

CALIFORNIA COASTAL COMMISSION

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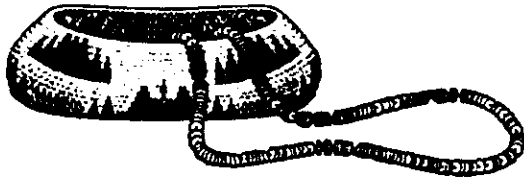
W12b

A-1-MEN-23-0001

(Carson)

March 8, 2023

CORRESPONDENCE



SHERWOOD VALLEY BAND OF POMO INDIANS

February 28, 2023

Tatiana Garcia, Coastal Program Analyst
California Coastal Commission
North Coast District
1385 8th Street, Suite 130
Arcata, CA 95521

RE: 45380 Caspar Point Road, Caspar, Mendocino County

Dear Ms. Garcia:

This correspondence is formal response from the Sherwood Valley Tribe for the above named project.

The proposed project is within Sherwood Valley traditional territory. The Tribe has no further cultural resource information to add. The overall general area has cultural resources and contemporary uses by the tribal people. The absence of specific site information does not indicate the absence of cultural resources in any project area. The Tribe would like to go on the record as the MLD of the area.

The tribal contact is Valerie Stanley, THPO, svrthpo@sherwoodband.com.
Thank you.

Sincerely,

Valerie Stanley, THPO
Sherwood Valley Rancheria

190 Sherwood Hill Drive Willits, California 95490
(707) 459-9690 Fax (707) 459-6936

Julia W Carson
45380 Caspar Point Road, Box 86
Caspar, CA 95420
juliawcarson@gmail.com / (707) 202-5123

February 3, 2023

Tatiana Garcia, Coastal Program Analyst (USPS & email)
Tamara Gedik, District Supervisor (USPS)
Melissa Kraemer, District Manager (USPS)
c/o California Coastal Commission
1385 8th Street, Suite 130
Arcata, CA 95521

Re: Commission Notification of Appeal
Commission Appeal No. A-1-MEN-23-0001

Re: CDP# 2021-0002

Greetings Commissioners,

This letter is in response to the above-referenced Appeal filed on 1/17/23 by Ray and Loraine Duff appealing my approved Coastal Development Permit (CDP), hearing date December 22, 2022, for the address listed above.

It is my fervent hope that after reading my rebuttal to their Appeal that you will agree that this is a frivolous Appeal with no merit and DISMISS all the arguments stated therein as having no substantial issue.

I am hoping to keep this brief, but the Duffs sent a 38-page Appeal which references two (2) different CDPs (one of which was appealable, the other still under review and has not yet been scheduled for a Coastal Permit Administrator hearing); (1) a minor subdivision (MS #2019-0003), (hereinafter referred to as the “subdivision”); and (2) the CDP referenced above (hereinafter referred to as the “guest cottage/remodel”). The Appeal period for the subdivision has long passed and the parcel was recorded on or about January 10, 2023. Although the subdivision is not part of this Appeal, some of the issues will be addressed here for the sake of clarification. I will try to address the issues in chronological order as best I can, but the Duff’s Appeal bounces from the guest cottage/remodel to the subdivision and can be hard to track.

At the beginning of the Duff’s Appeal, they state: “We were unable to participate or argue the final discussion ...”. Although it is true that the hearing was heard both in the morning and afternoon, Duff spoke for 3 minutes during the morning session and submitted a letter prior to the hearing date which was posted on the hearing site prior to the hearing. The Duffs fail to understand that they are only entitled to one 3-minute public comment and that the entirety of each hearing is posted for public viewing. Therefore, this concern is not valid.

Combining two CDPs: The Duffs are confused. They do not understand that although I filed a CDP for a single-family residence concurrently with the subdivision, their approval was not in tandem. The CDP for the single-family residence on the subdivision is still under review whereas the subdivision has been approved and recorded. The current appealable CDP is for a guest cottage and remodel of the existing residence. Through their confusion they are addressing this Appeal to both the guest cottage/remodel AND the subdivision, which is not acceptable.

Rural Residential Classification: Again, the Duffs are confused. Building a guest cottage does not preclude one's ability to engage in "small scale local food production" rendering this argument invalid.

As an aside, I am the only parcel owner on Caspar Point Road (hereinafter "CPR") who actually engages in "local small scale food production". The Duffs have horses that are NOT considered agricultural. I have donated hundreds of pounds of organic produce to the Fort Bragg Food Bank over the years. As proof, I am happy to provide receipts from these donations upon request.

(B) Minor Construction: The Duffs are misinformed and refer to the guest cottage/remodel as a "new residence" which will use water. For this CDP, the guest cottage is considered for intermittent guests of the existing single-family residence; it is not a "new residence" nor is it "additional housing", thereby not increasing water usage. Further, a guest cottage does not add "density" as the Duffs claim. The Duffs wrongly assert that the guest cottage will be used as a rental, which is not allowed. These arguments are all invalid.

Hydrology: The Duffs make many claims regarding hydrology throughout the 38 pages of their Appeal. My hydrologist, Bonnie Lampley, Principal Hydrologist at Lawrence & Associates is a "Professional Geologist" and a "Certified Hydrogeologist" licensed and registered in the State of California. Ms. Lampley did exhaustive research dating back 30 years and determined that the groundwater in the well is the same as it was in 1991, despite 20 years of drought, and that the height of water in the well was almost exactly the same as in 1991. She also checked the Mendocino County water/well records over the same time period and found no issue with lack of water as it pertains to my two parcels. Her work on the property was conducted over a period of two plus years and commenced during the dry season, the allowable season for testing. She has submitted detailed reports in support of both my projects. Ms. Lampley presented her findings at my Planning Commission hearing and the Commissioners agreed that her reports were exhaustive and accurate. By virtue of the Duffs not appealing my subdivision, the Coastal commission concurred that the Lampley analysis demonstrated adequate water for creation of the subdivision.

The Duff's assertions that there are neighbors with water issues is hearsay. I have several documented reports and letters by a licensed hydrologist, the Duffs provide no proof of their claims. In point of fact, there is not one homeowner on CPR who's well went dry in 2022. The Duff's well was full as determined by a physical check (with the Duff's permission and approval) by hydrologist Lampley.

Please contact Christina Pallmann of the Department of Environmental Health (DEH) or Juliana Cherry, Planner III, Mendocino County Planning and Building Services (PBS), should you wish to view these reports. Please also note that the approval included DEH recommended conditions should the guest cottage/remodel building process begin. The PBS Staff Report supports the hydrology as provided by Ms. Lampley.

Zoning: The Duffs do not understand that this area is zoned RR5(2). The subdivided parcel was signed off by the Department of Transportation (DOT), the PBS and the Deputy County Surveyor and recorded in January of 2023. Therefore, any arguments regarding parcel size should not be considered as part of this Appeal.

Many places in the Duff's Appeal reference a culvert that is in need of replacement. The Duffs ask that my guest cottage/remodel be placed on hold until which time the culvert is replaced. They state that there should be a condition placed to this effect.

The culvert situation came up during discussion around the subdivision. Howard Dashiell, the Director of the DOT required that I improve the road in two places to "county standards" but that I alone was not responsible for replacing a culvert that was used by all the landowners on CPR. In addition, the DOT understood that they could not force 13 CPR landowners to sign a Road Maintenance Agreement just because one landowner was subdividing their parcel.

Please contact Juliana Cherry to obtain a copy of the Conditions that were placed on the subdivision (MS#2019-0003) and make note that they were approved and signed off by the DOT. Please also note that the California Coastal Commission and Planning staff had the opportunity to place conditions regarding the culvert and did not as they were in agreement with the DOT. The culvert, therefore, was not an issue in the guest cottage/remodel CDP or Coastal Development Minor Subdivision, and therefore, legally cannot be brought up in this Appeal.

The Duffs bring up noise mitigation factors as it relates to a permit for a generator. Please be aware that noise mitigation for the generator is already a Condition of Approval for this project.

Several letters from neighbors regarding the subdivision: There is no basis to discuss these letters as they do not pertain to this Appeal but to the subdivision, and therefore, should be disregarded.

Thank you for reading this rebuttal to the Duff's Appeal. It is my fervent hope that you will agree with me that despite the great length of the Duff's Appeal, it lacks both merit and often pertains to another project that is not part of the subject CDP for the guest cottage/remodel.

Most sincerely,

Julia W Carson

From: [Ray Duff](#)
To: [Brownsy, Donne@Coastal](#); [Hart, Caryl@Coastal](#); [Bochco, Dayna@Coastal](#); [Turnbull-Sanders, Effie@Coastal](#); [Aminzadeh, Sara@Coastal](#); [Escalante, Linda@Coastal](#); [Wilson, Mike@Coastal](#); [Rice, Katie@Coastal](#); [Harmon, Meagan@Coastal](#); [Uranga, Roberto@Coastal](#); [Diamond, Francine@Coastal](#); [Mann, Zahirah@Coastal](#); [Faustinos, Belinda@Coastal](#); [Mandelman, Rafael@Coastal](#); [Rivas, Rick@Coastal](#); [Aguirre, Paloma@Coastal](#); [O'Malley, Matt@Coastal](#); [Ainsworth, John@Coastal](#); [Gray, Shana@Coastal](#); [Warren, Louise@Coastal](#); [ExecutiveStaff@Coastal](#)
Cc: [Kraemer, Melissa@Coastal](#); [Leavitt, Amber@Coastal](#); [Garcia, Tatiana@Coastal](#); [Krygsman, Vail@Coastal](#)
Subject: A-1-MEN-23-0001
Date: Sunday, March 05, 2023 5:22:13 PM

Commissioners, and other readers,

A-1-MEN-23-0001 relates to CDP2021-0002 and appears to be a request to recondition an existing house in the Coastal Zone and add a guest house. A careful reading of all the documents, particularly the exhibits will show this is four-acre parcel of existing coastal-front land that will be allowed to have three dwellings with associated driveways and pathways. CDP2021-0002 expands the foot print of the existing house, adds a footprint of a 623 square foot guesthouse and 672 square foot deck, and eventually adding driveways pathways for a two-story three-bedroom residential home. Not considered, but mentioned in Exhibits is CDP 2019-0027 for a residential home on the 2.0 acres. This is not conservation of natural resources as required by the Coastal Act. It is the exact opposite.

Staff report does not describe the CDP in this way, but in truth it is what will be allowed. Please vote NO on this CDP appeal, there are substantial issues at hand.

This CDP includes CDP2019-0003 passed by Mendocino County Planning Commission last year, as a lot split of this 4.62 acres into two parcels of 2.0 acres and 2.62 acres. This did not deserve Coastal Commission consideration. The new two-acre parcel according to the North Coast Region of the Coastal Commission may have been only recently as part of Mendocino County records. Yet, CDP2021-0002 asks you to consider the recondition of the existing house and addition of the guest house on 4.62 acres, not 2.6 acres.

The County Coastal hearing for CDP2019-0003 was by zoom and the Mendocino County Coastal Permit Administrator heard a portion then postponed the item at lunchtime and shut off the zoom. When the hearing resumed the phone number no longer worked and there was no way for us to reinitiate participation in the hearing. County staff report for CDP2021-0002 was considered the guest house as a temporary residence for the applicant while changes were made to her home. We claimed this was contrary to the County's Coastal Zone Code [(MCC) Section 20.460.025 (B)] Minor Construction which allowed Separate "temporary residence only when constructing a new residence"; this was reconstruction. All of this became moot when a change to the CDP application was made the day of the hearing which changed a temporary residence to a permanent guest house, a change not mentioned during the time we were able to participate.

This example we feel, represents Mendocino County's attitude toward development in the Coastal Zone, and deserves attention of the State Commission. The County wants more housing and is less concerned where it takes place. This is also a way the Coastal Commission might not have opportunity to come in contact with significant development in the coastal zone.

This neighborhood was designed as a buffer between Jug Handle State Reserve and a subdivision to the south of this area that does allow 2.0 acre minimum. The larger area that includes our neighborhood is RR-5(2) for planning. All developed coastal parcels in this neighborhood are less than 5 acres. CDP 2019-0027, yet to be dealt with will permit another residence. The lot split exist and some body will likely want to build, and we start all over again.

We were advised of CDP2021-0002 as adjacent neighbors; a request was made to North Coast Region of the Coastal Commission to find out whom else was advised, no response has been received to date. We do know there were several responses from the surrounding neighbors and others regarding the lot split (CDP2019-0003). The responses are included in Exhibits W12b A-1-Men23-0001 (Carson) pages72 to 82 of 91. Incidentally, the Exhibits were not part of the written information we received from North Coast Region of the Coastal Commission in response to our appeal of CDP2021-0002. Adequate notification to residents affected by this project has been insufficient.

Water availability has been mentioned. The parcel in CDP2021-0002 whether it be 2.6 or 4.6 acres is on the bluff of the Mendocino Coast. The bluff is the last Western place water comes to from underground aquifers. Water data used to justify CDP2021-0002 is at least 30 years old, and in that amount of time there has been substantial build out of properties to the East. It stands to reason that data from 30 years ago may not be relevant in today's measurements. This is not our estimate; a former hydrologist from Mendocino raised this issue in communication related to the lot split (CDP2019-0003).

Again, please see Exhibits W12b A-1-Men23-0001 (Carson) pages72 to 82 of 91.

Commission staff misrepresents the condition of Caspar Point Road. Residents have been working on a plan to do something about a failing five-foot culvert, and are little closer today than the problem was discovered two years ago. please see Exhibits W12b A-1-Men23-0001 (Carson) pages72 to 82 of 91.

We are direct neighbors of the applicant and admittedly have not been pleased to know what is intended for our southern border. We have attempted to screen these potential changes by planting trees which has met with serious objection from the applicant. We regret this situation, but believe further housing development on this adjacent parcel is contrary to protection of terrestrial protection and does not conserve coastal resources of the area.

Sincerely,
Ray & Loraine Duff
45300 Caspar Point Road
Caspar, CA 95420
Ray Duff
rayduff@mcn.org