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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-18-0271

Applicant: John Rutter

Location: 121 Driftwood Lane, approximately 6 miles north of the City of Trinidad, Humboldt County.

Project Description: Improve an existing 984-square-foot single-family residence by: (1) remodeling the interior of the existing residence; (2) replacing roofing and exterior siding on the existing residence; (3) adding a 720-square-foot, maximum 33-foot-tall, 2-story attached addition to the existing residence (with lower story garage and upper story bedroom plus bathroom); (4) constructing a new 1,232-square-foot, maximum 18-foot-tall metal-framed greenhouse on a cement-footing foundation; (5) replacing the existing well-house with a new 576-square-foot, maximum 12-foot-tall well house and shed on a cement slab foundation; and (6) adding over 700 square feet of new attached and detached decking.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant proposes various improvements to an existing 984-square-foot single-story, three bedroom, single-family residence constructed in 1955, including interior remodeling of the existing residence, a new 720-square-foot two-story addition, a new 1,232-square-foot greenhouse, a new well-house/shed, and attached and detached decking. There will be no change in the total number of bedrooms with the remodeled and expanded residence on the property (a total of three bedrooms). The existing approximately 0.4-acre lot is located on an approximately 200-foot-high coastal bluff between the first public road (Patrick's Point Drive) and the sea approximately 6 miles north of the City of Trinidad.

The primary Coastal Act issue associated with this project is the minimization of geologic hazards. The property is landward of Driftwood Lane and approximately 175 feet back from the bluff edge. The Commission's geologist reviewed the geotechnical assessment and other studies and evidence relevant to the immediate project area and concurs with the applicant's geologist's conclusions that the development as proposed will be setback an adequate distance from the bluff edge to protect the new development from bluff retreat and erosion hazards for the development's presumed economic life. Staff is recommending various special conditions to mitigate geologic hazard risks, including conditions prohibiting the future construction of bluff or shoreline protective devices to protect the residential improvements and restrictions on future improvements to the authorized development (see Special Conditions 1-5).

The motion to adopt the staff recommendation of approval with special conditions is on [page 4](#).

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EXHIBITS

[Exhibit 1 – Regional Location Map](#)
[Exhibit 2 – Vicinity, Aerial, and Parcel Map](#)
[Exhibit 3 – Topographic Map](#)
[Exhibit 4 – Existing Site Plan](#)
[Exhibit 5 – Proposed Site Plan](#)
[Exhibit 6 – Existing Floor Plans](#)
[Exhibit 7 – Proposed Floor Plans](#)
[Exhibit 8 – Proposed Elevations](#)
[Exhibit 9 – Geology Memo \(excerpt\)](#)

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve coastal development permit 1-18-0271 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment:** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration:** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable amount of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation:** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment:** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

- 5. Terms and Conditions Run with the Land:** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Conformance of Final Design and Construction Plans to the Geologic Reports

- a. All final design and construction plans, including site preparation, foundation design, and drainage plans, shall be consistent with the recommendations contained in the geologic memo for the site prepared by Lindberg Geologic Consulting dated May 23, 2018 ([Exhibit 9](#)). All authorized development shall be located in the locations proposed in the permit application, which, with the exception of the detached deck with a pergola to be constructed adjacent to the existing septic mound are no closer than approximately 175 feet back from the bluff edge consistent with the measurements in the Lindberg memo.
- b. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or Geotechnical Engineer) has reviewed and approved all final site preparation, foundation design, and drainage plans and the minimum bluff edge setback plot plan, and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geologic report and plot plans approved by the California Coastal Commission for the project site.
- c. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. No Future Bluff or Shoreline Protective Device

- a. By acceptance of this permit, the applicant agrees, on behalf of himself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to coastal development permit (CDP) 1-18-0271, including, but not limited to, the additions to the existing single-family residence, the greenhouse, new well house/shed, and new decking and pergolas in the event that the authorized development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- b. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner(s) shall remove the development

authorized by this permit, including, but not limited to, the additions to the existing single-family residence, the greenhouse, new well house/shed, and new decking and pergolas or other development authorized under this CDP, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a CDP.

- c. In the event the edge of the bluff recedes to within 10 feet of the authorized development but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the landowner(s), that addresses whether any portions of the structures are threatened by waves, erosion, storm conditions, bluff failure, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the structures without shore or bluff protection, including, but not limited to, removal or relocation of the structures. The report shall be submitted to the Executive Director and the appropriate local government officials. If the geotechnical report concludes that the structures are unsafe for occupancy, the permittee shall, within ninety (90) days of submitting the report, apply for a CDP amendment to remedy the hazard, which shall include removal of the threatened portion of the structure.

3. Assumption of Risk, Waiver of Liability, and Indemnity Agreement. By acceptance of this permit, the applicant acknowledges and agrees (a) that the site may be subject to hazards from earthquakes, erosion, landslides, bluff failure, and other geologic hazards; (b) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

4. Deed Restriction Recordation of Permit Conditions. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (a) indicating that, pursuant to this permit, 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 (b) imposing the Special Conditions of this permit 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. 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 shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

5. **Future Development Restriction.** This permit is only for the development described in coastal development permit (CDP) 1-18-0271. 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 1-18-0271. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDP 1-18-0271 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 1-18-0271 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).
6. **Construction Responsibilities.** The permittee shall adhere to appropriate construction-related best management practices (BMPs) to protect water quality, including, but not limited to, the following:
 - a. No construction materials, debris, or waste shall be placed or stored where it may be subject to entering coastal waters;
 - b. Any and all debris resulting from construction activities shall be removed from the project site and disposed of properly;
 - c. During the course of the project work, all trash shall be properly contained, removed from the work site on a regular basis, and properly disposed of to avoid contamination of habitat during demolition and construction activities;
 - d. All on-site stockpiles of construction debris and soil or other earthen materials shall be covered and contained whenever there is a potential for rain to prevent polluted water runoff from the site; and
 - e. BMPs shall be used to prevent the entry of polluted stormwater runoff into coastal waters during construction and post-construction, including the use of appropriate BMPs for erosion and runoff control and post-construction BMPs for roof runoff controls, vegetated buffer strips, and bioretention as detailed in the current California Storm Water Quality Best Management Handbooks (<https://www.casqa.org/resources/bmp-handbooks>).
7. **Lighting Limitations.** All exterior lighting attached to the authorized structures shall be low-wattage and downcast shielded such that no glare will be directed beyond the bounds of the property.
8. **Protection of Archaeological Resources.**
 - a. If an area of cultural deposits is discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection

- (b) hereof; and a qualified cultural resource specialist shall analyze the significance of the find.
- b. A permittee seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.
- (i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director.
- (ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.
- 9. Landscaping Restrictions.** The permittee shall comply with the following landscaping-related requirements:
- a. Only native and/or non-invasive plant species shall be planted. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, 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 governments of the State of California or the United States shall be utilized within the bounds of the property; and
- b. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone shall not be used.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT DESCRIPTION AND SETTING

The applicant proposes improvements to an existing 984-square-foot single-story, three bedroom, single-family residence constructed in 1955. Proposed improvements include: (1) interior remodeling of the existing residence; (2) replacing the existing composite roof with a new metal roof; (3) replacing the existing exterior siding with new wood or cement board siding and exterior siding on the existing residence; (4) adding a 720-square-foot, maximum 33-foot-tall 2-story attached addition to the existing residence (with lower story garage and upper story bedroom plus bathroom); (5) constructing a new 1,232-square-foot, maximum 18-foot-tall metal-framed greenhouse on a cement-footing foundation; (6) replacing the existing well-house with a new 576-square-foot, maximum 12-foot-tall well house and shed on a cement slab foundation; and (7) adding over 700 square feet of new attached and detached decks with pergolas. There will be no change in the total number of bedrooms with the remodeled and expanded residence on the property (a total of three bedrooms). Project plans are attached as [Exhibits 4-8](#).

The subject lot, located at 121 Driftwood Lane (APN 517-071-031), is approximately 0.4-acre in size and is approximately one-half mile south of Patricks Point State Park and six miles north of the City of Trinidad. The lot is bordered by Driftwood Lane to the south and west and by Quarnada Lane to the east ([Exhibits 1-2](#)).

The subject property is at an elevation of over 200 feet above sea level. The existing house is approximately 175 feet from the bluff edge and separated from the bluff by intervening lots and, Driftwood Lane. The house is not visible from Patricks Point Drive, which is the first public road paralleling the sea in this area. Abundant forest vegetation along Patricks Point Drive blocks views to the ocean from the roadway and screens houses west of Patricks Point Drive, including the subject house, from public view. Unlike much of the land along Patricks Point Drive, the subject site does not fall within a County-designed Coastal Scenic Area. There are no wetlands or other environmentally sensitive areas on the property.

B. STANDARD OF REVIEW

Although Humboldt County has a certified local coastal program (LCP), the property is located in a non-certified area (area of deferred certification, or ADC) that includes all of the privately owned lands, other than lands owned by the Trinidad Coastal Land Trust, located west of Scenic Drive, west of Stagecoach Road, and west of Patricks Point Drive (where they are the first public roads paralleling the sea), and along the route of the Sixth Avenue Trail in the Westhaven area. In denying certification for this area of the Trinidad Area Plan (LUP) in 1982, the Commission suggested that the Plan's policies regarding the protection of the public's right of access where acquired through use (i.e. potential prescriptive rights) be modified to conform to the natural resource, hazard, and public access policies of the Coastal Act. The County did not accept the suggested modifications, and the geographic area became an ADC. As a consequence, the Commission retains CDP jurisdiction over the site, and the standard of review for issuance of a CDP is whether the development is consistent with the Chapter 3 policies of the Coastal Act.

C. OTHER AGENCY APPROVALS

The County approved a Special Permit (SP-18-090) for the proposed development on December 5, 2018.

D. LOCATING AND PLANNING NEW DEVELOPMENT

Section 30250 of the Coastal Act states in applicable part (emphasis added):

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

...

Section 30250(a) of the Coastal Act states in part 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. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

The property is located in a rural residential area with no community services. The proposed improved and expanded single-family residence will continue to be served by the on-site individual sewage disposal system and on-site well. The County Department of Environmental Health (DEH) has been consulted regarding the adequacy of the septic system and well to serve the improved and expanded single-family residence. DEH determines the demand for water and septic capacity of a residence based on the total number of bedrooms in the residence. As there will be no increase in the total number of bedrooms with the proposed residential improvements, the improvements will not increase the demand on the existing water and septic systems. Therefore, the existing systems have adequate capacity to serve the proposed development.

As described in the findings below, the proposed project, as conditioned, will not have significant adverse impacts on coastal resources. Therefore, the Commission finds that the proposed development is consistent with Coastal Act section 30250(a) to the extent that it has adequate water and septic capability to accommodate it and it will not cause significant adverse effects, either individually or cumulatively, on coastal resources.

E. GEOLOGIC HAZARDS

Section 30253 of the Coastal Act states, in applicable part:

New development shall do all of the following:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

...

The proposed new structures and residential additions all will be located approximately 175 feet or more back from the bluff edge with the exception of a detached deck with a pergola which will be somewhat closer, on the order of several feet. The subject lot is separated from the bluff edge by Driftwood Lane and other residential lots. The coastal terrace upon which the subject lot is located lies at an elevation of approximately 200 feet above mean sea level. The applicant's consultant completed a geotechnical assessment for the site, which evaluated bluff retreat and also involved a limited subsurface exploration. The resulting report (Lindberg 2018, excerpts provided in [Exhibit 9](#)) concludes that the subject parcel "will remain stable for the expected life

of [the] proposed developments...” and “runoff from [the] proposed developments will not contribute to erosion or instability.” Also, the report concludes, “Coast line retreat, even accelerated by rapid sea level rise, will not require construction of any retaining wall or other protective device to protect [the] parcel during the life of the proposed structures” (i.e., 70 years, according to the geology memo). These conclusions appear to be based on an examination of aerial photographs showing little or no evidence of bluff top retreat over the past 30 years, along with the geologist’s prior experience working in this area.

The Commission’s geologist, Dr. Joseph Street, has reviewed the applicant’s geotechnical assessment and other studies and evidence relevant to the immediate project area, and generally concurs with the geologist’s conclusions. Although only limited information about bluff erosion and stability can be drawn from a qualitative assessment of aerial photographs spanning just 30 years, the Lindberg (2018) assessment is consistent with other studies in the project vicinity which have documented little or no coastal bluff retreat along Patrick’s Point Dr. since the 1940s (e.g., SHN 2004; SHN 2014; Pacific Watershed Associates 2017). A quantitative slope stability analysis of the parcel at 1724 Stagecoach Rd. (approximately 2.5 miles south of the Rutter property) found the bluff to be globally stable against slope failures (SHN 2014), although localized landslides have been observed in the project vicinity (SHN 2004). Relatively high cliff retreat rates of 1 – 1.5 feet per year have been estimated by the U.S. Geological Survey north of the project site at Palmer’s Point (Hapke et al. 2007); in the unlikely event that retreat rates of this magnitude occurred at the project site over the next 75 years (e.g., as a result of multiple large landslides), the total bluff retreat would be 75 to 113 feet, well short of the applicant’s proposed 175-foot bluff edge setback. Thus, the available evidence indicates that the proposed development will not be subject to geologic instability during its projected lifespan, even taking into account the potential for accelerated coastal erosion due to future sea level rise. The geologic assessment also includes recommendations related to soil compaction and foundation design.

The Commission finds that the development setback from the bluff proposed by the applicant is sufficient to protect the new development from bluff retreat hazards over its expected economic life. Adherence to this setback requirement, as well as the foundation design and other recommendations determined to be necessary by the geology investigations, is required by **Special Condition 1**, which requires that prior to permit issuance, a certified engineering geologist or geotechnical engineer shall approve all final site preparation, foundation design, and drainage plans, and bluff edge setback plot plan. The Commission finds that only as conditioned to ensure that the mitigation measures are properly incorporated into the development can the project be found consistent with Section 30253 of the Coastal Act.

Notwithstanding the relative degree of insulation of the proposed project improvements in their proposed locations from geologic hazards, the applicant is proposing to construct development that would be located on a high uplifted marine terrace bluff top that is subject to erosion risks. Consequently, the development will be located in an area of high geologic hazard. However, new development can only be found consistent with section 30253 of the Coastal Act if the risks to life and property from the geologic hazards are minimized and if a protective device, such as a cliff retaining wall or seawall, will not be

needed in the future to protect the development from erosion hazards. Although a geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is permissible at all on any given bluff top site, the Commission finds that a geotechnical evaluation alone is not a guarantee that a development will be safe from bluff retreat. It has been the experience of the Commission that in some instances, even when a thorough professional geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. Site-specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal processes and therefore cannot always absolutely predict bluff erosion rates. Geologic hazards are episodic, and bluffs that may seem stable now may not be so in the future.

The Commission finds that the subject lot is an inherently hazardous piece of property, that the bluff seaward of the subject site is actively eroding in some areas, and that the proposed new development will be subject to geologic hazards at some point in the future that potentially could engender the need for a bluff protective device, inconsistent with section 30253 of the Coastal Act. The proposed development could not be approved as being consistent with section 30253 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it. Based upon the geologic report prepared for the site and the evaluation of the project by the Commission's staff geologist, the risks of geologic hazard are minimized if development is sited and designed according to the setback and construction recommendations and conditions of this permit. However, given that all hazard risks cannot be eliminated, and the geologic report cannot guarantee that shoreline protection will never be needed to protect the proposed development, the Commission finds that the proposed development is consistent with the Coastal Act only if it is conditioned to provide that shoreline protection will not be constructed in the future.

The Commission thus finds that due to the inherently hazardous nature of this lot, the fact that no geology report can conclude with absolute certainty that a geologic hazard does not exist, the fact that the approved development and its maintenance may cause future unforeseen problems, and because section 30253 prohibits new development from engendering the need for bluff or shoreline protection that would substantially alter natural landforms along bluffs, it is necessary to attach Special Condition 2. **Special Condition 2** prohibits the construction of bluff or shoreline protective devices on the parcel to protect the approved development, requires that the landowner provide a geotechnical investigation and remove the approved development if bluff retreat reaches the point where this development is threatened, and requires that the landowners accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site. These requirements are necessary for compliance with Coastal Act section 30253.

In addition, **Special Condition 3** requires the landowner to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite the risks

identified in the geologic report, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. Furthermore, the Commission imposes **Special Condition 4** to require the applicant to record a deed restriction to impose the special conditions of this CDP as covenants, conditions, and restrictions on the use and enjoyment of the property. This special condition is required, in part, to effectively put future property owners on notice regarding the risks of development on the property, the prohibition against construction of bluff or shoreline protective devices to protect the approved development, the Commission's immunity from liability, and the indemnity afforded the Commission.

As noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide or massive slope failure, could result in destruction or partial destruction of the development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such a catastrophic event takes place, public funds are often sought for the clean-up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, **Special Condition 2** also requires the landowner to accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site, and agree to remove the approved development should the bluff retreat reach the point where a government agency has ordered that the structures not be inhabited.

Thus, the Commission finds that as conditioned, the proposed development minimizes risks to life and property and will not contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along the bluff.

The Commission notes that section 30610(a) of the Coastal Act exempts certain additions to existing single-family residential structures from CDP requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment. Depending on its nature, extent, and location, such an addition or accessory structure could contribute to geologic hazards at the site (e.g., installing a sizable accessory structure for additional parking, storage, or other uses normally associated with a single family home in a manner that does not provide for the recommended setback from the bluff edge). 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), 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 existing single-family residences 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 CDP.

As noted above, certain additions or improvements to the approved structure could involve a risk of creating geologic hazards at the site. Therefore, pursuant to section 13250 (b)(6) of Title 14 of

the CCR, the Commission attaches **Special Condition 5**, which requires that any future improvements to the development authorized by CDP 1-18-0271 shall require an amendment to the permit from the Commission or shall require an additional CDP from the Commission or from Humboldt County. This condition will allow future improvements to the permitted development to be reviewed by the Commission to ensure that the future improvements will not be sited or designed in a manner that would result in a geologic hazard. As previously discussed, **Special Condition 4** also requires that the applicant 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 also will assure that future owners are aware of these CDP requirements applicable to all future development.

The Commission thus finds that the proposed development as conditioned is consistent with section 30253 of the Coastal Act regarding geologic hazards, because the development as conditioned (1) minimizes risks to life and property, (2) will not contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, and (3) will not require the construction of protective devices that would substantially alter natural landforms along the bluff. The Commission finds only as conditioned is the proposed development consistent with section 30253 of the Coastal Act.

F. PROTECTION OF COASTAL WATERS

Section 30231 of the Coastal Act addresses the protection of coastal water quality and marine resources in conjunction with development and other land use activities. Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with the surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

There are no creeks or watercourses on the property, which is essentially level and flat, and all proposed development will be located on the 200-foot-high uplifted coastal terrace approximately 175 feet back from the bluff edge and separated from the bluff by an intervening road and parcels. Although the applicant will create new impervious surfaces as part of the project (footprints of new greenhouse, residential addition, new well house/shed, and new decking), given the project site's substantial distance back from the bluff edge (over 175 feet back), and the sufficient permeable areas that will remain around the impermeable areas to allow for onsite infiltration of stormwater runoff, combined with the fact that the project involves no significant grading or major vegetation removal, there is very little chance that sediment-laden runoff originating from the development site will flow over the bluff edge and down several hundred feet of slope into coastal waters.

To ensure that the applicant adheres to appropriate construction-related best management

practices (BMPs) for dust control and other water quality protection measures, the Commission attaches **Special Condition 6**. This condition requires in part the proper disposal of construction-related debris, the covering of stockpiles whenever there is a potential for rain to prevent polluted water runoff from the site, and the use of appropriate BMPs for erosion and runoff control as detailed in the current California Storm Water Quality Best Management Handbooks.

Therefore the Commission finds that the proposed development as conditioned is consistent with section 30231 of the Coastal Act, because the project as conditioned will protect water quality and the biological productivity of coastal waters.

G. VISUAL RESOURCES

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. The Section requires, in applicable part, that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

As discussed above, the project setting and the larger area around Patricks Point Drive is largely forested with an abundance of coniferous trees (redwood, Sitka spruce, grand fir, and others) and other forest vegetation lining the roadway and extending across the properties on either side of the road. There are no views of the ocean through the property available to the public. The proposed new maximum 33-foot-tall residential addition and 18-foot-tall greenhouse will be screened from Patricks Point Drive by existing vegetation, although the new structures will be visible from both Driftwood Lane and Quarnada Lane, both dead-end streets of limited public use.

The building site is located on level ground, and no grading or major vegetation removal is proposed that would result in major landform alteration. The proposed wood or cement board siding and metal roofing are similar to materials used on other homes in the immediate neighborhood. The County approved a Special Permit for Design Review for the proposed new structure on December 5, 2018 with findings that the proposed project is compatible with the neighborhood and will not be of greater height or bulk than nearby development.

Although the development pattern is largely hidden from public view due to dense vegetative growth surrounding the site, there is potential for the nighttime character of the area to be impacted by outside illumination, given that this is an area with relatively minimal exterior lighting. Accordingly, to prevent the cumulative impacts of light pollution on the visual resources of the area, the Commission attaches **Special Condition 7**, which requires that all exterior lighting associated with the proposed development be low-wattage and downcast shielded such that no glare is directed beyond the bounds of the property or into adjoining coastal waters or environmentally sensitive areas.

In summary, the proposed project as conditioned will be consistent with Section 30251, as the development will not adversely affect views to or along the coast, result in major landform alteration, or be incompatible with the character of the surrounding area.

H. ARCHAEOLOGICAL RESOURCES

Section 30244 of the Coastal Act states:

Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The Yurok Tribe is known to have settled along the Humboldt County coast within the general vicinity of the subject property. The Yurok had settlements extending from Little River State Beach near McKinleyville to areas within Del Norte County, including over 50 named villages clustered along the Klamath River and coastal lagoons and creeks.

Commission staff referred the project to the Tribal Historic Preservation Officers (THPO) for the Yurok Tribe, the Trinidad Rancheria, and the Wiyot area Tribes (Blue Lake Rancheria, Table Bluff Rancheria, and Bear River Band of Rohnerville Rancheria) for comment. The THPOs for the Blue Lake Rancheria and Table Bluff Rancheria responded by saying that the subject site is outside of the tribe's area of concern. Staff received no response from the Yurok Tribe or Trinidad Rancheria.

To ensure protection of any archaeological resources that may be inadvertently discovered at the site during ground-disturbing activities associated with the proposed development, the Commission attaches **Special Condition 8**. This condition requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease. To recommence construction following discovery of cultural deposits, the permittee is required to submit a supplementary archaeological plan for the review and approval of the Executive Director, who determines whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30244, as the development includes reasonable mitigation measures to ensure that construction activities will not result in significant adverse impacts to archaeological resources.

I. PUBLIC ACCESS

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or where adequate access exists nearby. Section 30211 of the Coastal Act requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214, the Commission is also limited by the need to show that any denial of a permit application based on these sections or any decision to grant a

permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The subject lot is a bluff-top parcel with an existing single-family residence. The lot is separated from the steep, craggily bluff face by Driftwood Lane and other residential parcels. The closest public access point to the property is Patricks Point State Park, approximately one-half mile north of the site. There is no evidence of public use of the subject property for public access, no evidence of trails on the property, and no indication from the public that the site has been used for public access purposes in the past. The proposed development will not significantly and adversely increase the demand for public access to the shoreline, as it involves development on an existing developed single-family residential lot. For all of these reasons, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act.

J. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Section 30240(b) of the Coastal Act requires that environmentally sensitive habitat areas (ESHAs) be protected against any significant disruption of habitat values potentially resulting from adjacent development. Section 30240(b) of the Coastal Act states, in applicable part, the following:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The subject property, which is a developed residential lot approximately 0.4-acre in size, does not contain any known environmentally sensitive habitat. However, the site is located less than one-half mile from Patricks Point State Park as well as approximately 175 feet from a coastal bluff face that extends down to a sandy beach and the Pacific Ocean. Several rare species and habitats are known to occur within and around Patricks Point State Park and the project vicinity, such as Sitka Spruce (*Picea sitchensis*) Forest, coastal streams with sensitive riparian habitat that support threatened salmonids, coastal bluff habitat that supports the rare Oregon coast paintbrush (*Castilleja littoralis*), coastal bluff habitat that supports Humboldt mountain beaver (*Aplodontia rufa humboldtiana*), and wetland and riparian habitats that support Pacific tailed frog (*Ascaphus truei*).

The Commission finds that the park and recreation area and sensitive habitats near the project site could be adversely affected if nonnative, invasive plant species were introduced in landscaping at the subject site. If any of the proposed 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. The applicant has not proposed any landscaping as part of the project. Nevertheless, the Commission attaches **Special Condition 9** to ensure that only native and/or non-invasive plant species are planted on the subject property. As conditioned, the proposed project will ensure that the ESHA near the site is not significantly degraded by any future landscaping that would contain invasive exotic species.

In addition, the Commission notes that 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. In addition, a sensitive species of rodent (Humboldt mountain beaver) is known to occur in the coastal bluff habitat west of the property, and individual mountain beavers could be adversely affected by the use of rodenticides on the site. To avoid these potential impacts to environmentally sensitive wildlife species, Special Condition 9 also contains a prohibition on the use of such anticoagulant-based rodenticides.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent ESHA, the project as conditioned will not significantly degrade adjacent ESHA or adjacent parks and recreation areas and will be compatible with the continuance of the habitat areas and park and recreation area. Therefore, the Commission finds that the project as conditioned is consistent with Section 30240(b) of the Coastal Act.

K. LOCAL COASTAL PROGRAM CERTIFICATION

Section 30604(a) of the Coastal Act states in part that prior to certification of a local coastal program (LCP), a CDP shall be issued only if the issuing agency finds that the proposed development is in conformity with the provisions of Chapter 3 of the Coastal Act, and the permitted development will not prejudice the ability of the local government to prepare a LCP that is in conformity with the provisions of Chapter 3.

As described above, the area that includes the subject site along with all of the bluff-top lots located west of Stagecoach Road and west of Patricks Point Drive between Trinidad State Beach and Patricks Point State Park, as well as several lots in the Westhaven area south of Trinidad, is located in an area that lacks a certified LCP (Area of Deferred Certification or ADC). The County considers the site designation to be Rural Residential (RR).

In denying certification for this area of the Trinidad Area Plan in 1982, the Commission suggested that the plan's policies regarding the protection of the public's right of access where acquired through use (i.e. potential prescriptive rights) be modified to conform to the natural resource, hazard, and public access policies of the Coastal Act. As discussed in the findings above, the development does not affect wetlands or environmentally sensitive habitat, the geologic hazards affecting the site have been evaluated and special conditions have been attached to the permit to protect against bluff retreat hazards, and there is no evidence of potential prescriptive rights of access on the subject lot. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act, and approval of the project will not prejudice the ability of Humboldt County to prepare an LCP for this area that is in conformity with the provisions of Chapter 3.

L. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Humboldt County served as the lead agency for the project for CEQA purposes. The County determined the project to be categorically exempt from environmental review pursuant to Section 15303, Class 3 – New Construction/Conversion Small Structures of the CEQA Guidelines.

Section 13906 of the Commission’s administrative regulation requires Coastal Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project were received by the County as the lead agency during CEQA review of the project, nor were any public comments received by the Coastal Commission prior to preparation of the staff report. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**APPENDIX A
SUBSTANTIVE FILE DOCUMENTS**

Application file for CDP Application No. 1-18-0271

Application files for CDP Application Nos. 1-15-0530 (Wells), 1-09-013 (Decker), and NCR-CC-76-720-A1 (Geider)

Hapke, C., D. Reid, K. Green, M. Borrelli, 2007. National Assessment of Shoreline Change: Part 4: A GIS Compilation of Vector cliff edges and associated change data for the cliffed shorelines of the California Coast: Open-File Report 2007-1112, U.S. Geological Survey, Coastal and Marine Geology Program, U.S. Geological Survey, Pacific Science Center, Santa Cruz.

Pacific Watershed Associates, Inc., 2017. Coastline Retreat Analysis for Deck Replacement, 3224 Patrick's Point Dr., Trinidad, CA, Humboldt County APN 517-051-007, prepared for Stephen Geider, CDP application amendment no. NCR-CC-76-720-A1, dated August 1, 2017.

SHN Consulting Engineers & Geologists, 2004. Geologic Evaluation of APN 517-271-09 Focusing on Bluff Stability, prepared for Paul and Kristin Decker, CDP application no. 1-09-013, dated February 12, 2004.

SHN Consulting Engineers & Geologists, 2015. Response to 2nd CCC Staff Review Letter, CDP application no. 1-15-0530 (Wells), 1724 Stagecoach Rd., Patrick's Point, Humboldt County, dated December 11, 2015.

County of Humboldt Local Coastal Program