

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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North Coast District Deputy Director's Report for April 2021

Prepared April 7, 2021 (for the April 16, 2021 Hearing)

To: Commissioners and Interested Parties
From: Kate Hucklebridge, North Coast District Deputy Director

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, and emergency CDPs for the North Coast District Office are being reported to the Commission on April 16, 2021. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's North Coast District Office in Arcata. Staff is asking for the Commission's concurrence on the items in the North Coast District Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on April 16th.

With respect to the April 16th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on April 16, 2021 (see attached)

Waivers

- 1-21-0036-W, Caltrans – Eureka Slough Bridges Subsurface Data Collection (Adjacent to U.S. Highway 101, within Caltrans' right-of-way around the Eureka Slough Bridges, City of Eureka, Humboldt County)

Immaterial Amendments

- 1-12-011-A1, Botzler - Modify the design of the previously approved residence (830 Stagecoach Road, north of Trinidad, Humboldt County)

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NOTICE OF PROPOSED PERMIT WAIVER

Date: April 9, 2021

To: All Interested Parties

From: Robert Merrill, North Coast District Manager
Amber Leavitt, Transportation Program Analyst

Subject: **Coastal Development Permit (CDP) Waiver 1-21-0036-W**

Applicant: California Department of Transportation (Caltrans)

Location: Adjacent to U.S. Highway 101, between the cross streets V Street and Jacobs Avenue (post miles 79.4 and 80.0), on both sides of Eureka Slough, within the City of Eureka, Humboldt County

Proposed Development

Collection of eighteen one-to-two-inch-diameter core samples of subsurface deposits within Caltrans' right-of-way around the Eureka Slough Bridges using either a hollow-stem auger or a hydraulic push-tube device. The purpose of the proposed project is to gather geoarchaeological data to inform the level of archaeological analysis required for design of the future Eureka Slough Bridges Replacement Project. Borings would take place over four nights during spring 2021 and the coring rig would be parked in uplands on the roadway or the adjoining shoulder. Each boring would be pushed to a depth of nine meters or more below surface and the collected core samples would be stored in hard plastic liners for transport to a lab. The open bore holes would be grout-filled directly following removal of each core sample.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the Applicant regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

All boring locations will completely avoid wetlands and environmentally sensitive habitat area (ESHA) and there will be no vegetation trimming or removal. To ensure avoidance of wetlands and ESHA, including any special status plants or animals that could potentially occur in the project vicinity, all boring locations will be flagged by a biologist before beginning work. All boring locations will also be verified by an archaeologist before beginning work to ensure core samples are removed from appropriate locations. Caltrans has consulted with the Bear River Band of Rohnerville Rancheria, the Blue

Lake Rancheria, and the Wiyot Tribe at Table Bluff Reservation regarding the proposed project and Caltrans agreed to the Tribes' request to monitor the boring process. Consistent with the Commission's Tribal Consultation Policy, Commission staff referred the project to the Tribes as well and received three responses indicating support for the project as proposed.

The work does not require drilling fluid and will not generate excess spoils. To protect water quality, a tarp barrier will be placed under the drill rig to contain any incidental leaks or spills from construction equipment and a spill kit will be on site.

The work will require one lane of temporary closure in each direction on Highway 101 within the project area and may require temporary closure of two ramps. If temporary closure of the ramps is needed, traffic would be directed to nearby detour routes or temporary ramps may be delineated. Since lane and potential ramp closures are limited to four nights, traffic delays are anticipated to be minimal. Bikes will be able to continue to use the existing shoulder. Additionally, advance warning signs will be used to notify the public of the traffic impacts.

Therefore, the proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

Coastal Commission Review Procedure

This waiver is not valid until it has been reported to the Coastal Commission and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. **This waiver is proposed to be reported to the Commission on Friday, April 16, 2021.** If four or more Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

IMPORTANT! PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-30 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

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

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: April 2, 2021
To: All Interested Parties
From: Bob Merrill, North Coast District Manager
Sylvia Targ, Coastal Planner
Subject: Amendment to Coastal Development Permit (CDP) 1-12-011
Applicant: Tin Botzler

Original CDP Approval

The subject property is located at 830 Stagecoach Road, north of Trinidad (APN 515-231-011). The original CDP 1-12-011, approved by the Coastal Commission on November 13, 2013, authorized the construction of a 5,438-square-foot, 33-foot-high single-family residence, a 1,222-square-foot attached garage, 390 square feet of covered porches, 1,444 square feet of covered decks, and 135 square feet of uncovered decks and an onsite septic system and leach field, onsite water system improvements, and 50 cubic yards of grading.

Proposed CDP Amendment

Reduce the size and modify the design of the approved residence, resulting in an approximately 3,628-square-foot, 21-foot-high house with a 960-square-foot attached garage, 463 square feet of covered decks, and a 1,260-square-foot patio.

The Commission's reference number for this amendment request is **1-12-011-A1**.

Executive Director's Immateriality Determination

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

Geological Hazards

Under the original permit approval, all new development on the subject coastal bluff lot was required to be set back at least 100 feet from the bluff edge to minimize erosion risk and assure the stability and structural integrity of the authorized development. As amended, the leach field and house would be sited further inland than the originally permitted development. In support of the proposed amendment application, the applicant provided an updated geotechnical report to reaffirm the geologic recommendations and incorporate the most recent sea-level rise modeling into calculating an appropriate bluff setback for the proposed amended development. The updated report, produced by SHN Consulting in February 2021, recommends an increased bluff setback of 109 feet from the bluff edge, 9 feet further inland than the

setback recommended in geotechnical evaluation for the original permit. The Commission's geologist agrees that the updated recommended setback for the proposed amended development will be sufficient to buffer the development from future bluff instability, erosion and retreat. The proposed amended plans comply with the recommended 109-foot setback except for a 250-square-foot section of exterior patio that encroaches to within 100 feet of the bluff edge. However, this minor accessory development is easily removable, and Special Condition 3 will continue to apply to the development as amended. This condition prohibits the construction of bluff or shoreline protective devices to protect the authorized development, and requires that the landowner provide a geotechnical investigation once bluff retreat reaches within 25 feet of the development that addresses alternatives for removal or stabilization of the development without reliance on bluff or shoreline protective devices. Attachment A includes updates to Special Condition 3 to incorporate this permit amendment and to clarify at what point in time the authorized development must be removed when threatened by natural hazards.

Special Condition 4, attached to the original permit to require the landowner to assume the risks of undertaking development on an inherently hazardous site and to waive any claim of liability on the part of the Commission, will continue to apply to the amended development. In addition, added Special Condition 8 (Attachment A) requires recordation of the terms and conditions of the permit as amended in the form of a deed restriction, which effectively puts future owners on notice of the hazards present at the site, the Commission's immunity from liability, and the indemnity afforded the Commission. The deed restriction will supersede and replace the similar deed restriction required by Special Condition 6 of the original permit.

Therefore, the proposed amended development, as conditioned, is consistent with Coastal Act sections 30235 and 30253, as the amended development as conditioned will not contribute significantly to the creation of any geologic hazards, will not have adverse impacts on the stability of the coastal bluff or on erosion, and will not require the construction of shoreline protective works.

Protection of Visual Resources

The modified residence proposed under the amendment is approximately 1,810 square-feet smaller than the originally permitted residence. The approximate average height of the residence will decrease from 33 square feet to 21 square feet, and the square footage of decking and garage space will also be reduced. As the site is located in an area designated by the County as a Coastal Scenic Area, the County reviewed the proposed amended project plans and approved a Special Permit for the proposed amended development in November of 2020. Although the building site is largely hidden from public view due to dense tree growth surrounding the site, there is potential for the nighttime character of the area to be impacted by outside illumination, given that this is

a sparsely populated rural area with very little exterior lighting. Special Condition 7 will continue to apply to the amended development, requiring 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. Therefore, the proposed amended development as conditioned is sited and designed to protect views to and along the ocean and scenic coastal areas and will be compatible with the character of the surrounding area consistent with the visual resources policies of Coastal Act section 30251.

Protection of Water Quality

Special Condition 1 of the original permit required the submittal for the review and approval of the Executive Director a final erosion and runoff control plan. The amendment request for the proposed amended development includes a final erosion and runoff control plan that is specific to the modified project and proposes various measures to control runoff during construction that are consistent with the requirements of Special Condition 1 of the original permit, including (1) installation of debris fencing to contain runoff from road construction areas; (2) maintaining on-site vegetation to the maximum extent possible during construction; and (3) ensuring runoff from buildings and driveways to be conveyed into vegetated swales. These measures will ensure that sediment-laden stormwater runoff will not drain off site and down the coastal bluff into coastal waters. Special Condition 1 is revised to require implementation of the new final erosion and runoff control plan. The proposed amended development as conditioned is therefore consistent with section 30231 of the Coastal Act.

Protection of Environmentally Sensitive Habitat Areas

The development as amended remains sited over 100 feet from environmentally sensitive riparian and stream habitats in the project vicinity. Special Condition 2 of the original permit required the permittee to remove invasive Scotch Broom within 100 feet of the residence and replant the area with native vegetation. The condition further required the site to be monitored for five years to ensure the targeted invasives are removed and the desired native landscaping is successfully established. Removal of the Scotch Broom will help ensure that the invasive species does not further invade the environmentally sensitive habitat areas that occur on the subject parcel and in surrounding areas. The amendment request for the proposed amended development includes a Scotch Broom removal plan that is consistent with the requirements of Special Condition 2 of the original permit. Special Condition 2 is revised to require implementation of the Scotch Broom removal plan. Therefore, the proposed amended development as conditioned is consistent with section 30240 of the Coastal Act, as (1) no development will occur within ESHA and (2) development will be sited and designed to protect surrounding ESHA in the project vicinity.

Conclusion

As the amended development does not have a potential for adverse impacts, either individually or cumulatively on coastal resources or public access, the Executive Director has determined that the proposed amendment is immaterial.

Coastal Commission Review Procedure

The CDP may be amended as proposed if no written objections are received in the North Coast District office within ten working days of the date of this notice. In addition to the regular means required by the regulations or statute, please make sure that you also send a copy of all correspondence or other documents electronically to NorthCoast@coastal.ca.gov. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on Friday, April 16, 2021. If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP amendment.

IMPORTANT! PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING.

As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

If you have any questions about the proposal or wish to register an objection, please contact Sylvia Targ in the North Coast District office.

Attachment A:

**AMENDMENTS TO SPECIAL CONDITIONS OF CDP 1-12-011
(CDP Amendment 1-12-011-A1)**

The Commission approved Coastal Development Permit (CDP) 1-12-011 on November 13, 2013 with five standard conditions and seven special conditions

The subject CDP amendment affects the permit conditions as follows:

- Standard Conditions 1 through 5 and Special Conditions 4, 5, 6, and 7 are reimposed without changes and remain in full force and effect.
- Special Conditions 1 and 2 are replaced as shown below.
- Special Condition 3 is modified as shown below.
- Special Condition 8 is added as a new condition as shown below.

Text to be deleted is shown in ~~bold double strikethrough~~, and text to be added appears in **bold double-underline**.

1. Implement Final Erosion and Runoff Control Plan

The permittee shall undertake development in accordance with the approved final erosion control plan prepared by SEE Engineering dated September 15, 2020 and the associated erosion control plan sheet prepared by Thomas Bond & Associates dated September 15, 2020. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Implement Scotch Broom Removal Plan and Landscaping Restrictions

- A. **The permittee shall undertake development in accordance with the approved final Scotch Broom removal plan titled "Scotch Broom Eradication Program" submitted with the CDP Amendment application on August 7, 2020. For the purposes of re-seeding or planting (1) areas disturbed during the removal of Scotch Broom or other invasive species or (2) any other planting on the property, only native and/or non-invasive plant species shall be planted. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal**

development permit unless the Executive Director determines that no amendment is required.

- B. The use of rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

3. No Future Bluff or Shoreline Protective Device

- A. By acceptance of Coastal Development Permit (CDP) No. 1-12-011 as amended, the applicant acknowledges and agrees, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to CDP 1-12-011 as amended including, but not limited to, the house, porches and decks, septic system, water storage tanks, ~~and a~~ pumphouse, and driveways in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future, as may be exacerbated by sea level rise. By acceptance of this Permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this Permit, the applicant further agrees, on behalf of herself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the house, porches and decks, septic system, water storage tanks ~~and a~~ pumphouse, and driveways, ~~if any government agency has ordered that the improvements are not to be used due to any of the hazards identified above.~~ (i) the County or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the residence is currently and permanently unsafe for occupancy or use due to coastal hazards, (ii) essential services to the site can no longer be feasibly maintained (e.g. utilities, roads); (iii) migration of the public trust boundary has caused the development to become subject to the public trust, (iv) removal is require pursuant to LCP policies for sea level rise adaptation planning; or (v) the development would require a bluff or shoreline protective device to prevent (i) through (iv) above. If removal is required, the permittee shall obtain a CDP for removal of approved development, unless the Executive Director provides a written determination that no CDP is legally required. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- C. In the event that the edge of the bluff-top recedes to within twenty-five (25) feet of the development, but no government agency has ordered that the approved developed not be **occupied** or used, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist, retained by the permittee that addresses whether any portions of the house, porches and decks, septic system, water storage tanks, ~~and a~~ pumphouse, and driveways are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the house, porches and decks, septic system, water storage tanks, ~~and a~~ pumphouse, and driveways without bluff or shoreline protective device(s), including but not limited to, removal or relocation of the development. The report shall be submitted to the Executive Director and the appropriate local government officials. If the geotechnical investigation concludes that any portion of the development is unsafe for operation or use, the permittee shall, within 90 days of submitting the investigation, apply for a CDP amendment to remedy the hazard which shall include removal of the threatened portion of development.

8. Deed Restriction for 1-12-011-A1

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT 1-12-011-A1, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, as amended, shall continue to restrict the use and enjoyment of the 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. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition 6 of Coastal Development Permit 1-12-011, approved on 11/13/2013, in which the deed restriction is recorded as Instrument No. 2014-000971-14 in the official records of Humboldt County.