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Filed: 3/10/22
49th Day: 5/19/22
Staff: C. Holloway
Staff Report: 4/29/22
Hearing Date: 5/13/22

STAFF REPORT: APPEAL NO SUBSTANTIAL ISSUE DETERMINATION

Appeal No.: A-1-HUM-22-0011

Applicant: At-The-Bluff Farm Stay (Brian & Merritt Brodt)

Local Government: County of Humboldt

Local Decision: Approval with Conditions

Location: 548 Church Lane, approximately 5 miles east of the City of Ferndale, Humboldt County (APN 106-111-004)

Project Description: Amend coastal development permit allowing seasonal use of a barn on a dairy farm for special events to authorize after-the-fact the use of an existing residence as a "farm stay" operation

Appellant: John Brezina

Staff Recommendation: No Substantial Issue

IMPORTANT HEARING PROCEDURE NOTE

This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeals raise a substantial issue. Generally, and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, appellants, persons who opposed the application before the local government (or their representatives), and the local government shall be

qualified to testify; others may submit comments in writing. (14 CCR § 13117.) If the Commission determines that the appeal does raise a substantial issue, the *de novo* phase of the hearing will occur at a future Commission meeting during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

On February 3, 2022, the County of Humboldt Planning Commission approved a farm stay operation within an existing single-family residence on a 120-acre farm in the Eel River bottomlands approximately five miles east of the City of Ferndale. The property is an established agricultural preserve under the Williamson Act. The property is primarily used for production of silage and grazing of heifers to support dairy activities on surrounding organic dairy farm properties owned by the applicants. The applicants reside in a second farmhouse located on the subject property that was permitted by the County under separate CDP authorization in 2019. The County also separately permitted (in 2020) the seasonal use of an existing barn onsite as an event venue for periodic seasonal events.

The farm stay proposes to combine a transient lodging experience on a working farm with hands-on tour experiences onsite and offsite on related nearby dairy operations under the applicants' ownership and management. The applicants meet with every farm stay guest to offer tours of the pastures and farm equipment on the subject property and to arrange tours of the dairy farm, animals, and milking equipment on the applicants' nearby organic dairy operation. Onsite information available to guests is aimed at educating visitors about organic dairying and the "cow to carton" milk sequence, including details on the onsite production of silage in the pastures around the farm stay residence and maps of the property directing guests on a self-guided tour to take at their leisure.

The appeal contends that the development approved by the County, which has been operating without the benefit of a CDP, is not an allowed use within the property's Agriculture Exclusive land use and zoning designations, will disturb the surrounding area, and will interfere with surrounding agricultural uses.

There is a high degree of legal and factual support for the County's determination that the approved farm stay as permitted is similar to and compatible with the uses permitted in the AE zone, and will not impermissibly convert agricultural land or be incompatible with continued agricultural use on surrounding agricultural lands. In its approval of the proposed use, the County determined that the farm stay use is an "agricultural recreation" use listed as compatible with agriculture under the certified LUP, because it does not involve non-agricultural development, is "under the control of the owner" (i.e., the owner is required to be onsite while guests are present), and integrates an agricultural tourism component. Although the farm stay use is not a specifically

enumerated use in the zoning use table for the AE zone, the County's findings explain that the certified IP allows for the permitting of uses that are similar to and compatible with other uses permitted in the AE zone. The County found that the farm stay use is a compatible blend of residential and agricultural uses, both of which are permitted uses in the AE zone.

As conditioned, the permitted use will not involve development of non-agricultural buildings, onsite management is required to be present when guests are onsite, agricultural tourism is an integrated component of the farm stay operation, and there is adequate onsite parking to support the proposed use. The County's findings for approval explain that farm stay use will not be otherwise different than the uses allowed of single-family dwellings, and the farm stay will operate accessory to the primary use of the property for farming. In addition, "Agricultural homestays" and "Agricultural-related recreation facilities" both are use types listed as compatible with the agricultural preserve (Williamson Act) contract in which the property is enrolled. Moreover, the residence used for the farm stay was constructed prior to enactment of the Coastal Act and therefore is not subject to occupancy restrictions as is the permitted farmhouse on the property (the County's certified LCP requires that residences on agricultural lands must be incidental to agriculture and lived in by the owner or operator of the farm).

Although the County's LCP currently does not include specific regulations for either farm stay or vacation rental uses, the extent and scope of development approved by the County is limited, and the appeal does not raise issues of statewide significance. As discussed in the below findings, the appeal raises issues regarding dust impacts and trespassing on surrounding properties, but these issues in part are related to the permitted event use on the site which was not approved by the local government as part of its review of the farm stay application. All conditions of approval of the original permit, including dust control requirements, remain in full force and effect for the site. Considering these factors in conjunction with the County's findings, which demonstrate that the project as conditioned is consistent with the protection of local agriculture and compatible with other uses permitted in the AE zone, staff recommends the Commission finds that Appeal Number A-1-HUM-22-0011 presents no substantial issue with respect to the grounds on which the appeal has been filed under section 30603 of the Coastal Act

The motion to adopt the staff recommendation of Substantial Issue as is found on [Page 5](#).

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EXHIBITS

[Exhibit 1 – Location Maps](#)

[Exhibit 2 – Land Use and Zoning Map](#)

[Exhibit 3 – Approved Plans](#)

[Exhibit 4 – Adopted CDP conditions that apply to the site \(original CDP and CDPM\)](#)

[Exhibit 5 – Farm Stay Information Binder for Guests \(excerpt\)](#)

[Exhibit 6 – Approval of Agricultural Preserve and Compatible Uses Allowed](#)

[Exhibit 7 – Appeal Received \(reasons for appeal excerpted\)](#)

[Exhibit 8 – Final Local Action Notice and Findings for Approval](#)

I. Motion and Resolution

Motion:

I move that the Commission determine and resolve that Appeal No. A-1-HUM-22-0011 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion by voting “Yes” as is recommended by staff will result in a finding of **No Substantial Issue** and adoption of the following resolution and findings. The local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution:

The Commission hereby finds that Appeal No. A-1-HUM-22-0011 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved development with the certified LCP and/or the public access policies of the Coastal Act.

II. Appeal Jurisdiction and Procedures

After certification of an LCP, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (CDPs). Section 30603 states that an action taken by a local government on a CDP application may be appealed to the Commission for certain kinds of developments. Pursuant to section 30603(a)(1), the County’s approval is appealable to the Commission because the development approved by the County is not designated as the principal permitted use under the County’s certified zoning ordinance.

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed. The term “substantial issue” is defined in section 13115 of the Commission’s regulations:

“When determining whether the appeal raises a substantial issue, the Commission may consider factors, including but not limited to:

- (1) the degree of factual and legal support for the local government’s decision;
- (2) the extent and scope of the development as approved or denied by the local government;
- (3) the significance of the coastal resources affected by the decision;
- (4) the precedential value of the local government's decision for future interpretations of its LCP; and
- (5) whether the appeal raises only local issues as opposed to those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor.”

Commission staff has analyzed the County’s record for the approved project, including, but not limited to, the County’s Final Local Action Notice for the approval ([Exhibit 8](#)) and the appellant’s claims ([Exhibit 7](#)). Staff is recommending that the Commission find that the appeal of the County’s action raises no substantial issue with respect to the grounds on which the appeal was filed.

In this case, because the staff is recommending that the appeal raises no substantial issue, the Commission will hear arguments and vote on the substantial issue question. Generally, and at the discretion of the Chair, qualified persons will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant, and persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised.

If the Commission determines that the appeal does not raise a substantial issue, the local government approval will stand. If the Commission determines that an appeal raises a substantial issue, the Commission would continue the de novo portion of the appeal hearing to a subsequent meeting.

III. Local Government Action

On February 3, 2022, the County of Humboldt Planning Commission approved Coastal Development Permit (CDP) and Conditional Use Permit (CUP) Modification No. PLN-2021-17197 with special conditions for applicants Brian and Merritt Brodt to establish a farm stay within an existing farmhouse. The County’s approval was issued as a modification (amendment) to a CDP granted in 2020 (PLN-2018-14105) for the

seasonal use of an existing dairy barn as an event venue. The CDP modification (CDPM) authorized after-the-fact the use of an existing residence as an overnight lodging farm stay operation separate and apart from the seasonal event use. The County granted its approval for the CDPM subject to nine special conditions including, but not limited to, conditions related to operational limitations and maximum guest limitations. The conditions of approval for the CDPM also specified that all conditions of the existing CDP for the event venue remain in effect, including conditions limiting the number of events allowed per year, restricting on-site noise, limiting hours of operation, and requiring an annual monitoring report for the first three years of the event venue's operation. The CDPM approval did not authorize changes to the underlying event venue use, which continues to be permitted under the modified permit.

IV. Filing of Appeal

The Commission's North Coast District Office received the County's Notice of Final Local Action on CDPM PLN-2021-17197 on February 24, 2022 ([Exhibit 8](#)). On March 10, 2022, the Commission received one appeal of the County's approval of the modification from John Brezina. The appeal was filed in a timely manner, within 10 working days of receipt by the Commission of the County's Notice of Final Action ([Exhibit 7](#)).

V. Summary of Appeal Contentions

The appeal contends that the development approved by the County is not an allowed use within the Agriculture Exclusive land use and zoning designations of the property, that the permitted use will interfere with surrounding agricultural uses, and that "transient guests and lodging in this rural farming area is a drastic change to the character and peacefulness of the area."

VI. Findings & Declarations for No Substantial Issue

A. Project Description

The approved project authorizes a farm stay operation within an existing two-story, approximately 3,000-square-foot farmhouse. The existing farmhouse was originally constructed in the 1800s when the existing farming operations on the property were first established. There also is a second residence on the 120-acre farm that was approved by the County under a separate CDP in 2019, which the applicants (who are dairy farmers) inhabit. According to the farm stay operations plan approved under the subject authorization, the proposed farm stay is an agricultural tourism operation that combines "a lodging experience on a 120-acre working farm with hands on tour experiences at the Brodt Dairy on Fulmore Rd. in Ferndale" located approximately 5 miles to the northwest. Specifically, the integrated farm tour covers topics including:

- Day to day operational functions and challenges of agricultural operations

- Connecting the “Cow to Carton” sequence of milk production
- The complexity of tailored feeding programs and their effect on herd health and productivity
- Sanitation process and requirements for a healthy final product
- Discussion of economic factors and an understanding of how small production agriculture is a challenged industry
- Specifics on the number of active farms in Humboldt County and Ferndale specifically and how those numbers have changed over the years
- Personal, hands-on contact with production animals including feeding and witnessing occasional births

In addition to the formal tour of an off-site portion of the applicants’ dairy operations, guests are invited to explore the 120-acre property using a self-guided map, informational sheets provided in a welcome binder, and informational signs placed throughout the property. Guests are also encouraged to approach the property owners, who are required to remain onsite while overnight guests are present, with any questions or comments.

B. Project Location and Environmental Setting

The project site is located on the inland edge of the coastal zone at 548 Church Lane (also known as 530 Church Lane) approximately five miles east of the City of Ferndale, Humboldt County (APN 106-111-04) ([Exhibit 1](#)). The approximately 120-acre farm is planned and zoned under the County’s certified LCP for Agricultural Exclusive (AE) uses with a 60-acre minimum lot size (AE-60), Flood Hazard Area (F), Streams and Riparian Corridor Protection (R), and Transitional Agricultural Lands (T) combining zones (AE-60/F,R,T) ([Exhibit 2](#)).

The property is an established agricultural preserve under the “California Land Conservation Act of 1965” (“Act” or Williamson Act). The property is primarily used on a seasonal basis for production and harvest of silage and grazing of heifers to support dairy activities on surrounding organic dairy farm properties owned by the applicants. The surrounding lands also are planned and zoned as Agricultural Exclusive and consist of a mix of agricultural uses and vacant land. The property is located in the Eel River delta, which is the heart of Humboldt County’s dairy industry. The Eel River Area Plan (the certified Land Use Plan for the area) recognizes the importance and uniqueness of agricultural land in the Eel River planning area. It states (on page 2 of Chapter 4):

The agricultural use of this [Eel River Delta] area is unique to Humboldt County’s Coastal Zone because of the relationship between seasonally inundated pastures and upland areas. During the wet season, the upland areas provide grazing areas free from both inundation and irrigation requirements. During the dry season, when the uplands would require extensive irrigation for pasturage, the seasonal wetland areas, with their high freshwater table, provide prime

grazing land with minimum or no irrigation requirements. Besides the soils themselves, agriculture is dependent upon this relationship between wetlands and upland use.

Mapped wetlands on the property include a roadside ditch approximately 300 feet east of the farm stay and a freshwater pond approximately 450 south of the farm stay. The property is mapped within the Eel River Critical Coastal Area (CCA) and is therefore subject to the State's non-regulatory CCA program, which aims to protect high resource-value coastal waters from polluted runoff (e.g., agricultural runoff).

C. Analysis of Contentions

As summarized above, the appeal contends that the development approved by the County is not an allowed use, that the permitted use will interfere with surrounding agricultural uses, and that "transient guests and lodging in this rural farming area is a drastic change to the character and peacefulness of the area." For the reasons discussed below, the Commission finds that the contentions raised under Appeal No. A-1-HUM-22-0011 present valid grounds for appeal but do not raise a substantial issue of conformance of the approved development with the policies and standards of the County's certified LCP, which includes the Eel River Area Plan (Land Use Plan) and Coastal Zoning Regulations (Implementation Plan).

Existing Farm Uses and Permitting Background for the Site

The property is a 120-acre farm established as an agricultural preserve under the State Land Conservation (Williamson) Act.¹ The rolling ten-year contract executed in 2018 between the applicants and the County establishing the agricultural preserve ([Exhibit 6](#)) restricts the use of the subject land (and other nearby farmlands owned by the applicants) to agricultural and compatible open-space uses. Compatible uses listed in the agricultural preserve contract as permitted uses include "(1) Single family residences essential for agricultural operations and noncommercial guest houses...; (2) Field, row, tree, berry and bush crops, including timber growing and harvesting; (3) Raising and grazing of horses, cattle, sheep and goats; (4) Dairies; (5) Nurseries, greenhouses, aviaries, apiaries, and mushroom farms." The contract also lists several compatible uses that may be allowed with a conditional use permit, including, but not limited to "Agricultural homestays" and "Agricultural-related recreation facilities."

The current principal farm uses on the site are cultivation of silage (rotational crop feed for dairy cows consisting of grass and clover planted/harvested four times per year) and seasonal grazing of heifers as part of the applicants' certified organic dairy farm operations, which include the subject property and additional farm properties in the surrounding area. As noted in the informational binder presented to farm stay guests

¹ The California Department of Conservation's Williamson Act Program was developed as a mechanism for protecting agricultural and open space land from premature and unnecessary urban development. A contract executed under the program restricts the uses of agricultural and open space lands to farming and ranching uses during the length of the contract period.

([Exhibit 5](#)), the applicants' pasture-based dairy farm, like other dairy farms in the Eel River Valley:

“...has a mixture of fields used to grow feed, pastures used primarily for grazing, pastures used for both grazing and feed production, and dairy facilities where cows are milked. The milk cows generally stay on pastures near the dairy facilities, while heifers and other non-milking animals may graze on other pastures, depending on the time year and other factors. The fields and pastures that make up our farm [are] not a single block of land.”

The subject authorization that was appealed is a modification (CDPM) to a CDP and conditional use permit (CUP) originally approved in 2020, which authorized a supplemental non-agricultural use on the subject farm involving the seasonal use of the barn on the property as an event venue. The supplemental event venue was authorized for use seasonally (between May 1 and October 31) within the existing historic barn on the site that is used to store hay, silage, and large farm equipment during the rainy season (generally November through April) to protect it from degradation. Although approval of the farm stay was authorized as a modification to the event venue permit, the farm stay use as proposed is an independent use intended to operate separate and apart from the event venue use.

The County granted its approval of the original CDP subject to 25 special conditions, including, but not limited to, conditions related to dust suppression, traffic control, noise restrictions, timing and number of events, monitoring of events, and a restriction on the operation of vacation rentals on the property. The County's findings for approval of the supplemental event use on the site state that as proposed, the event operations will not convert any land to a non-agricultural use or interfere with agricultural operations, because (1) events are restricted by total number (generally 12 per year) and season (May through October); (2) no new non-agricultural structures are required; and (3) the area utilized for the event use is limited to the existing barn and surrounding fields, which will be returned/restored to pre-event conditions after the event season (e.g., barn will be emptied of event facilities and equipment and the field used for event parking will be aerated at the end of the event season to de-compact soils). With regard to the vacation rental restriction, the County found that the use of the farmhouse with the considerable agricultural tourism component in conjunction with dedicated onsite management did not equate to a vacation rental, but rather in this case, it was a farm stay consistent with the protection of local agriculture.

The property is developed with two residences, which the County's certified LCP allows for on farms that are at least 60 acres in size, provided that the permitted residence(s) is inhabited by the farm owner or operator and/or the parents and/or children of the farm owner or operator. In 2019, the County granted a CDP to the applicants to construct a farmhouse on the property, and the applicants, who are dairy farmers, live in the permitted residence. The approved CDP includes a condition requiring the recordation of a deed restriction that restricts the occupancy of the permitted residence only to the farm owner/operator and/or the parents and/or children of the farm owner or operator. The residence approved for use as a farm stay under the subject CDPM that was

appealed originally was constructed in the 1800s and was inhabited by the prior farm operators of the property prior to the applicants' purchase of the property in 2011. Because the residence that is used for the permitted farm stay operation was constructed prior to enactment of the Coastal Act and prior to certification of the County's LCP, there are no occupancy restrictions on the structure as there are for the farmhouse permitted by the County in 2019.

In its approval of the farm stay use in the original residence on the property, the County imposed nine special conditions related to requirements that the property owners reside onsite during operation of the farm stay use and setting a maximum number of guests, among other conditions ([Exhibit 4](#)). The County's approval also reimposed without changes the 25 special conditions attached to the original permit for the event use on the property ([Exhibit 4](#)), including the condition restricting any vacation rental use on the property. Although the existing certified LCP is generally silent with respect to vacation rental uses (as well as farm stay uses), the LCP specifies that vacation rental uses are allowed in single family residences "where the use would not be otherwise different than the uses allowed to be made of single-family dwellings."

Allowed Uses on Agricultural Lands

The subject site is planned and zoned for Agricultural Exclusive (AE) uses under the certified LCP. The appeal contends that the development approved by the County is not an allowed use on AE lands. The principal use on lands designated AE under the LUP is "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." Conditional uses allowed on AE-designated lands under the certified LUP include "hog production, watershed management, management for fish and wildlife habitat, recreation (such as hunting camps and stables except those requiring non-agricultural development), utility transmission lines, farm labor housing, greenhouses, feed lots and similar confined livestock operations."

In addition to the list of uses specified in the LUP as allowed on AE lands, the LUP also includes policies identifying additional compatible uses allowed on agricultural lands provided that such uses not impair the economic viability of agricultural operations on such lands and that a conditional use permit is obtained for such uses. Specifically, LUP sec. 3.34-B-1 states (emphasis added):

1. The zoning of all agricultural lands shall not permit any use that would impair the economic viability of agricultural operations on such lands; and a conditional use permit shall be required of any proposed use not directly a part of agricultural production of food or fiber on the parcel; except that on parcels of 60 acres or larger, a second house for parents or children of the owner operator shall be considered a direct part of agricultural production.

Other uses considered compatible with agricultural operations include

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- a. Management for watershed
- b. Management for fish and wildlife habitat
- c. Recreational uses not requiring non-agricultural development under the control of the owner
- d. The erection, construction, alteration, or maintenance of gas, electric, water or communications transmission facilities...
- e. Farm labor housing and temporary labor camps of less than one year duration shall require a conditional use permit

To implement the uses allowed on AE lands under the LUP, the existing certified zoning for the site provides for the following uses as allowed on AE lands (emphasis added):

313-7.1	AE: AGRICULTURAL EXCLUSIVE
Use Type	Principal Permitted Use
Use Type	Agricultural Exclusive Principal permitted Use (See Section 313-163.1.9 for description)
Residential Use Types	Conditionally Permitted Use
Civic Use Types	Guest House Farm Employee Housing Labor Camp Second Agriculture or Commercial Timber Production Residence (on a lot less than sixty acres (60a) in size) Single Family Residential (a Use Permit is required on a lot less than sixty acres (60a) in size for a second single detached dwelling) Essential Services Solid Waste Disposal; subject to the Solid Waste Disposal Regulations Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations Minor Generation and Distribution Facilities
Industrial Use Types*	Aquaculture, allowed within non-prime agricultural lands only Cottage Industry; subject to the Cottage Industry Regulations
Agricultural Use Types	Hog Farming Feed Lots/Slaughter House Kennels <u>Agriculture-Related Recreation</u> Intensive Agriculture

<p>Extractive Use Types</p>	<p>Oil and Gas Drilling and Processing; subject to the Oil and Gas Drilling and Processing Regulations Surface Mining - 2; subject to the Surface Mining Regulations Surface Mining - 3; subject to the Surface Mining Regulations Metallic Mineral Extraction; subject to the Surface Mining Regulations</p>
<p>Natural Resource Use Types</p>	<p>Fish and Wildlife Management Watershed Management Wetland Restoration Resource-Related Recreation Coastal Access Facilities</p>
<p>Use Types Not Listed in This Table**</p>	<p><u>Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the AE zone.</u></p>

In addition to Agriculture-Related Recreation, which is a conditionally allowed use, the above table also provides for the conditional permitting of “any use not specifically enumerated...if it is similar to and compatible with the uses permitted in the AE zone.”

The County’s findings for approval state that the permitted farm stay use, while not specifically enumerated in the zoning table uses cited above, is similar to agriculture-related recreation, compatible with other uses permitted in the AE zone, and will operate accessory to the existing agricultural operations. In addition, the County’s findings for approval note that the proposed use will not require development of non-agricultural buildings, and the farm owners reside on the property and will be present on site when guests are present. As noted above, the proposed farm stay will be located in a residence on the property that was constructed prior to the effective date of the Coastal Act, which will function as an agricultural tourism operation that combines a lodging experience on a 120-acre working farm with hands on tour experiences onsite and offsite on related nearby dairy operations under the applicant’s ownership and management. As previously noted, the agricultural preserve contract in which the subject property is enrolled lists “Agricultural homestays” and “Agricultural-related recreation facilities” as uses compatible with the agricultural preserve and subject to conditional use permit approval, which was obtained for the permitted farm stay use. Thus, the County found that the use of the farmhouse with the considerable agricultural tourism component in conjunction with dedicated onsite management does not equate to a vacation rental use, but rather in this case, to a farm stay use consistent with the protection of local agriculture. Finally, as discussed above, because the residence approved for use as a farm stay was constructed prior to enactment of the Coastal Act and prior to certification of the County’s LCP, there are no permit conditions associated with the structure restricting its occupants to the farm owner or operator as there are for the farmhouse permitted on the property by the County in 2019, which the applicants inhabit. Therefore, using the residence for the lodging of farm stay guests rather than for occupancy by the farm owner or operator or the parents or children of the farm

owner/operator does not conflict with the LUP requirements requiring residences on AE lands to be incidental to the production of food, fiber or plants. Regardless, as discussed below, the use of the structure for the farm stay as permitted by the County will not interfere with agricultural uses onsite or on surrounding agricultural lands inconsistent with the agricultural lands protection policies of the certified LCP.

Compatibility with Agricultural Uses and the Character of the Area

The appeal contends that the permitted use will interfere with surrounding agricultural uses, and that “transient guests and lodging in this rural farming area is a drastic change to the character and peacefulness of the area.”

In addition to LUP section 3.34-B-1 cited above regarding compatible uses on agricultural lands, the certified LUP also includes Coastal Act sections 30241 and 30242 as enforceable policies:

Coastal Act section 30241 states as follows:

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](#).
- (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.

Coastal Act section 30242 states as follows:

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

As noted above, the County's findings for approval note that the permitted farm stay will not require additional development of non-agricultural buildings or other development. The County's findings also note that there is adequate onsite parking available for the farm stay use. Thus, no agricultural land will be converted for the proposed use. The County's approval includes specific conditions that support the County's findings that the farm stay use will not impair agricultural operations on the subject lands or surrounding lands. These include CDPM Condition #2, which states that the farm stay use shall be conducted consistent with the approved Operations Plan and Project Description ([Exhibit 3](#)); Condition #7, which requires the applicants to be on site during overnight stays; Condition #8, which limits the maximum number of guests who may stay at the farm stay (up to 8); and Condition #9, which limits onsite signage advertising the farm stay to one sign no greater than four square feet. In addition, Condition #1 of the approved CDPM states that all conditions of approval for the original permit for the event venue use remain in full force and effect, including, as discussed above, conditions related to dust suppression, traffic control, noise restrictions, timing and number of events, and monitoring of events.

The appeal includes a statement alleging that the required dust control measures have resulted in impacts to surrounding organic pasturelands and interfere with surrounding agricultural operations. However, the County required the dust control requirements as a condition of approval of the seasonal event use on the site permitted under the original CDP (Condition #3 of the original CDP). The applicant implemented the required dust control measures as required by the condition, and the County Planning Director determined that the completed dust control measures, which involved funding in part the paving of Church Lane in coordination with the County, satisfied the requirements of the CDP condition. There were no dust control requirements associated with the CDPM authorizing the farm stay operation. The appeal also contends that the farm stay use is a detriment to surrounding neighborhood farms. However, the presence of owners onsite coupled with materials provided to guests to orient visitors to the site will deter guests from accidentally trespassing onto neighboring farms.

Another component of Condition #1 of the approved CDPM that remains in full force and effect is restrictions on the operation of vacation rentals on the property. Although the County's certified LCP lacks specific regulations for vacation rentals (as well as for farm stays), the permitted farm stay use is different than a typical vacation rental use because of its focus on agricultural tourism. The permitted farm stay integrates an agricultural recreational experience into the stay by providing both guided tours of the subject property and associated nearby organic dairy properties provided by the

applicants as well as maps and information for self-guided tours of the farm. As explained in the information binder provided to farm stay guests ([Exhibit 5](#)), guests choose from multiple offered times for touring and while on tour may participate in bottle-feeding calves, viewing maternity pens to watch cows give birth, and learning about day to day operations, farm equipment and the cow to carton sequence of milk production. In addition, the permitted farm stay is located on an active certified dairy farm that incorporates farm culture and farm products into all aspects of the stay, including signage and information on the farm and inclusion of local dairy products produced from farm animals on the subject farm for guests (e.g., edible dairy products such as cream and cheeses are included in the farm stay kitchen refrigerator). Moreover, as permitted by the County, the farm owners/operators must be present onsite during guest stays. Thus, the County found that the use of the farmhouse with the considerable agricultural tourism component in conjunction with dedicated onsite management does not equate to a vacation rental use, but rather in this case, to a farm stay use consistent with the protection of local agriculture.

Because the County's approval (1) imposes Condition #7 requiring the applicants to reside on site during overnight stays, (2) imposes Condition #8 limiting the maximum number of guests to a number appropriate for the number of bedrooms in the residence (4 bedrooms/8 guests max.), and (3) because the farm stay use will not be otherwise different than the uses allowed of single-family dwellings, the development approved by the County will not conflict with adjacent or surrounding agricultural uses or be more intensive than other conditionally permitted uses on AE lands in the area. In addition, as discussed above, the farm stay use complies with the agricultural preserve contract in which the subject property is enrolled, which allows for "Agricultural homestays" and "Agricultural-related recreation facilities" as uses compatible with the agricultural preserve and subject to conditional use permit approval, which was obtained.

Conclusion

When considering a project on appeal, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over the CDP application for such development. At this stage, the Commission has the discretion to find that the project does or does not raise a substantial issue of LCP and Coastal Act (where applicable) conformance. The Commission has in the past and, pursuant to section 13115(c) of its regulations, considered the following five factors in its decision of whether the issues raised in a given case are "substantial": (1) the degree of factual and legal support for the local government's decision; (2) the extent and scope of the development as approved or denied by the County; (3) the significance of the coastal resources affected by the decision; (4) the precedential value of the County's decision for future interpretations of its LCP; and, (5) whether the appeal raises only local issues as opposed to those of regional or statewide significance. The Commission may, but need not, assign a particular weight to a factor, and may make a substantial issue determination for other reasons as well. In this case, these five factors considered together support a conclusion that the appeal does not raise a substantial issue as to the County-approved project's consistency with the certified LCP.

First, the Commission finds that in this case there is a high degree of legal and factual support for the County's determination that the approved agriculturally related farm stay as permitted by the County is similar to and compatible with the uses permitted in the AE zone, and will not impermissibly convert agricultural land or be incompatible with continued agricultural use on surrounding agricultural lands. As discussed above, the proposed use will not require development of non-agricultural buildings, and the farm owners reside on the property and will be present on site when guests are present. In addition, "Agricultural homestays" and "Agricultural-related recreation facilities" are uses listed as compatible with the agricultural preserve status (Williamson Act contract) in which the property is enrolled.

Second, the Commission finds that the extent and scope of the development approved by the County is not extensive. The approved development is limited to a new farm stay use within an existing single-family residence constructed prior to enactment of the Coastal Act. The County's findings support the conclusion that the extent of the authorized development is appropriate for the site, because permit conditions require onsite management, an integrated agricultural tourism component, adequate onsite parking, and design requirements and limitations on new signage.

Third, while the Coastal Act prioritizes the protection of agricultural lands, as found by the County, the permitted use as conditioned will operate accessory to the existing farming operations and will not interfere with agricultural operations onsite or on surrounding agricultural lands. As discussed, the Williamson Act contract executed for the property states that "Agricultural homestays" and "Agricultural-related recreation facilities" are uses compatible with the preservation of agriculture.

The fourth factor addresses the precedential value of the County's decision for future interpretations of its LCP. The County's LCP currently does not include specific regulations for either farm stay or vacation rental uses. Thus, to approve the proposed use, the County relied on two principal LCP provisions: (1) a determination under the LUP that the farm stay use is a recreational use considered compatible with agriculture, because it does not involve non-agricultural development, is "under the control of the owner" (i.e., the owner is required to be onsite while guests are present), and includes a considerable agricultural tourism component; and (2) a determination under the zoning code that although the farm stay use is not a specifically enumerated use in the zoning use table for the AE zone, the farm stay use is similar to and compatible with other uses permitted in the zone, including residential uses and agricultural uses. While the County's findings do not clearly explain how the farm stay use is a recreational use, the County concluded that allowing transient lodging in the existing residence would not equate to a vacation rental use if the use involved an agricultural tourism component and if the owner was present onsite when guests are present. Because the LCP includes no clear standards for farm stay uses or vacation rental uses, the County's findings rely on the applicant's proposed operations plan as the defining standard for agricultural compatibility.

Finally, the fifth contention regarding the impacts on adjoining properties generated by use of the farm stay (dust, trespassing) raises local neighborhood issues as opposed to

those of regional or statewide significance. As discussed, the appeal raises issues regarding dust impacts and trespassing on surrounding properties, but these issues in part are related to the permitted event use on the site which is a separate issue not raised by the farm stay permit. All conditions of approval of the original permit, including dust control requirements, remain in full force and effect for the site. The presence of owners onsite coupled with materials provided to guests to orient visitors to the site will deter guests from accidentally trespassing onto neighboring farms.

Considering the five factors together, the Commission finds that on balance, the project as conditioned to require the applicants to reside on site during overnight stays, integrate an agricultural tourism component into the overnight stays as proposed in the approved operations plan, and limit the maximum number of guests, is consistent with the protection of local agriculture and compatible with other uses permitted in the AE zone. For all these reasons, the Commission finds that Appeal Number A-1-HUM-22-0011 presents no substantial issue with respect to the grounds on which the appeal has been filed under section 30603 of the Coastal Act.