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W12b

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STAFF REPORT: REGULAR CALENDAR

Application No.: 1-23-0136

Applicant: Sequoia Forest Products LLC, Agent: LACO Associates

Location: Brainard, 5151 Highway 101, Eureka, Humboldt County (APNs 017-081-001 and 404-141-004)

Project Description: Improvements to an existing lumber mill facility, including interior improvements to an existing structure, septic system and electrical improvements, and demolition of various structures.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The site is located along the eastern shoreline of Humboldt Bay, on a 78-acre property that was diked off from the bay and filled for use as a lumber mill decades before adoption of the Coastal Act and is within the Commission's retained jurisdiction. The property is bounded on three sides by an earthen rip-rapped levee that separates the site from the waters of Humboldt Bay and its inland side is adjacent to Highway 101, within the Eureka-Arcata Highway 101 Corridor ([Exhibit 1](#)). The applicant proposes to improve the existing lumber mill for continued use in lumber production as an ultra-high fiber recovery sawmill producing redwood fence boards. Internal modifications are planned within Building FF to support use of the site, including remodeling of a restroom, and the installation of a lunch/break room, a programmable logic control (PLC) room, and small office spaces. These improvements require no additional foundation work or expansion of the building envelope. The proposed project also

includes the demolition and removal of 16 existing industrial buildings (excluding foundations), which will involve no ground disturbance.

Though the site is within the City of Eureka's urban boundary, it was only recently annexed by the City and is not currently served by municipal services. County Division of Environmental Health (DEH) recommends upgrades to the Onsite Wastewater Treatment System prior to commencement of Phase 1 operations, and the facility must connect to the City of Eureka sewer utilities prior to conversion to Phase 2 operations. As proposed, up to 50 full-time employees will be on-site during initial (Phase 1) operations, and a second shift of 40 employees is planned in the future (Phase 2).

The proposed development involves minimal ground disturbance, and the site is mostly paved. There is an existing Stormwater Pollution Prevention Plan (SWPPP) that is followed for current (now shutdown) mill operations, and the SWPPP will be updated prior to commencement of Phase 1 operations. **Special Condition 4** is attached to require adherence to the final updated water quality protection plans for the site operations. The applicant has also proposed a Soil and Groundwater Management Plan, which includes appropriate measures for the proper handling and disposal of excess soils. However, staff recommends the plan be updated with additional measures to ensure that ground disturbance associated with septic repair area, and use of that area for an improved OWTS, does not inadvertently mobilize constituents of concern to the Humboldt Bay environment. **Special Condition 5** would require submittal of a final revised Plan that includes provisions for proper testing and evaluation of soils in the septic repair area and submittal of the results to the Executive Director to confirm that no soils contaminated with dioxins/furans or other constituents of concern at environmental screening levels of significance that could be harmful to Humboldt Bay aquatic life will be reused to construct the OWTS mound system, which will ensure no mobilization or discharge of contaminants to groundwater connected to Humboldt Bay.

The project will not interfere with the construction of the Humboldt Bay Trail South Project on the perimeter levee on the property, and staff recommends inclusion of **Special Condition 9** stating that the approval of a CDP for this project does not waive any public rights or interest that exist or may exist on the property or on adjacent public access trails and public waters.

Finally, the subject site is in an inherently vulnerable area that could be impacted by SLR within the next 50-60 years. Thus, the applicant proposes a limited term use of the property and has stated its intent "to retreat from the property at such time that operating on it in full compliance with local, state and federal environmental regulations becomes economically infeasible." Staff recommends **Special Condition 6** to memorialize the proposed limited term authorization of the development authorized by this permit.

Staff recommends that the Commission find that the proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act. The Motion to adopt the staff recommendation of **approval** of CDP 1-23-0136 with conditions is found on page 4.

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LIST OF EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Description, Demo Plan, and Septic Repair Site Plan](#)

[Exhibit 3 – Soil and Groundwater Management Plan](#)

[Exhibit 4 – Comments received prior to publication of the staff report](#)

I. Motion and Resolution

A. Motion

I move that the Commission **approve** Coastal Development Permit Application No. 1-23-0136 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. 1-23-0136 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. **Operational Restrictions and Requirements.** The permittee shall operate the facility consistent with proposed project plans (Exhibit 2) and the conditions of approval of CDP 1-23-0136. Operational restrictions and requirements include, but are not limited to the following:
 - A. Authorized Development: This permit authorizes an ultra-high fiber recovery sawmill as described in the May 8, 2023 revised project description memorandum and updated plans prepared by LACO ([Exhibit 2](#)). No other uses are authorized on the subject property, and any existing leases for operations of other uses on the site shall either be terminated within 180 days of issuance of this permit or shall obtain authorization for use under an amendment to this permit.
 - B. Storage of Materials: There shall be no “high decking” of raw materials stored on site that would result in stacking of materials in heights greater than 20 feet.
 - C. Lighting: All exterior lights, including lights attached to the outside of any structures, shall be low wattage, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the property or onto the waters or associated wetlands of Humboldt Bay.
 - D. Noise: Operations shall implement control measures as needed for exterior noise levels (e.g., interior sound proofing, if needed) so as not to disturb surrounding environmentally sensitive habitats areas.
 - E. Connecting to Municipal Wastewater Services: As proposed and to accommodate site constraints related to wastewater service capacity, no more than 50 full-time employees shall be allowed to work onsite at any given time. Phase 1 operations, which include up to 50 full-time employees, will be accommodated utilizing the improved OWTS as authorized by this permit. The permittee agrees to connect the facility to the City of Eureka’s sewer system upon municipal services becoming available for the site. The OWTS shall be abandoned or removed per County Department of Environmental Health (DEH) requirements at the time of municipal service connection. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director determines that no coastal development permit is legally required.

F. Water Quality Protection: Post-construction site operations shall adhere to a suite of final approved water quality protection measures as required by Special Condition 4.

2. Other Permits. PRIOR TO COMMENCEMENT OF THE AUTHORIZED DEMOLITION AND SITE IMPROVEMENT WORK, as applicable for each project component, the permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, or authorizations for the approved project component have been granted by Caltrans, County Division of Environmental Health (DEH), the North Coast Regional Water Quality Control Board, and/or the City of Eureka, or evidence that no such authorizations are required for that phase of the project. The permittee shall inform the Executive Director of any changes to the project required by Caltrans, DEH, the NCRWQCB, and/or the local governments. Any such changes shall not be incorporated into the project until the permittee obtains an amendment to this permit, unless the Executive Director determines that no amendment is legally required.

3. Responsibilities During Demolition and Site Improvement Work. The permittee shall adhere to various demolition and construction-related best management practices (BMPs) to protect water quality and surrounding environmentally sensitive habitat areas as proposed in the project description dated May 8, 2023 (Exhibit 2), as modified by the special conditions herein, including but not limited to adherence to the following:

- A. Demolition work, OWTS improvements, and the proposed limited foundation work shall be completed with all appropriate BMPs, including, but not limited to, those listed in the project description section 2.3.7 (Exhibit 2).
- B. Disturbed soils shall be characterized, handled, and disposed of consistent with the requirements of Special Condition 5.
- C. During demolition work, all lead and asbestos containing materials shall be demolished and removed from the site by appropriately licensed and certified contractor(s), and all required monitoring and reporting during demolition shall be performed in accordance with applicable local, state, and federal hazardous materials regulations.
- D. No construction materials, debris, or waste shall be placed or stored where it may enter wetland or open waters;
- E. Any and all debris resulting from construction activities shall be removed from the project site within 12 months as proposed and disposed of properly at a licensed disposal facility capable of receiving disposal materials;
- F. All on-site stockpiles of construction debris and soil or other earthen materials shall be covered and contained whenever there is a potential for rain to prevent polluted water runoff from leaving the site;
- G. Appropriate stormwater runoff and erosion and sediment control BMPs shall be used to prevent the entry of polluted stormwater runoff into coastal waters

during construction and post-construction consistent with Special Condition 4, 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>); and

- H. Bird nesting habitat protection measures shall include all of the following proposed measures recommended by CDFW:
- i. Removal of buildings that may provide nesting habitat for sensitive avian species shall be avoided during the nesting season (March 15 to September 15) to the maximum extent feasible;
 - ii. If it is not feasible to remove buildings that may provide potential nesting habitat outside of the avian nesting season, a survey for sensitive species of nesting birds in and adjacent to the project demolition area shall be conducted by a qualified biologist according to current California Department of Fish and Wildlife (CDFW) protocols no more than seven days prior to the commencement of demolition activities. If any active nest is identified during preconstruction surveys, the biologist, in consultation with CDFW, shall determine the extent of a demolition-free buffer zone to be established around the nest, and demolition activities in the buffer zone shall be delayed until after the young have fledged, as determined by additional surveys conducted by a qualified biologist. The demolition-free buffer zone shall be a minimum of 300 feet for nesting raptors and a minimum of 100 feet for other sensitive bird species; and
 - iii. Prior to the commencement of demolition activity authorized during the avian nesting season, the permittee shall submit, for the review and approval of the Executive Director, the survey required in Part B above, including a map that locates any nesting habitat identified by the survey and delineates the required demolition-free buffer zone, and a narrative that describes proposed sensitive habitat avoidance measures.
- I. The site may utilize directional boring to connect two (2) additional 2,500 KVA transformers to the existing electrical system near the southeastern corner of Building FF, north of Building GG. BMPs for drilling shall be utilized, including, but not limited to, ensuring appropriate spill kits and frac-out contingencies are in place prior to commencement of drilling operations.

- 4. Adherence to Water Quality Protection Measures During Construction and Post-Construction During Site Operations.** The applicant shall adhere to a suite of appropriate water quality protection standards and measures during construction/demolition and post-construction during site operations. Water quality protection measures may be implemented under an approved final Stormwater Pollution Prevention Plan (SWPPP) and/or Industrial General Permit (IGP) but in any case, shall include the minimum provisions outlined below.

- A. PRIOR TO COMMENCEMENT OF DEVELOPMENT AUTHORIZED BY THIS PERMIT, the permittee shall submit, for the review and written approval of the Executive Director, final water quality protection measures for construction/demolition and site operations that may include an updated SWPPP and/or Industrial General Permit as applicable that substantially conforms with the existing 2015 SWPPP and with any existing IGP on file for site operations and which has been developed in compliance with State and Regional Water Quality Control Board requirements. The final updated plans shall identify a suite of appropriate Best Management Practices (BMPs) to protect water quality during construction/demolition and throughout the authorized site operations, and shall include, but not limited to, the following content:
- i. Measures to Minimize Erosion and Sediment Discharge During and Post-Construction: During construction and post-construction during general site operations, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate BMPs, including, but not limited to:
 - a. minimizing land disturbance (e.g., clearing, grading, and cut-and-fill) and phasing grading activities to avoid increased erosion and sedimentation;
 - b. erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) as needed to prevent soil from being transported by water or wind; and
 - c. sediment control BMPs (such as silt fences, fiber rolls, inlet protection, sand bag barriers, or straw bale barriers) as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters;
 - ii. Measures to Minimize Discharge of Pollutants During and Post-Construction. The discharge of other pollutants (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters during construction activities and post-construction during general site operations shall be minimized through the use of appropriate BMPs, including, but not limited to,
 - a. the use of materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials; and
 - b. fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall not take place on the beach, and shall take place at a designated

area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

- iii. Runoff Control Measures. Appropriate Site Design and Source Control BMPs shall be implemented to keep pollutants out of stormwater and shall either use Treatment Control BMPs to remove pollutants of concern before discharging runoff to coastal waters or the storm drain system or shall connect the pollutant-generating area to the sanitary sewer. The discharge of dry weather runoff to coastal waters shall be minimized, to the greatest extent feasible.
- iv. Provisions for Managing BMPs for the Life of the Development. Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training) to protect coastal water quality for the life of the development.

B. 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 plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Submittal of Revised Soil and Groundwater Management Plan.

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-23-0136, the permittee shall submit, for the review and approval of the Executive Director, an updated Revised Soil and Groundwater Management Plan that substantially conforms with the plan prepared by LACO dated May 5, 2023 (Exhibit 3) except which shall be modified to include provisions for the following:

- i. Following initial excavation of the area planned for the onsite wastewater treatment system (OWTS), five-point composite confirmation soil and sediment samples shall be collected from the walls and the floor of the excavation area to evaluate contaminant concentrations in remaining soils and sediment. Concentrations of contaminants shall be evaluated using environmental screening levels (ESLs) of significance that could be harmful to Humboldt Bay aquatic life using the San Francisco Regional Water Quality Control Board (SFRWQCB) ESLs for aquatic life

(SFRWQCB 2019). Sampling results shall be submitted to the Executive Director for review and written approval.

- ii. If test results reveal that dioxins and furans (measured in TEQs) or other constituents of concern are encountered at ESLs of significance that could be harmful to Humboldt Bay aquatic life, the permittee shall submit an updated Soil and Groundwater Management Plan that provides additional recommendations to mitigate the potential for mobilization of constituents of concern. The revised plan shall be processed as an amendment to this CDP, unless the Executive Director determines that no amendment is legally required.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- 6. Length of Development Authorization.** Development authorized by this permit is authorized only so long as (1) the City or any government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, tsunami run-up, liquefaction, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of shoreline protective devices; (2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to coastal hazards listed above; (3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies. In addition, the development approval does not permit encroachment onto public trust lands, and any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission's (or other designated trustee agency's) leasing approval. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director determines that no coastal development permit is legally required.
- 7. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to ground shaking, flooding, liquefaction, and tsunami run-up; (ii) 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; (iii) 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 (iv) 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.

- 8. Tsunami Hazard Safety Plan.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-23-0136, the permittee shall submit, for the review and written approval of the Executive Director, a plan for mitigating the hazards associated with potential flood inundation of the site from tsunami wave run-up.
- A. The plan shall demonstrate, at a minimum, the following:
- i. The existence of the threats of inundation of the site related to a tsunami event (both distant and local sources) will be adequately communicated to all employees;
 - ii. Information will be made available regarding personal safety measures to be undertaken in the event of a potential tsunami event;
 - iii. Efforts will be provided to assist less physically mobile employees and customers in seeking evacuation from the site during a potential tsunami event; and
 - iv. Staff will be adequately trained to carry out the safety plan.
- B. The plan shall include, at a minimum, the following:
- i. Information Component, detailing the provision of informational materials to employees and the posting of placards, flyers, or other materials at conspicuous locations explaining flood risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of evacuation routes;
 - ii. Evacuation Assistance Component, detailing the efforts to be undertaken by property management staff to assist the evacuation of physically less mobile persons during a tsunami event; and
 - iii. Staff Training Component, detailing the instruction to be provided to all property management/employee staff to assure that the Tsunami Safety Plan is effectively implemented.
- C. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
- 9. Public Rights and Public Trust.** The approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The

permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

10. Protection of Archaeological and Tribal Cultural Resources.

- A. AT LEAST ONE MONTH PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING ACTIVITIES, the permittee shall provide written notification to the Tribal Historic Preservation Offices (THPOs) of the Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria to (i) invite tribal representatives to be present and to monitor ground-disturbing activities; and (ii) arrange for any invited tribal representative that requests to monitor and/or a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. Evidence of written notification shall be made available to the Executive Director upon request. The monitor(s) shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended Tribal procedures for the inadvertent discovery of tribal cultural and/or archaeological resources and/or human remains.
- B. If an area of archeological and/or tribal cultural resources is discovered during the course of the project, project activities with the potential to impact such resources shall cease and shall not recommence except as provided in subsection (D) hereof, and the permittee shall retain a qualified archeological and/or tribal cultural resource specialist to analyze the significance of the find in consultation with Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact 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.
- C. 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.

- D. 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.

11. Proof of Legal Interest in Subject Property. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-23-0136, the permittee shall submit to the Executive Director, for review and written approval, evidence of the permittee's legal interest in the subject property, which demonstrates its ability to undertake development on the site as conditioned by the Commission pursuant to Coastal Act section 30601.5.

IV. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description and Background

The subject property is known as the Brainard Remanufacturing Facility (owned by the California Redwood Company (CRC), and prior to that, the Simpson Timber Company). The site is located along the eastern shoreline of Humboldt Bay, at 5151 North Highway 101, between Eureka and Arcata in Humboldt County. The 78-acre property was diked off from the bay and filled for use as a lumber mill decades before adoption of the Coastal Act and is within the Commission's retained jurisdiction. The property is bounded on three sides by an earthen rip-rapped levee that separates the site from the waters of Humboldt Bay; and its inland side is adjacent to Highway 101, within the Eureka-Arcata Highway 101 Corridor ([Exhibit 1](#)).

The CRC lumber production facility recently ceased operations, and the property is in the process of being transferred to the applicant, Sequoia Forest Products, LLC, who

proposes to improve the lumber mill site for continued use in lumber production. The proposed use of the site, as described in the May 8, 2023 revised project description memorandum and updated plans prepared by LACO ([Exhibit 2](#)), is the operation of an ultra-high fiber recovery sawmill, including loading, unloading, and staging of raw second growth redwood materials and finished fence boards, manufacturing (cutting) of fence boards, and administrative operations. Raw material (redwood logs) will be unloaded on site and stacked or “decked” to heights of no more than 20-feet. The logs would then be moved to the raw material in-feed equipment proposed to be located adjacent to the south end of Building “FF” to convey the raw material into the sawmill. Approximately 62 cubic yards of cut material will be produced as a result of installation of the in-feed equipment foundation. In addition, three (3) 50-foot-tall residual bins, similar in size to existing bins that have been in use on the site for decades, will be placed on the bayward side of Building FF and used to collect sawdust, bark, and chips. Approximately 600-square feet of concrete slab foundation is required to support a truck drive path to access the bins. Slab depth will vary from six (6) inches to two (2) feet.

Internal modifications are planned within Building FF to support use of the site, including remodeling of a restroom, and the installation of a lunch/break room, a programmable logic control (PLC) room, and small office spaces. These improvements require no additional foundation work or expansion of the building envelope.

The proposed project also includes the demolition and removal of sixteen (16) existing industrial buildings (including the boiler tower and dry kiln buildings) totaling approximately half of the site's current structural development square footage (proposed structural demolition totals 218,695 square feet, or 55% of the total square footage). Buildings identified for removal may contain contaminated materials such as lead-based paints and asbestos. An asbestos assessment conducted in 2022 has identified precise areas containing asbestos, and the applicant proposes to handle and dispose of all contaminated materials at licensed facilities in accordance with U.S. Environmental Protection Agency (EPA; 40 CFR), U.S. Department of Transportation (DOT; 49 CFR), and Occupational Safety and Health Administration (OSHA; 29 CFR). Demolition will occur in two phases: hazardous waste removal followed by general demolition debris removal. All building foundations will be left in place, and no ground disturbance is anticipated from the demolition work. The applicant has prepared a Demolition Site Plan dated May 4, 2023 that identifies buildings, conduits, and above-ground utilities and footings to be removed. Stockpiling of all dismantled material will primarily occur within existing empty buildings. Any material stockpiled outdoors will be properly contained and covered with tarps prior to precipitation events.

There will be 50 full-time employees on-site during initial (Phase 1) operations of the sawmill. A second shift of 40 employees is planned in the future (Phase 2), which is currently anticipated for 2028. Employees will alternate shifts, so there will be no increase in the total number of employees on-site at any given time during Phase 2 operations.

B. Standard of Review

The project site is located entirely in the Commission's retained permit jurisdiction. The City of Eureka has a certified Local Coastal Program (LCP), but the site is within tidelands, submerged lands, and an area shown on State Lands Commission maps over which the State retains a public trust interest. Therefore, consistent with Public Resources Code sections 30519(b) and 30604(a), the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

C. Evidence of Legal Interest in Subject Property

Under section 30601.5 of the Coastal Act, an applicant for a CDP does not need to be the owner of a fee interest in the property on which the proposed development is located as long as the applicant can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, and as long as all holders or owners of any other interests of record in the affected property are notified in writing of the permit application and invited to join as coapplicants. In addition, section 30601.5 requires that the applicant demonstrate authority to comply with all conditions of approval prior to issuance of a CDP.

The applicant is not yet the legal owner of the property that is the subject of this permit. The applicant has a signed Purchase and Sale Agreement, but the sale is not yet final. The current owner, California Redwood Company, provided a letter indicating its support for the subject CDP application. To ensure that prior to permit issuance the applicant provides evidence demonstrating their legal interest in the subject property that enables them to undertake development on the site as conditioned by the Commission, as required by section 30601.5, the Commission imposes **Special Condition 11**.

D. Locating and Planning New Development/Adequacy of Services

Section 30250 states in applicable part:

(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...

As discussed above, the subject property has been an active lumber mill for many decades, although the timber company who has been operating on the site for the past 50+ years (California Redwood Company; formerly Simpson Timber Co.) began to shut down its operations beginning in 2015, and the property is in the process of changing ownership. The site is locally planned and zoned for general industrial uses (MG). Though the site is within the City of Eureka's urban boundary, it was only recently

annexed by the City and not currently served by municipal services. The property maintains an onsite well for industrial water use.

Electrical utilities at the site will be upgraded by installing two (2) additional 2,500 Kilo-volt-amperes (KVA) transformers. The transformers will be connected to the existing electrical system via directional boring with a boring diameter of 6 inches (or less), at a depth of 42 inches, and 40 feet in length. Electrical upgrades account for 150 square feet of disturbed area.

Because the existing Onsite Wastewater Treatment System (OWTS) was constructed prior to modern OWTS regulations, proposed improvements to the facility trigger requirements of the County Division of Environmental Health (DEH) for upgrades to the existing OWTS prior to use of the site as proposed (Phase 1). The applicant has coordinated with County DEH to design a Wisconsin mound system to replace the existing septic tank and leach lines. The system requires development of a 185-foot long, 30-foot wide, 3.5-foot tall septic mound, a 5,000-gallon dual-chambered concrete septic tank, two AdvanTex AX-RTUV Treatment Systems, a 1,000-gallon pump tank, and 1,300 feet of new septic lines. The OWTS improvements will be located on the bayward side of Building FF. To accommodate the mound system, the upper 12 inches of soils will be tilled to create a level area for placement of mound sand. Adjacent land to the north (bayward) of the mound location will be sloped to direct surface water (stormwater flow) away from the mound and ensure system efficiency. Approximately 50 cubic feet of fill will be required, and exposed soils will be reseeded with grass. Roof drains and fire suppression lines currently run within the proposed mound area. Roof drains therefore will be redirected to an existing storm drainage inlet about 10 feet north of the mound. Fire suppression lines will be capped and relocated. OWTS-related improvements will disturb an 8,400-square-foot area. **Special Condition 1-E** requires the permittee to connect the facility to the City of Eureka's sewer system upon municipal services becoming available for the site. The OWTS shall be abandoned or removed per County DEH requirements at the time of municipal service connection. The City of Eureka has provided a "Will-Serve" Letter to the applicant confirming that the City's sewer lines will eventually be extended to the site in order to provide future sewer services for Phase 2 operations of the mill and allow for abandonment and/or removal of the OWTS.

Special Condition 2 requires submittal of DEH and other approvals prior to commencement of demolition and construction work. The permittee shall inform the Executive Director of any changes to the project required by DEH. Any such changes shall not be incorporated into the project until the permittee obtains an amendment to this permit.

The project site is adjacent to and requires ingress and egress from Highway 101, along the safety corridor between the Cities of Arcata and Eureka. Because the project will not significantly increase traffic to or from the site, it's unlikely that an encroachment permit is required from Caltrans. In any case, Special Condition 2 also requires submittal of any necessary Caltrans encroachment permit approval prior to commencement of demolition and construction work.

Thus, the Commission finds that adequate services will be provided for the proposed development, and, as described in the findings below, the proposed project, as conditioned, will not have significant adverse impacts, either individually or cumulatively, on coastal resources. The Commission therefore finds that the proposed development is consistent with Coastal Act section 30250(a).

E. Water Quality and Marine Resources

Section 30230 of the Coastal Act states (emphasis added):

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states (emphasis added):

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.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The subject 78-acre site is currently covered with impervious surfaces across most of the site, including approximately 54 acres of paved asphalt and 5 acres of buildings. All building foundations will be left in place, and no ground disturbance is anticipated from the demolition work. The applicant has prepared a Demolition Site Plan dated May 4, 2023 that identifies buildings, conduits, and above-ground utilities and footings to be removed. Stockpiling of all dismantled material will primarily occur within existing empty buildings. As proposed, any material stockpiled outdoors will be properly contained and covered with tarps prior to precipitation events.

As discussed above, ground disturbance will be limited, except for limited disturbance associated with OWTS and electrical improvements. However, given site proximity to Humboldt Bay, the applicant has proposed various BMPs and also proposes to adhere

to the water quality protective measures in the existing Stormwater Pollution Prevention Plan (SWPPP) on file for the site. The applicant also has prepared and proposes to implement a Soil and Groundwater Management Plan to ensure proper testing, handling, and disposal of soils from the limited ground-disturbing activities described above.

To ensure the applicant adheres to identified methods of appropriate handling and disposal of demolition debris and hazardous material and conformance with the directives of County DEH regarding OWTS repairs, Special Conditions 2 through 5 are imposed. **Special Condition 2**, discussed above, requires compliance with DEH, Regional Water Board, and other local and state requirements for protection of groundwater and management of stormwater. **Special Condition 3** requires the applicant to employ the various proposed demolition and construction-related best management practices (BMPs). **Special Condition 4** requires adherence to a suite of water quality protection measures for construction and post-construction site operations. **Special Condition 5** requires, among other things, adherence to measures outlined in the revised Soil and Groundwater Management Plan for the proper handling and disposal of excess soils.

With respect to the proposed Soil and Groundwater Management Plan, although many of the measures included in the plan are appropriate, additional measures are required to ensure that ground disturbance associated with septic repair area, and use of that area for an improved OWTS, does not inadvertently mobilize or discharge constituents of concern to the Humboldt Bay environment. Because of the longstanding use of the site as a lumber mill, there are known contaminants of concern on the property – including dioxins and furans. From the 1950s through the 1980s, lumber mills around Humboldt Bay used the wood preservative pentachlorophenol (“penta”), which was inadvertently dispersed into the environment through the use of dip tanks for treating lumber and through the use of conical burners to burn treated wood waste. The applicant’s consultant, LACO Associates, acknowledged the presence of levels of penta “above standard reporting limits” in areas around a former conical burner on the site and recognized this area as potentially containing dioxin contamination. However, LACO notes, “Testing was subsequently performed in the area of the conical burner in 2023 and all the samples were below standard reporting limits.” LACO further rules out the need for further dioxin testing, since “Testing for dioxins is quite extensive and given the related, precursory testing that has been performed in the past, there is no indication of anything other than a de minimis exposure risk.”

However, according to comments received from Humboldt Baykeeper ([Exhibit 4](#)), the soil testing under the proposed Soil and Groundwater Management Plan is inadequate because it relies on the detection of chlorinated phenols as a proxy for determining the presence of dioxins and furans. According to the comments,

Pentachlorophenol, the primary potential source of dioxins and furans on the site, was prohibited for treating lumber in the 1980s, and has a short half-life, whereas dioxins and furans are much more persistent. This means that high

concentrations of dioxins and furans often are detected when chlorinated phenols are not detected.

Given the known presence of dioxins and furans in some areas of the site, soil disturbance for construction of the new OWTS in potentially contaminated soil could result in mobilization or discharge of contaminants to groundwater, which is likely hydrologically connected to Humboldt Bay. As no known appropriate testing has been completed in this area, the status of contamination in the area proposed for ground disturbance and reuse as an improved septic system is unknown. Recognizing the expense of dioxin testing, the Humboldt Baykeeper comment letter suggests composite sampling could be used as an initial screening method in this area.

Thus, to ensure protection of the biological productivity and quality of coastal waters consistent with section 30231, the Commission imposes **Special Condition 5**. This condition requires submittal of an updated Revised Soil and Groundwater Management Plan that substantially conforms with the plan prepared by LACO dated May 5, 2023 (Exhibit 3), except the updated plan shall include provisions for conducting five-point composite confirmation soil and sediment sampling from the walls and the floor of the area planned for the OWTS to evaluate contaminant concentrations in the area. Sampling results shall be submitted to the Executive Director for review and written approval to confirm that no soils contaminated with dioxins or other constituents of concern (COCs) at environmental screening levels (ESLs) of significance that could be harmful to Humboldt Bay aquatic life will be reused to construct the OWTS mound system, which will ensure no mobilization or discharge of contaminants to groundwater connected to Humboldt Bay. The appropriate ESLs to reference for soil samples are the San Francisco Regional Water Quality Control Board (SFRWQCB) environmental screening levels for aquatic life (SFRWQCB 2019)¹ because the North Coast Regional Water Quality Control Board does not currently have its own ESLs for Humboldt Bay aquatic life. In the event dioxins/furans (measured in TEQs)² or other COCs are encountered at harmful levels in the septic repair area, the permittee shall submit an updated Soil and Groundwater Management Plan that provides additional recommendations to mitigate the potential for mobilization of COCs. The revised plan shall be processed as an amendment to this CDP, unless the Executive Director determines that no amendment is legally required.

¹ The current ESL files which are dated July 25, 2019. See https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.html.

² Scientists have developed Toxicity Equivalency Factors (“TEFs”) to compare the potential toxicity of the many different dioxins and furans to the relative toxicity of TCDD (2,3,7,8-tetrachlorodibenzo-p-dioxin), which is the most well-known and most toxic of these compounds. Given these TEF factors, the toxicity of a mixture of dioxins/furans can be expressed in terms of its Toxicity Equivalents (“TEQs”), which is the amount of TCDD it would take to equal the combined toxic effect of all the dioxins found in that mixture.

The Commission therefore finds that the proposed project as conditioned will protect the biological productivity and quality of nearby wetlands and coastal waters, consistent with the requirements of Coastal Act sections 30230 and 30231.

F. Coastal Hazards

Section 30253 states in applicable part:

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...

Although the project site, which is located on filled tidelands, is in an area of high liquefaction potential, the proposed project will primarily utilize existing industrial buildings constructed prior to the Coastal Act. Minor internal renovations are proposed to occur within one existing building, and new foundational work is proposed for mill equipment.

The property fronts onto Highway 101 to the east and is surrounded on its other three sides by an earthen levee that separates the site from the waters of Humboldt Bay. In April of 2022, the Commission approved the Humboldt County Humboldt Bay Trail South Project, which authorized the construction of a 5,575-foot-long (1.1 mile) Class 1 trail on top of the subject levee as part of the larger 4.25-mile-long trail project authorized under the Bay Trail South CDP. Although use of the trail and levee will continue as authorized by CDP 1-20-0560, the subject site is in an inherently vulnerable area that, given its low-lying elevation, and could be impacted by SLR within the next 50-60 years. Thus, the applicant proposes a limited term use of the property and has stated its intent “to retreat from the property at such time that operating on it in full compliance with local, state and federal environmental regulations becomes economically infeasible.” **Special Condition 6** is therefore imposed to memorialize the proposed limited term authorization of the development authorized by this permit. The condition requires removal of the development if (1) the City or any government agency with legal jurisdiction has issued a final order determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, tsunami run-up, liquefaction, or other hazards related to coastal processes; (2) essential services to the site can no longer feasibly be maintained due to coastal hazards; (3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies. Additionally, **Special Condition 7** requires the applicant to assume all risks from developing at this site.

Finally, although the subject property is within a mapped tsunami evacuation area,³ the risks to human life can best be minimized through warnings of imminent tsunamis and timely evacuation from tsunami wave run-up zones. The Commission therefore attaches **Special Condition 8** to require submittal of a Tsunami Safety Plan for the facility within 90 days of permit issuance that details (1) the provision for providing informational materials to employees of the facility explaining tsunami risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of the evacuation route, (2) efforts to be undertaken by facility employees to assist the evacuation of physically less mobile employees and customers during a tsunami event, and (3) a staff training component, detailing the instruction to be provided to all facility employees to ensure that the Tsunami Safety Plan is effectively implemented.

Thus, the Commission finds that as proposed and further conditioned, the project minimizes risks to life and property in an area of high geologic and flood hazard consistent with Coastal Act section 30253.

G. Public Access

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

The subject site is located between the first public road and the sea; however, the proposed project will not displace any existing public access facilities. The perimeter of the site will soon be developed with the Humboldt Bay Trail South Project (permitted in 2022 under CDP 1-20-0560), which is a segment of the California Coastal Trail and the Great Redwood Trail. The proposed project description states that the applicant "is

³ The Cascadia Subduction Zone (CSZ), which is located approximately 30 miles west of the project site, is capable of producing earthquakes of magnitude 9.0. If the region were to suffer a major seismic event along the CSZ during the life of the proposed development, a local tsunami could hit the Humboldt Bay shoreline within minutes and potentially inundate the area.

eager to integrate the Humboldt Bay Trail with the Site so that employees can commute on foot or on bicycle [and has] started discussions with the Humboldt County Public Works Department about how to design this access, but do not yet have an actionable design.” Once a plan is in place, the applicant will submit a subsequent CDP application for that work. The project description further specifies that the applicant plans “to provide the space to accommodate [public] restroom facilities near the proposed trail when that project becomes reality.” In order to preserve and maintain access to public tidelands and public trust lands if development patterns change in the future or if there is an effort to expand public access, **Special Condition 9** is imposed stating that the approval of a coastal development permit for this project does not waive any public rights or interest that exist or may exist on the property or on adjacent public access trails and public waters. In addition, as imposed by **Special Condition 6**, the development approval does not permit encroachment onto public trust lands, and any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain.

While development of the proposed project is expected to take up to one (1) year, no significant impacts to traffic that might affect existing nearby public access opportunities are expected, as the Bay Trail project has not yet been constructed (construction is planned to commence this year), and the demolition and improvement work associated with the proposed development will mostly be completed before the trail is open for public use, and in any case, will not interfere with trail development.

The Commission thus finds that the proposed development, as conditioned, will not have any significant adverse effects on public access and is consistent with the requirements of the Coastal Act sections 30210, 30211, 30212, and 30214.

H. Visual Resources

Section 30251 states in applicable part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The subject site is west of Highway 101, within the safety corridor between the Cities of Arcata and Eureka. Currently, the site is partially obscured from view by Eucalyptus trees lining the Highway. Removal of some of the Eucalyptus trees north of the property is planned as part of construction of the coastal trail permitted by CDP 1-20-0560. Although the removal of some of the trees will make the subject site more visible from certain vantage points along Highway 101 and the future parallel Bay Trail north of the site, the proposed project entails removal of approximately half of the buildings currently

occupying the site, so the project will ultimately benefit visual resources by opening up previously hidden views to and from the ocean and Humboldt Bay. Moreover, the project as proposed will consolidate operations in the northern half of the property (covering about 40 acres), which will reduce the appearance of visual clutter across the site and expand views of the bay across the site as viewed from Highway 101. In addition, the project will not alter natural landforms, and because the proposed use will utilize existing buildings and be of a similar use to previous uses of the site, the project will be visually compatible with the character of surrounding areas.

Special Condition 1-C imposes lighting limitations to ensure that any exterior lighting used on the site is downcast, shielded, and does not produce glare impacts.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act section 30251.

I. Archaeological and Tribal Cultural Resources

Section 30244 of the Coastal Act states:

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

The project area lies within the traditional territory of the Wiki division of the Wiyot Tribe. The Tribe is understood to have included three tribal divisions (Patawat, Wiki, and Wiyot), each associated with a water-related resource (the Mad River, Humboldt Bay, and the lower Eel River, respectively) and each speaking a common language (Selateluk). Settlements existed all around Humboldt Bay and along the banks of many of the streams and sloughs in the region. Three federally recognized Tribes in the region – the Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria – include citizens of Wiyot ancestry that are culturally affiliated with the greater Humboldt Bay region Wiyot ethnographic area as mapped by the Tribes.

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. Representatives from the Wiyot Tribe and the Bear River Band of the Rohnerville Rancheria responded that due to the documentation of a village site in the project vicinity, in addition to a condition regarding the inadvertent discovery of cultural resources or human remains, the permit also should be conditioned to require tribal monitoring during ground disturbing activities. Thus, to protect archaeological and Tribal Cultural Resources as recommended by the Tribes, **Special Condition 10** requires the applicant to identify a Tribal Monitor or Tribal-appointed qualified cultural resource specialist approved by the Wiyot

Tribe, to contract with this person to monitor all construction activities involving ground disturbing work, and to also coordinate with Blue Lake Rancheria and Bear River Band of the Rohnerville Rancheria to provide an opportunity for one or both of those tribes to send additional monitors. In addition, if an area of cultural deposits is discovered during the course of the project, all ground-disturbing activities 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, the applicant is required to notify the Executive Director of any changes to the project required to ensure protection of cultural resources in the project area and obtain a permit amendment for changes the Executive Director determines are not *de minimis* in nature and scope.

As thus conditioned, the Commission finds the proposed project is consistent with Coastal Act section 30244.

J. Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act requires the following:

- (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.

The proposed project will occur on existing developed lands outside of wetlands and ESHA but within 300 feet of Humboldt Bay and wetlands to the east, across Highway 101. As such, the applicant coordinated with CDFW on measures to protect any sensitive nesting or roosting birds and/or bats that may occupy buildings proposed for demolition during the nesting/roosting season. In March of 2023, CDFW staff visited the site to inspect the buildings proposed for demolition to confirm the presence or absence of sensitive species, including bats, which may utilize abandoned buildings for roost sites. In written comments received from CDFW on March 22, 2023, it was noted that strong evidence of bat use was not observed in any of the buildings visited during the site visit and that the buildings do not “provide the kind of thermal insulation and protection from the elements that bats generally prefer, particularly for maternity colonies and overwintering sites.” However, the remains of multiple swallow nests, in addition to several owl pellets and whitewash, were observed. Thus, to avoid impacts to nesting birds, CDFW recommends that structure demolition occur from September through February, outside of the bird nesting season. Should building demolition need to occur during the bird nesting season, CDFW recommends that a qualified biologist conduct nest surveys no more than seven (7) days prior to demolition (and surveys should be re-done if there is a lapse in project activities of seven days or more). The

applicant, in its May 2023 revised project description, agreed to follow CDFW recommendations and to avoid disturbance of any identified active nests until a qualified biologist determines the nest(s) are no longer active. These proposed CDFW recommended bird nest protection requirements are included as requirements of this permit in **Special Condition 3-H**.

All use of the site will be conducted within previously disturbed areas. However, excess exterior lighting generated at the site has the potential to impact nearby ESHA. Artificial night lighting can have a variety of significant direct and cumulative effects on flora and fauna, including but not limited to, disruption of light-dark photosynthesis cycles and circadian rhythms, disruption of foraging behaviors and increased risks of predation, and interference with vision and migratory orientation. These impacts can result in reductions in biological productivity, reductions in the population of threatened, endangered, or rare species, elevated incidences of collisions between birds and structures, or fixation of large numbers of arthropods on the lighting source attraction to the point of fatal exhaustion, negatively affecting their populations and reproductive success, as well as the food web they support. **Special Condition 1-C** therefore requires all lighting be low wattage, shielded, and have a directional cast downward such that no light shines beyond the boundaries of the property or onto the waters of Humboldt Bay.

The Commission finds that the proposed development, as conditioned, will not be sited within ESHA and will prevent impacts that would significantly degrade adjacent ESHA, consistent with the requirements of Coastal Act section 30240.

K. California Environmental Quality Act (CEQA)

Section 13906 of the Commission's administrative regulations requires Coastal Commission approval of CDP applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the 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.

The Commission's review, analysis, and decision-making process for CDPs and CDP amendments has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). 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. All public comments regarding potential significant adverse environmental effects of the project received by the Commission prior to preparation of the staff report have been addressed. As discussed above, the proposed 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 project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and thus conforms with CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

CDP Application File No. 1-23-0136 (initially received 2/16/2023)

California Department of Toxic Substances Control (DTSC). Human and Ecological Risk Assessment Office. <https://dtsc.ca.gov/human-health-risk-hero/>

San Francisco Bay Regional Water Quality Control Board (SFRWQCB). Environmental Screening Levels. https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.html