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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-22-0621

Applicant: Donald and Coral Kane

Location: 605 Big Lagoon Ranch Road, Big Lagoon Area, Humboldt County

Project Description: Construct a 3,000-square-foot, two-story, 3-bedroom single-family residence with associated decks, porches, driveway, fencing, 1,000-square-foot barn, and onsite wastewater treatment system, convert test well to production well, and less than 50 cubic yards of grading.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicants propose to construct a new 3,000-square-foot residence and accessory features including a barn, driveway, on-site septic system, and water system. The subject property is located within the Stagecoach Hill or Kane Road area, which is an Area of Deferred Certification that consists of approximately 685 acres and 31 assessor parcels ranging from 2.3 acres to over 60 acres in size. The existing 62-acre lot is zoned locally as Rural Residential Agriculture with a Coastal Elk Habitat combining zone and is within a County-designated Coastal Scenic Area. The property is approximately 0.4-miles east of State Highway 101 at an elevation of over 500 feet and is not visible from the highway. Herds of Roosevelt elk are known to occasionally graze on the property. The property is adjacent to portions of Humboldt Lagoons State Park, including the Azalea Reserve, which is known for its expansive patches of environmentally sensitive Western Azalea habitat areas and Sitka spruce forest.

The property consists of both open grassy pasture areas dominated by nonnative grasses and forested areas dominated by Sitka spruce, redwood, and other coastal conifers. The location of the proposed development would be limited to an open, nonnative grassland. The project proposes to locate all new development at least 100 feet from the adjacent Sitka spruce forest, which is a sensitive natural community. Special Condition 2 requires submittal of final site plans prior to permit issuance that show, in part, all development located at least 100 feet from the forest. New development would cover less than a half-acre of the 62-acre property and would be constructed in a portion of the open, nonnative grassland. The project incorporates several special conditions to protect adjacent habitat during construction and in the future. Special Condition 4 requires appropriate BMPs to be employed during construction, Special Condition 3 limits the landscaping that can be planted on the subject property, and Special Condition 5 limits new exterior lighting associated with the proposed development. Special Condition 1 requires that all future improvements to the development authorized by this permit that might otherwise be exempt from CDP requirements obtain an amendment to this CDP or a new CDP. These conditions also will protect adjacent Western Azalea habitat located on the State Parks-managed Stagecoach Hill Azalea Preserve and Roosevelt Elk Habitat located throughout the surrounding area.

Therefore, staff recommends the Commission find that the proposed project, as conditioned, would be sited and designed to protect adjacent ESHA and to provide for its continuance consistent with Section 30240 of the Coastal Act.

The Motion to adopt the staff recommendation of approval with conditions is found on [page 4](#).

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I. Motion and Resolution

A. Motion

I move that the Commission **approve** Coastal Development Permit Application No. 1-22-0621 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.

B. Resolution

The Commission hereby **approves** Coastal Development Permit Application No. 1-22-0621 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

This permit is granted subject to the following special conditions:

1. **Future Development Restriction.** This permit is only for the development described in Coastal Development Permit Application No. (CDP) 1-22-0621, including, but not limited to: (1) constructing a 3,000-square-foot, two-story, 3-bedroom single-family residence with associated decks, porches, driveway, fencing; (2) constructing a 1,000-square-foot barn; (3) installing an onsite wastewater treatment system; and (4) converting a test well to production well and installing water storage tanks. The following future development restrictions apply:
 - A. Pursuant to Title 14 California Code of Regulations (CCR) section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(a) shall not apply to the development governed by the CDP 1-22-0621. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDP 1-22-0621 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government.
 - B. In addition, an amendment to CDP 1-22-0621 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR §13252(a)-(b).
2. **Final Plans.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-22-0621, the applicant shall submit to the Executive Director for review and written approval final construction, drainage, and landscaping plans in substantial compliance with those submitted to the Commission on July 25, 2022, including incorporation of the following:
 - A. Evidence that a licensed professional (Certified Engineering Geologist or Geotechnical Engineer) has reviewed and approved final plans for residential structures and has certified that the plans include appropriate measures for design and structural stability to address seismic hazards consistent with state and local building code requirements;
 - B. A final site plan drawn to scale that depicts the following:

- a. A 100-foot “no development” buffer zone between the outer edge of the forest canopy of the Sitka spruce forest and areas where proposed development may be located (including the residence, barn, water storage tanks, other accessory structures);
 - b. Provisions for installing temporary construction fencing or similar temporary barriers prior to commencement of construction to minimize the potential for construction encroachment into adjacent ESHA/ESHA buffers. All construction storage and staging areas shall be located at least 100 feet from the adjacent forested areas (as measured from the outer edge of forest canopy).
 - c. Low-stature fencing or similar demarcation barriers (e.g., split-rail or similar fencing, driftwood logs, small boulders, etc.) to delineate the approved building envelope as proposed on the preliminary project plans. The approved building envelope includes the area located at least 100 feet from forest ESHA where the proposed driveway, structures, and accessory development as shown on preliminary plans may be located. The fence or other demarcation barrier shall be designed to provide a visible “barrier” along the perimeter of the authorized development areas to clearly establish a visible boundary between areas where authorized development and activities associated with residential development are permitted on the site and adjacent ESHA and ESHA buffers outside of the authorized development areas. The permanent fencing/demarcation barriers shall be installed prior to occupancy of the residence.
- C. Final plans for site drainage and landscaping consistent with Special Conditions 3-5.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a further Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Landscaping Restrictions

- A. No other species of the genus *Rhododendron* shall be planted on the parcel, except for the native Western Azalea, *Rhododendron occidentale*. If plantings of the native Western Azalea are installed on the property at any time, plantings shall only be of local genetic stock from the Stagecoach Hill area.
- B. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed”

by the governments of the State of California or the United States shall be utilized within the bounds of the property.

4. Construction and Post-Construction Water Quality and ESHA Protection

Responsibilities. The applicant shall adhere to appropriate construction-related best management practices (BMPs) to protect water quality and surrounding environmentally sensitive habitat areas, including, but not limited to, the following:

- A. BMPs shall be used to prevent the entry of polluted stormwater runoff into coastal waters during construction and post-construction, including the use of appropriate BMPs for erosion and runoff control and post-construction BMPs for roof runoff controls, vegetated buffer strips, and bioretention as detailed in the current California Storm Water Quality Best Management Handbooks (<http://www.cabmphandbooks.com>).
- B. Temporary construction fencing or similar temporary barriers shall be installed in the required areas prior to commencement of construction to minimize the potential for construction encroachment into adjacent ESHA/ESHA buffers.
- C. Minimize Erosion and Sediment Discharge. During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
 - i. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
 - ii. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
- D. Minimize Discharge of Construction Pollutants. The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
 - i. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize

pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:

- a) Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
 - b) Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.
 - c) Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
 - d) Prompt removal of all construction debris from the project area.
- E. Minimize Other Impacts of Construction Activities. Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
- ii. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control; and
 - iii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.

5. Restrictions to Protect Visual Resources and ESHA

- A. Lighting Limitations. All exterior lighting, including any lights installed as part of the development approved under CDP 1-22-0621, or in the future, shall be low-wattage, shielded, and downcast such that no light will shine beyond the bounds of the property or into adjacent sensitive habitats.
- B. Underground Utilities. Where feasible, new and existing utilities should be underground. When above-ground facilities are the only alternative, they should be as unobtrusive as possible.
- C. Natural Landscaping. Landscaping shall prioritize vegetation common to the area and should be used to screen and soften the visual impact of the new development.
- D. Materials and Colors. The colors and materials of the structures, including roofing, windows, trim, and siding, shall be non-reflective and generally earth-toned to blend with the natural surroundings of the area.

- 6. Protection of Archaeological Resources.** The landowner/ permittee shall undertake development in compliance with the following mitigation measures to protect archaeological and/or tribal cultural resources:
- A. If an area of tribal cultural and/or archaeological resources is discovered during ground-disturbing activities, all construction shall cease and shall not recommence except as provided in subsection (C) hereof, and the permittee shall retain a qualified archaeologist and/or tribal cultural resource specialist to analyze the significance of the find in consultation with the Native American Tribes listed on the NAHC list. The archaeologist and/or tribal cultural resource specialist shall immediately notify the Tribes on the NAHC list. An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s). Project activities may continue outside of the exclusion zone.
 - B. Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and/or Native American monitor shall notify the county coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. An “exclusion zone” may be established around the discovery area. Project activities may continue outside of the exclusion zone. If the county coroner determines that the human remains are those of a Native American, the coroner shall contact the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The landowner/permittee shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to preserve the remains in place, move the remains elsewhere onsite, relinquish the remains to the descendants for treatment, or determine other culturally appropriate treatment. Within five (5) calendar days of notification to NAHC, the permittee/ landowner shall notify the Coastal Commission’s Executive Director of the discovery of human remains and identify any changes to the proposed development or mitigation measures that may be needed related to the inadvertent discovery. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site. The Executive Director shall determine whether the identified changes are de minimis in nature and scope.
 - C. A permittee seeking to recommence construction within an exclusion zone following discovery of tribal cultural and/or archaeological resources shall submit a Supplementary Archaeological Plan (SAP) prepared by an archaeologist in consultation with the Native American Tribes listed on the NAHC list for the review and written approval of the Executive Director. If the Executive Director approves the SAP and determines that the SAP’s

recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the SAP but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

- 7. Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the permittee has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (a) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (b) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.
- 8. Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the permittee acknowledges and agrees (a) that the site may be subject to hazards from earth movement, earthquake shaking, liquefaction, differential settlement, erosion, flooding, and other geologic and flood hazards, some of which will worsen with future sea level rise; (b) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

IV. Findings and Declarations

A. Project Description and Location

The applicants, Donald and Coral Kane, propose to: (1) construct a new 3,000-square-foot two-story (maximum 29-foot-high), three-bedroom, single-family residence with approximately 130 square feet of second story attached decking and a 658-square-foot

covered porch; (2) construct a 1,000-square-foot detached building that will serve as a barn, garage, and storage space; (3) develop an on-site septic system with a 1,800-gallon septic tank, primary leach field, and designate a reserve leach field area; (4) develop a water system including conversion of a test well to a production well and development of a pump house, two 3,000-gallon water storage tanks, and a buried water line from the pump house to the proposed residence; and (5) construct a new approximately 200-foot-long gravel driveway connecting Big Lagoon Ranch Road to the new residence. The proposed development would involve less than 50 cubic yards of grading. Project plans are attached as [Exhibits 3-4](#).

The subject lot, located at 605 Big Lagoon Ranch Road (APN 518-051-034), is approximately 62 acres in size and is in a rural area 13 miles north of the City of Trinidad and 8 miles south of the community of Orick. The lot is located off of Kane Road, east of Highway 101, northeast of Big Lagoon, and adjacent to Humboldt Lagoons State Park and the Harry A. Merlo State Recreation Area. Humboldt County has a certified LCP, but the subject property is located within an area of deferred certification (ADC). The ADC, which is known as the Stagecoach Hill or Kane Road region, consists of approximately 685 acres and 31 assessor parcels zoned locally as Rural Residential Agricultural, 20-Acre Minimum Parcel Size (RA-20), with Manufactured Home (M) and Coastal Elk Habitat (E) combining zones. Nearly half of the properties in this ADC have been developed with rural residential uses. Parcel sizes in the ADC range from 2.3 acres to over 60 acres, with an average parcel size of 22 acres. The subject property also is within a County-designated Coastal Scenic Area, with a Design Review (D) combining zone. However, the subject property is approximately 0.4-miles east of State Highway 101 at an elevation of over 500 feet and is not visible from the highway.

B. Standard of Review

The County of Humboldt has a certified Local Coastal Program (LCP). However, the project site is located in a non-certified area (area of deferred certification, or ADC) (see Finding IV-I below). Therefore, 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. The certified LCP can provide guidance.

C. Other Agency Approvals

The proposed project requires a Special Permit from Humboldt County. The County approved Special Permit PLN-2022-17903 on March 17, 2023.

D. Locating and Planning New Development

Section 30250 of the Coastal Act states in applicable part (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.

An intent of section 30250(a) is to channel development toward developed areas where services are provided and potential impacts to resources are minimized. As discussed above, the property is located in a rural residential area with no community services. Thus, the Commission must ensure that adequate onsite services will be provided to serve the proposed development in a manner that protects coastal resources.

The applicants propose to install a new onsite wastewater treatment system. The County Department of Environmental Health (DEH) has been consulted regarding the adequacy of the proposed septic system to serve the single-family residence. DEH determines the demand for septic capacity of a residence based on the total number of bedrooms in the residence. For the proposed three-bedroom residence, DEH has determined that the proposed 1,800-gallon septic tank and primary leach field will have adequate capacity to serve the proposed development. A reserve leach field area also has been identified consistent with DEH requirements (though decommissioning of the primary leach field and development of the reserve leach field in the future will require separate CDP authorization).

The proposed residence will be served by an onsite well. The Commission approved a de minimis waiver in 2022 for the installation of a test well. Following the required dry-weather testing, the County determined that the proposed well will provide an adequate source of water for the proposed single-family residence, provided that additional water storage tanks are added for reserve water supply and for fire suppression. The applicant's proposal includes the installation of two 3,000-gallon storage tanks on the property.

Finally, electrical service will be provided to the site by Pacific Gas and Electric Co. An existing PG&E electrical transmission line currently bisects the eastern portion of the property. The applicants plan to route utility lines underground.

As discussed in the below findings, the project has been conditioned to protect visual resources, environmentally sensitive habitat areas, and water quality. Therefore, the Commission finds that as conditioned, the proposed development is consistent with Coastal Act section 30250(a), in that it is located in a developed area, has adequate water and sewer capability to accommodate it, and will not cause significant adverse effects, either individually or cumulatively, to coastal resources.

E. Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act states:

- a. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- b. Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Coastal Act Section 30107.5 states the following:

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Though not the standard of review in this ADC, Section 3.41 of the County’s North Coast Area lists the following types of ESHA for the North Coast Area Plan planning area in which the subject property is located:

A. IDENTIFICATION OF ENVIRONMENTALLY SENSITIVE HABITATS

1. Environmentally sensitive habitats within the North Coast Planning Area shall include:

- a. The Redwood National Park of Special Biological Significance including all the offshore waters from the County line to Guyon Bluffs
- b. Seabird roosting areas, including Mussel Point and Wedding Rock
- c. Rocky intertidal areas
- d. Rivers, creeks, and associated riparian habitats...
- e. Wetlands, lagoons, and estuaries...
- f. Azalea habitats at Kane Road...
- g. Other critical habitats for rare and endangered species listed on State or Federal lists

....

D. ROOSEVELT ELK HABITAT

Development within Roosevelt Elk habitats occurring within this planning area shall be sited and designed to mitigate impacts which would significantly degrade such areas and shall be compatible with the continuance of such habitat areas.

The 62-acre property consists of both open grassy pasture areas dominated by nonnative grasses and forested areas dominated by Sitka spruce, redwood, and other coastal conifers. The property was part of the “Herbert Hard Ranch” as identified on historic USGS maps. The location of the proposed development is restricted to an open, grassy area, which extends across approximately 18 acres of the 62-acre property. The open grassy areas of the property have been open and unforested since at least the mid-1960s according to historical aerial imagery and maps. The open grassy area is classified as a nonnative grassland dominated by nonnative velvet grass (*Holcus lanatus*), sweet vernal grass (*Anthoxanthum odoratum*), and hairy wallaby grass (*Rytidosperma penicillatum*), with inclusions of native and nonnative forbs such as wild strawberry (*Fragaria* sp.), California blackberry (*Rubus ursinus*), bracken fern (*Pteridium aquilinum*), oxeye daisy (*Leucanthemum vulgare*), and invasive tansy ragwort (*Senecio jacobaea*). A biologist from the California Department of Fish and Wildlife (CDFW) visited the property in July and confirmed the nonnative grassland vegetation in the development site as the *Holcus lanatus*-*Anthoxanthum odoratum* semi-natural alliance.

The forest surrounding the grassland development site, which covers approximately 44 acres of the property, is dominated by Sitka spruce (*Picea sitchensis*), scattered Douglas-fir (*Pseudotsuga menziesii* var. *menziesii*), redwood (*Sequoia sempervirens*), and other coastal conifers. Understory vegetation varies from shrubby to grassy, with black huckleberry (*Vaccinium ovatum*), salal (*Gaultheria shallon*), sword fern (*Polystichum munitum*), and coyote brush (*Baccharis pilularis*). The forest surrounding this grassland is Sitka spruce forest ESHA.

While the project site is not within an ESHA, there are known areas of environmentally sensitive habitats in the vicinity as well as surrounding park and recreation areas, as discussed below.

Sitka Spruce Forest

Sitka spruce forest alliance¹ is a sensitive natural community with a global/state ranking of G5/S2 by CDFW. This ranking implies this vegetation community is globally abundant (G5) but imperiled in the state (S2). In California, the Sitka spruce forest alliance occupies a narrow coastal band, and its southernmost contiguous range terminates in central Humboldt County. A disjunct population in central Mendocino County near Russian Gulch forms the southern terminus of its range.

All proposed development will be located at least 100 feet from the Sitka spruce forested areas. The Commission finds this buffer distance adequate because (1) there is little functional relationship between the non-native grassland habitat where the house

¹ Sawyer, J. O., Keeler-Wolf, T., & Evens, J. M. (2008). *A Manual of California Vegetation* (Second ed.). Sacramento, CA: California Native Plant Society Press.

will be located and the forest habitat; (2) the buffer area between the building envelope and sensitive forest habitat is flat, with permeable soils, and not susceptible to erosion; and (3) the second-growth/relatively young forest habitat is not known to harbor sensitive species of plants and animals that would be disturbed significantly by the permitted development, especially with inclusion of several special conditions, as discussed below.

As discussed, the proposed project is to construct a new single-family residence that includes a driveway, covered porch, barn, onsite septic system, and well. All these features will be constructed in the open, nonnative grassland and will cover less than a half-acre of the 62-acre property. **Special Condition 2** requires submittal of final site plans prior to commencement of construction that show, in part, all development located at least 100 feet from the Sitka spruce forest. The final plans shall label the 100-foot “no development” buffer as measured from the outer edge of the forest canopy and also shall include a building envelope delineation plan to clearly establish a visible boundary between areas where authorized development and activities associated with residential development are permitted on the site (i.e., the building envelope). The special condition further requires a physical delineation of the building envelope using low-profile fence or other symbolic barrier constructed of natural materials such as wood or rock in order to maintain the visibility of the delineated building envelope. **Special Condition 5** requires that all exterior lighting associated with the proposed development be low-wattage and downcast shielded such that no glare is directed into the surrounding spruce forest habitat. **Special Condition 3-B** requires that only native and/or non-invasive plant species are planted on the subject property. **Special Condition 4** requires the proper disposal of construction-related debris, the covering of stockpiles whenever there is a potential for rain to prevent polluted water runoff from the site, and the use of appropriate BMPs for erosion and runoff control as detailed in the current California Storm Water Quality Best Management Handbooks.

Section 30610(a) of the Coastal Act exempts certain improvements to existing single-family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain improvements that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment. However, depending on the specific improvements proposed, building additions and construction of new accessory structures could disrupt the surrounding spruce habitat. Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to section 30610(a) of the Coastal Act, the Commission adopted section 13250 of Title 14 of the California Code of Regulations (CCR). Section 13250(b)(6) specifically authorizes the Commission to require a permit for improvements to existing single-family residences that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements require a development permit. Improvements that increase the footprint of the existing residence or accessory structures could impact adjacent ESHA in a manner inconsistent with the requirements of section 30240 of the Coastal Act. Therefore,

pursuant to section 13250(b)(6) of Title 14 of the CCR, the Commission attaches **Special Condition 1**, which requires that all future improvements to the development authorized by this permit amendment that might otherwise be exempt from CDP requirements require an amendment or new CDP. This condition will allow future development to be reviewed by the Commission to ensure that future improvements to the development will not impact adjacent ESHA. Additionally, **Special Condition 7** requires that the applicants record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit amendment as covenants, conditions, and restrictions on the use and enjoyment of the property. In this way, **Special Condition 7** will help assure that future owners are aware of these CDP requirements applicable to all future development.

Western Azalea

The subject site is within the habitat range of the Western Azalea (Rhododendron occidentale), which is not a rare, threatened, or endangered species, but expansive patches of which have been found by the Commission to be especially valuable due to their special nature. As cited above, the County's certified North Coast Area Plan (LUP) includes "Azalea habitats at Kane Road" as a type of ESHA in the planning area. Because Western Azalea is the only polyploid species of azalea [i.e., its DNA has 78 chromosomes versus 26 (diploid) in most other azalea species], the species is capable of hybridization with other *Rhododendron* species (and production of fertile offspring) and therefore has been popular in the horticultural industry for decades. Horticulturalists also favor the Stagecoach Hill azaleas in particular for their striking beauty and variety of flower colors and shapes, and the strain has received international recognition. The Spring 1977 edition of the magazine *Pacific Horticulture* documents the uniqueness of the Western Azalea in the Stagecoach Hill area (Mossman 1977). In particular, the author describes the extraordinary variability in a suite of plant features in the population (e.g., flower color, shape, and size; petal number and texture; leaf size, shape, and edges; plant habitat; etc.) not documented for the species in other locales.

In the Stagecoach Hill region, Western Azalea forms an unusually expansive and flourishing stand, which most likely resulted from past land history and management regimes that have promoted the species, including several intense fires, clearing, agriculture, and timber harvesting over the past several decades. Active management is needed to maintain abundant, flourishing azalea stands, and both the Stagecoach Hill Azalea Preserve (a 42-acre public park within the ADC managed by the California State Parks Foundation) and the Azalea State Reserve in McKinleyville (a 30-acre public park managed by the Department of Parks and Recreation) actively manage the areas to maximize the growth and flowering of the Western Azalea. Management techniques include hand clearing competing vegetation (e.g., various shrub species), cutting down small trees (to maintain an open canopy), and either broadcast burning or lopping and scattering the vegetative spoils (to promote azalea regeneration). In the absence of vegetation management, azaleas tend to be shaded out by encroaching conifers and other competing vegetation. Additionally, Western Azalea has a very shallow root system and is susceptible to disturbance or degradation from soil-compacting human activities and developments.

Efforts have been made by various agencies and organizations over the decades to protect and manage the Stagecoach Hill Western Azalea and its habitat area:

- In 1977, the magazine *Pacific Horticulture* documented the uniqueness of the Western Azalea on Stagecoach Hill and reported that the California State Parks Foundation and the American Rhododendron Society were working to raise funds (\$60,000 needed) “to purchase Stagecoach Hill...[and]...to protect forever this extraordinary land of *Rhododendron occidentale*” (Mossman 1977).
- In 1981, the Humboldt County Board of Supervisors adopted the North Coast Area Plan (NCAP) segment of the Humboldt County Local Coastal Program. The NCAP (Section 3.41.A.1.f) identifies “Azalea habitats at Kane Road” (i.e., the Stagecoach Hill area) as a type of ESHA, and states that “The boundaries of this area and its management needs should be identified in a special study.”
- In 1981, the Humboldt County Board of Supervisors requested the Coastal Conservancy’s assistance to protect this special native azalea habitat area so that its long-term viability would be ensured.
- In 1982, the Coastal Commission denied certification to a portion of the NCAP (including the Kane Road area of Stagecoach Hill). The denial was based, in part, on the unresolved issues regarding the protection of the azalea and its habitat area.
- In 1984, the Coastal Conservancy authorized funds to the California State Parks Foundation to prepare a management plan (a 40-acre model enhancement plan) and an acquisition strategy for all of the prime azalea habitat in the Stagecoach Hill area.
- In 1985, the Coastal Commission granted conceptual approval (Commission File No. CP-3-85) to the California State Parks Foundation for the following: (1) a 40-acre model enhancement plan (in the area now known as the Stagecoach Hill Azalea Preserve); and (2) an acquisition strategy and priority system to purchase 570 acres on Stagecoach Hill containing most of the azalea habitat area. The prime areas of azalea habitat on Stagecoach Hill were mapped and identified, and 14 parcels of land were tentatively earmarked for public acquisition by the State of California. (The identified lands for public acquisition did not include the subject property). However, Phase 2 (the acquisition strategy) never materialized due to lack of funding.
- In 1986, the Commission granted a CDP (CDP No. 1-86-113) to the California State Parks Foundation to proceed with the model management enhancement plan. (This 42-acre parcel has been the only property acquisition in the area to date because of limited State funding, as mentioned above).

- From 1987 through 2007, the Commission granted permit approval for the construction of ten homes, lot improvements to support a future home (i.e., after-the-fact permit for grading, clearing vegetation, installing a well, and road improvements), construction of a detached art studio adjacent to an existing home, a land division/lot line adjustment in the area, and drilling of test wells.² In these permit approvals, the Commission has imposed special conditions to protect and minimize harm to the Western Azalea. These conditions have included such requirements as the following: (1) a botanical survey of the property to map azalea plants in relation to proposed developments; (2) recordation of a deed restriction showing the location of the azaleas and agreement not to “disrupt or harm any of the azalea plants”; (3) recordation of a deed restriction stating the applicants and future owners of the property agree to not to disturb any azalea plants on the property; not to plant any other *Rhododendron* species on the property (to prevent hybridization and dilution the gene pool of the native species); and (c) to allow Commission review of all future development on the property to ensure no significant disruption to the azaleas or their habitat area.

Western Azalea is not present in the half-acre area where development is proposed and was not observed within 100 feet of any new development but may be present in other areas of the 62-acre property, and a significant expanse of Western Azalea is located within the State Park Azalea Reserve on the property immediately west of the subject parcel (see [Exhibit No. 2](#)). Thus, sensitive habitats and sensitive park and recreation areas near the project site could be adversely affected if nonnative, invasive plant species were introduced in landscaping. Since rhododendrons will readily cross-pollinate with one another (a well-documented tendency), and since Western Azalea in particular is a species prized by the horticultural industry for its ability to cross-pollinate with different azalea varieties and hybrids (and produce fertile offspring), it is feasible that native Western Azaleas could cross-pollinate with horticultural azaleas installed in a residential landscape setting (rhododendrons in general are typically pollinated by bumblebees). If cross-pollination were to occur, successive generations of progeny would likely result in a mixture or hybrid variety of the two parent plants, and subsequent backcrossing could affect the long-term genetic integrity of the Western Azalea in the Stagecoach Hill region. Therefore, to ensure that future landscaping that the applicant may choose to install on the property does not adversely impact the long-term genetic integrity of any azalea ESHAs in the project vicinity, **Special Condition 3-A** imposes a restriction stating that no other rhododendron species may be planted on the property except for the existing native Western Azalea. As noted above, such a condition has been included as a condition of approval for at least 10 other permits that the Commission has issued in the ADC region.

² These permits include the following: 1-86-204 (Croft); 1-88-73 (Bumblebee/Hennings); 1-88-255 (Beaupré); 1-92-80 (Allen); 1-92-81 (Pehrson); 1-93-69 (McKeegan & Olsgard); 1-97-031 (Harmon); 1-99-065 (Shuttleworth); 1-00-042 & -042-A-1 (Bost/Roden); 1-01-004 (Harmon); 1-01-064 (Fox); 1-02-007-W (Leach); 1-06-032 (Shuttleworth); and 1-07-008 (Kent).

In addition to the risk of hybridization with horticultural varieties, Western Azalea ESHA in the greater vicinity could be adversely affected if non-native, invasive plant species were introduced from landscaping at the site. Although no landscaping is proposed under this application, if any future landscaping were installed that included introduced invasive exotic plant species, the weedy landscaping plants could “escape” and colonize over time (e.g., via wind or wildlife dispersal) nearby ESHA and parks and recreation areas and displace native vegetation, thereby disrupting the functions and values of the ESHA and parks and recreation areas. The Commission therefore attaches **Special Condition 3-B** to ensure that only native and/or non-invasive plant species are planted on the subject property.

In addition, as discussed further in Finding IV-F below, **Special Condition 4** requires the proper disposal of construction-related debris, the covering of stockpiles whenever there is a potential for rain to prevent polluted water runoff from the site, and the use of appropriate BMPs for erosion and runoff control as detailed in the current California Storm Water Quality Best Management Handbooks.

Finally, as previously discussed, **Special Condition 1** requires that all future improvements to the development authorized by this permit that might otherwise be exempt from CDP requirements requires an amendment or new CDP. This condition will allow future development to be reviewed by the Commission to ensure that future improvements to the development will not impact adjacent ESHA. **Special Condition 7** requires the applicant to record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property, including this restriction against planting rhododendron species except for the existing native Western Azalea.

As conditioned, the proposed project will ensure that the development, which is adjacent to ESHA and parks and recreation areas, will prevent impacts that could significantly degrade those areas and will be compatible with the continuance of those habitat and recreation areas.

Roosevelt Elk Habitat

The project site is also within an area designated under the Humboldt County LCP as Elk Range Habitat. This designation is intended to ensure that development within the range of the Roosevelt Elk is sited and designed to prevent impacts that would significantly disrupt elk use. Although the range of the species is limited, the Roosevelt Elk is not protected under state or federal endangered species laws as a rare, threatened, or endangered species. The Roosevelt Elk is a “harvested animal” and, according the CDFW staff, the Roosevelt Elk population in the area is expanding and doing well. Roosevelt Elk have been observed eating and bedding down on the property and also walking through the property into the forest. However, the Commission finds that the use of the subject property by elk does not make the subject property an environmentally sensitive habitat area for Roosevelt Elk, as no evidence has been

presented that the Roosevelt Elk or its potential habitat on the site is either rare or especially valuable because of its special nature or role in the ecosystem. Nonetheless, the proposed development will not adversely affect the elk habitat. The applicant is not proposing any fencing that could impede elk migration, and no significant habitat displacement would occur, as the proposed residence would not result in a significant increase in development density.

Furthermore, exterior lighting associated with residences has the potential to illuminate the nearby, naturally dark natural area and to degrade the dark nighttime character of the area. Accordingly, to prevent the cumulative impacts of light pollution on the biological resources of the area, including migrating elk that may be passing through the property, the Commission attaches **Special Condition 5**, which requires that all exterior lighting associated with the proposed development be low-wattage and downcast shielded such that no glare is directed into the surrounding spruce forest habitat.

Parks and Recreation Areas

The Azalea Nature Trail, which is a public trail managed by California State Parks, is located approximately 1000 feet from the proposed residence (downslope and to the southwest). The Trail is popular in the Spring when the azaleas are blooming. The trailhead, which is located approximately 0.2 miles from the subject property on Big Lagoon Ranch Road, provides adequate parking for Trail visitors. Project construction will not impact access to the Trail. The Special Conditions discussed above related to project construction, landscaping, lighting, and future development all will help ensure protection of the adjacent parks and recreation areas consistent with Coastal Act section 30240(b).

Conclusion

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent ESHA, the project as conditioned will not significantly disrupt habitat values or degrade adjacent ESHA or adjacent parks and recreation areas and will be compatible with the continuance of the habitat areas and park and recreation area. Therefore, the Commission finds that the project as conditioned is consistent with the requirements of section 30240.

F. Protection of Coastal Waters

Section 30231 of the Coastal Act addresses the protection of coastal water quality and marine resources in conjunction with development and other land use activities. Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and

substantial interference with the surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The location of the proposed development is relatively flat, and no grading or major vegetation removal is proposed. No creeks or wetlands occur within 100 feet of the development site. New impervious surfaces, including the driveway, residence with covered porch and barn, total approximately 0.1 acres. The development site is surrounded by sufficient vegetated permeable areas to allow for retention and infiltration treatment of stormwater onsite.

The applicant has proposed a number of best management practices (BMPs) to employ during construction to minimize the potential for sediment-laden pollutants to be carried from the site. These measures are incorporated into **Special Condition 4**. This condition requires, in part, the proper disposal of construction-related debris, the covering of stockpiles whenever there is a potential for rain to prevent polluted water runoff from the site, and the use of other appropriate construction-related BMPs for erosion and runoff control.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with sections 30230 and 30231 of the Coastal Act, because the project as conditioned will protect marine resources, water quality, and the biological productivity of coastal waters.

G. Visual Resources

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. This section requires, in applicable part, that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, and to be visually compatible with the character of surrounding areas.

Though not the standard of review in this ADC, Section 3.42 of the County's North Coast Area Plan, which provides guidance, includes several policies for Visual Resource Protection in this designated Coastal Scenic Area:

3.42.C Coastal Scenic Areas

1. In Coastal Scenic Areas as designated in the Area Plan, it is the intent of these regulations that all development be subordinate to the character of the designated area, and to the scenic use and enjoyment of public recreational lands within these areas...

3.42.E Design Assistance Committee

(...) The Design Assistance Committee, as defined in the implementation phase of the Local Coastal Program, shall ensure that the proposed development is compatible with the goals and objectives of this plan. Findings for approval shall include:

1. Consistency and compatibility with applicable elements of the County's general plan;
2. Alteration of natural landforms caused by cutting, filling, grading or clearing necessary for a building site is minimized and, as appropriate, integrated with the project.
3. That setbacks from roads and property lines are appropriate to protect the scenic and visual qualities of the site;
4. Exterior lighting is compatible with the surroundings and is not directed beyond the boundaries of the parcel;
5. Vegetation common to the area should be used to integrate the manmade with the natural environment, to screen and soften the visual impact;
6. Where feasible, new and existing utilities should be underground. When above-ground facilities are the only alternative, they should be as unobtrusive as possible;

The property is not within a designated Highly Scenic Area but is within a mapped Coastal Scenic Area (CSA) under the North Coast Area Plan (NCAP). The County requires that new development in CSAs be subordinate to the character of the area and to the scenic use and enjoyment of the public recreational lands within the area. The County also requires that siding and roofing materials be non-reflective and that utilities should be undergrounded where feasible.

The proposed development is east of Highway 101 at an elevation of over 500 feet. The property is served by a private roadway (Big Lagoon Ranch Road), and there are no public views through the site to the ocean or coast. As discussed above, the project setting and the larger Kane Road/Big Lagoon Ranch Road area is largely forested with an abundance of coniferous trees (redwood, Sitka spruce, grand fir, and others) and other forest vegetation lining the roadway and extending across the properties on either side of the road. The proposed maximum 29-foot-tall residence will be positioned below a naturally forested higher area west of the parcel. It therefore would not block views to the ocean from public vantage points. Furthermore, the development is not expected to be visible from Highway 101 or from any public beach because the surrounding forests and natural landforms screen the house site from view.

The building site is located on level ground, and no significant grading or major vegetation removal is proposed that would result in major landform alteration. The proposed Hardi-plank siding and metal roofing are similar to materials used on other

homes in the immediate neighborhood. The County has completed their review of the Special Permit for Design Review for the proposed new structure and found that the proposed project is compatible with the neighborhood and will not be of greater height or bulk than nearby development. The project is also generally visually compatible with the large-lot, rural residential character of the surrounding area.

Although the development pattern is expected to be hidden from public view due to topographic conditions and vegetative growth surrounding the site, there is potential for portions of the property to be visible from certain areas along the public beaches west of Big Lagoon and Stone Lagoon. In addition, the nighttime character of the area could be impacted by outside illumination, given that this is an area with relatively minimal exterior lighting. Accordingly, to protect the visual character of the surrounding area, the Commission attaches **Special Condition 5** which requires (1) all exterior lighting associated with the proposed development to be low-wattage and downcast shielded such that no glare is directed beyond the bounds of the property or into adjoining environmentally sensitive areas, (2) new utilities be undergrounded, where feasible, (3) that any new landscaping prioritizes vegetation common to the area and is used to screen and soften the new development, and (4) that any materials and colors chosen for the exterior of the new residence and barn are compatible with the natural surroundings of the area.

In summary, the proposed development as conditioned is consistent with section 30251, as the development will not adversely affect views to or along the coast, result in major landform alteration, or be incompatible with the character of the surrounding area.

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 site is within the ancestral territory of the Yurok. For thousands of years, the Yurok lived in coastal areas and coastal watersheds in what now is Humboldt and Del Norte counties, from the Little River 15 miles south of the project site to areas within Del Norte County, including over 50 named villages clustered along the Klamath River and coastal lagoons and creeks. Several federally recognized tribes in the region are affiliated with the Yurok, including Big Lagoon Rancheria, Blue Lake Rancheria, Cher-Ae Heights Indian Community of Trinidad Rancheria, Resighini Rancheria, and the Yurok Tribe – the largest tribe in California.

After consulting with the Native American Heritage Commission (NAHC) to obtain the current tribal consultation list for the proposed development site, Commission staff referred the project to the NAHC-recommended tribal contacts and other tribal

representatives with known interest in the project area region.³ No tribal representatives have responded as of the date that this staff report was published. However, given the project's proximity to areas where tribes historically settled along the coast, to ensure protection of any archaeological resources that may be inadvertently discovered at the site during ground-disturbing activities associated with the proposed development, the Commission attaches **Special Condition 6**. This 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 compliance with state and federal laws. To recommence construction following discovery of cultural deposits or human remains, the Permittee is required to submit a report for the review and approval of the Executive Director demonstrating whether any changes to the project are required to protect archaeological resources. If the ED determines that changes to the project are necessary, and those changes are not de minimis, the Permittee must obtain a permit amendment from the Commission before proceeding with construction.

As thus conditioned, the Commission finds that the proposed project includes reasonable mitigation measures to ensure that construction activities will not result in significant adverse impacts to archaeological resources and, therefore, is consistent with Coastal Act section 30244.

I. 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 proposed project is located in an area subject to high geologic and fire hazards. The subject property is situated approximately 500 feet above mean sea level, with mostly gently sloped terrain. The applicant completed an initial site soils investigation on February 2, 2023. The soils on the subject property are classified as sandy clay loam. The proposed building location is approximately 500 feet from the Bald Mountain-Big Lagoon Fault, which is an historic quaternary fault. Based on regional geology and history of the area, strong ground motion generated by moderate to large earthquakes

³ Commission staff referred the project (via email) to tribal representatives from the Big Lagoon Rancheria, Trinidad Rancheria, Blue Lake Rancheria, and Yurok Tribe on July 5, 2023.

is likely to occur at the site within the life of the proposed residence (50-75 years). The residence has been designed in accordance with the current building codes pertaining to seismic safety. There are no mapped historic landslides in the vicinity of the project, and the construction will result in minimal (<50 cubic yards) grading of the property. To ensure that the applicant develops the project in a manner that minimizes risk from seismic hazards, the Commission attaches **Special Condition 2** requiring submittal of final plans prior to commencement of construction that have been reviewed and approved by a qualified professional (geologist or engineer) confirming that the new foundation and buildings are designed with appropriate measures to address seismic and fault hazard risks.

The property is in an area mapped as a Cal Fire State Responsibility Area (SRA) with Moderate Fire Hazard Severity. The house has been designed with Class A roof coverings, which are the most protective option for fire hazard and are effective against severe fire test exposures. Under severe exposure, the roof coverings afford a degree of fire protection to the roof deck, do not slip from position, and are not expected to produce flying burning material. The proposed Hardi plank siding also offers a high fire safety rating. The proposed residence will be located at least 100 feet from the adjacent forested areas, which corresponds to Cal Fire's 100-foot defensible space requirements.

Because the applicant is electing to develop the site in an inherently hazardous area, the Commission attaches **Special Condition 8**, which requires the applicant to assume the risks of hazards of the property and waive any claim of liability on the part of the Commission. Through this condition the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. As previously discussed, **Special Condition 7** requires the applicant to record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property, including the assumption of risk requirements.

The proposed project will comply with California Building Code and local building codes, which have been designed to allow structures to withstand strong seismic ground shaking. The project also will comply with Cal Fire recommendations and requirements related to fire safety. Therefore, as conditioned, the development is designed to assure stability and structural integrity and to minimize risks from geologic and fire hazards consistent with section 30253 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.

The subject site, within the Kane Road area (also known as Stagecoach Hill area), is located on the north and east sides of Big Lagoon and east of Highway 101 within an area of deferred certification (ADC). The ADC is approximately 685 acres in size and contains approximately 31 Assessor's Parcels, which are characterized as rural residential by the County. At the time that Commission was considering the certification of the County's North Coast Area Plan in the early 1980s, there was ongoing litigation about alleged illegal subdivisions carried out in violation of the Coastal Act at Kane Road (California Coastal Commission vs. James C. Wilkerson et al.). On June 24, 1983, the Superior Court in Humboldt County found in favor of the defendants. This decision resolved the subdivision status of the 15 Kane Road parcels involved in the litigation (the legality of the subject parcel was not in dispute). Other issues affecting the Commission's decision to defer certification of this area included (a) the presence of the native Western Azalea and the absence of any protection or management plans for this species; (b) the potential impacts to timber production on surrounding lands; and (c) general water quality and scenic view concerns.

As discussed in the findings above, the proposed development as conditioned will not affect azalea habitat or other environmentally sensitive habitat, water quality, or scenic viewsheds in the area. Therefore, the Commission finds that 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)

The County of Humboldt, as the lead agency, determined the project to be categorically exempt from environmental review pursuant to sections 15301 of CEQA guidelines (Existing Facilities) and 15061(b)(3) (Common Sense Exemption). In addition, the Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA (14 CCR § 15251(c).)

Section 13096 of the Commission's 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 requirement of the California Environmental Quality Act (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 that would substantially lessen any significant adverse effect the proposed development may have on the environment.

Accordingly, this report has discussed the relevant coastal resource issues with the proposal and 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, which are hereby incorporated by reference, 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 that would substantially lessen any significant adverse impacts, either individually or cumulatively, that the activity may have on the environment. Therefore, the Commission finds that the proposed development, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Application File for CDP Application No. 1-22-0621

Relevant Policies and Standards of the County of Humboldt Local Coastal Program
(North Coast Area Plan & Coastal Zoning Regulations)