October 11, 2018 – 9:00 a.m.
Wyndham San Diego Bayside Pacific Ballroom - D
1355 North Harbor Drive
San Diego, CA 92101

IMPORTANT: Before you may proceed with development, the following must occur:

You must sign the enclosed duplicate copy acknowledging the permit amendment's receipt and accepting its contents, including all conditions, and return it to our office pursuant to Title 14, California Administrative Code Sections 13150(b) and 13158. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the policies of Chapter 3 of the California Coastal Act, including those policies regarding public access and coastal recreation opportunities, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

JACK AINSWORTH
Executive Director

By:



Clancy DeSmet
Coastal Program Analyst II

II. SPECIAL CONDITIONS

Note: The original permit contained seven (7) standard conditions and one (1) special condition). Standard Conditions 1 and 3-7 of the original permit remain in full force and effect. As the development has vested, Standard Condition 2, “Expiration,” is deleted. Special Condition 1 is no longer applicable to the proposed development, and is therefore deleted. Special Conditions 2, 3, and 4 are additional new special conditions attached to CDP Amendment No. 1-92-086-A1. The new conditions are listed below. [Appendix A](#) includes all standard and special conditions that apply to the amended development, as approved by the Commission in its original action and as modified and/or supplemented by this amendment. For comparison, the text of all the original permit conditions is included in Exhibit 2.

This permit amendment is granted subject to the following special conditions:

2. Landscaping Restrictions:

- (A) To minimize the need for irrigation all landscaping shall consist of primarily native drought tolerant plants, as listed by the California Native Plant Society. (See <http://www.cnps.org/cnps/grownative/lists.php>.) Some non-native drought tolerant non-invasive plants may be used within 30 feet of habitable structures. Use of turf irrigated with potable water shall be minimized and irrigated with micro-spray systems. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.
- (B) The use of rodenticides containing any anticoagulant compounds is prohibited.
- (C) All irrigation systems shall limit water use to the maximum extent feasible. Use of reclaimed water for irrigation is encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they shall use water conserving emitters (e.g., micro spray) and drip irrigation only. Use of reclaimed water (“gray water “systems) and rainwater catchment systems are encouraged. Other water conservation measures shall be considered, including use of weather based irrigation controllers.
- (D) Pampas grass (*Cortaderia* sp) shall be removed from all portions of the cleared area of the property as shown in Exhibit 4 to the greatest extent practicable.

3. Future Development Restriction. This permit is only for the development described in Coastal Development Permit (CDP) Amendment No. 1-92-086-A1 as conditioned by this CDP amendment. Pursuant to Title 14 California Code of Regulations (CCR) section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(a) shall not apply to the development governed by the CDP 1-92-

086-A1. Accordingly, any future improvements to structures authorized by this permit shall require a further amendment to CDP 1-92-086-A1 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, a further amendment to CDP 1-92-086-A1 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR sections 13252(a)-(b).

4. Deed Restriction. Within 90 days of the issuance of CDP Amendment No. 1-92-086-A1, the Permittees shall submit to the Executive Director for review and approval documentation demonstrating that the Permittees have executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as amended as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, as amended, shall continue to restrict the use and enjoyment of the property so long as either this permit as amended or the development it authorizes, or any part, modification, or further amendment thereof, remains in existence on or with respect to the property.

III. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT LOCATION AND BACKGROUND

In July of 1992 the Commission granted Administrative Permit No. 1-92-086 to Robert and Patricia Ottoboni authorizing (1) the development of a 4,915-square-foot two-story single-family residence and associated onsite septic system, domestic well, and paved carport; (2) removal of 29,000 square feet of forested vegetation; (3) the installation of a 1,080-square-foot prefabricated metal barn; (4) demolition of an existing shack; and (5) temporary occupancy of an existing travel trailer while constructing the new residence. The Commission granted its approval subject to one special condition, which was a requirement to remove the temporary travel trailer from the property within 14 days of issuance of an occupancy permit by the County for the new single-family residence.

The subject site is a 10-acre parcel located on the ocean-facing slope of an elevated forested ridge approximately 850 feet above mean sea level and 1.5 miles east of Highway One, at 44025 Iversen Road, northeast of Gualala in Mendocino County (APN 142-19-014).

The original permit was vested in 1992 through the development of portions of the authorized development, including, but not limited to, the development of the septic system, clearing of

vegetation as authorized, and demolition of the existing shed. The single family house, barn, and carport were never constructed.

The cleared area on the property is relatively flat, with the terrain sloping moderately downward generally to the west. A creek is present downslope to the north of the cleared area, approximately 130 feet from the northerly edge of the cleared area. The parcel is zoned for rural residential use.

According to a biological report prepared in support of this administrative permit amendment application, the vegetation in the vicinity of the proposed development includes non-native grassland, with mixed coniferous forest and manzanita chaparral. A small stand of Bishop pine (*Pinus muricata*, a rare vegetation community type that meets the definition of ESHA under the Mendocino County certified LCP) is present approximately 50 feet east of the project area.

B. PROJECT DESCRIPTION

The current property owners seek to modify the originally approved development under this permit amendment request by (1) reducing the size of the approved residence from a two-story 4,915-square-foot single-family home to a one-story 1,280-square-foot manufactured single-family home; (2) replacing the previously approved carport with a 480-square-foot attached two-car garage, (3) eliminating the authorized use of a travel trailer¹ as a temporary residence during construction of the single-family home, and (4) deleting authorization for construction of a 1,080-square-foot barn. All proposed amended development would remain within the area that was cleared of vegetation under the original permit authorization.

C. STANDARD OF REVIEW

The Coastal Commission effectively certified Mendocino County's Local Coastal Program (LCP) in October of 1992. Pursuant to Section 30604 of the Coastal Act, after effective acceptance of a certified LCP, the standard of review for all coastal permits and permit amendments for developments located between the first public road and the sea is the certified LCP and the public access policies of the Coastal Act. As the subject development is located inland of the first public road from the sea, the standard of review that the Commission must apply to the project is the certified Mendocino County LCP.

D. LOCAL GOVERNMENT AND OTHER APPROVALS

Mendocino County Planning & Building Services. The project is located on a parcel designated and zoned Rural Residential (RR:10) under the Mendocino County certified LCP, and meets all zoning requirements and needs no local permits other than building permits.

E. LOCATING AND PLANNING NEW DEVELOPMENT

¹ Special Condition 1 of CDP 1-92-086 required the removal of the travel trailer upon issuance of the occupancy permit for the single family residence. As stated above, the travel trailer was removed prior to the current Permittees taking ownership of the property.

Summary of Applicable LCP Provisions:

The subject parcel is designated in the Mendocino LUP as Rural Residential-10 (RR:10), meaning that there may be one parcel for every ten acres, and that the parcel is designated for residential use.

Policy 3.9-1 of the Mendocino County Land Use Plan (LUP) states that one housing unit shall be authorized on every legal lot existing as of the date of adoption of the LUP. In addition, Policy 3.9-1 states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

LUP Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal, and other known planning factors shall be considered when considering applications for development.

Project Consistency with Applicable LCP Provisions:

The subject property is located outside of an existing developed area, but has adequate water and septic capacity to serve the proposed development. Under the previous approval, a test well was converted to a production well, and the production well yields sufficient water to serve the residence. Additionally, a septic system was installed that was approved by the Mendocino County Department of Environmental Health. The existing well and septic systems, which were developed under the original CDP approval, have recently been inspected and are in good, working condition. Therefore, the amended development is consistent with LUP policies 3.8-1 and 3.9-1 in that the subject parcel is able to accommodate the amended development with adequate services.

As noted above, LUP Policy 3.9-1 limits the number of residences to one per legal lot that existed as of the date of adoption of the LUP. When the Executive Director approved the original project prior to effective certification of the LCP, the Executive Director recognized that Highway 1 service capacity, groundwater resources, and the need to protect coastal resources were limiting factors in determining acceptable densities in the Mendocino coastal zone and limited the number of residences on the parcel to one, consistent with LUP Policy 3.9-1. The original project authorized the use of a travel trailer on the site for residential occupancy during construction of the residence subject to the requirements of Special Condition 1. To ensure that no more than one residence would be permanently maintained on the site, Special Condition 1 required the travel trailer to be removed from the property within 14 days after issuance of an occupancy permit for the new single-family residence by the County. Although a residence has not yet been built on the property, the travel trailer has been removed from the site, and the current owners/permittees do not plan on locating and occupying a travel trailer on the site during installation of the currently proposed manufactured home. The proposed amendment eliminates the use of a travel trailer as a temporary residence from the authorized development at the site. As the amended development no longer includes the previous authorization for a travel trailer, Special Condition No. 1 is no longer needed and is deleted from the permit as amended.

As amended, the permit authorizes two buildings, including a residence and a garage. The 480-square-foot garage structure that does not have a bathroom, kitchen facilities, or plumbing and does not have significant potential for use as a second residential unit. In addition, any proposed conversion of use of the garage to a residence or some other use would be development requiring a further amendment of the permit. Therefore, the amended development is consistent with the requirements of LUP Policy 3.9-1 that limits the number of residences to one per legal lot.

F. PROTECTION OF ESHA

Summary of Applicable LCP Provisions:

LUP Policy 3.1-7 states, in applicable part, the following:

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width...

Section 20.496.020 of the CZC states, in applicable part, the following:

(A) Buffer areas. A buffer shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.

(1) Width. The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, and County Planning staff, that one hundred feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width...

Standards for determining the appropriate width of the buffer area are as follows:

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- ... (a) *Biological Significance of Adjacent Lands...*
- ... (b) *Sensitivity of Species to Disturbance...*
- ... (c) *Susceptibility of Parcel to Erosion...*
- ... (d) *Use of Natural Topographic Features to Locate Development...*
- ... (e) *Use of Existing Cultural Features to Locate Buffer Zones...*
- ... (f) *Lot Configuration and Location of Existing Development...*
- ... (g) *Type and Scale of Development Proposed...*
- ... (2) *Configuration...*
- ... (3) *Land Division....*
- ... (4) *Permitted Development...*

Project Consistency with Applicable LCP Provisions:

There are two types of environmentally sensitive habitat areas (ESHA) present on or adjacent to the property. These include (1) Bishop pine forest; and (2) a creek, a form of wetland ESHA.

A creek is present downslope to the north of the cleared area, approximately 130 feet from the northerly edge of the area cleared for development. The creek will not be impacted by the proposed development.

The proposed residential development is to be constructed in an area that was previously approved for residential development under the original permit, and was cleared of vegetation. The cleared area where development is proposed is dominated by non-native grasses. A patch of Bishop pine forest (*Pinus muricata*) was identified to the east of the cleared area. The cleared area is located as close as 50 feet from the Bishop pine forest. Bishop pine forest is listed as G3 S3 forest alliance and therefore warrants protection per the Department of Fish & Wildlife. The area of concern is less than ¼ acre or approximately 8,500 square feet in size.

To protect the ESHA from the impacts of the amended development, the Permittees propose a minimum 50-foot buffer around the Bishop pine forest.

LUP Policy 3.1-7 and CZC Section 20.496.020 allow for buffer width to be reduced from 100 feet to a minimum of 50 feet if it can be demonstrated based on an analysis of the various

standards contained within CZC Section 20.496.020(A)(1)(a) through (g) that substantiates the adequacy of the proposed 50-foot buffer to protect the resources of the ESHA from significant disruption caused by the proposed amended development. The Permittees' consultant prepared such an analysis that applies the standards to the amended development as follows:

- (a) Biological significance of adjacent lands: Areas adjacent to the Bishop pine forest include non-native grassland and common manzanita chaparral. There are no known special status wildlife species within the Bishop pine forest that would spend a significant portion of their life cycle in the adjacent grassland and chaparral areas where the project is proposed.
- (b) Sensitivity of the species/habitat to disturbance: Plant and wildlife species known to be present in the adjacent Bishop pine forest are common species. No sensitive species were observed that would require a buffer greater than 50 feet.
- (c) Susceptibility of the parcel to erosion: The project area slopes downward in a southwesterly fashion, and away from the Bishop pine forest. Soils are mapped as Shinglemill-Gibney complex, 2-9% slopes. Erosion hazard for this soil type is slight or moderate if the soil is left bare. Any eroded material would flow in a downslope direction – away from the Bishop pine forest, so no additional buffer is warranted to allow for the interception of eroded material.
- (d) Use of natural topographic features to locate development: The proposed development would be located on or near the hillside, but downslope of the ESHA. The proposed development is consistent with this element.
- (e) Use of existing cultural features to locate buffer zones: The proposed development would be located within an existing cleared area, westward of and within the existing gravel driveway. The proposed development is consistent with this element.
- (f) Lot configuration and location of existing development: The Iversen Road development area is relatively built out with residences spaced apart on 10 acre parcels within a mosaic of manzanita-dominated and forested areas. Surrounding developments are not associated with the subject patch of Bishop pine forest but do not generally appear to be closer than 100 feet to other patches of similar ESHA.
- (g) Type and scale of development proposed: The proposed residential development is consistent in size with the existing residential development in the area. Adjacent lands are zoning Rural Residential and are built out consistent with the land use designation.

Of the several factors discussed above, the Executive Director finds that those most significant to the determination of buffer width adequacy are (a) the low biological significance of the lands adjacent to the ESHA, and (b) the low susceptibility of the area around the ESHA to erosion. A minimum 50-foot-wide buffer is adequate in this case because there were no observed habitats for breeding, nesting, feeding, or resting activities within the ESHA or adjoining area that would be affected by the amended development. The fact that the ESHA is located upslope from the development site ensures that sediment from any erosion of the development site or any other pollutants from the development would not be

carried into the ESHA by stormwater runoff. Therefore, the Executive director finds that the proposed 50-foot buffer will provide for a sufficient buffer area to protect the ESHA from degradation and significant disruption resulting from the amended development and will be compatible with the continuance of the habitat area consistent with LUP Policy 3.1-7 and CZC Section 20.496.020(A). The 50-foot buffer and special conditions will protect from further encroachment on the ESHA.

Section 30610(a) of the Coastal Act and CZC Section 20.532.020(C) exempt certain improvements to existing single-family residences from coastal development permit requirements. Pursuant to section 30610(a) Act and CZC Section 20.532.020(C), once a structure has been constructed, certain additions and accessory buildings that the Permittees might propose in the future are normally exempt from the need for a permit or permit amendment. Depending on its nature, extent, and location, however, such an addition or accessory structure could have a significant adverse impact on surrounding ESHA. Accordingly, section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to section 30610(a) of the Coastal Act, the Commission adopted section 13250 of Title 14 of the California Code of Regulations (CCR). Section 13250(b)(6) specifically authorizes the Commission to require a permit for additions to structures that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a development permit. Therefore, pursuant to section 13250(b)(6) of Title 14 of the CCR, **Special Condition 3**, requires that all future development on the subject parcel that might otherwise be exempt from coastal permit requirements requires an amendment or coastal development permit. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in impacts to the adjoining ESHA.

The ESHA on the subject property and in nearby areas could be adversely affected if nonnative, invasive plant species were introduced in landscaping at the subject site or allowed to naturalize at the development site. If any landscaping were to include introduced invasive exotic plant species, the weedy landscaping plants could colonize (e.g., via wind or wildlife dispersal) the nearby ESHA over time and displace native vegetation, thereby disrupting the functions and values of the ESHA. Therefore, Special Condition 2 requires that only non-invasive plant species are planted on the subject property, and that pampas grass be removed from all portions of the cleared area of the property where development is authorized. As conditioned, the amendment will ensure that the ESHA near the site is not significantly degraded by invasive exotic species introduced to the site by the authorized development.

In addition, certain rodenticides, particularly those utilizing blood anticoagulant compounds such as Brodifacoum, Bromadiolone and Diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wildland interface areas. As these target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, the pest control compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. To avoid this potential cumulative impact to environmentally sensitive wildlife

species, Special Condition 2 also contains a prohibition on the use of such anticoagulant-based rodenticides.

Special Condition 4 requires that the permittees record and execute a deed restriction against the property that imposes the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. Special Condition 4 will assure that future owners are aware of these CDP requirements applicable to all future development, including the requirements of Special Condition 3 that additional CDP authorization be obtained for future improvements on the property and the landscaping limitations of Special Condition 2.

Therefore, the Executive Director finds that as conditioned, the amended development is consistent with Section 3.1-7 of the Mendocino County LCP and Section 20.496.020 of the CZC, because the amended development as conditioned is sited and designed to prevent impacts that could significantly degrade or disrupt sensitive habitat and is compatible with the continuance of the ESHA.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Executive Director incorporates his findings on LCP and Coastal Act consistency at this point as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the amended development has been conditioned to be found consistent with the policies of the certified Mendocino County Local Coastal Program. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures, which will minimize or avoid all adverse environmental impacts, have been required as permit special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Executive Director finds that the amended development as conditioned to mitigate the identified impacts can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

ATTACHED APPENDICES

[**Appendix A – Standard and Special Conditions**](#)

[**ATTACHED EXHIBITS**](#)

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1. Regional location map
2. CDP No. 1-92-086
3. Site Photograph
4. Botanical Survey Site Plan
5. Site Plans

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Permittee's Signature

Date of Signing