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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-21-0677

Applicant: John Rotter & Jeannette Gavin

Location: 1948 and 2056 Patricks Point Drive, approximately two miles north of Trinidad, Humboldt County

Project Description: Subdivide an approximately 7-acre parcel into two parcels of approximately 4.8 acres and 2.2 acres in size.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The subject property is located on a ~200-foot-high coastal bluff and is currently bisected by Patricks Point Drive into two disjointed segments, with 5.5 acres of the property west of the road and 1.5 acres east of the road. The property is currently developed with a 2,600-square-foot single-family residence west of the road permitted by the Commission in 2006 and a 576-square-foot secondary dwelling unit east of the road permitted by the County in 2014. Each residence is served by its own separate driveway, onsite wastewater treatment system, and onsite water system. The applicants propose to subdivide the 7-acre lot into two lots approximately 4.8 acres (Parcel 1) and 2.2 acres (Parcel 2) in size. The proposed subdivision would result in each existing structure and associated onsite utilities being on separate legal developed lots bisected by the road. However, to comply with local minimum planned density standards, approximately 0.7 acres from proposed Parcel 2 would be located west of Patricks Point Drive, with the remaining 1.5 acres developed with the existing ADU and associated onsite utilities located east of the road. The entirety of proposed Parcel 1 developed with the existing residence and associated development would be on the west side of the road. [Exhibit 2](#) shows existing and proposed lot configurations.

The primary Coastal Act issues raised by the project relate to the allowance of rural land divisions and minimizing geologic hazards. Under section 30250(a) of the Coastal Act, to subdivide the subject property, it must be located within an area where 50 percent or more of the usable parcels have been developed, and the newly created parcels must be no smaller than the average size of the surrounding parcels. Based on the parcel size analysis discussed in Finding E, the proposed rural land division meets these tests.

With respect to geologic hazards, at this time there is no development proposed other than the subdivision, and the proposed subdivision will not increase future risks to the property or the likelihood of development in hazardous portions of either resultant parcel. There is very limited potential for new development on the subject property (on either Parcel 1 or on the portion of Parcel 2 west of Patricks Point Drive) in the future due to geologic hazard constraints regardless of whether the property is subdivided. In its approval of CDP 1-06-12 in 2006 for the existing residential development on the portion of the property west of Patricks Point Drive, the Commission imposed several special conditions including (1) requiring conformance of final construction plans for the residence to design recommendations specified in the geologic report submitted with the application, (2) prohibiting construction of future seawalls or shoreline protective devices, (3) requiring the landowner to remove any authorized development if it is deemed by a government agency to be too dangerous to occupy, and (4) an assumption of risk to provide acknowledgment of the hazardous nature of geologic conditions at the site. CDP 1-06-012 also included a condition requiring the applicants to record a deed restriction imposing the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property. These conditions remain in full force and effect for the subject property as reconfigured under this CDP authorization for the proposed subdivision ([Exhibit 5](#)).

The Motion to adopt the staff recommendation of approval with standard conditions is found on page 4.

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I. Motion and Resolution

Motion

I move that the Commission **approve** Coastal Development Permit Application No. 1-21-0677 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.

Resolution

The Commission hereby **approves** Coastal Development Permit Application No. 1-21-0677 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

None

IV. Findings and Declarations

A. Project Description and Location

The subject site is an approximately 7-acre bluff top lot located in a rural area approximately two miles north of Trinidad at 1948 and 2056 Patricks Point Drive (APNs 517-261-02 and 517-261-07) ([Exhibit 1](#)). The applicant proposes to subdivide the 7-acre lot into two lots approximately 4.8 acres (Parcel 1) and 2.2 acres (Parcel 2) in size. The property is currently bisected by Patricks Point Drive into two disjointed segments. The 5.5-acre portion of the property west of the road was developed under a CDP approved by the Commission in 2006¹ for a 2,600-square-foot single-family residence, detached garage, driveway, onsite water system consisting of a spring and 3,000-gallon storage tank, and onsite wastewater treatment system (OWTS). The 1.5-acre portion of the property east of the road was developed under separate CDP authorization approved by the County in 2014 for a 576-square-foot accessory dwelling unit (ADU), driveway, onsite water system, and OWTS. The proposed subdivision would result in each existing structure and associated onsite utilities being on separate legal developed lots bisected by the road. However, to comply with local minimum planned density standards, approximately 0.7 acres from proposed Parcel 2 would be located west of Patricks Point Drive, with the remaining 1.5 acres developed with the existing ADU and associated onsite utilities located east of the road. The entirety of proposed Parcel 1 developed with the existing residence and associated development would be on the west side of the road. [Exhibit 2](#) shows existing and proposed lot configurations.

B. Setting

The subject site occupies a generally westward-sloped, forested, coastal bluff in a largely developed rural residential area on land locally designated "Rural Residential" (RR) and locally zoned "Rural Residential Agriculture with a 2-acre minimum parcel size" (RA-2). The coastline in this area is characterized by offshore rocks and narrow sand beaches backed by high rocky bluffs. The nearest public access points are Secret

¹ CDP 1-06-12, approved by the Commission on December 15, 2006, included seven special conditions including conditions to protect water quality, visual compatibility, potential archaeological resources, and geologic hazards.

Beach approximately 1.5 miles to the south and Sue-Meg State Park approximately three miles to the north.

The subject property is densely vegetated with forest vegetation comprised of Grand fir, Douglas fir, cascara, red alder, salmonberry, elderberry, salal, sword fern, and red flowering currant. Non-native, exotic species onsite include pampas grass, English ivy, and scotch broom. The property lies within an area designated as “Coastal Scenic” under the County’s uncertified portion of the LCP. However, views to the ocean through the property from Patricks Point Drive are obscured by dense vegetation and mature trees. Slopes on the property are gentle on the bluff top (5-15%) to moderately steep (up to about 75%) on the bluff face. The existing residence, located on the southern end of the property, is approximately 70 feet from the bluff edge according to a geologic investigation completed in 2006 in support of the previous CDP for the single-family residence. North of the existing residence, the bluff crest curves inland and the bluff edge runs roughly parallel to Patricks Point Drive near the edge of the property line at the northern end of the property ([Exhibit 3](#)).

C. Standard of Review

Although Humboldt County has a certified local coastal program (LCP), the subject site (the portion of the property west of Patricks Point Drive) 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.

As stated above, the property is bisected by Patricks Point Drive, which forms the boundary between the CDP jurisdiction of the Commission west of the road and the CDP jurisdiction delegated to Humboldt County by the Commission through the County’s certified LCP. The portions of the property within the Commission’s retained jurisdiction that are the subject of this permit include proposed Parcel 1 and the 0.7-acre strip of Parcel 2 on the west side of Patricks Point Drive. The remaining 1.5 acres of Parcel 2 on the east side of the road are within the CDP jurisdiction of Humboldt County. The County approved a Parcel Map Subdivision, Coastal Development Permit, and Special Permit (required for design review) for the portion of the proposed development in the County’s jurisdiction on August 19, 2021 (PLN-15532).

D. Other Agency Approvals

No other agency approvals are required for the proposed development other than the local CDP from Humboldt County described above.

E. Rural Land Divisions

Coastal Act Section 30250 states, in applicable part, the following (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.

...

The subject property is located outside of the urban boundary of Trinidad and is therefore subject to the rural land division criteria of section 30250(a) of the Coastal Act. To meet the criteria, the subject property must be located within an area where 50 percent or more of the usable parcels have been developed, and the newly created parcels must be no smaller than the average size of the surrounding parcels.

Taking the second test first (i.e., the newly created parcels must be no smaller than the average size of the surrounding parcels), the Commission has normally considered “surrounding parcels” to include those within a quarter-mile radius. Consistent with the decision of a state court of appeal [Billings v. CCC (1980) 103 Cal.App.3rd 729], this radius may be modified where geographic or other features clearly distinguish some of the parcels within it from those surrounding the subject property. In this instance, a major distinguishing factor is the local zoning and land use of the surrounding area. Virtually all of the parcels within a quarter-mile radius of the subject site east of Patricks Point Drive, except for large timber commercial parcels to the north and east, are locally zoned Rural Residential Agriculture with a minimum parcel size of 2 acres (RA-2), while approximately 30 parcels in a pre-Coastal Act subdivision on Westgate Drive have an “X” zoning overlay (RA-X) indicating no future subdivisions allowed. It is appropriate to examine the average parcel size for those parcels within a quarter-mile radius of the subject site east and west of Patricks Point Drive with the same zoning designation as the subject parcel, excluding the RA-X parcels and the large parcels zoned timber commercial, to evaluate the proposed subdivision’s consistency with the average parcel size requirements of section 30250.

Of the 20 parcels included in the parcel size study area ([Exhibit 4](#)), the arithmetic mean of these parcels is 2.86 acres, the median parcel size (the value falling in the middle of the range) is 2.20 acres, and the mode (the value which occurs most frequently) is 2.2

acres. Table 1 below summarizes the parcel size analysis, and [Exhibit No. 4](#) shows the parcel size analysis study area.

Table 1. Analysis of surrounding parcel sizes for the proposed subdivision. See [Exhibit 4](#) for a map of the parcel size analysis study area.

Parcel No.	Approx. Acreage	Developed (Yes or No)
517-022-015	0.56	Yes
517-022-016	0.76	Yes
517-022-002	1.03	Yes
517-231-049	1.31	Yes
517-231-039	1.46	Yes
517-022-020	1.66	Yes
517-021-012	2.08	Yes
517-021-014	2.15	Yes
517-261-006	2.18	No
517-231-060	2.20	Yes
517-021-018	2.38	Yes
517-231-059	2.65	Yes
517-261-005	3.23	Yes
517-021-023	3.46	No
517-021-024	3.55	Yes
517-021-013	4.06	Yes
517-231-061	4.29	Yes
517-261-001	4.84	Yes
517-021-019	6.66	Yes
517-022-019	6.67	Yes
Mean Parcel Size = 2.86 acres (n = 20)		
Median Parcel Size = 2.20 acres		
Mode Parcel Size = 2.20 acres (n = 3)		

The court in [Billings](#) concluded that the Commission should identify the “typical” or “representative” parcel size. Where the presence of outlier parcels would skew the average, the median parcel size and mode provide a better picture of the typical parcel size in the area. This is the case for the above parcel size analysis where due to the presence of two 6.66 and 6.67-acre outlier parcels, the arithmetic mean of surrounding parcels (2.86 acres) is larger than the smallest of the parcels proposed to be created (2.20 acres). However, these outlier parcels, which are both residential parcels each developed with a single-family residence, are almost two acres larger than the next largest parcel size in the study area. Thus, the Commission finds that the average parcel size is significantly skewed, and it is appropriate to look at the median and mode parcel sizes rather than the arithmetic mean to provide a better representation of the typical parcel size in this area. In this case both the median and mode parcel size (both

2.2 acres) are equal to the smaller of the proposed subdivided parcels of 2.20 and are less than the larger proposed parcel (4.78 acres). Therefore, the Commission finds that the proposed parcel sizes of the lots to be created by the subdivision are consistent with the rural land division criteria of section 30250(a) of the Coastal Act.

The other test of the rural land division criteria of section 30250(a) is whether 50 percent or more of the surrounding parcels are developed. In the case of the parcel analysis described above, 18 of the 20 surrounding parcels in the study area, or 90 percent, are developed. Therefore, the proposed land division meets the developed parcel criteria, as over 50 percent of the surrounding parcels are developed.

On the basis of the above analysis, the Commission finds that the proposed subdivision is consistent with the rural land division criteria of section 30250(a) of the Coastal Act.

F. New Development

Section 30250(a) of the Coastal Act states that new development shall be located in or near existing developed areas able to accommodate it and where it will not have significant adverse effects 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 proposed subdivision will result in two lots, each developed with a residence, driveway, and onsite services. The residence on proposed Parcel 2 was permitted by the County in 2014 as a second residential unit. After subdivision, there will be one residence on each lot. Development of additional structures on either proposed resultant lot in the future will require additional site investigations to determine whether additional structures, such as detached ADUs, could conform with minimum yard setback requirements, bluff setback requirements, and minimum standards for adequate water and septic capacity to serve additional development. As discussed further in Finding G below, the undeveloped portion of proposed Parcel 2 located in the Commission's jurisdiction west of the road could not be further developed with residential structures due to topographic constraints and inconsistency with the Coastal Act hazards policies, because the portion of Parcel 2 west of the road is seaward of the delineated bluff edge (as shown on [Exhibit 3](#)). Therefore, proposed subdivision will not result in significant increased development potential. As the development will be located in an existing developed area and will have no impact on coastal resources, the Commission finds that the proposed development as conditioned is consistent with Coastal Act section 30250(a).

G. Geologic and Flood Hazards

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

New development shall do all of the following:

- a. Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

- b. Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

The subject property encompasses an uplifted marine terrace situated approximately 200 feet above the ocean. The coastal bluffs are subject to bluff retreat, which poses a hazard to development of the subject parcel. To support the CDP application for the existing house on the property in 2006, the applicants commissioned SHN Consulting Engineers & Geologists, Inc. (SHN) to perform a geotechnical investigation of the site. The report included a review of pertinent maps and literature, field reconnaissance of the site, development of a profile of the bluff face at the site, quantitative analysis of slope stability, and interpretation of regional historic bluff retreat rates. The report concluded that the bluff face is a potentially unstable geologic feature and that the most significant geologic hazard is bluff top retreat due to slope failures on the bluff face. The report found that the only buildable portion of the parcel west of Patricks Point Drive (which, as discussed, includes proposed Parcel 1 and a portion of proposed Parcel 2) is on the marine terrace surface towards the southern end of the property (on what is proposed as Parcel 1). The terrace narrows towards the northern end of the property and is replaced by a steep bluff face at the northernmost portion of the lot (on what is proposed as the portion of Parcel 2 west of the road). In order to address the hazards caused by potential bluff top retreat, the 2006 report recommended several measures, including that the bluff face not be subject to ground disturbance or vegetation removal, that site grading be kept to a minimum, and a site-specific bluff setback recommendation of at least 70 feet from the edge of the bluff to the edge of proposed development.

In its approval of CDP 1-06-12 in 2006 for the existing residential development on the portion of the property west of Patricks Point Drive, the Commission imposed several special conditions including (1) requiring conformance of final construction plans for the residence to design recommendations specified in the geologic report submitted with the application, (2) prohibiting construction of future seawalls or shoreline protective devices, (3) requiring the landowner to remove any authorized development if it is deemed by a government agency to be too dangerous to occupy, and (4) an assumption of risk to provide acknowledgment of the hazardous nature of geologic conditions at the site. CDP 1-06-012 also included a condition requiring the applicants to record a deed restriction imposing the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property. These conditions remain in full force and effect for the subject property as reconfigured under this CDP authorization for the proposed subdivision ([Exhibit 5](#)).

At this time there is no development proposed other than the subdivision, and the proposed subdivision will not increase future risks to the property or the likelihood of development in hazardous portions of either resultant parcel. There is very limited potential for new development on the subject property (on either Parcel 1 or on the

portion of Parcel 2 west of Patricks Point Drive) in the future due to geologic hazard constraints regardless of whether the property is subdivided. As noted on [Exhibit 3](#), the portion of Parcel 2 west of the road is seaward of the bluff edge and therefore cannot be developed in a manner that minimizes risk, that assures stability and structural integrity, and that would **not** require the construction of protective devices that would substantially alter natural landforms along the bluffs (as was noted in the 2006 geotechnical report cited above). Parcel 1 is already developed with a 2,600-square-foot single-family residence, detached garage, driveway, onsite water system, 3,000-gallon storage tank, and OWTS. Any proposed repair and maintenance or improvements to the developed residential area on Parcel 1 and any proposed future development on the portion of Parcel 2 west of the road would be reviewed by the Commission (or the County pursuant to eventual LCP certification of this area) for consistency with relevant Coastal Act or LCP policies. Approval of the subdivision does not create any entitlement to develop in the hazardous areas of either resultant parcel.

Moreover, the applicants and future purchasers of both resultant lots already are/will be notified of hazards associated with the entire property (both resultant lots) and of the future development restrictions with respect to bluff armoring, because the special conditions of CDP 1-06-012 required, among other things, that in accepting the permit for the existing residence on Parcel 1, the applicants had to acknowledge the hazardous nature of geologic conditions at the site and if threatened by such hazards in the future agree to remove any authorized development if it is deemed by a government agency to be too dangerous to occupy. The terms and conditions of CDP 1-06-012 run with the land and apply to the entire subject property, including proposed Parcel 1 and all of proposed Parcel 2.

The Commission thus finds that the proposed subdivision is consistent with section 30253 of the Coastal Act, since the proposed land division (1) will not contribute significantly to the creation of any geologic hazards, (2) will not have adverse impacts on the stability of the coastal bluff or on erosion, and (3) will continue to be restricted by the conditions of CDP 1-06-12, including conditions to prohibit the construction of shoreline protective devices.

H. Protection of Archaeological Resources

Coastal Act section 30244 states as follows:

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

The project area lies within the traditional territory of the Yurok tribe. At the time that Euro-Americans first made contact in this region, the Tribe had settlements extending north from the Little River to areas within Del Norte County, including over 50 named villages along the Klamath River, coastal lagoons and creeks, and along the coast.

In support of the application for the secondary dwelling unit on the inland portion of the subject property permitted by the County, a Cultural Resources Investigation of the site was performed by William Rich and Associates (January 2014) and included coordination and site visits with local tribal representatives from the Yurok Tribe, the Tsurai Ancestral Society, Trinidad Rancheria, Big Lagoon Rancheria, and Blue Lake Rancheria. At that time there were no expressed concerns for the project or the project site. The investigation found that the site had been a borrow pit for road construction and thus is not likely to contain cultural resources.

The proposed subdivision does not include any ground disturbing activities. Under the Commission's 2006 permit for the residence on the western portion of the property, Special Condition 6 required cessation of construction in the event that archaeological resources were identified during ground disturbing activities. No archaeological resources were identified on the site at that time.

Because any future proposed development on either resultant parcel will include additional consultation with local Tribes and reasonable mitigation measures to protect archaeological resources, the Commission thus finds that the proposed project, as conditioned, is consistent with Coastal Act section 30244.

I. Public Access

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or where adequate access exists nearby. Section 30211 of the Coastal Act requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying sections 30210, 30211, 30212, and 30214, the Commission is also limited by the need to show that any denial of a permit application based on these sections or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The subject lot is a 200-foot-tall bluff-top parcel with an existing single-family residence and secondary dwelling unit. The nearest public access points to the site are Secret Beach approximately 1.5 miles to the south and Sue-Meg State Park approximately three miles to the north. 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 a minor subdivision resulting in two lots – both of which

will be developed with existing residences. For 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.

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 is located in an area that lacks a certified LCP (Area of Deferred Certification or ADC). The County's local designation and zoning for the site is Rural Residential (RR). In denying certification for this area of the Trinidad Area Plan in 1982, the Commission found that the plan's policies regarding the protection of the public's right of access where acquired through use (i.e. potential prescriptive rights) needed to be modified to conform to the natural resource, hazard, and public access policies of the Coastal Act. As discussed in the findings above, the proposed development will have no effect on public access or coastal resources, there is no evidence of potential prescriptive rights of access on the subject lot, and the geologic hazards affecting the site have been evaluated and special conditions have been attached to the permit to minimize risk. 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)

Humboldt County served as the lead agency for the project for CEQA purposes. The County adopted a mitigated negative declaration (MND) for the project on December 4, 2014.

Section 13096 of the Commission's administrative 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 requirements 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's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of environmental review under CEQA. (14 CCR § 15251(c).)

The Commission incorporates its findings on Coastal Act consistency at this point 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 which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative, has no remaining significant environmental effects, either individual or cumulative, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

1-21-0677 (Rotter & Gavin)

APPENDIX A

Application File for CDP Application No. 1-21-0677

Commission CDP File No. 1-06-012 (Gavin & Rotter SFR)

Commission De Minimis Waiver File No. 1-19-0968-W (Morehead merger to remedy illegal land division violation associated with the subject property)

County of Humboldt Local Permit PLN-15532

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