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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-22-0616

Applicant: Terry and Gary Strachan

Location: 129 Quarnada Lane, Trinidad area, Humboldt County

Project Description: Improve an existing 1,230-square-foot single-family residence by: (1) remodeling the interior of the existing residence; (2) replacing roofing and exterior siding on the existing residence; (3) converting the attached garage into living space; and (4) replacing an existing metal storage building with a new 576-sf garage.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicants propose improvements to an existing 1,230-square-foot single-story, three-bedroom, single-family residence constructed in 1955, including remodeling the interior of the existing residence, replacing roofing and exterior siding, converting the existing attached garage into living space, and replacing an existing metal storage building with a new 576-square-foot garage. There would be no change in the total number of bedrooms with the remodeled residence and no change in the footprint of the existing development. The existing approximately 2-acre lot is located on a forested lot between the first public road (Patricks Point Drive) and the sea approximately 6 miles north of the City of Trinidad.

The property is located within a stand of Sitka spruce forest, which is a rare plant community, and a small forest wetland is located approximately 50 feet from the existing residence. The proposed project will not increase the developed areas on the property,

will not encroach any further into the surrounding spruce forest or any closer to the wetland, and will not result in new impervious surface area that could contribute increased runoff towards sensitive habitat areas. The project incorporates several special conditions to protect spruce habitat during construction and in the future. Special Condition 4 requires appropriate BMPs to be employed during construction, Special Condition 5 limits the landscaping that can be planted on the subject property, and Special Condition 6 limits new exterior lighting associated with the proposed development. Special Condition 1 requires that all future improvements to the development authorized by this permit that might otherwise be exempt from CDP requirements obtain an amendment to this CDP or a new CDP.

Therefore, staff recommends that the proposed project, as conditioned, would be sited and designed to protect adjacent ESHA and to provide for its continuance consistent with Section 30240 of the Coastal Act.

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. 1-22-0616 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. 1-22-0616 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. **Future Development Restriction.** This permit is only for the development described in Coastal Development Permit Application No. (CDP) 1-22-0616, including, but not limited to, (1) remodeling the interior of the existing residence; (2) replacing roofing and exterior siding on the existing residence; (3) converting the attached garage into living space; and (4) replacing an existing metal storage building with a new 576-sf garage. 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 1-22-0616. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDP 1-22-0616 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 1-22-0616 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
2. **Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant 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.

3. Protection of Archaeological Resources.

- A. If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall immediately cease and shall not recommence except as provided in subsection (B) hereof, and the permittee shall retain a qualified cultural resources specialist to analyze the significance of the find in compliance with state and federal law. A minimum 50-foot exclusion zone where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area.
- B. A permittee seeking to recommence construction within the exclusion zone following the inadvertent discovery shall submit, for the review and approval of the Executive Director, a report prepared by the cultural resources specialist identifying any changes to the project approved by CDP 1-22-0616 required to ensure protection of other potential cultural resources in the project area. If the Executive Director determines that the recommended changes to the proposed development or mitigation measures are de minimis in nature and scope and approves the report, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director determines that the changes therein are not de minimis, construction may not recommence until after a further amendment to this permit is approved by the Commission.

4. Construction Responsibilities. The applicant shall adhere to appropriate construction-related best management practices (BMPs) to protect water quality and surrounding environmentally sensitive habitat areas, 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>).

5. **Landscaping Restrictions.** 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.
6. **Lighting Limitations.** All exterior lighting, including any lights installed as part of the development approved under CDP 1-22-0616, 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.
7. **Humboldt County Special Permit.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-22-0616, the applicant shall provide to the Executive Director a copy of the Special Permit from Humboldt County Planning and Building Department. The applicant shall inform the Executive Director of any changes to the project required by the County. Such changes shall not be incorporated into the project until the applicant obtains an amendment to this CDP, unless the Executive Director determines that no amendment is legally required.

IV. Findings and Declarations

A. Project Description and Environmental Setting

The applicants, Terry and Gary Strachan, propose improvements to an existing 1,230-square-foot single-story, three-bedroom, single-family residence constructed in 1955. Proposed improvements include (1) remodeling the interior of the existing residence; (2) replacing roofing and exterior siding on the existing residence; (3) converting the attached garage into living space; and (4) replacing an existing 700-square-foot metal storage building with a new 576-square-foot garage. There would be no change in the total number of bedrooms with the remodeled residence (a total of three bedrooms). There would be no change in the total building coverage area for the residence (1,230 square feet) and there would be a slightly reduced project footprint resulting from the new detached garage in the same area as the existing metal building (resulting in a reduction of approximately 144 square feet). The maximum height of the residence will

increase from the existing height of 13 feet to approximately 19 feet at the tallest point. Project plans are attached as [Exhibits 2-4](#).

The subject lot, located at 129 Quarnada Lane (APN 517-071-030), is approximately 2 acres in size and is in a rural area approximately one-half mile south of Sue-meg State Park and six miles north of the City of Trinidad. The lot is bordered by rural, gravel roads to the north and west, Patricks Point Drive to the east and forested land to the south ([Exhibit 1](#)).

The subject property is one of several lots west of Patricks Point Drive that were developed in the 1950s. The parcel and surrounding lands contain Sitka spruce forest, with scattered coast redwood, Douglas-fir, and other conifers. The property is located on an uplifted marine terrace over 500 feet from the top of the bluff and the ocean. The subject site, like most of the land along Patricks Point Drive, falls within a County-designated Coastal Scenic Area. However, the house is not visible from Patricks Point Drive, which is the first public road paralleling the sea in this area, or from any other public vantage points. Abundant forest vegetation along Patricks Point Drive blocks views to the ocean from the roadway and screens houses west of Patricks Point Drive, including the subject house, from public view.

B. Standard of Review

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

C. Other Agency Approvals

The proposed project requires a Special Permit from Humboldt County. The applicant has submitted a Special Permit for Design Review application to the County and received preliminary approval. **Special Condition 7** requires the applicant to submit to the Executive Director evidence of the County's approval of the project prior to issuance of this CDP. The condition requires that any project changes resulting from the County's approval not be incorporated into the project until the applicant obtains any necessary amendments to this CDP.

D. Locating and Planning New Development

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

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

Section 30250(a) of the Coastal Act states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

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

Therefore, the Commission finds that as conditioned, the proposed development is consistent with Coastal Act section 30250(a), in that it is located in a developed area, has adequate water and sewer capability to accommodate it, and will not cause significant adverse effects, either individually or cumulatively, to coastal resources.

E. Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act states:

- a. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- b. 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.

According to a biological assessment submitted by the applicant (Lester, June 2022), the subject property is located within a stand of primarily Sitka spruce (*Picea sitchensis*) forest with scattered individuals of young coast redwood (*Sequoia sempervirens*) and Douglas-fir (*Pseudotsuga menziesii*). Sitka spruce forest alliance¹ is a rare plant community with a global/state ranking of G5/S2 by the California Department of Fish and Wildlife (CDFW). This ranking implies this vegetation community is globally abundant (G5) but imperiled in the state (S2). In California, the Sitka spruce forest alliance occupies a narrow coastal band, and its southernmost contiguous range terminates in central Humboldt County. A disjunct population in central Mendocino County near Russian Gulch forms the southern terminus of its range. As previously mentioned, the subject property and surrounding neighborhood consist of forested parcels generally two to five acres in size with small pockets of residential development. Sitka spruce forest covers approximately 90% of the subject property according to aerial imagery. The remaining approximately 10% of the property contains the existing residential development and adjacent hardscape and softscape open (non-forested) areas (including driveway, walkways and landscaped areas around house perimeter, etc.), which were designated as “disturbed areas” in the biological assessment. An approximately 400-square-foot seasonal wetland area also was identified within the Sitka spruce forest understory approximately 50 feet southeast of the existing house.

In addition to the above identified ESHA, the subject property is also located less than one-half mile from Sue-meg State Park. Several rare species and habitats are known to occur within and around the Park and the project vicinity, including (in addition to Sitka spruce forest), coastal bluff habitat that supports the rare Oregon coast paintbrush (*Castilleja litoralis*) and Humboldt mountain beaver (*Aplodontia rufa humboldtiana*) and wetland, stream, and riparian habitats that support Pacific tailed frog (*Ascaphus truei*) and other sensitive species.

As cited above, section 30240 limits development in ESHA to only resource-dependent uses and requires that development in areas adjacent to ESHA and parks and recreation areas be sited and designed to prevent impacts which would degrade such areas. The proposed improvements are to an existing residence, which was constructed in 1955, and will not increase the footprint of the existing development and will be contained within the existing developed curtilage (“disturbed areas” described above).

¹ Sawyer, J. O., Keeler-Wolf, T., & Evens, J. M. (2008). A Manual of California Vegetation (Second ed.). Sacramento, CA: California Native Plant Society Press.

While the majority of the 2-acre property is spruce forest, the existing residence and its developed curtilage area (which includes the detached metal building, driveway, onsite wastewater disposal system, and hardscape/landscape/garden areas immediately around the house) are in an existing pre-Coastal Act clearing that covers approximately 4,000 square feet or 0.09 acres. The 0.09-acre developed portion of the property represents approximately 4% of the total property area. Although the proposed project is located directly adjacent to Sitka spruce trees and approximately 50 feet from the wetland, the improved residence and new garage will not change the status of development on the site and will not result in any further encroachment into surrounding spruce forest. The proposed project will not result in new impervious surface, and drainage will be directed from the roof and driveway areas towards the permeable portions of the property and away from the forest wetland area.

In order to ensure the protection of surrounding sensitive habitats, **Special Condition 4** requires the proper disposal of construction-related debris, the covering of stockpiles whenever there is a potential for rain to prevent polluted water runoff from the site, and the use of appropriate BMPs for erosion and runoff control as detailed in the current California Storm Water Quality Best Management Handbooks.

The sensitive habitats on and near the project site could be adversely affected if nonnative, invasive plant species were introduced in landscaping at the subject site. If any of the proposed landscaping were to include introduced invasive exotic plant species, the weedy landscaping plants could colonize (e.g., via wind or wildlife dispersal) the nearby ESHA over time and displace native vegetation, thereby disrupting the functions and values of the ESHA. The applicant has not proposed any landscaping as part of the project. Nevertheless, the Commission attaches **Special Condition 5** to ensure that only native and/or non-invasive plant species are planted on the subject property. As conditioned, the proposed project will ensure that the ESHA near the project site is not significantly degraded by any future landscaping that would contain invasive exotic species.

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 6**, which requires that all exterior lighting associated with the proposed development be low-wattage and downcast shielded such that no glare is directed into the surrounding spruce forest habitat.

Section 30610(a) of the Coastal Act exempts certain improvements to existing single-family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain improvements that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment. Depending on the specific improvements proposed, building additions and construction of new accessory structures could disrupt the surrounding spruce habitat. 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) of the Coastal Act, 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 single-family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require a development permit. Improvements that increase the footprint of the existing residence or accessory structures could impact spruce ESHA in a manner inconsistent with the requirements of section 30240 of the Coastal Act. Therefore, pursuant to section 13250(b)(6) of Title 14 of the CCR, the Commission attaches **Special Condition 1** which requires that all future improvements to the development authorized by this permit amendment that might otherwise be exempt from CDP requirements requires an amendment or new CDP. This condition will allow future development to be reviewed by the Commission to ensure that future improvements to the development will not impact adjacent ESHA. **Special Condition 2** also requires that the applicants record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit amendment as covenants, conditions, and restrictions on the use and enjoyment of the property. **Special Condition 2**, discussed above, will also help assure that future owners are aware of these CDP requirements applicable to all future development.

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

F. Protection of Coastal Waters

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

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

As previously mentioned, there is a wetland area on the subject property located approximately 50 feet away from the existing residence. There are no other

waterways on the property and the proposed development will be located over 500 feet from the bluff and the ocean. The site is relatively flat, and no grading or major vegetation removal is proposed. Construction activities will be limited to the previously developed portions of the parcel and outside of the wetland area. In addition, construction equipment will access the site through the existing driveway areas and will not travel through or encroach onto the wetland area.

There are sufficient impermeable areas on the subject property to allow for retention and treatment of stormwater onsite. Drainage will be directed from the roof and driveway areas towards the permeable portions of the property and away from the wetland. Given the permeable areas between the residential structures and the water, there is sufficient area to allow for onsite infiltration of stormwater runoff.

The proposed improvements will not change the total area of impervious surfaces on the property, because the improvements will be built within the existing developed footprint. The residence and detached garage will cover approximately 1800 square feet of the approximately 86,000-square-foot property. To ensure that the applicant adheres to appropriate construction-related best management practices (BMPs) for dust control and other water quality protection measures, the Commission attaches **Special Condition 4**. This condition requires, in part, the proper disposal of construction-related debris, the covering of stockpiles whenever there is a potential for rain to prevent polluted water runoff from the site, and the use of appropriate BMPs for erosion and runoff control as detailed in the current California Storm Water Quality Best Management Handbooks.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with 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. 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 but is within a mapped Coastal Scenic Area under the Trinidad Area Plan (TAP). As discussed above, the project setting and the larger area around Patricks Point Drive is largely forested with an abundance of coniferous trees (redwood, Sitka spruce, grand fir, and others) and other forest vegetation lining the roadway and extending across the properties on either side

of the road. There are no views of the ocean through the property available to the public. The proposed maximum 19-foot-tall residential addition and 18-foot-tall garage will be screened from Patricks Point Drive by existing vegetation, although the structures are visible from Quarnada Lane, which is a dead-end street of limited public use.

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

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

In summary, the proposed 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.

H. Public Access

Coastal Act section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act section 30212(a) states, in part:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal

resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.

Coastal Act section 30214 states in part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution...

In applying these sections, the Commission considers whether public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

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

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 site is within the ancestral territory of the Yurok. For thousands of years, the Yurok lived in coastal areas and coastal watersheds in what now is Humboldt and Del Norte counties, from the Little River 10 miles south of the project site to areas within Del Norte County, including over 50 named villages clustered along the Klamath River and coastal lagoons and creeks. Several federally recognized tribes in the region are affiliated with the Yurok, including Big Lagoon Rancheria, Blue Lake Rancheria, Cher-Ae Heights Indian Community of Trinidad Rancheria, Resighini Rancheria, and the Yurok Tribe – the largest tribe in California.

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.² No tribal representatives have responded as of the date that this staff report was published. However, given the project's proximity to areas where tribes historically settled along the coast, to ensure protection of any archaeological resources that may be inadvertently discovered at the site during ground-disturbing activities associated with the proposed development, the Commission attaches **Special Condition 3**. This condition requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find in compliance with state and federal laws. To recommence construction following discovery of cultural deposits or human remains, the Permittee is required to submit report for the review and approval of the Executive Director demonstrating whether any changes to the project are required to protect archaeological resources. If the ED determines that changes to the project are necessary, and those changes are not de minimis, the Permittee must obtain a permit amendment from the Commission before proceeding with construction.

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.

² Commission staff referred to project (via email) to tribal representatives from the Big Lagoon Rancheria, Trinidad Rancheria, and Yurok Tribe on November 2, 2022.

J. Local Coastal Program Certification

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

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

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

K. California Environmental Quality Act (CEQA)

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).)

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 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.

1-22-0616 (Strachan)

APPENDIX A

Application File for CDP Application No. 1-22-0616

County of Humboldt Local Coastal Program (uncertified Trinidad Area Plan & certified Coastal Zoning Regulations)