

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
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W15

Prepared January 4, 2021 (for January 13, 2021 Hearing)

To: Coastal Commissioners and Interested Persons

From: Dan Carl, Central Coast District Director

Subject: Central Coast District Director's Report for January 2021

The following coastal development permit (CDP) waivers, immaterial CDP amendments, immaterial CDP extensions, and emergency CDPs for the Central Coast District Office are being reported to the Commission on January 13, 2021. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review from staff at the Commission's Central Coast District Office in Santa Cruz. Staff is asking for the Commission's concurrence on the items in the Central Coast District Director's Report and will report any objections received and any other relevant information on these items to the Commission when it considers the Report on January 13th during the virtual online hearing.

With respect to the January 13th hearing, interested persons may sign up to address the Commission on items contained in this Report prior to the Commission's consideration of the Report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on January 13, 2021 (see attached)

CDP Waivers

- None

CDP Amendments

- 3-82-199-A9, Carmel Area Wastewater District (Carmel)

CDP Extensions

- None

Emergency CDPs

- G-3-20-0041, Crow's Nest COVID-19 Outdoor Dining Measures (Santa Cruz Harbor)

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: December 29, 2020

To: All Interested Parties

From: Susan Craig, Central Coast District Manager
Colin Bowser, Coastal Planner

Subject: Proposed Amendment to Coastal Development Permit (CDP) 3-82-199
Applicant: Carmel Area Wastewater District

Original CDP Approval

CDP 3-82-199 was approved by the Coastal Commission on January 20, 1981 to authorize a series of improvements and upgrades to bring the Carmel Area Wastewater District's (CAWD) wastewater treatment plant (originally constructed in 1939) into compliance with water quality standards at the time. More specifically, the CDP authorized infrastructure upgrades to address problems from inadequately sized treatment capacity, including expanded capacity and construction of recycled water facilities meant to provide treated wastewater for a variety of uses, including to irrigate nearby golf courses. The 1981 CDP approval also included a series of conditions addressing the plant's operations, including service area boundaries, treatment capacity, flood management/coastal hazards (i.e., prohibiting levees, dikes, and other shoreline protective devices to protect the plant from flooding), public coastal access (i.e., requiring CAWD to offer an easement or enter into an agreement to allow a public trail along the Carmel River to the shoreline), and habitat preservation (i.e., requiring CAWD to develop a plan to protect riparian habitat located outside of the Plant's boundaries).

The CDP has been amended eight times since its initial approval to authorize various other proposed changes, most recently in March of 2020. That approval authorized a series of after-the-fact changes to the plant's infrastructure and operations including installing a new digester and digester control buildings, a new sodium bisulfite/hypochlorite facility, a new storm water pump station and electrical service pad, and performing repairs and modifications to ten existing facilities and structures. The amendment also recognized after-the-fact removal of approximately 2,500 square feet of riparian vegetation and expansion of the District's wastewater service boundary. As part of the approval, and as mitigation for the removal of the riparian vegetation, the Commission imposed Special Condition 4, which required that CAWD place roughly 10 acres of riparian habitat outside of the plant's developed footprint in a conservation easement for habitat and public access purposes. This conservation area would provide habitat and public access to the site's natural area on the Carmel River's lower watershed and lagoon that surrounds the plant.

3-82-199-A9 (Carmel Area Wastewater District)

Proposed CDP Amendment

CDP 3-82-199 would be amended to change the wording of Special Condition 4(d) (Easement Recordation) to remove the words “Prior to Issuance of the Amended CDP” from the special condition. Special Condition 4(d) required CAWD to complete the easement and have it recorded before the CDP would be issued. CAWD has provided Commission staff with all necessary materials for the recordation, but a lack of staff resources to record the easement has resulted in a delay in doing so and thus a delay in issuing the CDP. The proposed amendment would allow the Commission to issue the CDP while still working with CAWD on the recordation process. The Commission’s reference number for this proposed immaterial amendment is **3-82-199-A9**.

Executive Director’s Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The proposed amendment would allow the CDP to become effective and issued now as opposed to after recordation of the easement. The easement is still required. Commission staff has coordinated with CAWD staff on the required process of designating the specified natural areas to be conserved through the easement and now awaits the easement’s official recordation. Staff is confident that the remaining steps in officially recording the conservation easement can proceed and believes that finalizing the easement after the CDP is issued will have no effect on the amended CDP’s overall implementation.

Coastal Commission Review Procedure

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director’s response to it will be reported to the Commission on January 13, 2021 at the Coastal Commission’s virtual online meeting. If three or more Commissioners object to the Executive Director’s determination of immateriality at that time, then the application will be processed as a material CDP amendment.

If you have any questions about the proposal or wish to register an objection, please contact Colin Bowser in the Central Coast District office at Colin.Bowser@coastal.ca.gov.

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EMERGENCY COASTAL DEVELOPMENT PERMIT

Emergency CDP G-3-20-0041 (COVID-19 Outdoor Dining Measures for The Crow's Nest)

Issue Date: November 24, 2020

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This emergency coastal development permit (ECDP) authorizes emergency development to implement the City and County of Santa Cruz's outdoor dining orders for restaurants during the COVID-19 pandemic. The Crow's Nest restaurant is located adjacent to the Santa Cruz Port District and Twin Lakes State Beach in the City of Santa Cruz. To provide for continued restaurant use while indoor-dining restrictions due to COVID-19 remain in place, The Crow's Nest requests to use outdoor public beach space for dining. The tent space will also be available to the general public without any limitation. Temporary development consists of placing a large tent surrounded by low temporary fencing on the western edge of the beach on the seaward side of The Crow's Nest. The restaurant will place appropriately distanced dining tables and chairs and a hostess stand within the tent's footprint. The Permittee will place signs along the fence and on the hostess stand stating that the tent area is available for The Crow's Nest dining as well as for general public use with no purchase required.

Based on the materials presented by the Permittee, the economic effects of necessary public health restrictions on commercial indoor and outdoor dining mandated by City, County, and State health authorities during the COVID-19 pandemic have severely jeopardized the viability of the Permittee's business, which is sustained by both local residents and visitors to the beach, and have thus seriously reduced the Permittee's ability to operate a visitor-serving business and contribute to local community function. Thus, the proposed emergency measures are necessary to maintain the Permittee's viable economic functioning and the prospects for future recovery until public health orders and restrictions on indoor dining are lifted after the COVID-19 pandemic ends. The project is conditioned to ensure these measures are temporary, to require adequate trash and recycling receptacles at the site, to require clear signage announcing that the tent seating area is open to The Crow's Nest patrons and the general public during business hours, and to require proper social distancing space in all affected areas of outdoor seating.

Therefore, the Executive Director of the California Coastal Commission hereby finds that:

- (a) An emergency exists that requires action more quickly than permitted by the procedures for administrative or ordinary CDPs, and that the development can and

G-3-20-0041 (COVID-19 Measures for The Crow's Nest)

will be completed within 30 days unless otherwise specified by the terms of this ECDP; and

- (b) Public comment on the proposed emergency development has been reviewed if time allows.

The emergency development is hereby approved, subject to the conditions listed on the attached pages.

DocuSigned by:

Susan Craig

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Susan Craig, Central Coast District Manager, for John Ainsworth, Executive Director

Conditions of Approval

1. The enclosed ECDP acceptance form must be signed by the Permittee and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this permit (i.e., by December 9, 2020). This ECDP is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. Only that emergency development specifically described in this ECDP is authorized. Any additional and/or different emergency and/or other development requires separate authorization from the Executive Director and/or the Coastal Commission.
3. The emergency development authorized by this ECDP must be completed within 30 days of the date of this permit (i.e., by December 24, 2020) unless extended for good cause by the Executive Director.
4. The emergency development authorized by this ECDP is only temporary and is designed to abate the identified emergency while the COVID-19 social distancing requirements remain in place and shall be removed if it is not authorized by a regular CDP. Within 60 days of the date of this permit (i.e. by January 23, 2021), the Permittee shall submit a complete application for a regular CDP to authorize the temporary emergency development. (The CDP application may be found at: <http://www.coastal.ca.gov/cdp/cdp-forms.html>). The application shall include photos showing the project site before the emergency, during emergency project development activities, and after the work authorized by this ECDP is complete. The deadline in this condition may be extended for good cause by the Executive Director.
5. In exercising this ECDP, the Permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This ECDP does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., City of Santa Cruz, Santa Cruz Port District, Santa Cruz County Health Services Agency, etc.). The Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.

G-3-20-0041 (COVID-19 Measures for The Crow's Nest)

7. All emergency development shall be limited in scale and scope to that specifically identified in the Emergency Permit Application Form dated received in the Coastal Commission's Central Coast District Office on October 30, 2020.
8. All emergency development is limited to the least amount necessary to abate the emergency.
9. All emergency development activities shall limit impacts to coastal resources (including public recreational access, the public beach, and the Pacific Ocean) to the maximum extent feasible including by, at a minimum, adhering to the following development requirements (which may be adjusted by the Executive Director if such adjustments: 1) are deemed necessary due to extenuating circumstances; and 2) will not adversely impact coastal resources):
 - a) All of the development measures included in this ECDP and any subsequent modifications made to these measures are temporary and will be completely removed by January 23, 2021 and the site restored to its previous condition or better than their previous condition unless a regular CDP application to retain the development has been submitted by that date.
 - b) If a local, county, state, or federal health or public safety directive requires public health and safety measures more stringent or greater than those currently in effect such that the conditions of this ECDP cannot be safely met, the applicable COVID-19 measures authorized by this ECDP will become void and the development will be immediately removed.
 - c) Tent seating areas will be open to the general public as well as paying customers of The Crow's Nest. No distinction will be made at any time between seating offered to paying customers of The Crow's Nest and seating offered to the general, non-paying public. The general public seeking to use tent seating will not be required to receive permission from any restaurant employee or other staff at any time. Signs stating that the tent seating area and adjacent public accessways are 1) open to the general public and to paying customers at all times, and 2) available to the general public without permission from restaurant employees or staff during restaurant operating hours, will be prominently displayed at several locations along each side of the tent's perimeter fence and on the hostess stand in front of the tent.
 - d) Outdoor seating will minimize intrusion into accessways but will at all times maintain at least six feet of distance between a seating area and the edge of an accessway or another seating area. Restaurant staff will minimize intrusion into public accessways and seating arrangements will minimize restaurant staffs' through traffic through accessways. No restaurant support tables, hostess tables, or other such ancillary restaurant stands will be established in public accessways at any time.
 - e) Covered and designated trash and recycling receptacles sufficient to support the outdoor seating will be provided and serviced as needed.

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- f) All precautions will be taken to ensure that litter and refuse will be prevented from entering the beach area, the Santa Cruz Harbor, and the Pacific Ocean.
 - g) The temporary fence separating the tent's outdoor seating area from the public beach will be an attractive, low-profile design and have at least three entrances – one at each end of the tent and one at the east side of the tent facing the beach volleyball area. The Permittee will maintain the tent, the perimeter fence, and the rigid tent floor sections in good working order and promptly repair and/or replace any damaged parts.
 - h) The development site shall maintain good site housekeeping controls and procedures at all times. This includes cleaning up all spills and refuse immediately, disposing of all refuse and recyclables properly during restaurant operating hours, placing trash and recycling receptacles on site for that purpose, keeping all items used for operating the tent seating area neatly organized, and removing all loose items associated with the development at the end of every business day.
 - i) All accessways impacted by development activities shall be restored to their pre-development condition or better within three days after social distancing requirements are lifted. This includes the area of sandy beach on which the temporary development is sited, which will be returned to the same grade and sand cleanliness as the beach around the tent site within three days after social distancing requirements are lifted.
 - j) The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office immediately upon completion of removal of the development and the required restoration activities. If planning staff identify additional reasonable restoration measures, such measures shall be implemented immediately.
10. Copies of this ECDP shall be maintained in conspicuous outdoor locations at the site, and such copies shall be available for public review on request. All persons involved with the development, including all restaurant staff that interacts with the public, shall be briefed on the content and meaning of this ECDP and the public review requirements applicable to it.
11. A development coordinator shall be designated to be contacted during the period in which these development measures are taken to answer questions regarding the development (in case of both regular inquiries and emergencies), and his/her contact information (i.e., address, email, phone numbers, etc.) including, at a minimum, a telephone number and email address that will be made available 24 hours a day for the duration of the development, shall be conspicuously posted at the sites where such contact information is readily visible from public viewing areas, along with indication that the coordinator should be contacted in case of questions regarding the development (in case of both regular inquiries and emergencies). The coordinator shall record the contact information (e.g., name, address, email, phone number, etc.) and nature of all complaints received regarding the COVID-19

G-3-20-0041 (COVID-19 Measures for The Crow's Nest)

measures, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. Within 30 days of completion of development authorized by this ECDP, the Permittee shall submit the record (of complaints/inquiries and actions taken in response) to the Executive Director.

12. This ECDP shall not constitute a waiver of any public rights which may exist on the property. The Permittee shall not use this ECDP as evidence of a waiver of any public rights which may exist on the property.
13. Failure to comply with the conditions of this approval may result in enforcement action under the provisions of Chapter 9 of the Coastal Act.
14. The issuance of this ECDP does not constitute admission as to the legality of any development undertaken on the subject site without a CDP and shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Chapter 9 of the Coastal Act.

As noted in Conditions 4 and 5 above, the emergency development carried out under this ECDP is considered temporary work done in an emergency situation to abate an emergency and is undertaken at the Permittee's risk. For the development to be authorized under the Coastal Act and/or if the Permittee wish to expand the scope of work, a regular CDP must be obtained. A regular CDP is subject to all of the provisions of the California Coastal Act and may be conditioned or denied accordingly.

If you have any questions about the provisions of this ECDP, please contact the Commission's Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863 or via email to Colin.Bowser@coastal.ca.gov.

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EMERGENCY COASTAL DEVELOPMENT PERMIT ACCEPTANCE FORM

RECEIVED

DEC 09 2020

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

TO: CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060

RE: **Emergency Coastal Development Permit (ECDP) No. G-3-20-0041**

INSTRUCTIONS: After reading the attached ECDP, please sign this form and return it to the Central Coast District Office within 15 days from the permit's date.

I hereby understand all of the conditions of the ECDP being issued to Charles Maier of The Crow's Nest and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular CDP is necessary. I agree to apply for a regular CDP within 60 days of the date of issuance of this ECDP (i.e., by **January 23, 2021**) unless this deadline is extended by the Executive Director.

Signature

Charles Maier

Name (Print)

2218 E. Cliff Dr.

Address

Santa Cruz, CA 95062