

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
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F16a

2-19-0026 (RHODES MIXED-USE DEVELOPMENT)

MARCH 12, 2021

CORRESPONDENCE

Subject: FW: Public Comment on February 2021 Agenda Item Friday 13a - Application No. 2-19-0026 (Rhodes Mixed-Use Development, Pacifica)
Date: Friday, January 29, 2021 at 11:41:16 AM Pacific Standard Time
From: NorthCentralCoast@Coastal
To: KoppmanNorton, Julia@Coastal
Attachments: IMG_0459.jpeg

Hi Julia

Here is a message

Thank you

Maria Elena

From: Gwendolyn Holden <gholden@pacificasd.org>
Sent: Thursday, January 28, 2021 9:09 PM
To: NorthCentralCoast@Coastal <NorthCentralCoast@coastal.ca.gov>
Subject: Public Comment on February 2021 Agenda Item Friday 13a - Application No. 2-19-0026 (Rhodes Mixed-Use Development, Pacifica)

Hello,

I would like to express my concern over this development. I am concerned that it encroaches too much on the "drainage channel." First of all I think drainage channel is not the appropriate term for this area. During this Covid time I have spent a lot of time in this area walking my dogs. I would classify it as a pond/riparian habitat. It did not dry up this summer. In March there were red legged frogs living in the area closest to San Pedro Road. See photo attached. As the area dried up a little, they moved back to the area that is classified as the "drainage channel." I am concerned if this area were to be developed to the planned extent that the habitat would be diminished. I would like to see this project scaled down to assure that the riparian habitat is not disturbed in any way.





Gwendolyn Holden
1416 Grand Ave
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650-291-3449



Scenic Pacifica
Incorporated Nov. 22, 1957

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February 5, 2021

The Honorable Steve Padilla, Chair
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105

Subject: Coastal Development Permit Application No. 2-19-0026 - City of Pacifica Comments on 505 San Pedro Avenue Mixed-use Project Public Hearing

Dear Chair Padilla,

I am writing to offer the City of Pacifica's ("City") comments related to the application by Shawn Rhodes ("Owner") for a coastal development permit ("CDP") for the portion of a mixed-use commercial and residential project ("Project") located within the California Coastal Commission's ("CCC") permit jurisdiction on the project site at 505 San Pedro Avenue (APN 023-072-010) in Pacifica ("Project Site"). The City's Planning Commission adopted Resolution No. 2018-011 conditionally approving various local development permits for the entirety of the Project Site, and a CDP for the portion of the Project Site within the City's CDP permit jurisdiction, on November 5, 2018.

The CCC is scheduled to conduct a public hearing to consider Owner's CCC CDP application on February 12, 2021. The matter is Item No. F13a on the agenda. This letter is being sent in advance of the CCC consideration of Item No. F13a as I would like to make clear that, contrary to CCC staff's statements, a denial of the CDP would present the Owner with substantial obstacles to development of the Project Site, as discussed herein. Accordingly, any action to deny the CDP should be taken with a full understanding of the consequences to the Owner.

I. CCC Staff Analysis of the Project and Potential Takings Claims

The CCC staff report on the Project concludes the entirety of the Project Site is environmentally sensitive habitat area ("ESHA"). The CCC staff report also concludes the design of the proposed Project may result in coastal hazards impacts from sea level rise, visual resources impacts, inadequate coastal access path design, and inadequate off-street parking. With respect to these various design issues, CCC staff indicates they all could potentially be mitigated by revisions to the Project's design, but for the presence of ESHA at the site, which cannot be avoided with any project design. Thus, the critical conclusion of the staff report is that the presence of

ESHA on the Project Site warrants denial of the CDP for development of the Project within the CCC's permit jurisdiction.¹

The ESHA identified on the Project Site included, but is not necessarily limited to, a combination of arroyo willow habitat near the northern property line, one-parameter wetlands located primarily in a manmade drainage feature immediately west of and along the entirety of the Project Site's western property line, and a 300-foot habitat buffer from the manmade drainage feature determined by CCC staff ecologist Dr. Lauren Garske-Garcia to be necessary for the protection of California red-legged frogs ("CRLF") that may be present in the drainage feature. Because the Project Site is only approximately 60 feet in width, the 300-foot CRLF buffer in particular renders the entirety of the Project Site within ESHA, although the standard 100-foot buffer from wetlands could similarly impact the Project Site in terms of the presence of ESHA.

The CCC staff's conclusion that the presence of ESHA renders development anywhere on the Project Site inconsistent with the Coastal Act prompted CCC staff's preparation of a takings analysis in Section K of the staff report. The takings analysis, in part, concluded "that a denial [of the Project] would not constitute a taking, as the City approved a building and associated parking in the portion of the property within the City's CDP permitting jurisdiction. Therefore, the [Owner] has a right to develop the City-approved project (Building #3), and, as such, the Commission's denial does not constitute a taking" (Staff Report, p. 23).

II. Action to Deny the CDP Will Require Processing of a New or Amended Project with the City

The CCC staff report contends that the Owner may proceed with development of the portion of the Project approved within the City's CDP permit jurisdiction in reliance on the City-issued CDP and other local development permits, and concludes a taking by the CCC will not occur in reliance on this contention. Although the City does not express any opinion on CCC staff's conclusion of whether a taking would occur as a result of a denial of the CDP, the City must clarify for the record that contrary to CCC staff's assertions, an action by the CCC to deny the Owner's CDP application will require the Owner to process new or amended local development permits for development of the Project Site.

The conditions of approval imposed with the local development permits and CDP issued by the City, as well as the findings made by the Planning Commission for approval of same, considered the Project in its totality. Therefore, it is impossible to piecemeal a part of the Project which is significantly less than the whole and still result with development that is consistent with the City's approvals. Condition of Approval No. 1 of Planning Commission Resolution No. 2018-011 provides as follows:

Development shall be substantially in accord with the plans entitled "Norcal Surf Shop Development of Vacant Lot", stamped received by the City of Pacifica on October 30, 2018, except as modified by the following conditions.

Exhibit 3 of the CCC staff report includes the Project plans approved by the City. It is evident from a review of these plans that an attempt by the Owner to develop only Building No. 3 and the adjacent off-street parking area and not the portion of the Project within the CCC CDP jurisdiction would result in a project that is not "substantially in accord" with the City's approvals. The development of Building No. 3 would comprise only about 20 percent of the building footprint and roughly 4 percent of the commercial floor area approved for

¹ The CCC staff report also alleges the presence of a wooden skate ramp on the Project Site constitutes a violation of the Coastal Act and indicates that violation is the subject of a separate enforcement action. This alleged Coastal Act violation is not relevant for purposes of the City's comments and will not be further discussed in this comment letter.

development by the City. Moreover, the presence of more than 2,000 square feet of residential floor area above the ground floor in the only two apartments that are part of the Project within Building No. 3, with only 422 square feet of corresponding commercial area at the ground floor within Building No. 3, would fundamentally change the character of the Project from a predominantly visitor-serving commercial project with minor accessory residential use into a predominantly residential project with only nominal visitor-serving commercial area. Put another way, the project resulting from a CCC denial of the CDP would be fundamentally different than the Project approved by the City.

The City's findings for approval of the local development permits and the CDP issued for the portion of the Project within the City's CDP permit jurisdiction were made based on an evaluation of the Project in its entirety. For instance, Finding No. ix for approval of a site development permit requires the Project to be consistent with the City's General Plan and certified LCP. Other local entitlements approved for the Project similarly require consistency with the General Plan and certified LCP. The Pedro Point-Shelter Cove neighborhood narrative in the General Plan and certified LCP indicates that development on the Project Site should consist of coastal related and/or visitor-serving uses. The Planning Commission found that the Project, due to its close orientation to the coast near the northern property line adjacent to the proposed public coastal access path and its significant retail component (including surfboard sales and rentals), would be both coastal related and consisting of visitor-serving uses. However, the development resulting from a CCC denial of the CDP would:

- be located at the farthest point from the coast at the Project Site's southern boundary;
- would omit the coastal access path linking the adjacent San Pedro Avenue public roadway and Project Site to the nearby Pacifica State Beach;
- would eliminate nearly 96 percent of the visitor-serving commercial floor area proposed in the Project;
- would leave approximately 83 percent of the remaining floor area authorized in the City's CDP in residential use rather than commercial use.

It is difficult to imagine how the development of only Building No. 3 after CCC denial of the CDP could be found consistent with the findings made by the Planning Commission for approval of local development permits and the City-issued CDP, or how the development could be found substantially in accord with the City-approved Project plans as required by Condition of Approval No. 1 of the City's approval. Therefore, the Owner would be required to process an amendment to the local development permits and CDP issued by the City, or else process new development permits for City review and approval, before undertaking development of the Project Site.

III. Conclusion

The CCC staff has made factual determinations that affect the development potential of the Project Site. The finding by CCC staff that ESHA is present on the entirety of the Project Site, in particular, will have a dramatic impact on the development potential of the current Project. If the CCC denies the CDP, contrary to CCC staff's assertions, the Owner will be unable to proceed with development of the Project Site without processing an amendment to the existing local development permits and CDP issued by the City, or pursuing new development permits from the City, for a revised project. Because of the CCC's finding that ESHA is present on the entirety of the Project Site, the ability of the Owner to obtain any future approvals through a revised or amended project is unclear. CCC staff's recommended action to deny the CDP would present the Owner with significant obstacles to development of the Project Site. Accordingly, it is critical that the CCC consider the full impact of CCC staff's recommendation to deny the CDP, especially as it relates to consideration of a potential taking, in order to make a fully-informed decision.

Thank you for considering the City's comments. I am available to discuss any points which require further clarification prior to the hearing.

Best,

A handwritten signature in blue ink, appearing to read "Tina Wehrmeister". The signature is fluid and cursive, with the first name "Tina" being more prominent.

Tina Wehrmeister
Planning Director/Assistant City Manager

cc: Pacifica City Council
City Manager
Coastal Commissioners
Coastal Commission Executive Director