

CALIFORNIA COASTAL COMMISSION

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W7a

Staff: B. Jansen-A
Date: July 22, 2022

ADMINISTRATIVE COASTAL DEVELOPMENT PERMIT AMENDMENT

Application No.:	1-90-210-A1
Applicant:	Moat Creek Managing Agency
Agent:	Wynn Coastal Planning & Biology
Location:	27150 South Highway 1, Point Arena, Mendocino County (APN: 027-413-05)
Description of Previously Approved Project:	Public access facilities including road improvements, parking, landscaping, gates, and vehicle barriers.
Proposed Amendment:	Amend CDP 1-90-210 originally granted for public access facilities to add ADA improvements for trail, parking, and restroom access and to authorize ongoing trail maintenance activities.

I. Executive Director's Determination

The findings for this determination and any special conditions appear on subsequent pages.

Note: Public Resources Code Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit amendment will be reported to the Coastal Commission at the following time and place:

This permit will be reported to the Commission on August 10, 2022.

PLEASE NOTE THAT THIS WILL BE A HYBRID MEETING, WITH BOTH VIRTUAL AND IN PERSON PARTICIPATION ALLOWED. Please see the **Coastal Commission's Hybrid Hearing Procedures** posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Hybrid Hearing Procedures, please email NorthCoast@coastal.ca.gov or call 415-904-5202.

The in-person hearing will be held at:

**King Gillette Ranch
26800 Mulholland Highway
Calabasas, CA 91302**

The Commission strongly encourages continued participation virtually through video and teleconferencing due to changing Covid-19 conditions.

IMPORTANT: Before you may proceed with development, the following must occur:

Pursuant to Title 14, California Administrative code Sections 13150(b) and 13158, **you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office.**

Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all conditions, we will send you a Notice of Administrative Amendment Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

The Executive director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special conditions as attached, said development is in conformity with the policies of the Mendocino County LCP, including those policies regarding public access and coastal recreation opportunities, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

Sincerely,

John Ainsworth
Executive Director

by: Bente Jansen
Coastal Program Analyst

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

Note: The original permit contains one (1) special condition (in addition to seven (7) standard conditions). Special condition 1 is reimposed as modified as shown below as a condition of this amended permit. Special Conditions 2 through 3 are new special conditions applicable to this amended permit.

The new text and modifications from the original permit text are noted in ~~strikethrough~~ and **bold and double underline** format.

This permit is granted subject to the following special conditions:

1. **Future Development.** Future development shall require an amendment to permit 1-90-210 **or a coastal development permit (CDP) from Mendocino County.**
2. **Development Requirements. The permittee shall ensure that all on-site workers and contractors understand and agree to observe the standards and limitations for work outlined in this permit and in the detailed project**

description included as part of the application submittal and as revised by these conditions.

- A. Environmental Awareness Training. PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY PERMIT NO. 1-90-210-A1, a qualified biologist shall conduct a pre-construction meeting with all construction personnel (contractors and subcontractors) to inform personnel of surrounding environmentally sensitive habitat areas (ESHA) and of the required measures and permit conditions necessary to protect ESHA.**
- B. Cleaning of Heavy Machinery. PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-90-210-A1 heavy machinery including, but not limited to, double drum vibratory rollers, vibratory plate compactors, or trail dozers that may be used onsite shall be power washed offsite to reduce the potential to spread invasive plant material.**
- C. Protection of Wetlands and Riparian Areas. PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT 1-90-210-A1, the permittee shall ensure that temporary straw wattles are installed along the northern edge of the parking lot and public access trail between the riparian areas and the proposed development to ensure that no construction related runoff enters the riparian areas and wetlands.**
- D. Pre-construction Monitoring. The permittee shall ensure that a qualified biologist conducts an inspection of the project area prior to the commencement of construction activities each day. If California Red-Legged Frogs are encountered within the project area during this pre-construction monitoring, construction shall not commence until the biologist coordinates with CDFW to move individual frogs if appropriate to nearby suitable habitat outside of the construction area.**
- E. Timing of Work. All development authorized by this permit shall only be performed during the daylight hours between September 1st and October 31st to avoid disturbance to environmentally sensitive nesting and roosting habitat areas of special-status birds and bats.**
- F. Rainfall Avoidance. All construction activities shall occur during periods of dry weather only. If rainfall occurs during the time of construction, construction activities shall cease for a period of 48 hours, starting after rainfall ends.**
- G. Vegetation Removal. Vegetation removal and disturbance (trampling, crushing, breaking etc.) should be minimized to the greatest extent possible to maximize protection of sensitive habitats.**

- H. Soil Compaction. Soil compaction due to construction activities shall be minimized to retain the natural stormwater infiltration capacity of the soil.**
 - I. Staging Area. The staging of all building materials, construction vehicles, and construction spoils shall be confined to existing paved surfaces within the existing parking lot as proposed.**
 - J. Debris Disposal. Any excess spoils, soils, and other construction related debris shall be transported to a legally authorized disposal site outside of the Coastal Zone following completion of construction.**
 - K. Fueling and Maintenance. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of equipment required on site shall take place only at the designated staging area. All fueling and maintenance areas shall be designed to fully contain any spills of fuel, oil, or other contaminants.**
- 3. Protection of Archaeological Resources. If an area of cultural deposits or human remains is discovered during the course of the project, all construction shall cease and shall not recommence until a qualified cultural resource specialist, in consultation with the Tribal Historic Preservation Officers of the area affiliated tribes analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (A) the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, or (B) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not de minimis, and the permittee has thereafter obtained an amendment to CDP 1-21-0356.**

IV. Findings and Declarations

A. Project Description and Background

The applicant, Moat Creek Managing Agency, proposes to improve an existing public access trail and associated facilities located along Highway 1 south of Point Arena for compliance with Americans with Disabilities Act (ADA) standards. The trail was permitted in August 1990, prior to effective certification of the Mendocino County LCP, through the issuance of an administrative permit (1-90-210) by the Commission's Executive Director. The existing permitted trail facilities include a parking lot for approximately 12 vehicles, a public restroom facility, and an approximately 455-foot-long trail from the parking lot to the beach.

The proposed improvements would modify the existing permitted facilities by constructing a wider, firmer trail surface along the length of the beach access trail based upon California State Parks Trail manual guidance, improving access to the existing bathroom by widening the existing unimproved access paths to the structure by up to 10 inches and installing compacted gravel surface material, repairing the existing bathroom structure, creating an ADA-compliant turnaround area at the western most point of the trail to accommodate an ADA turnaround near the western end of the trail just above the beach, installing an ADA accessible picnic table near the turnaround area, and improving an ADA-compliant parking space in the existing parking lot. The proposed work involves vegetation removal along the length of the existing trail to restore and maintain a minimum 3-foot trail width for ADA accessibility.

B. Standard of Review

The original project was approved prior to certification of the Mendocino County LCP. Therefore, the standard of review for the original permit application was the Coastal Act. The Commission effectively certified the County's LCP in October of 1992. As the project site is located within a now certified area of the LCP and between the first public road and the sea, pursuant to section 30604 of the Coastal Act, the applicable standard of review for the permit amendment request is the County LCP and the coastal access and recreation policies of the Coastal Act.

C. Protection of ESHA

Coastal Element Policy 3.1-7 of the Mendocino County Land Use Plan (LUP) states (emphasis added):

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

1. It shall be sited and designed to prevent impacts which would significantly degrade such areas;

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2. It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and

3. Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

LUP Policy 3.1-10 states (emphasis added):

Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No structure or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian Corridor except for:

- Channelizations, dams, or other substantial alterations of rivers and streams as permitted in Policy 3.1-9;
- pipelines, utility lines and road crossings, when no less environmentally damaging alternative route is feasible;
- existing agricultural operations;
- removal of trees for disease control, public safety purposes, or for firewood for the personal use of the property owner at his or her residence. Such activities shall be subject to restrictions to protect the habitat values.

Mendocino County Code (MCC) Section 20.496.020(A)(4) states, in applicable part, as follows (emphasis added):

(4) Permitted Development. Development permitted within the buffer area shall comply at a minimum with the following standards:

(a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.

...

(c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas...

...

(f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.

...

A biological scoping survey, wetland delineation, Point Arena Mountain Beaver (PAMB) assessment, and botanical report (hereafter “biological report”) was prepared in November 2021 by Wynn Coastal Planning and Biology. The report identifies the following types of environmental sensitive habitat areas (ESHA) within or adjacent to the project area: (1) wetland/riparian ESHA, (2) habitat for California red-legged frog, and (3) three special status plant communities including Salix lasiolepis – Salix lucida Forest Association, Rubus ursinus Shrubland Association, and Amelanchier alnifolia Shrubland Association. Additionally, the biological report identified the potential for disturbance to birds and special status bats in the project vicinity.

All portions of the proposed development are within the 100-foot buffer area(s) of at least one of the types of ESHA, and a majority of the proposed development is within the 50-foot buffer area as well. As a resource-dependent use (nature study), the LCP allows for the proposed public access improvements within ESHA and ESHA buffer areas. The applicant completed a reduced buffer analysis (included as Appendix G of the biological report) to demonstrate that the proposed development will be compatible with the continuance of the ESHA. As proposed, the project will avoid special status resources to the greatest extent feasible and will include best management practices (BMPs) to reduce impacts to special status natural resources where avoidance is not feasible. Proposed BMPs include, but are not limited to, avoidance of roosting and nesting seasons of sensitive bird and bat species, pre-construction surveys for California Red-Legged frogs, training all construction personnel of surrounding ESHA and required avoidance and minimization procedures, placement of straw wattles to prevent runoff from entering wetland and riparian ESHA, staging in the existing parking lot, and minimizing vegetation removal.

In addition, in designing the project, the applicant considered the least environmentally damaging feasible alternative. Two alternatives were explored for the proposed project. Alternative A would locate the picnic area north of the trail and require a 5-foot diameter trail-end turnaround, which would result in the picnic area being fully in the 50-foot willow riparian ESHA buffer. Alternative B would locate the picnic table just beyond the existing restroom, southern of the trail, currently vegetated with native, but non sensitive, poison oak scrub. Placing the picnic area in this location would require an additional 80 square-foot area of aggregate to provide a trail from the restroom to the picnic area and a 5-foot diameter turnaround at the trail-end. Thus, the project, as proposed, would result in the least amount of development within the 50-foot ESHA buffer area.

To require implementation of appropriate BMPs as proposed and to ensure that ESHA is protected against significant disruption of habitat values consistent with LCP

requirements, the Executive Director attaches the following conditions. To avoid roosting and nesting seasons of bird and sensitive bat species, **Special Condition 2(E)** requires that all development shall only be performed during the daylight hours between September 1st and October 31st. To maximize protection of sensitive plant habitats, **Special Condition 2(G)** requires that vegetation removal and disturbance be minimized, **Special Condition 2(I)** requires soil compaction be minimized, and **Special Condition 2(B)** requires that heavy machinery that may be used onsite shall be power washed offsite to reduce the potential to spread invasive plant material. To prevent potential runoff from construction to enter nearby wetland and riparian ESHA, **Special Condition 2(C)** requires the permittee install straw wattles along the northern edge of the parking lot and public access trail between the riparian areas and the proposed development. To avoid any spills of fuel, oil or other contaminants, **Special Condition 2(L)** requires that all fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Additionally, **Special Conditions 2(J) and (K)** require that the staging of all building materials, construction vehicles, and construction spoils shall be staged within the existing parking lot and that any remaining aggregate and other construction related debris shall be transported to a disposal site outside of the Coastal Zone.

To ensure all construction personnel are made aware of the BMPs and environmental permit conditions and requirements set forth in this permit, **Special Condition 2(A)** requires that a qualified biologist or the permittee's agent shall provide a pre-construction meeting with all construction personnel and if there is worker turnover within the construction period, each new worker shall be advised on best practices. Additionally, **Special Condition 2(A)** requires that this information be posted at the job site to ensure the importance of these measures are recognized. To avoid significant adverse impacts to California Red-Legged Frogs **Special Condition 2(D)** requires the permittee to conduct pre-construction monitoring by a qualified biologist pre-approved by CDFW, **Special Condition 2(F)** requires the permittee avoid rainfall, and **Special Condition 2(H)** requires the careful removal of wooden debris.

Therefore, the Executive Director finds that, as conditioned, the proposed project is consistent with LUP Policies 3.1-7, 3.1-10, and 3.1-33 and MCC Section 20.496.020(A)(4).

D. 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.

LUP Policy 3.6-16 states the following (emphasis added):

Access to the beach and to blufftop viewpoints shall be provided for handicapped persons where parking areas can be close enough to beach or viewing level to be reachable by wheelchair ramp. The wheelchair symbol shall be displayed on road signs designating these access points where the means of access is not obvious from the main road.

The primary purpose of the proposed project is to provide and expand public access. Although improvements to the trail will result in temporary impacts to public access during construction, construction is expected to only last approximately one week. Additionally, upon completion of the project, public accessibility will be increased, specifically ADA access. Since the proposed project involves improvements to public access facilities, no additional public access is required. Currently, the trail does not require an entrance fee and is a free public recreational opportunity. The proposed improvements to the trail will not alter the public's ability to access the trail, cost free.

Therefore, the Executive Director finds that the proposed project will not adversely affect public access and the project as proposed is consistent with the public access policies of the Coastal Act and the certified LCP.

E. Protection of Archaeological Resources

LUP Policy 3.5-10 states (emphasis added):

The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource. Results of the field survey shall be transmitted to the State Historical Preservation Officer and Cultural Resource Facility at Sonoma State University for comment. The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance.

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The proposed project lies within the traditional territory of the Pomo Tribe. Today, over a dozen federally recognized tribes in the region include citizens of Pomo ancestry that are culturally affiliated with the greater Pomo ethnographic area as mapped by the tribes.

On September 22, 2020, the applicant sent letters to 13 Native American groups that were identified as interested stakeholders for Mendocino County by the Native American Heritage Commission (NAHC). The letters included a project description, mapping, and a request for information, if appropriate, regarding cultural concerns of the tribal entities within the project area. No responses to the letters were received. Follow-up phone calls or emails to the tribal stakeholders occurred on November 5, 2020 and no additional information was received.

On October 8, 2020 staff at Northwest Information Center (NWIC) of the California Historical Resources Information System (CHRIS) at Sonoma State University completed an archival and records search of the project area that revealed one cultural resource had been recorded within the project area. Additionally, there were three prior cultural resource studies associated with the project area that verified the presence of cultural resources in the area. In June 2021, a biologist inadvertently recovered an obsidian biface within the site boundaries.

On May 24, 2022 Commission staff conducted their own tribal consultation with all tribal entities in Mendocino County. Letters included a project description and the Moat Creek Public Access Project Archaeological Survey and Investigation submitted by the permittee. Commission staff received three responses stating the tribal entities had no concerns at that time. No other responses were received.

The proposed trail and restroom improvements and picnic table installation will not remove the existing surface of the trail. Construction of the ADA parking pad in the existing parking lot may require up to 12-inch-deep excavation and therefore has the potential to disturb archaeological resources. To ensure protection of any cultural resources that may be discovered at the site during construction, the Commission attaches **Special Condition 3**. This special 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 conjunction with the THPOs for the area affiliated tribes. To recommence construction following discovery of cultural deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director, who determines whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required.

Therefore, the Executive Director finds that the proposed project as conditioned includes reasonable mitigation measures to protect archaeological resources consistent with LUP Policy 3.5-10.

ATTACHED EXHIBITS

1. Vicinity maps
2. Project Description & Site Plan
3. ESHA map