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Filed:	7/27/2021
180th Day:	1/23/2022
Staff:	C. Holloway-A
Staff Report:	11/5/2021
Hearing Date:	11/18/2021

STAFF REPORT: REGULAR CALENDAR

Application No.:	1-21-0356
Applicant:	Beth Brown
Location:	993 Port Kenyon Road, Ferndale Area, Humboldt County
Project Description:	Demolish a one-story, 1,445-square-foot farmhouse and construct a new two-story, 1,610-square-foot, maximum 31-foot-high farmhouse with 613 square feet of decking, an on-site wastewater treatment and disposal system, and landscaping on a 0.86-acre agricultural lot.
Staff Recommendation:	Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The 0.86-acre property is located approximately ¼-mile northwest of the City of Ferndale in between the legacy communities of Arlynda Corners and Port Kenyon in the Eel River Delta, an area of cultivated agricultural lands in Humboldt County's coastal zone. The northern portion of the property contains a stretch of the Salt River's high-flow channel and associated riparian corridor. The existing farmhouse, landscaping, and an existing 1,326-square-foot barn are located on the southern end of the property.

The primary Coastal Act issues associated with this project are protection of agricultural lands, water quality, and adjacent ESHA. The property is located entirely in the Commission's retained jurisdiction. While the standard of review that the Commission must apply to the proposed new development is the Chapter 3 policies of the Coastal Act, the County's certified LCP may be used as guidance. The property is locally planned and zoned for agricultural use (Agriculture Exclusive, AE). The County's certified land use plan allows for farmhouses to be established on AE lands and

considers farm dwellings that are “incidental to agriculture” to be a permissible agricultural use of the property. The LUP expressly recognizes farmhouses occupied by the farm owner and their parents and children as dwellings incidental to the agricultural use. The LCP’s restrictions on residential uses on agricultural lands reflect a core policy concern of the Coastal Act to protect coastal agriculture through the limitation on conversion of agricultural lands to non-agricultural uses (sections 30241 and 30242).

The applicant proposes to construct a farmhouse to live on their agricultural land to enable more efficient management of their farm operations. The applicant has submitted a preliminary farming plan for the property that details plans to cultivate commercial flowers and Christmas trees. As proposed, the farmhouse would be (a) occupied by the farm owner/farm operator and (b) incidental to the primary farming use of the property. The new farmhouse would be constructed primarily within the same footprint as the existing deteriorating farmhouse to maximize the remaining area available for commercial cultivation. The combined development footprint, including the residence, deck, parking pad, setback distances from Port Kenyon Road, and septic system, will occupy approximately 6,000 square feet or 0.14-acre (~16%) of the approximately 0.86-acre lot. The subject lot is smaller than many of the surrounding large agricultural lots that have development areas closer to a quarter acre. This less than one-quarter-acre development area is typical for small agricultural lots in the region and includes the minimum 20-foot front yard setback for development from public roadways for agricultural zoning districts required by the County. The clustering of development adjacent to Port Kenyon Road and near the existing barn and driveway will minimize the structural encroachment into open agricultural lands available for continued crop growing throughout the northern half of the property. The proposed utilization of the existing barn for agricultural uses further minimizes the encroachment of farmhouse development onto other prime agricultural lands on the property.

Staff recommends that the Commission attach Special Conditions 1-2 to ensure that the maximum amount of agricultural land is maintained in agricultural production and to prevent any future conversion of the farmhouse and agricultural land to non-agricultural uses. Special Condition 1 would require that the authorized farmhouse be occupied by the farm owner or operator of the subject lot and be incidental to the primary farming use of the property. Special Condition 2 would require that all future improvements to the structures authorized by this permit that might otherwise be exempt from coastal permit requirements pursuant to Coastal Act section 30610(a) be authorized by an amendment to this CDP or a new CDP. In addition, the new farmhouse would be developed approximately 100 feet from the edge of riverine and riparian habitat associated with the Salt River corridor, and the new OWTS would be located approximately 60 feet from riparian habitat. Staff recommends Special Conditions 6, 7, and 9 to assure that the project is consistent with the relevant Coastal Act policies (sections 30230, 30231, and 30240).

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

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I. Motion and Resolution

A. Motion

I move that the Commission **approve** Coastal Development Permit Application No. 1-21-0356 pursuant to the staff recommendation.

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

B. Resolution

The Commission hereby **approves** Coastal Development Permit Application No. 1-20-0360 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 period 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. **Farmhouse Restriction.** The authorized farmhouse is to be occupied by the farm owner(s) or farm operator(s) of the agricultural operations on the subject property and incidental to the primary farming use of the subject property. Compliance with these standards is required in order for the farmhouse to be occupied.
2. **Future Development Restriction.** This permit is only for the development described in Coastal Development Permit Application No. (CDP) 1-21-0356, including, but not limited to, the authorized farmhouse, which is to be occupied by the farm owner(s) or farm operator(s) and incidental to the primary farming use of the subject property. The following future development restrictions apply:
 - A. 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 1-21-0356. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDP 1-21-0356 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government.
 - B. In addition, an amendment to CDP 1-21-0356 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 §13252(a)-(b); and
 - C. Pursuant to PRC section 30106, any change in the density or intensity of the use of the land, including, but not limited to, conversion of the authorized farmhouse to a non-agricultural residential use shall require an amendment to CDP 1-21-0356 from the Commission.
3. **Deed Restriction Recordation of Permit Conditions.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval documentation demonstrating that the permittee 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.

4. 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 report of the site prepared by Whitchurch Engineering dated July 9, 2021.
- B. 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.

5. Assumption of Risk, Waiver of Liability, and Indemnity Agreement. By acceptance of this permit, the permittee acknowledges and agrees (a) that the site may be subject to hazards from earth movement, earthquake shaking, liquefaction, differential settlement, erosion, flooding, and other geologic and flood hazards; (b) to assume the risks to the permittee 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.

6. Landscaping Restrictions. The permittee shall comply with the following landscaping-related requirements:

- A. Only native and/or non-invasive plant species shall be planted as landscaping on the property. 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. The use of rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.
- 7. Lighting Limitations.** All exterior lighting, including any lights installed as part of the development approved under CDP 1-21-0356, or in the future, shall be low-wattage, shielded, and downcast such that no light will shine beyond the bounds of the property or into adjacent sensitive habitats.
- 8. Protection of Archaeological Resources.** If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not recommence until a qualified cultural resource specialist, in consultation with the Tribal Historic Preservation Officers of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (A) 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, or (B) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not de minimis, and the permittee has thereafter obtained an amendment to CDP 1-21-0356.
- 9. Construction Responsibilities.** All construction-related best management practices (BMPs) proposed by the permittee in the CDP application materials shall be implemented, 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 (<http://www.cabmphandbooks.com>).

IV. Findings and Declarations

A. Project Description and Environmental Setting

The applicant, Beth Brown, proposes to demolish a one-story, 1,445-square-foot farmhouse and construct a new two-story, 1,610 square-foot, maximum 31-foot-tall farmhouse with 613 square feet of lower and upper decking, an on-site wastewater treatment system (OWTS), and landscaping at 993 Port Kenyon Road, approximately ¼-mile northwest of the City of Ferndale in Humboldt County (APN 100-231-012) ([Exhibit 1](#)). The approximately 0.86-acre lot is developed with an existing 1940s-era farmhouse, an existing 1,326-square-foot Quonset-style barn, and landscaping. All proposed new development would be contained within the southern portion of the property nearest to Port Kenyon Road.

The subject lot is located on the north side of Port Kenyon Road and contains a portion of the Salt River channel (high-flow areas) and associated riparian corridor. The Salt River is a tributary of the Eel River that is tidally influenced up to approximately Dillon Road, which is about a half-mile downstream from the subject lot¹.

The property is approximately one quarter of a mile northwest of Ferndale, a half-mile west of the legacy community of Arlynda Corners² (which is provided with urban sewer

¹ The current extent of tidal influence has been documented by the Humboldt County Resource Conservation District during implementation of the Salt River Ecosystem Restoration Project, which commenced construction in 2012 and is in construction near Williams Creek, about a mile upstream of the subject site.

² According to the Humboldt County Housing Element, an unincorporated legacy community is a geographically isolated inhabited area containing no less than ten housing units that has existed for at least 50 years, with a median household income of less than 80 percent of the state-wide average, and that is not located within the Sphere of Influence of a city.

and water services by the City), and half a mile east of Port Kenyon, which was established in the late 1800s along the banks of the Salt River for shipping lumber, salmon, and farm products out of the area. The communities of Port Kenyon and Arlynda Corners declined decades later due to silting in of the Salt River and repeated flooding events, but several old farmhouses remain in the area, including on the subject property. The property is within the service area boundary of the Riverside Community Services District for domestic water service.

B. Standard of Review

The project site is located entirely in the Commission's retained permit jurisdiction. The County of Humboldt has a certified Local Coastal Program (LCP), but the site is within an area over which the state retains a public trust interest due to the former tidal extent of the Salt River/Eel River estuary. Therefore, as required by Public Resources Code section 30519(b) and 14 CCR section 13166(c), the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

C. Other Agency Approvals

The proposed project requires no other agency approvals other than a County building permit.

D. Protection of Agricultural Lands

The proposed project is located in the Eel River Delta, an important area of cultivated agricultural lands in Humboldt County's coastal zone. The soils of the Eel River Delta are a significant coastal resource enhanced by the deposits left by repeated major and minor flooding events.

The property is locally planned and zoned for agricultural use by the County under the Eel River Area Plan and coastal zoning regulations, and the applicant has a plan to farm the property. The applicant's farming operation ([Exhibit 6](#)) details the proposed plan to cultivate commercial flowers and Christmas trees on the property³. The proposed farm operation would occupy the northern portion of the parcel and cover approximately 0.25-acre (~30%) of the 0.86-acre lot (the applicant has indicated that agricultural operations may expand once established to include more beds and flower types). The applicant plans to live on the property in the proposed farmhouse and conduct business operations out of an on-site office located on the second floor of the farmhouse. The proposed farmhouse would ensure close proximity to the farm for daily operations and for security purposes.

³ Exhibit 6 includes a Site Planting Plan which includes both native landscaping to be planted in between the farmhouse and the road to replace existing landscaping, and row crops and tree species planned for commercial cultivation.

Summary of Coastal Act Policies Relevant to Farm Dwellings

The Coastal Act protects coastal agriculture first and foremost through several policies designed to concentrate urban development in existing developed areas and to protect prime agricultural lands. For example, Section 30250(a) requires that new residential, commercial, and industrial development “shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it...”. This requirement to concentrate urban development in existing urban areas establishes the fundamental framework for assuring that new urban development, including urban services, is not located in rural coastal areas where the protection of agricultural, scenic, biological, and other coastal resources is paramount. Coupled with this framework for limiting urban development to existing developed areas, the Coastal Act requires the establishment of stable urban-rural boundaries to assure that urban sprawl from existing urban areas does not overtake rural agricultural areas. The Coastal Act also requires that the maximum amount of prime agricultural land be maintained in agricultural production, and that the conversion of agricultural land along the urban periphery be limited to instances where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where conversion of agricultural lands would complete a logical neighborhood and contribute to the establishment of a stable limit to urban development or would concentrate development in urban areas. Specifically, Coastal Act section 30241 states (emphasis added):

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas’ agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- a. By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.
- b. By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.
- c. By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.4

⁴ The portion of referenced section 30250 applicable to this project type and location [sub-section (a)] requires that, “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

- d. By developing available lands not suited for agriculture prior to the conversion of agricultural lands.
- e. By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.
- f. By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Under section 30241, conversion of agricultural lands along the urban periphery is permissible only if agricultural use no longer viable, or unless conversion would complete a logical urban area and/or help to establish a stable urban-rural boundary that better protects agricultural land.

As discussed previously, the property is located approximately half a mile north of the city limits of Ferndale and half a mile west of the small unincorporated community of Arlynda Corners, which is provided with urban sewer and water services by the City. Although the subject site is near these urban boundaries, it is not directly “on the periphery” of an urban area or “surrounded by urban uses” within the meanings of sections 30241(b) and (c).

The Coastal Act also contemplates that both the identification and protection of agricultural land, and its possible conversion to non-agricultural uses, will be specifically addressed through LCP planning. In particular, the Coastal Act contemplates that in conjunction with the identification of urban-rural boundaries, agricultural lands will be designated and restricted to agricultural land uses, unless a future LCP amendment is approved that allows the conversion of the land to non-agricultural uses. Coastal Act section 30241.5 identifies a viability test for conversion of agricultural lands around the urban periphery when conversion is an issue in any LCP or LCP amendment.

In comparison to section 30241 and its focus on conversions of agricultural lands around the urban fringe and creating a stable urban-rural boundary, Coastal Act section 30242 addresses conversions of land suitable for agriculture in all other locations, i.e., rural locations without conflicts “between agricultural and urban land uses.” Coastal Act section 30242 states (emphasis added):

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such

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.”

permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30242 states rules to be applied for conversion of “all other lands suitable for agricultural use,” i.e., all conversions not addressed by the general section 30241 policy against prime land conversions (“the maximum amount of prime agricultural land shall be maintained in agricultural production...”) or the specific conversion standards of 30241 relating to conflicts “between agricultural and urban land uses.” Section 30242 includes no direct requirement for considering the resulting stability of the urban limit and in general provides a different standard of review than does section 30241(b). Notably, section 30242 does not deal with “agricultural land,” but rather with “all other lands suitable for agriculture.” One of the tests for conversion of such land is that agricultural use cannot feasibly be continued or renewed. This wording indicates that the policy was intended to be broadly applied, even to rural land that is not currently in agricultural use.

In summary, the Coastal Act provisions on conversion of agricultural lands are as follows:

- Prime agricultural lands are to be maintained in production.
- Prime and non-prime agricultural lands either on the urban periphery or surrounded by urban uses may be converted if they satisfy standards stated in subsections (b) and (c) of section 30241 as well as other applicable provisions of the Coastal Act.
- All other lands (i.e., rural locations without conflicts “between agricultural and urban land uses”) suitable for agricultural use may be converted only if conversion is consistent with section 30242 and other applicable provisions of the Act.
- When an LCP or LCP amendment proposes conversion of any agricultural land on the urban periphery under the viability provision of section 30241(b), the viability tests of section 30241.5 also must be satisfied.

Summary of LCP policies Related to Farm Dwellings

While the standard of review that the Commission must apply to the proposed new development is the Chapter 3 policies of the Coastal Act, the County’s certified LCP may be used as guidance.

The property is locally planned and zoned Agriculture Exclusive (AE) under the County’s certified LCP. The County’s certified land use plan (LUP, in this case the Eel River Area Plan) allows for farmhouses to be established on AE lands and considers farm dwellings that are “incidental to agriculture” to be a permissible agricultural use of the property. The LUP expressly recognizes farmhouses occupied by the farm owner and their parents and children as dwellings incidental to the agricultural use. Chapter 5

of the LUP describes the purpose of the AE land use designation as “to protect prime and non-prime agricultural lands for long-term productive agricultural use.” Principal uses allowed on AE lands under the certified LUP include (emphasis added):

...production of food, fiber or plants, with residence as a use incidental to this activity, including two (2) separate residences where one is occupied by the owner/operator and the other by the parent or child of the owner/operator, and principal uses permitted under TC; ancillary development such as barns, storage sheds, and similar agricultural structures.⁵

County certified Coastal Zoning Regulations (CZR) section 313-7.1 lists the conditionally permitted uses allowable on agricultural lands in the AE zoning district, most of which are uses that are ancillary to or supportive of agricultural production and therefore clearly consistent with the above-cited LCP and Coastal Act policies that require the maximum amount of agricultural lands to remain in agricultural production.⁶ Certain other conditionally permitted uses specified in the CZR, such as Oil and Gas Drilling and Processing, Aquaculture, Resource-Related Recreation, and Coastal Access Facilities, are not ancillary to or supportive of agricultural production but otherwise are aligned with other overriding Coastal Act requirements that also apply to agricultural lands.⁷ Consistent with Coastal Act section 30222, 30241, and 30242, the LCP gives precedence to agricultural land protection over these other Coastal Act priority uses on agricultural lands by specifying that conditionally permitted uses may only be authorized on agricultural lands provided that the conditional uses “will not

⁵ The referenced principal uses permitted under TC include “timber production including all necessary site preparation, road construction and harvesting, and residential use incidental to this use...”

⁶ Allowed conditional uses in the AE zoning district that are ancillary to or supportive of agricultural production include Farm Employee Housing; Labor Camp; Second Agriculture Residence (where one is occupied by the owner/operator and the other by the parent or child of the owner/operator); Hog Farming; Feed Lots/Slaughter House; Stables and Kennels; Agriculture-Related Recreation; and Intensive Agriculture. Other conditional uses allowed in the AE zoning district under the certified IP that are not ancillary to or supported of agricultural production include Guest House; Essential Services; Solid Waste Disposal; Oil and Gas Pipelines; Major Electrical Distribution Lines; Minor Generation and Distribution Facilities; Aquaculture; Cottage Industry; Oil and Gas Drilling and Processing; Surface Mining; Metallic Mineral Extraction; Fish and Wildlife Management; Watershed Management; Wetland Restoration; Resource-Related Recreation; and Coastal Access Facilities.

⁷ The provision allowing oil and gas development is derived from Coastal Act §30260, which expressly overrides the coastal resource protection policies of the Coastal Act in specified circumstances to allow oil and gas development and other coastal-dependent industrial development in the coastal zone, even when inconsistent with other Coastal Act policies. Similarly, coastal access, recreation, and aquaculture are all priority uses under the Coastal Act.

impair the continued agricultural use on the subject property or on adjacent lands or the economic viability of agricultural operations on the site” (CZR section 312-18.1.1).

With respect to dwellings on land designated AE, as discussed above, the County’s certified LCP allows for farmhouses to be established as a principally permitted use⁸ on AE lands provided that such dwellings are (a) occupied by the farm owner/operator, and (b) incidental to the primary farming use of the property. Thus, the LCP considers such dwellings to be an agricultural use of the property that does not represent a conversion of agricultural lands to a non-agricultural use and which will enhance the productivity of on-site agricultural lands. However, the LCP only allows other types of farm-related dwellings [i.e., Farm Employee Housing; Second Agriculture Residence (occupied by the parent or child of the owner/operator who resides in the primary farmhouse)] as well as non-farm-related dwellings (i.e., Guest Houses) on AE lands as conditionally permitted uses. The relegation of most types of dwellings under the LCP to conditionally permitted uses recognizes the fact that (a) different types of dwellings have the potential to undermine the protection of agricultural land by taking land out of agricultural production, (b) residential development is not a Coastal Act priority, and (c) there is no provision in the Coastal Act that overrides the Coastal Act resource protection policies in favor of residential development.

Proposed Agricultural Use

According to the applicant, who has owned the subject property since 2016, the property has not been actively used for agricultural operations for several decades. The property went into foreclosure prior to the most recent sale, and the property was most recently inhabited by unknown individuals who were not associated with the previous owner or the applicant. However, historical aerial photos of the Eel River Valley show the entire region, including the subject site, in agricultural use (mostly pastureland for dairy cattle and hay production).

The existing farmhouse and barn, which date to the 1940s, are located near the road, and thus the back half of the property is open for planting and/or grazing use. As previously discussed, the applicant proposes to construct a new farmhouse primarily within the same footprint as the existing deteriorating residence to preserve the back half of the parcel for commercial cultivation, and specifically for floriculture and Christmas trees. The existing barn will remain to support the proposed agricultural use. The barn is of an appropriate size and design to support agricultural operations, including storage of equipment, fertilizers, hay, etc. The applicant has provided an initial farm operation plan ([Exhibit 6](#)) that details plans to plant a variety of commercial flower crops as well as Christmas trees on the site. The flower crops would be planted in rows

⁸ Although the County’s certified LCP classifies farmhouses as a principally permitted use, certified IP section 313-163.1.9 expressly excludes farmhouses from being defined as the principally permitted use for purposes of appealability under section 30603(a)(4) of the Coastal Act.

of six, and the initial plans show a total of six flower beds planted at grade. The applicant has indicated that agricultural operations may expand once established to include more flower types and beds. The existing raised planting beds on either side of the barn will also be planted with commercial flower species. The applicant plans to hire at least one employee to assist with agricultural operations. The new farmhouse also will include an office where the applicant plans to conduct day-to-day business operations for the agricultural operation. The proposed farmhouse will enable daily access to the farming operation, which will require regular watering, weed control, and security (e.g., protection from trespassers, stray cattle, etc.).

Prime Agricultural Land

As cited above, Coastal Act section 30241 requires the protection of prime agricultural lands and sets limits on the conversion of all agricultural lands to non-agricultural uses. The four different prongs of the definition of “prime agricultural land” relate to the value and utility of the land in terms of range of agricultural uses and productivity.⁹ The land use capability classification rates the utility of the land based on various physical factors (e.g., rock type, soil type, slope, erosion potential, etc.). The lower the rating the more utility the land is considered to have for various agricultural uses. The Storie Index Rating is based on soil characteristics that govern the land’s potential utilization and productive capacity (e.g., characteristics of the soil profile, surface texture, slope, drainage, nutrient level, acidity, alkalinity, etc.) independent of other physical or economic factors that might determine the desirability of growing certain plants in a given location. The third paragraph of the definition speaks to the number of “animal units” the land can sustain. An “animal unit” (AU) is a standardized measure of animals used for various agricultural purposes. A 1,000-pound beef cow is the standard measure of an animal unit. The dry matter forage requirement of one animal unit is 26 pounds per day. Animal unit equivalents (AUE) are calculated for various other animals. A 700-pound steer is 0.80 animal units. A 1,300-pound horse is 1.20 animal units. A 120-pound sheep is 0.20 animal units. The amount of forage used by one animal unit in a month is an “animal unit month” (AUM). Finally, the fourth prong of the definition of prime agricultural land relates to the agricultural value of the land in terms of its capacity

⁹ Coastal Act §30113 defines prime agricultural land as those lands defined as prime in sections (1), (2), (3), and (4) of Williamson Act §51201(c). This includes: (1) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications. (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating. (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture. (4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.

to generate a minimum commercial revenue of \$200 per acre. Land that meets any one of the four criteria in the definition is considered “prime” under the Coastal Act.

Portions of the property are mapped by the Natural Resources Conservation Service as “Prime Farmland if Irrigated” (land use capability class II) ([Exhibit 4](#)). This classification is based on the NRCS’s soil mapping for the property as Weott Series, which is described in part as fine-silty, poorly drained alluvial soils on flood-plain steps.¹⁰ The land has not been assessed to determine the capability of supporting animal units per acre or to assess the commercial viability of fruit-bearing crops. Because the “prime agricultural lands” definition cited above requires only one of the four prongs to be satisfied to meet this designation, and in this case one of the prongs is met, at a minimum, a portion of the property qualifies as prime agricultural land under the Coastal Act. The portion of the property mapped as prime agricultural land contains the existing agricultural barn, the existing driveway, and a portion of the existing farmhouse. The area also includes the 20-foot setback from Port Kenyon Road required by the County’s agricultural zoning designation.

Limitations on Conversion of Agricultural Lands to Nonagricultural uses

As reflected in the above-cited policies, a core policy concern of the Coastal Act is the protection of coastal agriculture through the limitation on conversion of agricultural lands to non-agricultural uses. The original Coastal Plan that formed the basis for the Coastal Act identified this concern, including the issue of land speculation and valuation that could effectively undermine the goal of maintaining agricultural lands. Given increasingly high housing costs, agricultural use often cannot compete with the use of land for even one single-family home on a large un-subdivided farm parcel along much of the coast (e.g., from Santa Barbara to Mendocino counties), and the trend to develop large expensive homes on such properties further exacerbates this problem. The loss of available lands for farming to residential estate development is recognized as a national trend, and many states, including California, have taken actions in an attempt to curb this “rural sprawl.” Akin to the Williamson Act concern regarding the valuation of agricultural land at non-agricultural prices, the Coastal Act demonstrates a concern for the protection of an area’s agricultural economy and an assurance that increased assessments due to public services or non-agricultural development will not impair agriculture.

In order to meet the Coastal Act requirements to maintain the maximum amount of agricultural land in production and to minimize conflicts between agriculture and urban land uses, the Commission imposes special conditions, as discussed below, to prevent the impermissible conversion of agricultural lands to non-agricultural uses, including either the impermissible conversion of agricultural lands to residential uses or

¹⁰ Soil Survey Staff. 2014. Keys to Soil Taxonomy, 12th ed. USDA-Natural Resources Conservation Service, Washington, DC.

impermissible conversions rendering an agricultural use secondary to residential development. The Commission also finds that although the Eel River Delta where the subject site is located may not currently be as susceptible to the “rural sprawl” trend discussed above as other coastal areas of the state or even other areas of the North Coast (e.g., Mendocino County), special conditions are needed to ensure that the maximum amount of agricultural land will be maintained in agricultural production consistent with Coastal Act section 30241.

As previously discussed, the applicant proposes to construct a farmhouse to live on their agricultural land to enable more efficient management of their flower and tree farm operations. As proposed, the farmhouse would be (a) occupied by the farm owner/operator, and (b) incidental to the primary farming use of the property. The applicant has taken measures to minimize the total area of their farmhouse development to that which is solely necessary to support their active agricultural operations on the property. In addition, the new farmhouse would mostly remain in the same footprint as the existing farmhouse. As described above in Finding IV-A, the applicant proposes to demolish an existing (but dilapidated/uninhabitable) 1,445-square-foot farmhouse and to construct a new, 1,610-square-foot farmhouse, increasing the residential area by 165 square feet. Additionally, the house will include an approximately 350-square-foot ground-level open deck and a 300-square-foot exterior stairway and landing to facilitate access to the upstairs office space. A new, 576-square-foot asphalt parking pad will be installed in between the farmhouse and the existing barn. New landscaping will be planted in front of the farmhouse where existing landscaping is located, which is partially within the County’s 20-foot front yard setback from Port Kenyon Road (landscaping is allowed in the setback area under County regulations). Finally, the new septic system will be installed east of the farmhouse near the edge of the property line with a ground footprint of approximately 1,500 square feet. The combined development footprint, including the residence, deck, parking pad, setback distances from Port Kenyon Road, and septic system, will occupy approximately 6,000 square feet or 0.14-acre (~16%) of the approximately 0.86-acre lot. The subject lot is smaller than many of the surrounding large agricultural lots that have development areas closer to a quarter acre. This less than one-quarter-acre development area is typical for farmhouse development associated with small agricultural lots in the region and, as mentioned, includes the minimum yard setbacks for development from public roadways for agricultural zoning districts required by the County (a minimum 20-foot front yard setback from Port Kenyon Road is required). The clustering of development adjacent to Port Kenyon Road and near the existing barn and driveway will minimize the structural encroachment into open agricultural lands available for continued crop growing throughout the northern half of the property. The new residence will be constructed within the same general area as the existing farmhouse and will only expand the footprint towards the north by approximately 16 feet. The proposed utilization of the existing barn for agricultural uses further minimizes the encroachment of farmhouse development onto other prime agricultural lands.

Therefore, because the proposed farmhouse (a) will be occupied by the farm owner/operator and incidental to the primary farming use of the property, and (b) is the minimum size necessary to accomplish the agricultural purpose of the proposed agricultural farm use, the Commission finds that the proposed project is an agricultural use, is compatible with the long-term protection of resource lands, and will not impermissibly convert prime agricultural lands to non-agricultural uses, consistent with Coastal Act sections 30241 and 30242. This finding is consistent with County requirements, which, as discussed above, permit dwellings on agricultural lands without requiring a conditional use permit only if such dwellings are farmhouses to be occupied by the farm owner or farm operator and as long as such dwellings are incidental to the primary farming use of the property. The County requires a conditional use permit for other type of permissible dwellings on agricultural lands, including farm employee housing, guest houses (which by definition have no kitchen facilities and are not otherwise used as a separate dwelling), and second unit dwellings where one is occupied by the owner/operator and the other by the parent or child of the owner/operator. The County does not allow non-farmhouse single-family residences on agricultural lands.

If in the future the farmhouse was to be sold as a single-family residence and occupied by persons not engaged in the principal use of the land for farming purposes, the Commission finds that this future use of the land would represent a change in the intensity of the use of land that meets the definition of “development” under section 30106 of the Coastal Act. If the authorized farmhouse were to be converted to a non-farmhouse (typical single-family residence) in the future, such proposed development would not be compatible with the long-term protection of resource lands and would comprise the conversion of prime agricultural land to a non-agricultural use subject to the limitations on conversion of agricultural land set forth in Coastal Act section 30241. The Commission therefore attaches Special Conditions 1, 2, and 3.

Consistent with the County and the proposed project, **Special Condition 1** requires that the authorized farmhouse be occupied by the farm owner(s) or farm operator(s) of the agricultural operations on the subject property and be incidental to the primary farming use of the subject property. Compliance with these standards is required in order for the farmhouse to be occupied.

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 farmhouse has been constructed, certain additions and accessory buildings that the applicants might propose in the future may normally be exempt from the need for a permit or permit amendment. However, 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 improvements to existing dwellings 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 amendment or new CDP. Depending on their nature, extent, and location, additions or accessory structures associated with the authorized farmhouse could result in a conversion of agricultural land to non-agricultural uses or otherwise be incompatible with the long-term protection of agricultural lands in a manner inconsistent with the requirements of section 30241 of the Coastal Act that prohibit the conversion of agricultural land to non-agricultural uses. Therefore, pursuant to CCR section 13250(b)(6), the Commission attaches **Special Condition 2-A** that requires that all future development on the subject parcel that might otherwise be exempt from coastal permit requirements pursuant to Coastal Act section 30610(a) be required to be authorized by an amendment to this CDP or a new CDP. This condition will ensure that future improvements to the development will not impermissibly convert prime agricultural land. **Special Condition 2-B** confirms that any future improvements that qualify as extraordinary methods of repair and maintenance requiring a coastal development permit under Section 30610(d) of the Coastal Act shall require a coastal development permit.

Special Condition 2-C similarly requires that any future conversion of the authorized farmhouse to a non-agricultural residential use shall require a CDP amendment. Because such a conversion potentially would represent a change in the intensity of the use of land that meets the definition of “development” under section 30106 of the Coastal Act, this condition will ensure that proper CDP authorization is obtained for any such proposed development and will provide the Commission with the opportunity to review a proposed conversion for consistency with the agricultural protection policies of the Coastal Act, including the limitations on development inconsistent with the long-term protection of agricultural lands.

Finally, **Special Condition 3** requires that the applicants execute and record a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property. This condition will help assure that future owners are aware of CDP restrictions applicable to future development.

As conditioned herein to ensure the project is for an agricultural use, the project is consistent with the intent of section 30250 of the Coastal Act to channel new residential, industrial, and commercial development toward more urbanized areas where services are provided so that potential impacts to resources in undeveloped or rural areas are minimized. The property is within the boundary of the Riverside Community Services District, and the proposed farmhouse use, like the existing farmhouse use, is provided with water service by the District. Although the property is located only approximately 500 feet west of the City of Ferndale’s wastewater treatment plant, the property is outside of the City’s municipal service area boundary for the treatment and disposal of domestic wastewater. Thus, the proposed farmhouse must be served by an on-site wastewater treatment and disposal system (OWTS). The applicant has provided plans prepared by a certified engineering geologist from Lindberg Geologic Consulting for a Shallow Pressure Distribution non-standard OWTS to replace the existing system,

which is not built to modern wastewater treatment standards. The applicant has also provided evidence from the County Department of Environmental Health (DEH), which is the lead agency in the County that oversees proper sewage disposal for domestic wastewater outside of incorporated areas, that a DEH Environmental Health Specialist has reviewed and preliminarily approved the proposed OWTS as adequate to serve the proposed two-bedroom farmhouse.¹¹ The project is appropriately sited in an area already developed with the kind of agricultural structure currently proposed, and adequate services will be provided for the proposed development. Therefore, the proposed project, as conditioned, will not have significant adverse impacts, either individually or cumulatively, on coastal resources.

For all of the reasons discussed above, the Commission finds that the proposed farmhouse, as conditioned, will not impermissibly convert agricultural land, is the minimum size necessary to accomplish the agricultural purpose of the proposed agricultural farm, and is therefore compatible with the long-term protection of agricultural lands. Therefore, the project as conditioned is consistent with section 30241 of the Coastal Act.

E. Geologic and Flood Hazards

Section 30253 of the Coastal Act states, in applicable part, as follows (emphasis added):

New development shall do all of the following:

- a. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- b. 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 project is located in an area subject to high geologic and flood hazards that includes the potential for strong ground shaking, liquefaction, differential settlement, and flooding. The proposed farmhouse would be constructed adjacent to Port Kenyon Road at an elevation of 22.5 feet (NAVD88). The property is generally flat and is located entirely within the FEMA-mapped 100-year flood zone of the Eel River. Ground elevations range from 17.5 -18.5 feet NAVD88.

Earthquakes and Seismic Hazards

¹¹ The applicants provided a copy of a system design approval dated 4/29/2021 and signed by Humboldt County Environmental Health Specialist Todd Lawson.

Northwestern California is one of the most seismically active regions in the continental United States. The Humboldt County/Eel River Delta region occupies a complex geologic environment characterized by very high rates of active tectonic deformation and seismicity. An active segment of the Little Salmon fault zone is located less than 6 miles to the northeast of the project area along the northern boundary of the Eel River Delta. In addition, there are several other geologic sources capable of producing strong seismic shaking at the project site, including, but not limited to, the Mendocino Triple Junction (the intersection of three crustal plates near Cape Mendocino), the northern end of the San Andreas fault (near Point Delgada), and the Cascadia Subduction Zone (which is ~8 miles west of the site and capable of producing a magnitude 9.0 or greater earthquake).

To address seismic hazards, the applicant's consultant completed a soil study on the site to determine the types of materials present and recommendations for site development criteria for the proposed project. The resulting report (Whitchurch Engineering, July 9, 2021, [Exhibit 9](#)) concludes that the project site is in a relatively stable area with respect to land sliding but is at risk of liquefaction in the event of a major earthquake. Liquefaction is defined as the sudden loss of strength and fluid behavior of unconsolidated materials. The damaging effects of strong ground shaking and liquefaction can in turn cause large displacements of the ground surface, including heaving, cracking and buckling, and differential settlement. Liquefaction, vertical displacement, and other seismically-induced ground deformation have been documented in the Eel River Delta during several historic earthquakes, including the 1992 Petrolia earthquake (magnitude 7.1) and the 1906 great San Francisco earthquake (magnitude 7.9).

Certain sites are more susceptible than others to the secondary effects of strong ground shaking as a result of the character of the surface substrates and depth to groundwater. Due to the character of the surface substrates in the project area (silty-clayey according to the Whitchurch report), and the relatively shallow depths to groundwater, the site is shown on County hazard maps as being within an area of potential liquefaction ([Exhibit 3](#)). However, according to the Whitchurch report, "the potential for ground surface displacement due to faulting or lateral spreading at this building site is considered to be negligible."

To mitigate potential seismic and liquefaction risks, the Whitchurch report recommends several mitigation measures related to (a) foundation and footing depth, soil bearing pressure, type and thickness, (b) site leveling and fill and cut bank installation, (c) engineered fill type and compaction specifications, (d) roof and site drainage design, and (e) revegetation of cut and fill slopes. The report also recommends adherence to detailed seismic standards consistent with the California Building Code. To ensure that the applicant develops the project in a manner that minimizes risk consistent with the engineering recommendations, the Commission attaches **Special Condition 4** requiring that all final design and construction plans, including site preparation, foundation design, and drainage plans, be consistent with the recommendations in the applicant's engineering report.

In addition, because the applicant is electing to develop the site in an inherently hazardous area, the Commission attaches **Special Condition 5**, which requires the applicant to assume the risks of geologic hazards of the property and waive any claim of liability on the part of the Commission. Through this condition 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, as previously discussed, **Special Condition 3** requires that the applicant execute and record 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. This condition will help assure that future owners are aware of the site's hazardous conditions.

Any future additions to the authorized development that might be proposed would also be at risk of the identified geologic hazards. Improvements to existing single-family residences are often exempt from the need to obtain a coastal development permit under section 30610(a) of the Coastal Act, and in such situations, the Commission would not be able to review such development to ensure that risks to life and property are minimized. As discussed above in Finding IV-E, **Special Condition 2-A** requires a CDP or a permit amendment for all additions and improvements to the authorized structure that might otherwise be exempt from coastal permit requirements. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will be sited and designed to minimize risks from liquefaction and other hazards.

Because the proposed project will comply with California Building Code and local building codes, which have been designed to allow structures to withstand strong seismic ground shaking, and because the project will comply with the site-specific geologic recommendations for foundation design and for minimizing risks associated with earthquakes, the development is designed to assure stability and structural integrity consistent with the requirements of section 30253(b). Therefore, as conditioned, the Commission finds that the proposed project will minimize hazards and assure stability and structural integrity with respect to seismic ground shaking, liquefaction, and ground settlement consistent with section 30253 of the Coastal Act.

Tsunami Hazards

The proposed development is outside of the area shown on the CGS Tsunami Inundation Map as vulnerable to tsunami runup from several extreme, infrequent, and realistic tsunami sources.

Stormwater Runoff Flood Hazards

The proposed project is located in the FEMA-mapped 100-year floodplain of the Eel River.¹² Thus, the subject site has a high flood risk. The applicant has incorporated certain measures into their project intended to minimize flood risk. First, the applicant has submitted a flood elevation certificate based on a survey by a licensed land surveyor stating that the finished floor elevation of the proposed farmhouse will be located at or above +22.5 feet NAVD88. This elevation is one-and-a-half feet above the 100-year Base Flood Elevation (BFE) for the Ferndale area established by FEMA's National Flood Insurance Program (the BFE is +21 feet). In implementing the federal flood protection program, County building permit regulations require new residences to have a finished floor elevation at least one foot above BFE. The applicants' proposed plans ([Exhibit 8](#)) show the finished floor elevation for the farmhouse structure at +22.5 feet.

Second, the applicant has proposed a series of engineered and non-engineered flood vents for the proposed structure. According to information provided by the applicants' engineer ([Exhibit 7](#)), the farmhouse and attached garage have been designed with flood venting consistent with FEMA standards to minimize potential damage to the structure in the event of a flood. Based on the size of the proposed farmhouse, a total of 1,460 square inches of venting is needed to meet FEMA requirements. The proposed plans show approximately 20 non-engineered, 8-inch by 16-inch vents (i.e., screened openings) evenly spaced around the perimeter of the foundational crawlspace for the farmhouse. The proposed 1,442-square-foot crawlspace, designed with 20 non-engineered vents, will have a total net area of 1,460 square inches of venting within one foot of grade. The proposed vents are sized and positioned on the structures in accordance with FEMA requirements.

To ensure that the final plans include the various flood risk minimization measures proposed by the applicant, the Commission attaches **Special Condition 4**. This condition requires that all final design and construction plans, including foundation design, be consistent with the recommendations in the applicant's engineering report to ensure compliance with all proposed flood risk minimization measures.

As previously discussed, **Special Condition 5** requires the applicant to assume the risks of flooding and geologic hazards to the project, waive any claim of liability on the part of the Commission, and indemnify the Commission. Also as previously discussed, **Special Condition 3** requires that the applicant execute and record 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. This condition will help assure that future owners are aware of the site's hazardous conditions.

¹² Flood Insurance Rate Map Number 06023C0845G, effective on 6/21/2017

For all the above reasons, the Commission finds that as conditioned, the project will minimize risks to life and property from current flood hazards consistent with section 30253 of the Coastal Act.

Sea-Level Rise Flood Hazards

While the proposed measures described above address current flood risk from stormwater runoff, the Commission must consider whether the proposed measures account for flood risks may be exacerbated by projected sea level rise (SLR) over the life of the development.

Given the proximity of the site to the tidally influenced Salt River, approximately 2,500 feet downstream from the subject lot, the site is vulnerable both to sea-level rise (SLR) and increased stormwater runoff intensity associated with climate change. As a result, the area is likely to be subjected to more frequent and intense flooding episodes, and the 100-year floodplain can be expected to expand over time. Flooding in the Eel River Delta is exacerbated when river crest timing is coincident with high tides. Higher tides associated with SLR in the future will further impair the drainage of the Eel and Salt Rivers, thereby increasing backwater flooding on lands adjacent to the river and its tributaries.

The State of California has undertaken significant research to understand how much SLR to expect over this century and to anticipate the likely impacts of such SLR. In 2017, a working group of the Ocean Protection Council's (OPC) Science Advisory Team released *Rising Seas in California: An Update on Sea-Level Rise Science*. This report synthesized recent evolving research on SLR science, including a discussion of probabilistic SLR projections as well as the potential for rapid ice loss leading to extreme SLR. This science synthesis was integrated into the OPC's *State of California Sea-Level Rise Guidance 2018 Update* (State SLR Guidance). This guidance document provides statewide recommendations for state agencies and other stakeholders to follow when analyzing SLR in association with projects. Notably, the guidance provides a set of regional projections recommended for use when assessing potential SLR vulnerabilities for a project. Taken together, the Rising Seas report and State SLR Guidance account for the current best available science on SLR for the State of California.¹³

The State SLR Guidance provides SLR projections for 12 tide gauges in the state and recommends using the projections for the gauge closest to the project site. In this case, the North Spit tide gauge at Humboldt Bay is the applicable gauge. The amount of SLR projected at the North Spit tide gauge for the year 2100 (i.e., through the projected "remaining lifespan" of the existing residence) ranges from 4.1 feet (under the "low-risk

¹³ In addition, the Commission's adopted SLR Policy Guidance, as updated with science updates in November 2018, references the best available science throughout the document, including the 2018 OPC SLR Guidance.

aversion” scenario) to 7.6 feet (under the “medium-high risk aversion” scenario) to 10.9 feet (under the “extreme risk aversion” scenario).¹⁴

The current mean monthly maximum water (MMMW) elevation at the North Spit tide gauge is approximately 7.8 feet NAVD88.¹⁵ Future MMMW in the year 2100 under the medium-high risk scenario cited above is projected to be approximately 15.4 feet NAVD88 (i.e., 7.8 ft. + 7.6 ft. of SLR). Consideration of the medium-high risk scenario (+7.6 ft.) is appropriate in this case, because the residential improvements as designed have a relatively low capacity to adapt to risks associated with tidal flooding (e.g., erosion and flood hazards), and the consequences of the development being subjected to tidal flooding impacts in the future would be significant (e.g., structural damage to residence). Consideration of the medium-high risk scenario also is consistent with the State SLR Guidance, which recommends a precautionary approach to SLR adaptation planning. Thus, under this scenario, portions of the property at and below 15.4 feet may be vulnerable to future tidal flooding (year 2100) on a regular basis (multiple times annually).

As previously discussed, the property is at an elevation of approximately 17.5 feet (NAVD88) at its lowest point. The proposed new farmhouse will be set back approximately 200 feet from the main channel of the Salt River and will be designed with a first-floor elevation of 22.5 feet (NAVD88) per the flood regulations discussed above. Assuming that by the year 2100 the extend of tidal influence in the Salt River will migrate upstream, and sea level will rise within the range of projected rates discussed above, thereby subjecting low-lying areas adjacent to the river (e.g., areas at elevations +15.4 feet NAVD88 and lower) to regular tidal flooding, the proposed project is sited and designed to avoid the risk of tidal flooding factoring in projected SLR at even the most extreme scenario (+10.9 ft.) for the presumed 75-year lifespan of the proposed development. Due to the farmhouse’s proposed siting approximately 3.5 miles east of the Pacific Ocean and 200 feet south of the active channel of the Salt River, any necessary site fortification in the future will not result in shoreline armoring or impact shoreline erosion or sand supply.

¹⁴ The OPC projections are based on different scenarios related to future emissions and concentrations of greenhouse gases, aerosols, and other climate drivers. As recommended by the OPC guidance, for the year 2100, the “low risk aversion” scenario is derived from taking the upper range of the 66% probability range for “RCP-8.5,” which is the “Representative Concentration Pathway” that assumes there will be no significant efforts to reduce emissions globally. The “medium-high risk aversion” projection is derived from the upper range of the 0.5% probability range for RCP-8.5. The “extreme risk aversion” projection is based on presumed ice sheet loss in Greenland and the Antarctic.

¹⁵ Northern Hydrology and Engineering 2015

For all of the above reasons, the Commission finds that the proposed project, as conditioned, will minimize risks to life and property from geologic and flood hazards consistent with section 30253 of the Coastal Act.

Conclusion

The Commission finds that the proposed development, as conditioned, is consistent with section 30253 of the Coastal Act, because the permitted development will minimize risks to life and property, assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

F. Protection of Coastal Waters

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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.

As discussed in Finding IV-A, the northern portion of the property includes portions of the Salt River, a tributary of the Eel River. The proposed new development will be set back approximately 150 feet from the Salt River low-flow channel and 100 feet from the outer edge of the riparian restoration area restored under the Salt River Ecosystem Restoration Project permitted under CDP 1-10-032.

The Salt River from its confluence with the Eel River (approximately four miles downstream from the property) to Williams Creek (approximately three miles

upstream from the property) has, since 2012, been undergoing a large-scale, multi-year ecosystem restoration and flood alleviation project. With the primary objectives of both fish and wildlife habitat improvement and flood alleviation, the Salt River Ecosystem Restoration Project involves, in part, restoring estuarine and riverine habitats, hydrologic capacity, and riparian habitat along seven miles of the Salt River, including the stretch of river adjacent to the subject lot. Implementation of the multi-year project, led by the Humboldt County Resource Conservation District (RCD) and permitted under Commission CDP No. 1-10-032, commenced in 2012, and portions of the project upstream from the subject site are still underway. The project restored the Salt River corridor behind the subject lot a couple of years ago including freshwater aquatic, wetland, and riparian habitats directly north of the property.

The Salt River supports habit for several species of fish, including federally and state threatened Coho Salmon (*Oncorhynchus kisutch*), federally threatened Chinook Salmon (*O. tshawytscha*), and federally endangered Tidewater Goby (*Eucyclogobius newberryi*). The restored Salt River estuary, downstream from the project site, supports a diverse array of marine resources, including Dungeness crab (*Metacarcinus magister*), English Sole (*Parophrys vetulus*), Pacific Herring (*Clupea pallasii*), Saddleback Gunnel (*Pholis ornate*), Shiner Surfperch (*Cymatogaster aggregata*), Starry Flounder (*Platichthys stellatus*), Topsmelt (*Atherinops affinis*), Eelgrass (*Zostera marina*), and salt marsh habitat (which itself supports several species of rare plants).¹⁶

The proposed project will result in new impervious surfaces from the expanded farmhouse footprint and construction of the 576-square-foot asphalt parking pad. Although the applicants will create new impervious surfaces as part of the project, given the relatively flat topography of the site and the sufficient permeable areas that will remain between the new impermeable areas and Salt River corridor, the proposed development will provide for onsite infiltration of stormwater runoff, which will maintain the biological productivity and quality of adjacent coastal waters consistent with section 30231 of the Coastal Act. In addition, because the proposed project involves no significant grading or major vegetation removal, and because the setback distance proposed between the new development and the nearest waterway is substantial, there is little potential for sediment-laden runoff originating from the development site to flow into coastal waters to degrade water quality. The applicant has proposed a number of

¹⁶ Marine species were most recently documented from April to July of 2018 during spring-summer fish monitoring of the Salt River Ecosystem Restoration Project area, reported by the RCD on November 12, 2018. The upper extent of eelgrass in the Salt River was documented in 2016 by the RCD approximately 1.6 miles downstream from the project site. In 2015, H.T. Harvey & Associates, on behalf of the RCD, documented an initial baseline (out of a 10-year habitat monitoring program) of 146 acres of restored salt marsh habitat in the Salt River estuary, mostly at least 1.6 miles downstream from the subject site.

best management practices (BMPs) to employ during construction to ensure that water quality will be adequately protected. These measures are included as **Special Condition 9**. 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 other appropriate construction-related BMPs for erosion and runoff control.

To further ensure that construction activities will not impact coastal waters or environmentally sensitive areas, the applicant has provided a debris disposal plan stating that demolition debris will be placed immediately in containers and hauled away by a local company, Eel River Salvage, to be taken to the appropriate disposal site capable of receiving such materials. Additionally, the plan clarifies that debris will be stockpiled in the existing cleared areas adjacent to Port Kenyon Road and will not be located near the Salt River watershed areas.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with sections 30230 and 30231 of the Coastal Act, because the project as conditioned will protect marine resources, water quality, and the biological productivity of coastal waters and wetlands.

G. Environmentally Sensitive Habitat Areas

Section 30240(b) of the Coastal Act states:

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.

As previously noted, the subject property is bordered by the Salt River and its associated riparian vegetation to the north and east. Construction activities will be limited to the southern half of the subject parcel, which does not contain ESHA. In addition, construction equipment will access the site through the existing driveway areas and will not travel through or encroach onto riparian ESHA. Finally, no trees or other vegetation will be removed during project activities.

The new farmhouse will be located approximately 100 feet from the edge of the Salt River corridor to the north (i.e., the defined riverine habitat restoration area restored under the Salt River Ecosystem Restoration Project discussed above), approximately 150 feet from the current main channel of the Salt River also to the north, and approximately 60 feet from riparian vegetation to the east. The new onsite wastewater treatment system (OWTS) to be located between the farmhouse and the riparian vegetation to the east will consist of shallow trenches that are 55 feet long and 20 feet wide. The new trenches will begin just east of the farmhouse and will extend to a point approximately 20 feet from the edge of riparian vegetation. The new OWTS is required to maintain a buffer of at least 100 feet from the edge of any waterways as required by

Humboldt County Department of Environmental Health standards and will be ~150 feet away from the Salt River channel and at least 100 feet from the edge of the freshwater wetland corridor associated with the river.

Section 30240(b) of the Coastal Act requires that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts that would significantly degrade adjacent ESHA and shall be compatible with the continuance of the adjacent ESHA.

In addition to the sensitive fish and marine resources discussed above, the riverine corridors of the lower Eel River, including the Salt River in general provide habitat for a diversity of rare, threatened, and endangered plant and animal species, including the state-listed “endangered” willow flycatcher (*Empidonax traillii*) and western yellow-billed cuckoo (*Coccyzus americanus*). Riparian habitat along the Salt River corridor in general also hosts various species of reptiles, amphibians (including the state-listed “species of concern” northern red-legged frog), and mammals.

Given that the proposed farmhouse will be located approximately 100 feet from the edge of the restored Salt River corridor, and only a few feet closer to the corridor than the existing farmhouse has been located since its construction in the 1940s, the proposed siting and construction of the farmhouse will not significantly degrade the adjacent ESHA. As discussed in the above finding, the applicant has proposed a number of BMPs (required to be implemented under Special Condition 9) related to the proper disposal of construction-related debris, the covering of stockpiles, and the use of other appropriate construction-related BMPs for erosion and runoff control that in addition to protecting water quality and marine resources will also protect the riparian ESHA adjacent to the project site. However, to ensure that the ESHA near the site is not significantly degraded by any future landscaping that may be used on the lot that contains invasive exotic species, the Commission attaches **Special Condition No. 6** to require that only native and/or non-invasive plant species be planted as landscaping on the subject property.

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. To avoid this potential cumulative impact to environmentally sensitive wildlife species, Special Condition No. 6 also contains a prohibition on the use of such anticoagulant-based rodenticides.

Furthermore, exterior lighting associated with residences has the potential to illuminate the nearby, naturally dark natural area and to degrade the dark nighttime character of the area. Accordingly, to prevent the cumulative impacts of light pollution on the biological 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 the adjoining Salt River habitat.

Finally, although the OWTS will be located less than 100 feet (~60 feet) from riparian habitat on the adjacent property to the east of the subject site, the construction BMPs discussed above will be implemented during installation of the OWTS, and following construction, the OWTS will be below the ground surface so will not interfere with or disturb wildlife that may use the adjacent riparian habitat for nesting or forage.

As conditioned, the development is sited and designed to prevent impacts that would significantly degrade the adjacent wetland and riparian ESHA and is compatible with continuance of the habitat. Therefore, the Commission finds that the proposed project as conditioned is consistent with the requirements of section 30240.

H. 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. This 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 landforms, and to be visually compatible with the character of surrounding areas.

The property is not within a designated Highly Scenic Area. In addition, there are no public views of the ocean through the subject property from the public vantage point at Port Kenyon Road. Existing views of the property from Port Kenyon Road look north to the existing barn, driveway, farmhouse, and vegetation. The new farmhouse will be consistent with the height and bulk of the existing farmhouse and will reach a maximum height of 31 feet. The remainder of the property will remain as open agricultural land planted with row crops and trees that will blend in with the existing vegetation along the northern and eastern property boundaries.

As discussed above, the building site is located on level ground, and no grading or major vegetation removal is proposed that would result in significant natural landform alteration.

With regard to the compatibility of the proposed dwelling with the character of the surrounding area, the proposed residential design will be a Scandinavian style inspired by the Danish farming history of Ferndale and will be compatible with homes in the surrounding area, which include a diverse mix of colors and architectural style (e.g., Ranch, Craftsman, and Victorian). The farmhouse will feature horizontal HardiePlank siding and MiraTEC trim and batten details. The proposed siting of the farmhouse close to Port Kenyon Road is compatible with the siting of homes in the neighborhood, and the size and height of the structure will not be of greater height of bulk than nearby development.

Given the rural setting with relatively minimal exterior lighting on existing structures in the surrounding area, there is potential for the nighttime character of the area to be impacted by outside illumination. 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 development as conditioned is 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.

I. Protection of Archaeological Resources

Coastal Act section 30244 states as follows:

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

The project area lies within the traditional territory of the Wiyot tribe. At the time that Euro-Americans first made contact in this region, the Wiyot lived almost exclusively in villages along the protected shores of Humboldt Bay and near the mouths of the Eel and Mad Rivers. Today, representatives of the Wiyot Tribe include the Table Bluff Reservation Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria.

After consulting with the Native American Heritage Commission (NAHC) to obtain the current tribal consultation list for the proposed development site, Commission staff referred the project to the NAHC-recommended tribal contacts and other tribal representatives with known interest in the project area region.¹⁷ Commission staff referred the project to the Tribal Historic Preservation Officers (THPO) for the Wiyot area Tribes listed above and other local Tribes. Tribal representatives from the Wiyot Tribe and Trinidad Rancheria responded and identified no concerns related to the proposed development's possible effects on archaeological resources. However, representatives from the Wiyot Tribe recommended that the Commission include its "standard inadvertent archaeological discovery language" in the event that previously unrecorded archaeological resources are unearthed during construction. Therefore, the Commission attaches this reasonable mitigation measure as **Special Condition 8**.

¹⁷ Commission staff referred to project (via email) to tribal representatives from the Bear River Band of the Rohnerville Rancheria, Big Lagoon Rancheria, Trinidad Rancheria, Wiyot Tribe, and Hoopa Valley Tribe on September 27, 2021.

Special Condition 8 requires that if an area of cultural deposits or human remains is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist, in consultation with, at a minimum, the THPOs of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, must analyze the significance of the find. To recommence construction following discovery of cultural deposits or human remains, the Permittee is required to submit a supplementary archaeological plan for the review and approval of the Executive Director and obtain a permit amendment for changes the Executive Director determines are not de minimis in nature and scope.

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.

J. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's regulations requires Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirement of the 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 County of Humboldt, as the lead agency, determined the project to be categorically exempt from environmental review pursuant to sections 15301 of CEQA guidelines (Existing Facilities) and 15061(b)(3) (Common Sense Exemption). In addition, the Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA (14 CCR § 15251(c).)

The Commission incorporates its findings on Coastal Act consistency as if set forth in full. No public comments regarding potential significant adverse environmental effects of the project were received by the Commission prior to preparation of the staff report. As discussed above, the project has been conditioned to be consistent with the policies of the Coastal Act. As specifically discussed in these above findings, 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, either individually or cumulatively, which the activity may have on the environment. Therefore, the Commission finds that the proposed 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.

1-21-0356 (Brown)

APPENDIX A

Application File for CDP Application No. 1-21-0356

Commission CDP File No. 1-10-032 (Salt River Ecosystem Restoration Project).

County of Humboldt Local Coastal Program (Eel River Plan & Coastal Zoning Regulations)

Commission CDP File No. 1-19-0664 (Michael Farmhouse)