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APPEAL A-1-DNC-22-0071 (EVANS)

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APPENDICES

Table of Contents

[Appendix A](#). Substantive File Documents

[Appendix B](#). Excerpts from the Del Norte County Certified LCP

APPENDIX A SUBSTANTIVE FILE DOCUMENTS

Del Norte County Certified Local Coastal Program

Federal Emergency Management Agency Flood Insurance Rate Map No. 06015C0220F, effective November 26, 2010 (accessed online at <https://msc.fema.gov/portal/search?AddressQuery=210%20lakeside%20loop%2C%20crest%20city%20ca#>)

File for Coastal Development Permit Appeal Number A-1-DNC-22-0071

U.S. Department of Agriculture Natural Resources Conservation Service Web Soil Survey Hydric Soils List for All Components on the project site, accessed online at <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

APPENDIX B EXCERPTS FROM THE DEL NORTE COUNTY CERTIFIED LCP

LCP Policies Regarding Protection of Wetlands and Other ESHAs

LUP “Marine and Water Resources” chapter, Section IV (Sensitive Habitat Types) identifies the following sensitive habitat types, among others:

...

C. Sensitive Habitat Types: Several biologically sensitive habitat types, designated through the application of the above criteria, are found in the Coastal Zone of Del Norte County. These include: offshore rocks; intertidal areas; estuaries; wetlands; riparian vegetation systems; sea cliffs; and coastal sand dunes. A brief description of these sensitive habitat types is given below:

...

3. Estuaries: Estuaries are semi-enclosed bodies of coastal waters with a free connection to the open sea. River mouth and coastal lagoons are examples. Estuaries are among the most productive biological areas and are extremely valuable to coastal fisheries. The qualities that make estuaries biologically rich (i.e., confinement, shallow depth, fresh water inflow), also increase their vulnerability to environmental disturbance.

4. Wetlands: Also termed marshes, swamps and bogs, wetlands in the coastal zone vary from brackish to freshwater and range from seasonally flooded swales to year round shallow lakes. Like estuaries, wetlands tend to be highly productive regions and are important habitats and feeding grounds for numerous wildlife species.

...

LUP “Marine and Water Resources” chapter, Section IV-C (Sensitive Habitat Types) Table 1 (Sensitive Habitat Types and Their Principal Locations) specifically lists “Lake Earl” and “Ponds and sloughs in the Lake Earl and coastal dune region” as a “principal location” for the estuaries, wetlands, and riparian sensitive habitat types.

LUP “Marine and Water Resources” chapter, Section VI-B (Present Local Policies) states in part the following:

B. Present Local Policies: The Del Norte County General Plan recognizes the importance of biologically sensitive habitats and seeks to conserve and manage these resources for the educational, recreational and economic needs of present

and future generations. The significant coastal habitat areas presently acknowledged by the County are:

...

Lakes Earl and Talawa and their immediate marshland

...

Standards for the management of wildlife, habitat and vegetation in the County have also been developed. Important policies concerning the maintenance of sensitive coastal habitats include:

...

3. The County should maintain all existing species of fish, wildlife, and vegetation for their economic, intrinsic and ecological values as well as providing adequate protection of rare and endangered species.

4. The following areas are recognized as major locations of excellent wildlife habitat, native or natural vegetation and of aesthetic value. These areas should be maintained as wildlife habitats and protected from adverse activity. No further commitment to development should be allowed except that which is in the best interest of the public health, safety and welfare, or as noted.

...

c. Lakes Earl and Talawa and their immediate marshland, allowing continued agricultural uses.

...

LUP “Marine and Water Resources” chapter, Section VI-C (LCP Policies) in part states as follows:

1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.

...

3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters.

...

6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent

impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

...

LUP “Marine and Water Resources” chapter, Section VII-C (Estuaries), identify “Estuaries” in part as follows:

1. Definition: An estuary is a coastal water body usually semi-enclosed by land, but which has open, partially obstructed, or intermittent exchange with the ocean and in which ocean water is at least occasionally diluted by fresh water runoff from the land.
2. Principal Distributions: ... Lake Earl and Talawa become become estuarine in nature upon the breaching of the sandbar blocking their opening to the sea.

Section VII-D.4 of the LUP's Marine and Water Resources chapter sets policy directives for the review of development in a variety of biologically significant areas and types, stating in particular with regard to the establishment of wetland buffers:

- a. Estuarine systems should be maintained at their highest feasible level of productivity in order to protect and enhance coastal fisheries and other marine resources.
- b. The alteration of existing estuarine water channels through dredging, diking, or filling shall be allowed only when consistent with Coastal Act Policy 30233 A & B and when such activity would enhance the biological productivity of the estuary.
- c. All permitted activities in estuaries as identified in 4-b (above) shall be carried out in a manner that will minimize impacts on the biota and productivity of the area.

LUP “Marine and Water Resources” chapter, Section VII-D (Wetlands), identify “Wetlands” in part as follows:

1. Definition: "Wetland" means lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, bogs, and fens. The land use category will be Resource Conservation Area.
2. Principal Distributions: Wetland habitats are found throughout the generally flat-lying coastal plain of Del Norte County. The following identifies the major wetlands areas of the Coastal Zone.

...

g. Lake Earl

Del Norte County Zoning Enabling Ordinance (ZEO) Section 21.04.856 (Definitions: Wetland) further defines "Wetlands" as follows:

"Wetland" means lands which may be covered periodically or permanently with shallow water and includes saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, bogs and fens.

Section VII-D.4 of the LUP's Marine and Water Resources chapter sets policy directives for the review of development in a variety of biologically significant areas and types, stating in particular with regard to the establishment of wetland buffers:

a. The diking, filling, or dredging of wetlands shall be permitted in accordance with other applicable provisions of this program, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects. Such projects shall be limited to those identified in Section 30233 of the Coastal Act.

...

d. Performance standards shall be developed and implemented which will guide development in and adjacent to wetlands, both natural and man-made, so as to allow utilization of land areas compatible with other policies while providing adequate protection of the subject wetland.

...

f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's [or the Commission's on appeal] determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.

g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over the boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:

i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.

- ii.) Vegetation map.
- iii.) Soils map.

Review of this information shall be in cooperation with the Department of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Department of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.

Flood Hazard Protection Policies and Standards

LUP “Hazard Areas” chapter, Section II-E (Identification of Environmental Hazards: Hydrologic Hazard), describes hazards associated with floods in part as follows:

A flood is defined as any level of a natural body of water that exceeds its normal banks. In and of itself, this is not bad, nor is it a hazard. However, flooding is also defined as any flow of water that threatens life and damages human property. It is in this sense of the word that flooding is addressed.

The severity of a flood is measured in terms of property damage and loss of life. One of the most severe floods to ever occur in Del Norte County was in December, 1964. But even a flood of lesser intensity can create economic disaster; and floods of lesser intensity are more prevalent. It has been noted that the floods that occur in many low lying areas are not the torrents capable of sweeping buildings downstream, but rather the gentle one foot rise into the living room that cost 25 percent of the value of a house and 60 percent of its contents.

Despite the numerous rivers and streams in Del Norte County, significant flooding hazard areas are currently limited to three streams; the Smith River, the Klamath River and Elk Creek. The reason these streams represent a hazard is due to the fact that development has occurred either within, or in close proximity to, their respective flood plains.

1. Smith River: The Smith River drains a basin 609 square miles in size...Within the plain is Lake Earl, Lake Talawa, a portion of Highway 101, a portion of Lower Lake Road, agricultural and scattered residential uses.

The greatest flood on the Smith River during recent record occurred in December, 1964. Flood waters overflowed through Talawa Slough and into Lake Earl. Lake Earl then rose to an elevation of about eight feet above mean sea level...The damages to the agricultural lands consisted of scouring and deposits of debris, silt, and gravel...

LUP Flood Hazard Policy IV-D.3 (LCP Policies for Flood Hazards) requires in part the following:

P-1. The County shall maintain and continue to implement its existing flood plain zoning districts, thereby continuing its policies to discourage in-appropriate development in flood prone areas.

...

P-3. Critical utility facilities shall not be located in flood prone areas, unless appropriate mitigating factors are implemented.

...

P-5. The Coastal Program's land use policy shall recognize that flood plains have unique and significant public values, including wildlife habitats or recreational, aesthetic and scientific value, open space, and groundwater recharge. The value of the flood plain as an environmental resource and the public benefits to be derived from it should be considered.

Del Norte County ZEO Section 21.45.030 (Flood Damage Prevention General Provisions) requires in part the following (Emphasis added):

...

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated September 26, 2008, with accompanying Flood Insurance Rate Maps (FIRMs) with a Map Index dated September 26, 2008, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the board of supervisors by the floodplain administrator. The study and FIRM are on file at 981 H Street, Suite 110, Crescent City, California 95531.

Del Norte County ZEO Section 21.45.040 (Flood Damage Prevention Administration) requires in part the following (Emphasis added):

A. Establishment of Development Permit. A development permit shall be obtained before any construction or other development, including manufactured homes, begins within any area of special flood hazards, established in Section 21.45.030B. Application for a development permit shall be made on forms furnished by Del Norte County and may include, but not be limited to plans in triplicate drawn to scale showing:

1. The nature, location, dimensions and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
2. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;

- 3. Proposed locations of water supply, sanitary sewer, and other utilities;
- 4. Location of the regulatory floodway when applicable;
- 5. Base flood elevation information as specified in 21.45.030.B or 21.45.040.C.2;
- 6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- 7. Proposed elevation in relation to mean sea level to which any structure will be floodproofed, as required in 21.45.050.A.3;...

...

Del Norte County ZEO Section 21.45.050 (Flood Damage Prevention Provisions for Flood Hazard Reduction) requires in part the following:

A. Standards of Construction. IN all areas of special flood hazards the following standards are required.

...

3. Elevation and Floodproofing.

a. New construction and substantial improvements of any structure shall have the lowest floor, including basement:

i. In AE, AB, AI-30 Zones, elevated to or above the base flood elevation...

...

B. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.

2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

...

E. Floodways. Located within areas of special flood hazard established in Section 21.45.030. Bare areas designated as floodways. Since the floodway is an extremely hazardous areadue to the velocity⁷ of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

2. If subsection (E)(1) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this section.

...

Visual Resource Protection Policies and Standards

The County of Del Norte's certified LUP contains several policies relating to the protection of visual resources within those portions of the coastal zone meeting the criteria for designations as "highly scenic areas," including the following

1. The County encourages the continuation of existing land uses, where appropriate, to maintain open views in highly scenic areas.
2. Proposed development within established highly scenic areas shall be visually compatible with their scenic surroundings, by being reflective of the character of the existing land uses while conforming to the land use criteria. As set forth in the land use component and subsequent zoning ordinance.
- ...
6. Activities which significantly and permanently alter natural landforms, such as mining and excavation, shall be required to restore disturbed areas to, close as possible, a natural appearance.

With regard to areas qualifying for recognition as "highly scenic areas," Section II.A & B of the LUP's *Visual Resources* chapter state, in applicable parts:

A. Evaluation Criteria...Criteria for designating highly scenic coastal areas in Del Norte County are proposed as follows:

1. Views of special interest to the general public (e.g., Pacific Ocean; lighthouses, old growth forests);
2. Visually distinctive scenes resulting from unique contrasts or diversity in landscape patterns (e.g., offshore rocks, forested uplands);
3. Views with special integrity or unimpaired conditions (e.g., open space, nature preserves);

B. General Visual Resource Areas: ...Views within the coastal region of Del Norte County with particular visual distinctiveness, integrity, harmony and/or of special interest to the general public include the following:

1. View of water bodies (e.g., ocean, estuary, streams);
2. Views of sensitive habitats and open space (e.g., wetland, rocky intertidal);
3. View of expressive topographic features (i.e., offshore rocks, sea cliffs);
4. View of special cultural features (e.g., historical, maritime settings).

Areas identified as having present one or more of the above elements are inventoried [*sic*] and evaluated by this study for their value as significant visual resources.

In addition, the visual inventory within LUP *Visual Resources* Section III.C.6 identifies and described the following “view points” (alternately referred to as “vista points”) within the vicinity of the project site:

VIEWPOINTS: (V)

...

3. Lakeview Drive: Located on the easterly side of Lake Earl and south of Jordan Creek, the end of Lakeview Drive provides views of Lake Earl and its marshland. Also visible from [sic] this point are grazing lands and distant forested slopes.

4. Buzzini Road Access: This viewpoint offers a limited view of Lake Earl.

Section 21.50.080 (“Visual Resources Analysis”) of Del Norte County’s certified Zoning Enabling Ordinance requires the following:

Within portions of residential zone districts visible from view corridors and viewpoints designated in the Local Coastal Program Visual Resources Inventory, Coastal Development Permit applications for new residential structures that exceed 25-feet in maximum height shall include the analysis identified in subsections (a)-(b) below. The County Environmental Review Committee (as specified in Del Norte County Code §22.040.030.K) shall, in addition to their other duties, also review Coastal Development Permit applications for new residential structures that exceed 25-feet in maximum height for potential impacts to visual resources. The Environmental Review Committee's review of such applications shall include: (a) An analysis of the relative compatibility of the proposed project with similar development in the surrounding area, comparing and contrasting building heights, square footages, floor-area, and lot coverage. (b) An analysis of whether the height, width, and siting of structures, including setbacks from roads and parcel lines retain as much of the existing view as possible. (c) Where feasible, complete avoidance of impacts to visual resources through site selection and design alternatives is preferred. Approved residential structures that exceed 25 feet in height shall be visually compatible with the character of the surrounding area, sited and designed to protect views to and along the ocean and scenic coastal areas, and minimize the alteration of natural landforms.