

**CALIFORNIA COASTAL COMMISSION**

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# W11b

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|---------------|---------------|
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## STAFF REPORT: REGULAR CALENDAR

|                              |                                                                                                                                                                                                                                                                                                                           |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application No.:</b>      | <b>1-22-0292</b>                                                                                                                                                                                                                                                                                                          |
| <b>Applicants:</b>           | <b>Russell and Vickie Clanton</b>                                                                                                                                                                                                                                                                                         |
| <b>Location:</b>             | 1200 Stagecoach Road, Trinidad area, Humboldt County (APN: 515-231-001)                                                                                                                                                                                                                                                   |
| <b>Project Description:</b>  | Demolish existing 1300-square-foot (sf) residence and accessory structures and construct a 2,573-sf, two-story, 2-bedroom single-family residence with associated decks, porches, 606-sf garage, improve existing septic system, improve existing sewage and water systems, and approximately 300 cubic yards of grading. |
| <b>Staff Recommendation:</b> | Approval with conditions                                                                                                                                                                                                                                                                                                  |

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### SUMMARY OF STAFF RECOMMENDATION

The subject 2-acre property is located on a blufftop lot in between the sea and the first public road (Stagecoach Road) approximately one mile north of Trinidad State Beach and two miles north of the City of Trinidad. The lot is developed with an existing 1,300-square-foot (sf) single-story residence, 360-sf detached studio, 1000-sf garage, and 300-sf woodshed. The house was originally constructed in the 1940s and the other development between the 1940s and 1960s. The existing residence is directly on the edge of the existing eroding bluff and is threatened by bluff instability. The bluff face descends steeply toward the rocky shoreline at an average slope gradient of 60%. The applicants have ceased living in the residence due to the instability threat and are proposing to demolish and remove existing structures threatened by bluff erosion, including the residence, accessory structures, 1,820-sf of existing decking, and 1,425-sf

of existing hardscape. New residential structures are proposed to be set back further on the property from the eroding bluff.

The applicants propose to remove existing residential structures and construct a new 2,573-square-foot residence and accessory features including upper and lower decks, a garage, gravel turnout, and septic improvements. While new residential structures are proposed to be set back further on the property from the bluff (between 80 and 100 feet), the buildable portion of the property is constrained by wetland habitats, by its narrow size, and by existing accessory developments (e.g., onsite well and septic system). The lot is only 100 feet wide, and though it's approximately 1,000 feet long, a freshwater emergent wetland extends approximately 400 feet through the middle of the property. Existing accessory development necessary to support the residential use is located on the eastern portion of the property, including driveway access, well, pump house, on-site septic system, and water and propane tanks. Therefore, the only area to retreat and reconstruct new residential development is in a narrow upland area between the bluff edge and the delineated wetland. As a result, the new residence is proposed to be sited as close as 80 feet from the bluff edge and 13.5 feet from the wetland edge.

The main Coastal Act issues raised by the application are whether the proposed siting of the retreated and reconstructed new development assures the stability of the new development and whether it provides an adequate buffer from adjacent wetlands. The bluff face and the top of the bluff on the subject site display evidence of historical and active landsliding, and the bluff has retreated at a rate of approximately 1 foot per year in the past ~80 years since the house was originally constructed, according to a geologic study completed by the applicant's geologist (SHN). The SHN geologic assessment calculated bluff erosion rates for the subject bluff and provided a quantitative assessment of the bluff stability in order to determine an appropriate bluff setback distance where new development would need to be sited in order to assure its stability and structural integrity and not be in danger from erosion during the expected life of the development. These calculations result in a recommended setback of 117 feet from the bluff top for a new structure with a 75-year design life.

Siting all new development at least 117-foot setback from the bluff edge would require confining all new development an area with a width of between 13-23 feet. While the applicants have designed the proposed new residence as a narrow structure oriented roughly parallel to the bluff edge in order to fit the development between the bluff to the west and wetland to the east, confining all new development to the very narrow strip at least 117 feet from the bluff edge is not feasible. Instead, as proposed, the development would be sited at least 80 feet from the bluff edge at the northern end of the property and 100 feet from the bluff edge at the southern end within a buildable area between 40-50 feet wide and 100 feet long. With this proposed siting and design, the new residential structure would encroach between 17 and 37 feet into the minimum setback area recommended by the applicant's geologist as necessary to assure stability and structural integrity for the expected life of the proposed new residence. The applicant's geologist has recommended that the proposing siting location maintains "a relatively high degree of safety for life and property."

The Commission's geologists reviewed the geologic reports and letters and, for several reasons, disagree that a setback of 80 to 100 feet from the bluff edge would assure the stability of the new development for a 75-year design life. As discussed in detail in [Exhibit 6](#), the applicant's geologic report fails to consider that the house would be sited only about 40 - 50 feet from the scarp of a slow-moving active landslide. The applicants, their geologist, and Commission staff discussed the potential to armor the existing residence along with project alternatives including removing the existing residence and building a new one in the western portion of the property and the alternative of building a new residence on the eastern portion of the property. The eastern portion of the property does not provide adequate space for a new residence due to the onsite well, onsite septic system (including primary and reserve leach fields), necessary setbacks between structures and these onsite services, and the presence of wetlands and the need for the residential development to avoid wetland fill and to maintain an appropriate wetland buffer. The western portion of the property, including the proposed building site, is also constrained by wetland habitats but it does provide an alternative building location that avoids fill in wetlands, provides some buffer between new development and wetlands, and provides a greater bluff setback distance (at least 80 feet back) compared to the existing residence, which is currently teetering right on the bluff edge. Demolishing the existing residence and constructing a replacement residence in a safer location further back from the bluff was determined to be a feasible alternative to armoring the existing residence in place. Although the proposed siting of the new development (i.e., with an 80 –100-foot setback from the bluff edge) cannot, on its own, assure stability and structural integrity for a 75-year project life due to the severity of hazards at the site, the setback would alleviate the acute hazard faced by the existing residence and would likely protect the new residence for some unknown but extended period of time. Given this unusual situation, staff recommends **Special Conditions 1-7** to minimize risk and assure stability and structural integrity, consistent with section 30253. These include Special Condition 5, which requires submittal of a plan for ongoing monitoring and reporting on the location of the blufftop edge and provisions for assessing the safety of the authorized development for occupancy relative to bluff erosion, stability, and landslide hazards, with provisions for full or partial relocation or removal of the structure based on the results of bluff monitoring and recommendations of the geologist.

With respect to the buffer between new development and the wetland, to help mitigate the effects of having a significantly reduced buffer (which will be 13-40 feet in width), and to limit the potential for encroachment into the wetland, including potentially contaminated runoff originating from the residence (e.g., pollutants from vehicles), the applicants propose to construct a vegetated berm between the wetland and the new development. The berm would be constructed of layers of cobble base, gravel, and topsoil and would be about two feet tall, three feet wide, and 100 feet long. The berm would be planted with native species and would provide a visual barrier between development and the wetland as well as additional habitat complexity to enhance the existing wetland. The berm would also direct site drainage southward towards the existing wetland habitat and would prevent runoff from the driveway areas from entering the wetland. Additionally, the applicants have proposed habitat remediation activities including vegetation planting on the bluff top in the area where existing development will

be retreated from. Staff recommends **Special Conditions 8 and 9** requiring final plans for blufftop remediation and wetland protection, and **Special Condition 11** requiring appropriate BMPs to be employed during construction.

Staff believes that the proposed development as conditioned includes measures to mitigate all significant adverse environmental effects and geologic hazards to the greatest extent possible. The Motion to adopt the staff recommendation of approval with conditions is found on [page 6](#).

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### [LIST OF EXHIBITS](#)

[Exhibit 1 – Project Location](#)

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[Exhibit 3 – Wetland Delineation \(excerpts\)](#)

[Exhibit 4 – Site Remediation Plan](#)

[Exhibit 5 – Project Plans](#)

[Exhibit 6 – Geologic Technical Memorandum](#)

## I. Motion and Resolution

### A. Motion

I move that the Commission **approve** Coastal Development Permit Application No. 1-22-0292 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. 1-22-0292 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) 1-22-0292, including demolition of existing residence, guest house, garage, and woodshed and new development including: (1) a 2,573-square-foot, 2-story, two-bedroom single-family residence with rooftop solar, 495-sf of decking and 189-sf of permeable hardscaping; (2) a new 660-sf gravel driveway turnout; (3) improvements to the existing water and septic systems including a new 500-gallon septic pump tank and re-routed water and sewer lines; and (4) replacement of the electric entrance gate and associated fencing perpendicular to the driveway. 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 1-22-0292. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDP 1-22-0292 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 1-22-0292 from the Commission or an additional CDP from the Commission or from the applicable local government with a certified local program 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. **Submittal and Implementation of Approved Final Plans.**
  - A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-22-0292, the applicant shall submit to the Executive Director for review and written approval final plans for construction, drainage, and landscaping plans in substantial compliance with those submitted to the Commission on December 4, 2023, and that clearly show the 80 and 100-foot bluff edge setback lines and all surveyed wetland boundaries, including 1 and 2-parameter wetlands. The final plans shall include final plans for each of the following:
    - i. Water Quality and Sensitive Habitat Protection Plans. Final plans detailing appropriate measures and best management practices to

protect water quality and environmentally sensitive habitat areas during construction and post-construction consistent with Special Condition 11.

- ii. Site Drainage, Vegetation Protection, and Mitigation. Final plans for site drainage, vegetation protection, and habitat remediation consistent with Special Conditions 8-11.
- iii. Demolition and Remediation Plans. Final plans for demolition and removal of 1,300-square-foot (sf) single-story residence, 360-sf detached studio, 1000-sf garage, 300-sf woodshed, 1,820-sf of existing decking, and 1,425-sf of existing hardscape and remediation of the formerly developed areas outside of the new building envelope consistent with Special Condition 8.
- iv. Septic System. Final plans for the onsite wastewater treatment system that have been reviewed and approved by the Humboldt County Department of Environmental Health that identify, among other OWTS components, a suitable reserve disposal field area to be developed in the future under separate CDP authorization.

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 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. Conformance of Final Design and Construction Plans to the Geologic Reports.** All final plans for bluff edge setbacks, site preparation, grading, fill, compaction, seismic design, foundation design, drainage, erosion and sediment control, pavement design, and other geotechnical and soil related standards shall be consistent with the recommendations contained in the geologic reports prepared by SHN titled (1) "Geologic Hazard Assessment and Coastal Bluff Setback Analysis, 1200 Stagecoach Road, Trinidad, Humboldt County" dated August 13, 2021, (2) "Review of Site Development Plan for Compliance with Bluff Development Setback Recommendations" dated March 1, 2024, and (3) "Foundation Soils Investigation Report" dated March 3, 2024. All authorized development shall be located at least 80 feet back from the bluff edge as determined by the SHN survey that was the basis for the submitted site plan ([Exhibit 2](#)).

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-22-0292, the applicants shall submit to the Executive Director for review and written approval evidence that a licensed professional (certified engineering geologist or geotechnical engineer) has reviewed and approved all final plans for site

preparation, cut and fill slopes, fill materials, compaction, seismic design, setbacks, foundation design, drainage and erosion control plans, septic design, and the minimum bluff edge setback (at least 80 feet) site plan, and has certified that each of those plans is consistent with: (i) all of the recommendations specified in the above-referenced geologic reports, including but not limited to the recommendation that the foundations shall be designed to facilitate removal and/or relocation of the structure and its foundation in the future; and (ii) site plans approved by the Commission for the project site.

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

#### **4. No Future Shoreline Protective Device and Removal of Development.**

- A. By acceptance of this Permit, the applicants agree, on behalf of themselves and all successors and assigns, that no shoreline protective device(s) shall be constructed to protect the development approved pursuant to Coastal Development Permit No. 1-22-0292 including, but not limited to, the residence, foundation, and deck, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or any other applicable law.
- B. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that they are required to remove all or a portion of the development authorized by the permit, and restore the site, if:
  - i. The County or any other 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, erosion, bluff retreat, landslides, 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 bluff or shoreline protective devices;
  - ii. Essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
  - iii. The development becomes threatened by erosion in accordance with criteria specified in the approved plan required by Special Condition 5; or

- iv. The development requires new and/or augmented shoreline protective devices that conflict with relevant Coastal Act policies.
- C. In the event that the evaluation and safety report required by Special Condition 5-A(iv) below identifies the need for full or partial removal or relocation of threatened structures but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the landowner(s) that identifies all those immediate or potential future measures that could stabilize the structures without shore or bluff protection, including, but not limited to, removal or relocation of the structures. The report shall be submitted to the Executive Director and the appropriate local government officials. If the geotechnical report concludes that the structures are unsafe for occupancy, the permittee shall, within ninety (90) days of submitting the report, apply for a CDP amendment to remedy the hazard, which shall include removal of the threatened portion of the structure.

## 5. Monitoring and Future Removal of Authorized Development.

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-22-0292, the applicants shall submit to the Executive Director for review and written approval a plan prepared by a licensed professional (certified engineering geologist or geotechnical engineer) familiar and experienced with coastal bluff processes and landslide hazards for conducting initially at five-year intervals, beginning five years from the date of approval of Coastal Development Permit 1-22-0292, bluff retreat measurements and a landslide hazard evaluation at and adjacent to the subject site. The plan shall provide for a schedule and methodology for (a) monitoring and reporting on the location of the blufftop edge, as defined by CCR§13577(h), in relation to the existing residence; and (b) a landslide monitoring schedule and methodology that includes both monitoring and reporting on the location of significant landslide features (e.g., scarps and ground-cracks in relation to the authorized development), and a qualitative landslide hazard evaluation to check for signs of landslide activity. In addition, the plan shall provide a detailed description of how the new development will be removed if and when it becomes threatened. The plan shall include, at a minimum, the following:
- i. **Reference Points.** Provisions for establishing, prior to construction, points of measurement (reference points) to be located along the seaward edge of the approved development with a minimum of points at 20-foot increments, as well as at the most downcoast and most upcoast portions of the seaward edge of the approved development, including underground infrastructure.
  - ii. **Measurement Episodes.** Provisions for a certified engineering geologist, civil engineer, and/or geotechnical engineer familiar and experienced in coastal bluff and landslide processes, to conduct measurements in feet of the linear distance, between the established reference points and (a) the blufftop edge, and (b) significant landslide

features between the authorized development and the bluff edge. Measurements shall be taken within the spring every 5 years and within five calendar days after any event that (1) results in the blufftop edge eroding inland 10 feet or more, or (2) results in the visible expansion or enlargement of an existing landslide feature, or development of a new significant landslide feature. The plan shall provide for a methodology consistent with standard surveying and blufftop delineation methods for determining the location of the blufftop edge and documenting distances on land. Each measurement episode shall also be documented through identification of the following: (i) the date of the measurement; (ii) the person making the measurement and their qualifications; (iii) tidal and weather details for the times and dates of the measurement episode, including each date/time associated with each photo taken; and (iv) color photos that capture the area between each reference point and the features of interest (i.e., the bluff edge and landslide features). The photo documentation shall be accompanied by a site plan that identifies the location and orientation of each photo.

- iii. **Landslide Hazard Investigation.** Provisions for a visual inspection of the residence structure and surrounding area between the blufftop edge and structure to check for signs of landslide activity such as scarps, ground cracks, and broken underground utility and irrigation lines; and for significant changes (e.g., enlargement) to previously identified landslide features (e.g., scarps and ground cracks).
  - iv. **Evaluation of Safety & Stability.** Provisions for a summary evaluation, in each monitoring report, of the following: (i) the overall safety and stability of the authorized development in relation to erosion, instability and landslide hazards; (ii) the adequacy of the current monitoring frequency and whether the monitoring frequency should be increased; and (iii) an assessment of the need for full or partial removal or relocation of threatened structures.
  - v. **Reporting Plan.** Provisions for submittal of monitoring reports to the Executive Director for review and approval by June 1<sup>st</sup> of each year in which an analysis takes place or with 30 days after event monitoring.
  - vi. **Removal Plan.** Provisions for removal of the authorized development permitted under Coastal Development Permit 1-22-0292 in the event that the development becomes threatened. Removal and/or relocation activities shall be processed as amendment(s) to this CDP, unless the Executive Director determines that no amendment is legally required. The Permittees shall, within 90 days of submitting the plan for removal and/or relocation, apply for the CDP amendment for removal and/or relocation of the development.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved plan shall be reported to

the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 6. 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.
- 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. Final Blufftop Remediation Plan**
- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-22-0292, the applicants shall submit a final detailed program designed by a qualified biologist for enhancement, monitoring, and long-term management of the remediation area west of the residence in substantial conformance with the plan titled "Remediation Area Revegetation with Native Plants" prepared by Joe Seney on September 30, 2022, except that the plan shall be revised to, at a minimum, include the following:
- i. Plans for initial site preparation and invasive plant removal;

- ii. A narrative description of the specific community types proposed for the remediated area, including supportive evidence from a suitable reference site or other factors to justify the natural communities proposed at this location (e.g., historical records and/or published literature for the local area);
  - iii. Requirements that plants will be locally sourced and genetically appropriate;
  - iv. Final restoration plan for the ~9,000-sf area in between the residence and the bluff including a planting design, plant palette, local sources for plant material, methods of plant installation, and erosion control methods for planted areas;
  - v. Specifics on maintenance of the planted areas, including provisions for watering new plantings, schedule and methods of watering, and details on how watering will be carried out without contributing to site erosion;
  - vi. Final success criteria including target vegetation cover, target species composition, and methods of monitoring, Criteria shall include specific metrics for native species biodiversity and requirements for less than 5% invasive species at the end of the monitoring period;
  - vii. Provisions for assessing the initial biological and ecological status of the “as built” remediation area within 30 days of establishment of the site. The assessment shall include an analysis of the attributes that will be monitored pursuant to the program, with a description of the methods for making that evaluation;
  - viii. Provisions for monitoring and remediation of the enhancement site in accordance with the approved final remediation plan for a period of five years or until it has been determined that success criteria have been met, whichever comes later;
  - ix. Provisions for submission of annual reports of monitoring results to the Executive Director for the duration of the required monitoring period, beginning the first year after submission of the “as-built” assessment. Each report shall include copies of all previous reports as appendices. Each report shall be a cumulative report that summarizes all previous reports. Each report shall also include a “Performance Evaluation” section where information and results from the monitoring program are used to evaluate the status of the vegetation remediation project in relation to the performance standards.
- B. If the final monitoring report indicates that the mitigation project has been unsuccessful, in part or in whole, based on the approved success standards set forth in the approved final plan, the permittee shall submit a revised or supplemental plan to compensate for those portions of the original plan that did not meet the approved success standards. The revised or supplemental plan shall be processed as an amendment to this coastal development

permit, unless the Executive Director determines that no amendment is legally required.

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

## **9. Final Wetland Protection Plan**

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT 1-22-0292, the applicants shall submit a final detailed program designed by a qualified biologist for enhancement, monitoring, and long-term management of the wetland buffer and wetland areas east of the proposed project location including, at a minimum, the following:
  - i. Detailed plans for construction of a three-foot-wide by two-foot-tall, planted berm within the wetland buffer consistent with draft plans submitted 12/20/2023 and including a planting design, plant palette, local sources for plant material, methods of plant installation, and erosion control methods for planted materials;
  - ii. Specifics on maintenance of the planted berm, including provisions for watering new plantings, schedule and methods of watering, details on how watering will be carried out without contributing to site erosion, and provisions for maintaining the planted berm for the life of the residential development;
  - iii. Provisions that assure that all runoff from the developed site is directed away from the wetland area consistent with Special Condition 10;
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## **10. Final Drainage Plans.**

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-22-0292, the applicant shall submit to the Executive Director, for review and written approval, a plan for ensuring that drainage from the subject site does not adversely impact adjacent wetlands and sensitive habitats. The plan shall demonstrate that:
  - i. Site runoff, including roof gutters and runoff from the improved access roads, shall be collected and directed away from the adjacent wetlands

in a non-erosive manner into pervious areas of the site (i.e. undeveloped areas, landscaped areas) to achieve infiltration to the maximum extent practicable;

- ii. The release rate of stormwater runoff to adjacent wetlands shall not exceed the natural rate of stormwater runoff for a 50-year storm of 10-minute duration; and
  - iii. Stormwater outfalls, culverts, gutters, and the like shall be dissipated and, where feasible, screened.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

### **11. Construction and Post-Construction Water Quality 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, flagging, or similar temporary barriers/demarcation tools shall be installed by a qualified biologist based on the most recent wetland survey dated October 17, 2023 prior to commencement of construction to minimize construction encroachment into adjacent wetland habitat areas. Any fencing that is used shall be properly installed. If any fencing is removed, damaged, or otherwise compromised during the construction period, construction activities shall cease until the fencing is repaired or replaced. All temporary delineation materials, including flags and fencing, shall be removed following completion of work.
- C. A physical barrier consisting of silt fencing and/or bales of straw placed end-to-end shall be installed downslope of any construction areas and between construction areas and the delineated wetlands. The bales shall be composed of weed-free rice straw, and shall be maintained in place throughout the construction period;
- D. 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) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
- E. 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.
- F. Minimize Other Impacts of Construction Activities. Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
- i. 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

- ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.

**12. 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 the permittee shall immediately notify and retain a tribal cultural resource specialist and, if needed, at the recommendation of the tribal cultural specialist, a qualified archaeologist to analyze the significance of the find in consultation with the Native American Tribes listed on the NAHC list. A qualified Archaeologist means an individual who meets the Secretary of the Interior's Professional Standards for an Archaeological Principal Investigator and/or is listed as Registered Professional Archaeologist. The tribal cultural resource specialist and archaeologist, if needed, shall immediately notify the Tribes on the NAHC list. Significance testing may be carried out only if acceptable to the affected Native American Tribe(s), in accordance with a Significance Testing Plan. 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. 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 (excluding the discovery of human remains, which shall follow Section 5097.98 as noted in (B) above) shall submit a Supplementary Archaeological Plan (SAP) prepared by an archaeologist in consultation with the Native American Tribes listed on the NAHC list. The SAP shall be submitted 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.

**13. Landscaping Restrictions.** Only native and/or non-invasive plant species shall be planted as landscaping on the property. 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.

**14. Additional Restrictions to Protect Coastal Resources**

- A. Lighting Limitations. All exterior lighting, including any lights installed as part of the development approved under CDP 1-22-0292, 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 native vegetation common to the area and should be used to screen and soften the visual impact of the new development. The blufftop remediation site and wetlands shall be planted in accordance with the requirements of Special Condition 8 and Special Condition 9, respectively.
- D. Materials and Colors. The colors and materials of the structures, including roofing, windows, doors, trim, siding, flashings, gutters, downspouts, deck railings, chimneys, and other building features potentially visible to the public

from public vantage points shall be non-reflective and generally earth-toned to blend with the natural surroundings of the area.

## **IV. Findings and Declarations**

### **A. Project Description and Background**

The applicants, Russell and Vickie Clanton, propose to remove existing residential structures and develop new residential structures on an existing developed blufftop lot where the existing residential development is threatened by bluff instability. The lot is developed with an existing 1,300-square-foot (sf) single-story residence, 360-sf detached studio, 1000-sf garage, and 300-sf woodshed. The applicants would demolish and remove existing structures threatened by bluff erosion as well as approximately 1,820-sf of existing decking and 1,425-sf of existing hardscape. New residential structures are proposed to be set back further on the property from the eroding bluff.

Proposed new development includes the following: (1) construct a new 2,573-sf, two-story (maximum 30-foot-high), two-bedroom, single-family residence with rooftop solar and 495-sf of first-floor decking; (2) construct a 1,246-sf, two-story attached garage; (3) install a 660-sf gravel turnout in the existing driveway and install approximately 190-sf of hardscaping for an entryway, sidewalk, and landing off of the garage; (4) replace the electric gate and approximately 50 ft of fencing at the driveway entrance; and (5) improve the existing on site water and septic systems by decommissioning the existing sewage pump, installing a new sewage pump adjacent to the residence, and re-routing water and sewer lines. Project plans are attached as [Exhibit 5](#).

The house was originally constructed in the 1940s and the other development between the 1940s and 1960s. According to a review of aerial photographs, the existing residence was originally constructed approximately 70 feet from the bluff edge. Over the last 80 years, the bluff has retreated to the point where the upper bluff face is actively undermining the foundation of the exterior deck on the western edge of the existing structure. Portions of the deck are slumping towards the bluff edge and are no longer safe for use.

The new residence would be set back between 80 and 100 feet from the bluff edge. The residence would be built in the same location as the current garage and western edge of the driveway. The applicants plan to dismantle portions of the residence in order to re-use building materials including large picture windows.

### **B. Project Location**

The subject blufftop lot, located at 1200 Stagecoach Road (APN 515-231-001), is approximately 2 acres in size and is in a rural area approximately one mile north of Trinidad State Beach and two miles north of the City of Trinidad. The lot is 100 feet wide and approximately 1,000 feet long and is one of the smaller lots in a row of developed properties. Elevations on the site range from approximately 160-200 feet above the

beach and ocean below, and the site slopes gently from east to west before dropping off steeply at the western edge of the existing residence.

The lot is bordered by Stagecoach Road (a County maintained road) to the east, residential development to the north and south, and the Pacific Ocean to the west ([Exhibit 1](#)). In addition to the existing structures, the property is also developed with a 10-foot-wide gravel driveway, a well, pump house, 1,500-gallon septic tank, leach field, two 500-gallon and one 1,000-gallon water tanks, and two propane tanks. Water and sewer lines currently run through the middle of the property and connect the on site wastewater treatment system and domestic well located on the eastern side of the lot to the residence on the western portion of the lot.

The subject lot falls within a County-designated Coastal Scenic Area (where new development must be subordinate to the character of its setting), and portions of the property, but no blue water views, are visible from Stagecoach Road. Redwood trees and associated shrubs west of the road obstruct most views to the ocean through the subject and neighboring properties.

### **C. 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-K 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.

### **D. Other Agency Approvals**

Because of its location within a County-designated Coastal Scenic Area, the proposed project requires a discretionary Special Permit for Design Review from Humboldt County. The County approved Special Permit PLN-2020-16764 on December 28, 2023.

### **E. 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 for wastewater or domestic water. Thus, the Commission must ensure that adequate onsite wastewater treatment and domestic water services will be provided to serve the proposed development in a manner that will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The property is located in a rural residential area with no community services. The proposed single-family residence will continue to be served by the existing on-site individual sewage disposal system and on-site well. The County Department of Environmental Health (DEH) has been consulted regarding the adequacy of the existing septic system and well to serve the new single-family residence. DEH determines the septic capacity of a residence based on the total number of bedrooms. As there will be no increase in the total number of bedrooms with the proposed residential improvements, since the existing residence will be demolished, the improvements will not increase demand on the existing septic system. The existing 1,500-gallon septic tank and leach field were inspected and found to be in good condition to continue to support the proposed residential development. DEH, through the review of the existing septic system, required the applicants to identify a suitable location for a reserve leach field on the subject property. An adequately sized reserve leach field has been designed, approved by DEH, and is shown on the septic modification permit in between the existing leach field and the eastern property boundary. The primary and reserve leach fields consist of five, 45-foot-long leach lines. However, the future installation of the reserve leach field is not included within the scope of this CDP application. A separate CDP or an amendment to this CDP will be required in the future to develop the reserve leach field. An existing 500-gallon septic tank, located south of the existing garage will be decommissioned, and a new 500-gallon septic tank and grinder pump will be installed east of the proposed residence. **Special Condition 2-A-iv** requires final plans showing the locations of the existing leach field and proposed reserve leach field on the eastern portion of the property as well as the location of the new septic tank and grinder pump. Therefore, the existing systems have adequate capacity to serve the proposed development. Furthermore, 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 the proposed new residential development will be located in an area able to accommodate it and, as discussed in the below findings, the project has been conditioned so that it will not have significant adverse effects, either individually or cumulatively, on coastal resources consistent with Coastal Act section 30250(a).

## **F. Hazards**

Section 30253 of the Coastal Act states, in applicable part, as follows:

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...

Coastal bluff erosion and retreat is evident in the steep coastal bluffs that extend along the entire Trinidad area coastline, including on the subject property. In many cases, bluff erosion in the area is manifested as active landsliding. The subject property is one of several blufftop lots in the area between Trinidad Head and Sue-meg State Park which, according to the Geologic Assessment submitted for the project (SHN, August 2021), is characterized by a thick sequence of highly deformed and relatively low strength bedrock upon which younger Quaternary age sediments were deposited. The project site is situated at the western terminus of an approximately ½-mile wide, gently sloping coastal terrace that extends eastward from the bluff edge to Highway 101. Visual observations recorded exposures in the lower bluff face pointing to recent and ongoing landsliding. The subject parcel is approximately 1,000 feet long and ranges in elevation from approximately 160 to 200 feet above sea level. The bluff top portion of the lot is approximately 730 to 750 feet long and varies with the uneven bluff edge. The upper coastal bluff face is currently located at the western edge of the existing residence's foundation. The bluff edge descends steeply toward the rocky shoreline at an average slope gradient of 60%. The bluff face is highly irregular and consists of a concave upward profile and numerous leaning and swept evergreens, indicative of on-going landsliding activity and instability. The bluff face and the top of the bluff display evidence of historical and active landsliding based on irregular topography, abrupt breaks, scarps and bare soil areas, and displaced trees. The geologic assessment also noted more recent slope instability including subtle head scarps landward of the residence and observed active landslides on the adjoining parcel to the south. In addition to landsliding and slope instability, the subject property is located in an area subject to seismic hazards. The potential for earthquake-triggered landslides during a large-magnitude seismic event is high.

As discussed above in Finding IV-A, the existing residence is currently threatened by landsliding, which appears to have occurred across an approximately 70-foot distance in the ~80 years since the house was originally constructed. The existing residence is located partially on the actively eroding bluff face and is seaward of observed landsliding. According to the geologic assessment, "the structural integrity of the [existing] residence will become compromised in the near future if slope movement continues." The geologic assessment did not predict the remaining lifespan of the existing residence and did not suggest any measures for armoring the residence in place. Rather, the applicants have ceased living in the residence due to the instability threat and are proposing to remove the threatened development in its entirety. The proposed new residence would be constructed between 80 and 100 feet back from the bluff edge.

When reviewing development on a blufftop lot, to find it consistent with Coastal Act section 30253, the Commission must determine that the development is sited with an adequate setback that will minimize its exposure to instability and erosion over its lifetime without having to propose any shore or bluff stabilization devices that would substantially alter natural landforms along the bluffs to protect the structure. The Coastal Act acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or “hard” methods designed to forestall erosion alter natural landforms and natural shoreline processes, resulting in a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access and recreation, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, including ultimately the loss of the beach. Because shoreline armoring directly encroaches upon the beach and fixes the shoreline position, it reduces the beach area available for public use and halts passive erosion, such that additional public beach area can no longer be created. Furthermore, shoreline armoring constrains the possible responses and evolution of beach ecosystems to adjust to changes in sea level and other dynamic coastal processes, resulting in loss of biodiversity and ecosystem services. As evidenced by direct observations, the existing home is in a hazardous location, is currently threatened by bluff erosion and landsliding, and will continue to be threatened by shoreline erosion in the future. Thus, safe siting of development is critical not only for the inhabitants of the development but to prevent permanent impacts to coastal resources.

The SHN geologic assessment calculated bluff erosion rates for the subject bluff and provided a quantitative assessment of the bluff stability in order to determine an appropriate bluff setback distance where new development would need to be sited in order to assure its stability and structural integrity and not be in danger from erosion during the expected life of the development. Residential development is generally expected to have a 75-year lifespan. Quantitative slope stability analyses typically calculate a “factor of safety” as an indicator of stability. In theory, slope failure is imminent when the factor of safety drops below 1.0, while values above 1.0 indicate increasing confidence in the stability of a slope. A common standard for assuring stability, which the Commission has consistently applied for many years in evaluating blufftop development, is a factor of safety of 1.5 or greater (or 1.1 for pseudostatic, conditions, accounting for ground-shaking during a large earthquake). To establish a safe setback for slope stability from the edge of a coastal bluff, it is necessary to find the distance inland of the bluff edge at which the factor of safety is equal to 1.5 (static) or 1.1 (pseudostatic), whichever is greater.

In addition to this landslide potential, bluffs are also subject to erosion and retreat over time. To assure that this same minimum level of slope stability will be maintained over the life of a development, it is also necessary to estimate the amount of bluff retreat, and thus the future position of the bluff edge, 75 years in the future, and measure the slope stability setback from that location. As the bluff retreats, the factor of safety at the location of the development can also be expected to decrease. Thus, establishing the required bluff setback includes estimating long-term bluff retreat as well as slope stability.

The geologic assessment submitted for the proposed project assessed current site conditions and stated that “Establishing an appropriate development setback from the top of bluff is challenging in that the bluff is subject to erosion at the base of the slope and landsliding at the top of slope.” The report indicates that they conducted slope stability analyses through cross-section modeling to establish the minimum setback from the edge of the bluff and to demonstrate a factor of safety greater than or equal to 1.5 for the static condition and greater than or equal to 1.1 for the seismic condition. However, the details of that analysis were not provided as part of the report. The text of the report asserts that modeling found that these conditions were met at a horizontal distance of 25 feet from the bluff edge. However, as discussed in greater detail in [Exhibit 6](#), the Commission’s geologist disagrees with this assertion, because the area of active landslide movement identified by the applicant’s geologist, as indicated by visible landslide scarps and ground cracks, extends inland approximately 40 to 50 feet from the bluff edge. Related landsliding, resulting in more complete bluff failure, created the steep scarp on the upper bluff face and is responsible for damaging the existing residence. Based on the position of the landslide features approximately 40 – 50 feet inland of the bluff edge, the factor of safety 25 feet from the bluff edge cannot be greater than 1.0. The applicant’s geologist estimated long-term historical coastal bluff retreat rates by reviewing aerial and satellite photographs spanning from 1948 to 2019; during this 73-year timeframe, approximately 70 feet of retreat occurred, which translates to approximately 1 foot of retreat per year. Finally, the report considered the effects of projected sea level rise and included a 10% increase in long-term bluff retreat rates, resulting in an estimated rate of future bluff retreat of 1.1 foot/year. The report recommended a final bluff setback of 117 feet, which included a 10-foot buffer to account for uncertainty in the methodologies used to analyze bluff setback distances.

The applicants originally proposed to construct the new home and garage at least 117 feet from the bluff edge. However, as discussed below in finding IV-G, siting the new residence a minimum of 117 feet east of the bluff edge would place new development in mapped wetland areas located in the middle portion of the property (see [Exhibits 3 and 5](#)). As stated above, the bluff top portion of the property is approximately 730-750 long. The bluff edge is not uniform and as a result the bluff top area that can accommodate the proposed new development is wider in the north compared to the south. The middle portion of the property consists of a large stretch of freshwater wetland extending ~410 feet along the southern property line and at its widest point. The wetland area is undeveloped except for the existing ten-foot-wide driveway, which becomes wider and turns into a parking and turnaround area in the northern portion of the property and east of the existing residence. The remaining approximately 200-foot-long section of property east of the wetland is constrained by the existing driveway and the on-site wastewater treatment system (including a 50-foot-long primary leach field and 50-foot-long reserve leach field). The eastern portion of the property does not provide an adequate location for new residential development due to the above-mentioned existing infrastructure. In addition, the subject property is in a County-designated Coastal Scenic Area and constructing the new residence on the eastern portion of the property would conflict with the visual resource policies of the County’s LCP (Trinidad Area Plan section 3.40 Visual Resource Protection). Therefore, the eastern ~600 feet or so of the property is constrained either by wetlands or existing infrastructure and is not suitable for new

development, and the developable portion of the property is limited to the area in between the existing bluff edge and the edge of the wetland to the east, which ranges from ~140 feet from the bluff edge in the southern portion of the property to ~130 from the bluff edge at the northern end. Development on the subject property is further constrained by its narrow 100-foot-width (and County yard setback requirements).

Thus, given these site constraints, a 117-foot setback from the bluff edge would leave a very narrow area for development (all development would need to be confined in an area with a width of between 13-23 feet) between the bluff edge and the wetland. The applicants have designed the proposed new residence as a narrow structure oriented roughly parallel to the bluff edge in order to fit the development between the bluff to the west and wetland to the east. However, confining all new development to the very narrow strip at least 117 feet from the bluff edge is not feasible. Instead, as proposed, the development will be sited at least 80 feet from the bluff edge at the northern end of the property and 100 feet from the bluff edge at the southern end within a buildable area between 40-50 feet wide and 100 feet long. With this proposed siting and design, the new residential structure would encroach between 17 and 37 feet into the minimum setback area recommended by the applicant's geologist as necessary to assure stability and structural integrity for the expected life of the proposed new residence. At the same time, the currently proposed geologic setback was proposed in consultation with the applicant's geologist, who reviewed the constrained site plan and advised on minimum bluff setback distances that would provide a reasonable level of stability for the proposed new residence. While at one point the applicants proposed even smaller bluff setbacks of 30-50 feet, the applicant's geologist advised that the bluff setback distance should be no less than 80 feet. The applicants have submitted an updated letter from the project geologist titled "Review of Site Development Plan for Compliance with Bluff Development Setback Recommendations" prepared by SHN, dated March 1, 2024, in support of their site plan. The letter states that the location of the proposed development "is in substantial conformance with and meets the intent of SHN's recommended coastal bluff development setbacks" in the original geologic report from 2021. The letter acknowledges the proposed reduced setbacks necessitated by the site constraints but asserts that the bluff setbacks could be reduced while still maintaining "a relatively high degree of safety for life and property." The letter recommends that the proposed residential structure be constructed on a monolithic reinforced concrete mat foundation in order to mitigate potential effects from differential ground settlement resulting from strong earthquake ground shaking and/or localized slope movements. In addition to the letter, SHN provided a Foundation Soils Investigation Report with specific recommendations for earthwork and foundation support. This report considered risks to the proposed development from strong earthquake ground shaking, slope instability, and seismically induced ground deformation. The report repeated the recommendation for a reinforced concrete mat foundation and also recommended removal of topsoil and any non-engineered fill and placement of compacted structural fill prior to installation of the concrete mat foundation. The report addressed known risks from earthquakes and recommended that the proposed structures be designed to resist earthquake loading in accordance with 2022 California Building Code requirements and with standards outlined by the American Society of Civil Engineers and Structural Engineering Institute.

The Commission's geologists reviewed the geologic reports and letters and, for several reasons, disagree that a setback of 80 to 100 feet from the bluff edge would assure the stability of the new development for a 75-year design life. As discussed in detail in [Exhibit 6](#), the applicant's geologic report fails to consider that the house would be sited only about 40 - 50 feet from the scarp of a slow-moving active landslide. A much more extensive and detailed geologic investigation of the site would be necessary in order to provide the information necessary to allow for an adequate slope stability analysis of the bluff, but there is no doubt that the bluff edge setback needed to achieve a 1.5 (static) factor of safety would be much greater than 25 feet. An actively failing slope cannot have a factor of safety greater than 1.0, and given that signs of active landsliding were observed 40 - 50 *landward* of the bluff edge, the applicant's identified 1.5 factor of safety line (25 ft from the bluff edge) does not appear valid. Additional information about the subsurface geology and configuration of the active landslide would be needed to provide an accurate location of the 1.5 (static) factor of safety line, but it is almost certainly located significantly landward of the observed landslide scarp (i.e., much farther than 40 – 50 feet landward of the current bluff edge).

Further, the applicant's geologist factored in only a small, 10% increase in the long-term bluff retreat rate in response to sea level rise. Although the rate of future sea level rise and its effects on bluff erosion and retreat remain highly uncertain, recent projections from the U.S. Geological Survey indicate that, on a statewide basis, sea level rise on the order of 3.3 to 6.6 feet (1 – 2 meters) by 2100 will increase bluff retreat rates by a factor of two or more (>100% increase). Thus, in order to assure the stability of new development at the site, a development setback of much greater than the proposed 80 – 100 feet, and also significantly greater than the applicant's original setback of 117 feet, would be necessary.

At the same time, moving the house back from the known, acute hazard serves to reduce risk, even if stability cannot be assured for the 75 year timeframe typically applied by the Commission in siting blufftop development. The applicants, their geologist, and Commission staff discussed the potential to armor the existing residence along with project alternatives including removing the existing residence and building a new one in the western portion of the property and the alternative of building a new residence on the eastern portion of the property. As previously discussed, the eastern portion of the property does not provide adequate space for a new residence due to the onsite well, onsite septic system (including primary and reserve leach fields), necessary setbacks between structures and these onsite services, and the presence of wetlands and the need for the residential development to avoid wetland fill and to maintain an appropriate wetland buffer. The western portion of the property, including the proposed building site, is also constrained by wetland habitats but it does provide an alternative building location that avoids fill in wetlands, provides some buffer between new development and wetlands, and provides a greater bluff setback distance (at least 80 feet back) compared to the existing residence, which is currently teetering right on the bluff edge. Demolishing the existing residence and constructing a replacement residence in a safer location further back from the bluff was determined to be a feasible alternative to armoring the existing residence in place. The risks of geologic hazard are minimized if development is sited and designed according to the setback and

construction recommendations and conditions of this permit. However, the proposed new development does not assure stability and structural integrity for the full anticipated design life of the development such that it can be shown that shoreline protection will never be needed to protect the proposed development. In addition, the nature of shoreline and bluff erosion is inherently dynamic, and very often episodic, and it is difficult to assert how long the proposed development, located seaward of the original bluff setback line and between 80-100 feet from the eroding bluff edge, would be safe for. As discussed by the Commission geologists in [Exhibit 6](#), the proposed siting of the new development (i.e., with an 80 –100-foot setback from the bluff edge) cannot, on its own, assure stability and structural integrity for a 75-year project life due to the severity of hazards at the site. However, the setback would alleviate the acute hazard faced by the existing residence and would likely protect the new residence for some unknown but extended period of time.

Given this unusual situation, additional measures are needed to complement the development setback. The Commission therefore imposes several special conditions to minimize risk and assure stability and structural integrity, consistent with section 30253.

**Special Condition 5** requires the applicant to submit a plan prepared by a licensed geologist or geotechnical engineer familiar and experienced with coastal bluff processes and landslide hazards for conducting, at 5 year intervals for the life of the authorized development, as well as following major bluff erosion or instability events (e.g., earthquakes), (a) monitoring and reporting on the location of the blufftop edge, as defined by CCR§13577(h), in relation to the existing residence; and (b) landslide monitoring schedule and methodology that includes both monitoring and reporting on the location of significant landslide features (e.g., scarps and ground-cracks in relation to the authorized development, and a qualitative landslide hazard evaluation to check for signs of landslide activity). In addition, the plan shall provide a detailed description of how the new development will be removed if and when it becomes threatened. Furthermore, the plan must include provisions for (i) establishing reference points for measurement prior to construction (ii) conducting measurements at the required monitoring intervals of the distance between the authorized development and both the bluff edge and major landslide features; and (iii) a summary assessment of the safety and stability of the authorized development, the adequacy of the current monitoring frequency, and the need for removal or relocation of the structure. Monitoring and assessment results shall be provided to the Executive Director for review and approval, including an assessment of current bluff erosion, stability and landslide hazards, including findings addressing the safety of the authorized development for occupancy and the need for full or partial relocation or removal of the structure.

**Special Condition 3** requires that final design and construction plans be submitted for the review and approval of the Executive Director that are consistent with the applicants' geologists' recommendations for site preparation and foundation design and that the foundation be designed to facilitate the removal of the structure and its foundation in the future. These requirements are necessary for consistency with section 30253 of the Coastal Act, which states in part that new development shall minimize risk to life and property in areas of high geologic hazard, assure structural integrity and stability, and

neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Given that the risks of developing a new single-family residence on the subject lot cannot be completely eliminated (despite the minimization measures imposed by Special Condition 3), the geologic report cannot assure that shoreline protection will never be needed to protect the proposed new home, and section 30253 prohibits new development from engendering the need for shoreline protective devices, the Commission imposes **Special Condition 4**. This condition prohibits the construction of shoreline protective devices on the parcel, requires that the landowners remove the authorized structure and its foundation if bluff retreat or landsliding progresses to the point where the structure is threatened, and requires that the landowners accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site.

In addition, **Special Condition 6** requires the landowner to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite the risks associated with building on a bluff-top lot, the applicant must assume the risks. In this way, 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. Furthermore, the Commission imposes **Special Condition 7** to require the applicant to record a deed restriction to impose the special conditions of this CDP as covenants, conditions, and restrictions on the use and enjoyment of the property. This special condition is required, in part, to effectively put future property owners on notice regarding the risks of development on the property, the prohibition against construction of bluff or shoreline protective devices to protect the approved development, the Commission's immunity from liability, and the indemnity afforded the Commission.

As noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide or massive slope failure, could result in destruction or partial destruction of the development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such a catastrophic event takes place, public funds are often sought for the clean-up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an event occurs on the subject property, **Special Condition 6** also requires the landowner to accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site, and agree to remove the approved development should the bluff retreat reach the point where a government agency has ordered that the structures not be inhabited.

Thus, the Commission finds that as conditioned, the proposed development assures stability and structural integrity during the term of the permit, minimizes risks to life and

property and will not 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 the bluff.

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. Depending on the specific improvements proposed, building additions and construction of new accessory structures could contribute to geologic hazards at the site. For example, installing a landscape irrigation system on the property in a manner that leads to saturation of the bluff could increase the potential for landslides or catastrophic bluff failure. Another example would be installing a sizable accessory structure for additional parking, storage, or other uses normally associated with a single family home in a manner that does not provide for the recommended setback from the bluff edge.

Accordingly, Coastal Act 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 would require a development permit. As noted above, certain additions or improvements to the approved structure could involve a risk of creating geologic hazards at the site. 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 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** also 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. **Special Condition 7**, discussed above, will also help assure that future owners are aware of these CDP requirements applicable to all future development.

The Commission thus finds that the proposed development as conditioned includes measures to mitigate all significant adverse environmental effects and geologic hazards to the greatest extent possible. As conditioned, the proposed development is consistent with section 30253 of the Coastal Act regarding geologic hazards, because the development as conditioned (1) minimizes risks to life and property, (2) is a feasible alternative to armoring by removing and retreating threatened development and residential use to a location that will assure the stability and structural integrity of the rebuilt structure for at least a limited development life, (3) will not contribute significantly

to erosion, geologic instability, or destruction of the site or surrounding area, and (4) will not require the construction of protective devices that would substantially alter natural landforms along the bluff.

## **G. Biological Resources**

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.

Though not the standard of review in this ADC, Section 3.30 of the County's Trinidad Area Plan lists the following types of ESHA for the Trinidad Area Plan LUP planning area in which the subject property is located:

### **B. Development Policies**

#### **1. Identification of Environmentally Sensitive Habitats**

- a. Environmentally sensitive habitats within the County Trinidad Planning Area shall include:
  - (1) Rivers, creeks and associated riparian habitats
  - (2) Offshore rocks, islands and intertidal areas
  - (3) Other critical habitats for rare or endangered species listed on state or federal lists
  - (4) Wetlands ...

Coastal Act section 30231 requires, in part, that marine resources and coastal wetlands and waters be maintained, enhanced, and where feasible restored. Section 30231 specifically calls for the maintenance of the biological productivity and quality of marine resources, coastal waters, streams, wetlands, and estuaries necessary to maintain optimum populations of all species of marine organisms and for the protection of human health. As cited above, the LCP defines wetlands as a type of environmentally sensitive habitat where only resource-dependent uses are allowed and where adjacent development must be sited and designed to prevent impacts that would significantly degrade such sensitive habitat areas.

The subject property consists of a mix of habitats including open grassy areas dominated by nonnative grasses and forbs and planted and naturally occurring trees

and shrubs, including scattered individuals of Sitka spruce (*Picea sitchensis*) and young coast redwood (*Sequoia sempervirens*). An initial biological assessment was completed for the project and did not identify any rare plant habitats on the blufftop portion of the subject property. All of the proposed new development will be located on existing paved, graveled, or compacted, developed surfaces and will not involve major vegetation removal, therefore a floristic botanical survey was not completed for the subject property. The subject property is also located near park and recreation areas. The site is less than a mile from Trinidad State Beach to the south. Several rare species and habitats are known to occur within and around the Park and the project vicinity, including Sitka spruce forest (a sensitive natural community), coastal bluff habitat that supports the rare Oregon coast paintbrush (*Castilleja affinis* ssp. *litoralis*) and other rare plant species, habitat for Humboldt mountain beaver (*Aplodontia rufa humboldtiana*) and other rare wildlife species, and wetland, stream, and riparian habitats that support Pacific tailed frog (*Ascaphus truei*) and other sensitive amphibian species.

The central ~400 feet of the property consists of a freshwater wetland. An Aquatic Resources Delineation Report was completed for the project, prepared by a qualified Wetland Scientist dated March 3, 2022 ([Exhibit 3](#)). The aquatic resources delineation involved in part three site visits in February and March of 2022. According to the report, the subject property contains 0.54-acres of three-parameter wetlands classified as Palustrine Emergent Herbaceous, seasonally saturated/ponded wetlands. The wetlands are partially fed by water ditches and a drainage pipe that drains surface runoff from the neighboring property to the north onto the subject property, where it then flows through a drainage pipe and open ditch on and through the subject property, and ultimately continues flowing off of the subject property at its southwest corner and onto the neighboring property to the south. Dominant vegetation in the wetland areas include the nonnative grasses creeping bentgrass (*Agrostis stolonifera*) and bluegrass (*Poa pratensis*) as well as several native trees, shrubs, and herbaceous plants, including common rush (*Juncus effusus*), panicled bulrush (*Scirpus microcarpus*), wax myrtle (*Morella californica*), and red alder (*Alnus rubra*).

As described by the applicant's wetland consultant, the habitat values of the wetland onsite are significant in terms of overall plant diversity and habitat complexity, though potentially invasive grasses and forbs were noted. The wetland is mostly fed through natural sources, although the report notes that hydrology is actively managed by ditches, and the wetland is adjacent to groundwater extraction for the residential well.

The proposed project is to demolish a single-family residence that is currently threatened by bluff erosion and construct a new residence and garage further back from the bluff. As discussed above in Finding IV-F, the subject property is long and narrow (100-ft-wide by 950-ft-long) and is constrained to the east by existing development (septic system and well) and wetland habitat, and to the west by an actively eroding bluff edge. The developable portion of the property is limited to a narrow area between the bluff edge and the edge of the freshwater wetland. This area varies from ~130 feet to the north up to 140 feet at the southwestern property edge. The buildable area is further limited by the project geologist's recommended minimum bluff setback distance of at least 80 feet at the northern end. Due to the uneven nature of the bluff edge, the

bluff setback increases to ~100 feet at the southwestern edge of the property. The buildable portion of the property therefore is limited to a 40-50-ft-wide by 100-foot-long buildable area, without taking into account side yard setbacks to the north and south (which under County regulations are a minimum of 5 feet) and necessary setbacks from the adjacent wetland habitat.

Coastal Act section 30231 requires that the biological productivity and the quality of coastal waters, including wetlands, be maintained and, where feasible, restored. This policy is often implemented by the imposition of appropriate buffers between approved development and the wetland habitat. Buffers provide separation from development and wetlands to minimize disturbance to plants and animals inhabiting the wetland and to protect the habitat values and functions of the area. Buffers are typically intended to create a spatial separation between potentially disruptive activity typically associated with development such as noise, lighting, and human activity, which can disrupt feeding, nesting, and behavior patterns of wildlife. Buffer areas also provide transitional habitat between development and wetlands. Additionally, buffers are often required to provide a vegetated area to capture and treat drainage and storm water runoff from development to minimize the amount of pollutants potentially entering the wetland habitat.

As previously discussed, the subject property, which is only 100 feet wide, is further constrained by the presence of wetlands across the middle of the property, by existing septic and well development on the east side of the property, and an eroding bluff edge on the west side of the property. The developable area of the property therefore consists of a narrow area of previously developed land between the recommended geologic setback to the west and the wetland to the east. As shown by the light gray dashed lines on the site plan ([Exhibit 5](#) page 1), existing pre-Coastal Act structures now developed on the site are located as close as a few feet from the edge of the wetland. The applicants are proposing to increase the buffer between new development and the wetland compared to existing conditions. The project biologist recommended that all new development be sited at least 10 feet from the wetland, and the proposed site plan places portions of the new residence as between 13 feet and 40 feet from the edge of the wetland.

#### Mitigation Measures to Protect Wetlands and Water Quality

To help mitigate the effects of having a significantly reduced buffer, and to limit the potential for encroachment into the wetland, including potentially contaminated runoff originating from the residence (e.g., pollutants from vehicles), the applicants propose to construct a vegetated berm between the wetland and the new development. The berm would be constructed of layers of cobble base, gravel, and topsoil and would be about two feet tall, three feet wide, and 100 feet long. The berm would be planted with native species and would provide a visual barrier between development and the wetland as well as additional habitat complexity to enhance the existing wetland. The berm would also direct site drainage southward towards the existing wetland habitat and would prevent runoff from the driveway areas from entering the wetland.

Furthermore, the applicants are proposing to restore an approximately 9,000 square foot area of the property where existing development to be demolished is located,

including the residential structures, decking, and the majority of the hardscape surrounding existing development. Including the previously removed storage shed (removed under de minimis waiver 1-22-0972 in 2023), this would result in removal of 4,110-sf of buildings, 1,820-sf of decking, and 1,425-sf of hardscape (including portions of the parking area, sidewalk, and landings). All of the existing buildings are single-story, so the total square footage represents the total footprint of existing structures (7,355 sf). The proposed project would replace the existing development with a two-story residence and two-story garage. The combined footprints of the proposed residence, garage, decking, and new hardscaping total 2,940 sf. Therefore, the proposed development would result in a net decrease of over 4,000 sf of development footprint on the property. The reduction in development footprints results in a newly cleared area west of the proposed residence, in between the residence and the bluff edge. This ~9,000-sf area will be restored to native habitat as outlined in the document "Remediation Area Revegetation with Native Plants" prepared by Joe Seney, dated September 30, 2022 ([Exhibit 4](#)). The plan proposes to restore the area to Coastal Scrub and Coastal Prairie habitats with the goal to reestablish native plant-dominated herbaceous and shrub habitat for migratory birds and small mammals. The remediation efforts would remove existing plants in the area, which primarily consist of ornamentals, native trees, ferns, non-native grasses and non-native herbs and shrubs, with a variety of plants commonly found in Coastal Scrub and Coastal Prairie habitats. The plan proposes to locally source plants and seeds as much as possible, to plant in clumps to mimic natural vegetation patterns, and to select specific seeds and plants based on local availability. The plan proposes to monitor the restored area periodically, watering and supplementing with additional mulch as needed, and removing invasive species. The applicants propose to monitor the restored area for a period of five years. The final goal is to achieve a cover of native species greater than 80%, bare ground of less than 20%, and less than 20% of non-native invasive species by the end of five years. The plan also includes a list of potential plant species that may be used in the restoration efforts.

While the plan's goals and methods for restoring the blufftop area in between the bluff and the residence are appropriate, the proposed preliminary plan is lacking in certain details, such as which plants will be planted, how often monitoring will occur, and standards for periodic and final reporting. Therefore, the Commission attaches **Special Condition 8** requiring the applicants to submit a final Blufftop Remediation Plan that details enhancement, monitoring, and long-term management of the remediation area west of the residence. The applicants have not provided detailed information on how the proposed berm within the wetland buffer will help mitigate its extremely reduced width. Therefore, the Commission attaches **Special Condition 9** requiring the applicants to submit a final Wetland Protection Plan outlining plans for enhancement, monitoring, and long-term management of the wetland buffer including a planting plan and schedule, erosion control methods, and provisions assuring that all runoff from the developed site is directed away from the wetland, consistent with final drainage plans required under Special Condition 10.

In order to ensure the protection of on-site sensitive habitats during construction, **Special Condition 11** requires the applicant to adhere to appropriate construction-

related best management practices (BMPs) including 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 to minimize discharge of construction pollutants and control erosion and runoff as detailed in the current California Storm Water Quality Best Management Handbooks.

The sensitive habitats on and near the project site could be adversely affected if nonnative, invasive plant species were introduced in landscaping at the subject site. If any of the proposed landscaping were to include introduced invasive exotic plant species, the weedy landscaping plants could colonize (e.g., via wind or wildlife dispersal) the nearby ESHA over time and displace native vegetation, thereby disrupting the functions and values of the ESHA. The applicant has not proposed any landscaping as part of the project beyond restoration activities. Nevertheless, the Commission attaches **Special Condition 13** to ensure that only native and/or non-invasive plant species are planted on the subject property. As conditioned, the proposed project will ensure that the ESHA on and near the project site is not significantly degraded by any future landscaping that would contain invasive exotic species.

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, the Commission attaches **Special Condition 14-A**, 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.

As discussed above, **Special Condition 1** requires that all future improvements to the development authorized by this permit amendment 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** also 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. **Special Condition 7**, discussed above, will also help assure that future owners are aware of these CDP requirements applicable to all future development.

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

## H. 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 3.40 of the County's Trinidad Area Plan, which provides guidance, includes several policies for Visual Resource Protection in this designated Coastal Scenic Area:

### 3.40 Coastal Scenic Areas

3. In Coastal Scenic Areas as designated on the Area Plan Maps, and applied to portions of parcels immediately adjacent to and visible from the designated area, 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...

### 3.40 Design Assistance Committee

5. (...) 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:
  - a. Consistency and compatibility with applicable elements of the County's General Plan;
  - b. 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.
  - c. That setbacks from roads and property lines are appropriate to protection the scenic and visual qualities of the site;
  - d. Exterior lighting is compatible with the surroundings and is not directed beyond the boundaries of the parcel;
  - e. Vegetation common to the area should be used to integrate the manmade with the natural environment, to screen and soften the visual impact;
  - f. 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 subject site, like most of the land along Stagecoach Road, falls within a County-designated Coastal Scenic Area. However, the existing house is not visible from Stagecoach, which is the first public road paralleling the sea in this area, or from any

other public vantage points. The downward sloping nature of the property and abundant vegetation along Stagecoach Road blocks most of the views to the ocean from the roadway and screens houses west of the road, including the subject house, from public view.

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 project setting and the larger area around Stagecoach Road is largely vegetated with an abundance of coniferous trees and other vegetation lining the roadway and extending across the properties on either side of the road. The properties are generally long (~90 feet or more) and most of the neighboring houses are built on the western edge of the property and further away from the road. The property and neighboring properties slope downward towards the bluff and the natural topography limits public views of the ocean through properties. Upper portions of the proposed maximum 30-foot-tall residence may be visible from Stagecoach Road, although existing vegetation and site topography will likely limit any views of the residence from the public road.

The building site is located on level ground, and the limited grading and vegetation removal proposed would not result in major landform alteration. The proposed wood siding, non-reflective stucco and stone veneer, and metal roofing are similar to materials used on other homes in the immediate neighborhood. The County approved a Special Permit for Design Review for the proposed new structures on December 28, 2023 with findings that the proposed project is compatible with the neighborhood and will not be of greater height or bulk than nearby development.

Although the development pattern is expected to be hidden from public view due to vegetative growth surrounding the site, there is potential for portions of the property to be visible from certain areas along the public Stagecoach Road. 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 14** 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 garage 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.

## I. Public Access

Coastal Act section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act section 30212(a) states, in part:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected.

Coastal Act section 30214 states in part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution...

In applying these sections, the Commission considers whether public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The project site is located between the sea and the first public road paralleling the sea, Stagecoach Road. As previously discussed, the property is on a bluff-top parcel over 160 feet above sea level. The beaches below the project site consist of rocky intertidal areas, which are important haulouts for seals and sea lions and which generally are inaccessible to the public. There is no evidence of public use of the subject property or its adjacent beaches for public access, no evidence of trails on the property, and no indication from the public that the site has been used for public access purposes in the past. The nearest public access points are the Martin Creek trailhead, about a half mile to the south, and Trinidad State Beach, ~1-mile to the south. The proposed development will not significantly and adversely increase the demand for public access to the shoreline, as it involves improvements on an existing developed single-family residential lot. For all of these reasons, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act.

## **J. 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 people. For thousands of years, the Yurok have lived in coastal areas and coastal watersheds in what now is Humboldt and Del Norte counties, from the Little River 10 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.<sup>1</sup> 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

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<sup>1</sup> Commission staff referred to project (via mailed letters and email) to tribal representatives from the Big Lagoon Rancheria, Trinidad Rancheria, and Yurok Tribe on August 16, 2022.

Commission attaches **Special Condition 12**. 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.

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

#### **K. 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 is within the "Trinidad Area Shoreline Lots" ADC, which includes all of the privately owned lands, other than lands owned by the Trinidad Coastal Land Trust, located west of Scenic Drive, west of Stagecoach Road, and west of Patricks Point Drive (where they are the first public roads paralleling the sea), and along the route of the Sixth Avenue Trail in the Westhaven area.

In denying certification for this area of the Trinidad Area Plan in 1982, the Commission suggested that the plan's policies regarding the protection of the public's right of access where acquired through use (i.e. potential prescriptive rights) be modified to conform to the natural resource, hazard, and public access policies of the Coastal Act. The County did not accept the suggested modifications, and the geographic area became an ADC. The County considers the site designation to be Rural Residential Agriculture (RA).

As discussed in the findings above, the development as conditioned includes appropriate measures to protect on-site wetlands and environmentally sensitive habitat, and there is no evidence of potential prescriptive rights of access on the subject lot. 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 of the Coastal Act.

#### **L. California Environmental Quality Act (CEQA)**

Humboldt County served as the lead agency for the project in its processing of a special permit for design review for the proposed new residence. The County determined the project to be categorically exempt from CEQA review pursuant to section 15303(a) – New Construction or Conversion of Small Structures.

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.

1-22-0292 (Clanton)

## **APPENDIX A**

Application File for CDP Application No. 1-22-0292

Application File for CDP Application No. 1-22-0972-W

Applicable policies and standards of the County of Humboldt Local Coastal Program  
(uncertified Trinidad Area Plan & certified Coastal Zoning Regulations)