

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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(707) 826-8950
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**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: North Coast

Appeal Number: A-1-HUM-23-0030Date Filed: 8-7-23Appellant Name(s): Donne Brownsey / Caryl Hart**RECEIVED**

AUG 07 2023

CALIFORNIA
COASTAL COMMISSION
NORTH COAST DISTRICT**APPELLANTS**

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Coast district office, the email address is NorthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>.

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1. Appellant information¹

Name: Donne Brownsey & Caryl Hart
Mailing address: 455 Market Street, Suite 300, San Francisco 94105
Phone number: (415) 904-5202
Email address: Donne.Brownsey@coastal.ca.gov; Caryl.Hart@coastal.ca.gov

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☐ Submitted comment ☐ Testified at hearing ☐ Other

Describe: N/A

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: N/A

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: N/A

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

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2. Local CDP decision being appealed²

Local government name: Humboldt County
Local government approval body: Planning Commission
Local government CDP application number: PLN-2022-17762
Local government CDP decision: ☒ CDP approval ☐ CDP denial³
Date of local government CDP decision: July 6, 2023

Please identify the location and description of the development that was approved or denied by the local government.

Describe: A modification to an approved CDP to (1) remove the entitlement
for construction of an 8,000-sq.ft. single family residence
with an attached 1,000-sq.ft. cellar, and four car garage and
1,500 cubic yards of grading; (2) allow removal of an
existing 21,000-sq.ft. structure, removal of 15,000 cubic
yards of fill material, restoration of the site to natural grade,
and restoration of Environmentally Sensitive Habitat Areas;
(3) install protective fencing; and (4) a Lot Line Adjustment
to adjust the lot lines between two parcels 3.5 acres and 2.6
acres in size to result in two vacant parcels of 2.45 acres
and 3.65 acres.

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

3. Applicant information

Travis Schneider

PO Box 133

Eureka, CA 95502

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: See Attachment A

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

4 Attach additional sheets as necessary to fully describe the grounds for appeal.

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5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☐ Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Caryl Hart


Signature

Date of Signature 08/06/2023

7. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 5

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☐ Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Donne Brownsey

DocuSigned by:
Donne Brownsey, Chairwomen
2B0030CFC453403

Signature

Date of Signature 08/07/2023

7. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

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ATTACHMENT A

...Continued from Section IV ("Reasons Supporting This Appeal") of Appeal Form

REASONS FOR APPEAL:

The approval of CDP No. PLN-2022-17762 by Humboldt County is inconsistent with the policies and standards of the certified Local Coastal Program (LCP) [Humboldt Bay Area Plan (HBAP) Land Use Plan and Coastal Zoning Regulations (CZR) IP] including, but not limited to, policies and standards regarding archaeological resources and protection of environmentally sensitive habitat areas, as discussed below.

(1) Archaeological Resources

Excerpts of Applicable LCP Policies:

HBAP Policy 3.18 states as follows:

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

3.18-B-1:

1. *Reasonable mitigation measures may include but are not limited to:*
 - a. *Changing building and construction sites and/or road locations to avoid sensitive areas.*
 - b. *Providing protective cover for sites that cannot be avoided.*
 - c. *Where appropriate and with the approval of all parties concerned, provide for the removal or transfer of culturally significant material by a professional archaeologist or geologist.*

Discussion:

The County's findings for approval of the CDP Modification state in part (see adopted resolution 23-064, Finding 3-c, attached):

- c) Section 3.18 Archaeological Resources. The project is located adjacent to and within an identified archaeological site and Tribal Cultural Resource and was referred to the Blue Lake Rancheria, Bear River Band, and the Wiyot Tribe. Multiple archaeological studies of the site have been done including in 1987 (Eideness) and in 1998 (Roscoe). The studies of the area identify and map a known cultural resource site located on this parcel (CA-HUM-52) which is one of the earliest known Wiyot Village sites and was first identified in 1910 (Loud). The removal of the entitlement to construct a single-family residence and removal of imported fill materials, along with restoration of the site back to natural grade is proposed in a manner that will not impact the existing archaeological resources on the site.

The major vegetation removal that occurred without authorization did impact the archaeological site as documented by an Archaeological Damage Assessment (Rich, 2022) and per Section 3.18 of the HBAP reasonable mitigation measures shall be required. In this instance, the Archaeological Damage Assessment demonstrates that the scientific and historical value of the site has not been impacted by the major vegetation removal. However, the damage had a significant cultural impact and mitigation is necessary both for the cultural impact and to strengthen protection measures for the site. Accordingly, reasonable mitigation is proposed under Section 3.18 of the HBAP in the form of a conveyance of property which encompasses the archaeological site and appropriate area for access to the site to the three Wiyot Tribes.

As quoted above, the County's findings for approval state in part that "*The major vegetation removal that occurred without authorization did impact the archaeological site...*" and "*...the damage had a significant cultural impact and mitigation is necessary both for the cultural impact and to strengthen protection measures for the site.*" The County's findings go on to state "*Accordingly, reasonable mitigation is proposed under Section 3.18 of the HBAP in the form of a conveyance of property which encompasses the archaeological site and appropriate area for access to the site to the three Wiyot Tribes.*"

Despite these findings, there were no conditions attached to the modified permit that require the applicant to convey the property with the sensitive archaeological site, that specify to whom the property should be conveyed, and that include timelines for when the conveyance must occur. Furthermore, the County's approval includes no restrictions on portions of the subject property containing sensitive resources (e.g., no requirement to record a deed restriction over sensitive areas that would restrict future development in those areas and memorialize the intent of those areas to be protected for cultural access and conveyance to the three Wiyot Tribes). Moreover, effectuation of the lot line adjustment (LLA), which is a necessary precursor to land conveyance and therefore to implementation of the mitigation for archaeological resources impacts, depends on the applicant obtaining CDP authorization from the Commission for the LLA, since portions

of the subject property lie within the Commission's retained jurisdiction. The obtainment and timing of the Commission's authorization is uncertain, because to date no such application for a LLA has been submitted to the Commission for its discretionary consideration. Therefore, the County's approval as conditioned does not require reasonable mitigation for development that impacted archaeological resources, inconsistent with HBAP sec. 3.18.

(2) Protection of Environmentally Sensitive Habitat Areas:

Excerpts of Applicable LCP Policies (emphasis added):

HBAP Policy 3.30 states as follows:

*** 30240. (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

(b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

3.30-B-1:

1. Identification of Environmentally Sensitive Habitats

a. Environmentally sensitive habitats within the Humboldt Bay Planning Area include:

- 1) *Wetlands and estuaries, including Humboldt Bay and the mouth of the Mad River*
- 2) *...*
- 3) *Rivers, creeks, gulches, sloughs and associated riparian habitats, including Mad River Slough, Ryan Slough, Eureka Slough, Freshwater Slough, Liscom Slough, Fay Slough, Elk River, Salmon Creek, and other streams.*
- 4) *Critical habitats for rare and endangered species listed on state or federal lists.*

b. Proposed development occurring within areas containing these sensitive habitats shall be subject to conditions and requirements of this chapter... As an interim measure for habitat areas not currently identified on the maps, information obtained during the CEQA review process will be used by the County in reviewing applications for coastal development permits. The review

of these sensitive habitat areas and the identification of appropriate land uses and/or mitigation measures shall be in cooperation with the Department of Fish and Game...

3.30-B-6:

6. Wetland Buffer

a. No land use or development shall be permitted in areas adjacent to coastal wetlands, called Wetland Buffer Areas, which degrade the wetland or detract from the natural resource value. Wetland Buffer Areas shall be defined as:

1) The area between a wetland and the nearest paved road, or the 40 foot contour line (as determined from the 7.5' USGS contour maps), whichever is the shortest distance, ...

b. New development, except for:

1) development permitted in 3.30B2,3, and 4

2) wells in rural areas; and

3) new fencing, so long as it would not impede the natural drainage

shall be sited to retain a setback from the boundary of the wetland sufficient to prevent adverse effects to the wetland's habitat values.

c. ...

d. Outside an urban limit line, the setback shall be between 100 and 200 feet, depending upon the size and sensitivity of the wetland, drainage boundaries, vegetation, adjacent uses, and the potential impacts of the project on the wet habitat values. The precise width of the setback shall be sufficient to prevent significant effects to the wetland.

e. *In both urban and rural areas, setbacks of less than the distance specified above may be permitted only when the prescribed buffer would prohibit development of the site for principle use for which it is designated. Any such reduction in setback shall still retain the maximum setback feasible, and may require mitigation measures, in addition to those specified below, to ensure new development does not adversely affect the wetland's habitat values.*

f. All new development within the wetland buffer shall include the following mitigation measures:

1) Not more than 25% of the lot surface shall be effectively impervious.

- 2) *The release rate of storm runoff to adjacent wetlands shall not exceed the natural rate of storm runoff for a 50 year storm of 10 minute duration.*
- 3) *Septic systems or alternative waste disposal systems must meet standards of the Humboldt-Del Norte Health Department and the Regional Water Quality Control Board.*
- 4) *Areas disturbed during construction, grading, etc., within 100 feet of the mean high water line, shall be restored to original contours and sufficiently and promptly replanted with vegetation naturally occurring in the immediate area.*
- 5) *Development and construction shall minimize cut and fill operations and erosion and sedimentation potentials through construction of temporary and permanent sediment basins, sediment basins, seeding or planting bare soil, diversion of runoff away from graded areas and areas heavily used during construction, and, when feasible, avoidance of grading during the rainy season (November through April).*
- g. *The County shall request the Department of Fish and Game to review plans for development within 200 feet of the boundary of the wetland.*

3.30-B-8

8. Coastal Streams, Riparian Vegetation and Marine Resources

- *** 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

- d. *Riparian corridors on all perennial and intermittent streams shall be, at a minimum, the larger of the following:*
 - 1) *100 feet, measured as the horizontal distance from the stream transition line on both sides.*

- 2) *50 feet plus four times the average percent of slope, measured as a slope distance from the stream transition line on both sides of intermittent and perennial streams.*
- 3) *Where necessary, the width of riparian corridors shall be expanded to include significant areas of riparian vegetation adjacent to the corridor, slides, and areas with visible evidence of slope instability, not to exceed 200 feet measured as a horizontal distance.*
- 4) *Notwithstanding the above riparian corridor width requirements, the width of the riparian corridor may be reduced where such a reduction would not result in the removal of woody vegetation, and the County determines, based on specific factual findings, that a reduction will not result in a significant adverse impact to the habitat. New structures, including houses, barns, sheds, etc., shall be placed a minimum of 50 feet from the stream transition lines.*

Discussion:

An impetus for the proposed CDP modification is to restore ESHA that was damaged during construction of the nonconforming (in violation of approved plans under the original CDP) residence. The damage occurred due to encroachment of unpermitted development into sensitive areas in violation of CDP conditions, which prohibited (1) development below the 40-foot elevation contour (the 40-foot elevation contour in this case is the LCP-designated "wetland buffer area" and also the area identified on the Walker Point subdivision map as "non-buildable" to protect and preserve sensitive archaeological areas) and (2) the removal of environmentally and culturally sensitive native blackberry habitat. Although the County's approval includes conditions related to restoration of damaged areas, mitigation for damaged habitat, and future habitat protection (in the form of installation of permanent split rail fencing at or near the 40-foot contour), the County's approval does not ensure future impacts will not occur to environmentally sensitive areas on the properties. As discussed, the County's approval lacks conditions that will ensure protection of sensitive areas from future development if the LLA and land conveyance fail to be implemented. There are no requirements related to lot conveyance mitigation (in terms of who land shall be transferred to or by when) or for recording a deed restriction against the property should the lot conveyance effort fall through (e.g., if authorization is not obtained from the Commission). Without these requirements, the subject lots in their current or proposed configuration could be sold or transferred without implementation of the mitigation and with remaining development entitlements that could result in the future approval of residential development within wetland buffer areas and other sensitive areas, particularly on the southern lot – the majority of which currently and as approved to be reconfigured is comprised of lands below the 40-foot contour elevation.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-064

Record Number PLN-2022-17762

Assessor's Parcel Numbers: 402-171-029, 402-171-030

Resolution by THE Planning Commission of the County of Humboldt to conditionally approve the Travis Schneider Coastal Development and Special Permit Modification.

WHEREAS, On or about December 27, 2021 Humboldt County provided notice to property owners Travis Schneider and Stephanie M. Bode of violations of local and state law related to development in the Coastal Zone without appropriate permits, major vegetation removal without appropriate permits, and construction of a building/structure in violation of applicable permit requirements; and

WHEREAS, Travis Schneider submitted an application dated May 12, 2022 requesting approval of a Modification to Coastal Development Permit and Special Permit CDP-17-016 intended to address the above related violations; and

WHEREAS, on or about April 11, 2023 the Humboldt County Code Enforcement Unit served Travis Schneider and Stephanie M. Bode a Notice of Violation and a Notice to Abate Nuisance related to the existing partially constructed residence and unpermitted grading activities;

WHEREAS, Everview LTD., on behalf of Travis Schneider, submitted a revised application on April 5, 2023 and May 18, 2023 intending to address the above referenced Notice of Violation and Notice to Abate Nuisance, requesting approval of a modification to remove the previous entitlements, restore the property to its original grade, and to complete a lot line adjustment between the two parcels; and

WHEREAS, pursuant to Section 15308 (Actions by Regulatory Agencies for the Protection of the Environment) of the CEQA Guidelines, the proposed project is Categorically Exempt from environmental review; and

WHEREAS, the Humboldt County Planning Commission held a duly noticed public hearing on **July 6, 2023**, and reviewed, considered, and discussed the application for a Coastal Development Permit and Special Permit Modification, and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

1. **FINDING:** **Project Description:** A Modification to an approved Coastal Development Permit to remove the entitlement for construction of an 8,000 square foot single family residence with an attached 1,000 square foot cellar, and four car garage and 1,500 cubic yards of grading and to allow removal of an existing 21,000 square foot structure, removal of 15,000 cubic yards of fill material, restoration of the site to natural grade, restoration of Environmentally Sensitive Habitat Area and installation of protective fencing and a Lot Line Adjustment to adjust the lot lines between two parcels resulting in two vacant parcels of 2.45 acres and 3.65 acres.

EVIDENCE: a) Project file: PLN-2022-17762

2. **FINDING:** **CEQA.** The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA).

EVIDENCE: The original permit was determined to be exempt from environmental review pursuant to Section 15303 of the CEQA Guidelines (Construction of small structures). The modification will remove the entitlements that were granted as part of the original permit approval and will facilitate restoration of the property as required by a Notice to Abate Nuisance issued by Humboldt County. Actions by a regulatory agency to protect the environment are categorically exempt from environmental review pursuant to Section 15308 of the CEQA Guidelines.

FINDINGS FOR THE COASTAL DEVELOPMENT PERMIT AND SPECIAL PERMIT MODIFICATION

3. **FINDING:** The proposed development is in conformance with the Humboldt Bay Area Plan (HBAP).

EVIDENCE: a) Section 4.10 Land Use. The project site is designated Rural Residential in the Humboldt Bay Area Plan. Single family development and associated appurtenant activities are a principally permitted use within the RR plan designation. The removal of the partially constructed residence and restoration of the site, along with the proposed lot line adjustment, will reconfigure the property into a more suitable residential parcel that can be developed with future residential uses while ensuring protection of environmental resources.

b) Section 3.17 Hazards. The property located in an area of low instability per the County's Geologic Hazards maps, and Flood Zone C, in an area of minimal flooding, per FIRM Map #060060 0780 B. Additionally, the property has a low fire hazard rating and is located within an area of local fire responsibility. Removal of a partially constructed residence

and fill and restoration of the property will not result in hazardous conditions.

- c) Section 3.18 Archaeological Resources. The project is located adjacent to and within an identified archaeological site and Tribal Cultural Resource and was referred to the Blue Lake Rancheria, Bear River Band, and the Wiyot Tribe. Multiple archaeological studies of the site have been done including in 1987 (Eideness) and in 1998 (Roscoe). The studies of the area identify and map a known cultural resource site located on this parcel (CA-HUM-52) which is one of the earliest known Wiyot Village sites and was first identified in 1910 (Loud). The removal of the entitlement to construct a single-family residence and removal of imported fill materials, along with restoration of the site back to natural grade is proposed in a manner that will not impact the existing archaeological resources on the site.

The major vegetation removal that occurred without authorization did impact the archaeological site as documented by an Archaeological Damage Assessment (Rich, 2022) and per Section 3.18 of the HBAP reasonable mitigation measures shall be required. In this instance, the Archaeological Damage Assessment demonstrates that the scientific and historical value of the site has not been impacted by the major vegetation removal. However, the damage had a significant cultural impact and mitigation is necessary both for the cultural impact and to strengthen protection measures for the site. Accordingly, reasonable mitigation is proposed under Section 3.18 of the HBAP in the form of a conveyance of property which encompasses the archaeological site and appropriate area for access to the site to the three Wiyot Tribes.

- d) Section 3.30 Natural Resource Protection. No significant disruption of habitat values or non-ESHA dependent uses are proposed as part of this project. Restoration of ESHA is proposed as part of the permit modification.

ESHA areas on the property have been mapped by Timberland Resource Consultants (2022) and a biological resource damage assessment has been completed for the unauthorized major vegetation removal within the ESHA and wetland areas on the property. The assessment found that ESHA and wetland impacts from the unauthorized activities were as follows:

- 440 square feet of *rubus ursinus* (native California blackberry) removal from a single-parameter wetland.
- 1,250 square feet of *rubus ursinus* removal from the *alnus rubra/salix lasiolepos* Sensitive Natural Community (SNC).

- 52,272 square feet (1.2 acres) of rubus ursinus removal for both the brush clearing and the temporary road construction. A very limited amount of rubus ursinus was removed in association with the road construction.
- Removal of one 16" willow tree.
- Removal of four alder trees ranging in size from 3" to 14".
- A corner of the residence extends approximately 8 feet into the required 100-foot wetland setback.

Section 3.18.B.6 requires that no land use or development shall be permitted in Wetland Buffer Areas which degrade the wetland or detract from the natural resource value. In this instance the buffer is the 40-foot elevation contour. The residence was partially constructed within the buffer established by the 40-foot contour in violation of the approved Coastal Development Permit and section 3.18.B.6 of the Humboldt Bay Area Plan. The current proposed project is to remove this residence and to removal all imported fill on the property, and to restore the property to its natural grade. The Lot Line Adjustment will establish a new parcel line with the majority of the property below the 40-foot contour line to be in a single parcel to be dedicated to the three Wiyot Area tribes, and a split-rail fence or similar type of simple fence to be constructed along the 40-foot contour. These project components will ensure that any future residential development will maintain the appropriate buffers established in the Humboldt Bay Area Plan (HBAP).

In addition to the LLA and fence construction, pursuant to Section 3.18.B1.b of the HBAP a mitigation plan has been developed in consultation with the California Department of Fish and Wildlife (CDFW) which includes:

- Monitoring for a 3-year period to ensure that the native blackberry comes back in an equal amount and if not that it is re-seeded with native blackberry.
- Planting of willows and alders at a 2:1 ratio for what was removed.
- Annual monitoring for invasive species and hand-removal of invasive species from the ESHA areas and areas immediately adjacent, excluding the area associated with the archaeological site.

- e) Section 3.16 Housing. The Lot Line Adjustment will reconfigure the parcel lines to ensure that future residential development will be easily accommodated without impacting sensitive environmental resources. Neither of the parcels involved in the LLA were identified in the County's adopted housing inventory that was utilized for the Regional Housing Needs Assessment.

- f) Section 3.40. Visual Resource Protection. The subject parcel is not located in any designated coastal view or scenic area. However the site is visible from Highway 101 and Old Arcata Road. The Visual Resources findings made in the original subdivision (FMS-04-17 APN: 402-171-025) indicated that future buyers of the lots would be required to retain natural vegetation and produce a landscaping plan to "soften the visual impacts of future development of the sites at the time of development." The project is for restoration of unauthorized native vegetation removal and as a condition of approval the applicant will be required to implement monitoring for, and removal of invasive species within the ESHA areas in the Wetland Buffer Area.

4. FINDING: The proposed development is consistent with the purposes of the existing zone in which the site is located, and the proposed development conforms to all applicable standards and requirements of these regulations.

EVIDENCE: a) Section 313-6.4 Rural Residential Agriculture Zone District. The project site is zoned Rural Residential Agriculture which establishes single family residential use as a principally permitted use. The project will not remove the ability of the properties to be developed with residential uses in the future.

b) No structural development is proposed as part of this project.

c) Section 313-16.1 Archaeological Resource Area. The proposed project is consistent with the provisions of the Archaeological Resource Area combining zone because the County is conditioning the project for reasonable mitigation measures to prevent future adverse impacts on the known archaeological resource on the property.

d) Section 313-19.1 Design Review Combining Zone. The project is consistent with the Design Review combining zone because it will restore the property to its natural grade.

e) Section 313-38.1 Wetlands Combining Zone. The proposed project is consistent with the Wetlands Combining Zone regulations because it includes wetland restoration which is a principally allowed use in the combining zone and no fill or dredging of wetlands are proposed. Further, with the implementation of conditions of approval to restore habitat and remove invasive species the project will enhance the wetland resource.

f) Section 312-39.15 Coastal Wetland Buffers. The project is consistent with this section because it involves restoration of habitat values and

the project is designed to restore impacts that occurred due to unauthorized activities.

5. FINDING: The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE: No detrimental effects to public health, safety and welfare were identified. The habitat restoration will be beneficial to the public welfare and is not expected be detrimental to property values in the vicinity nor pose any kind of public health hazard.

6. FINDING: The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE: The parcels were not utilized for the purposes of the County's Regional Housing Needs Assessment and therefore the project will not negatively impact the County's compliance with Housing Element Law.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the **Travis Schneider Coastal Development and Special Permit Modification**, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on **July 6, 2023**.

The motion was made by Commissioner Peggy O'Neill and seconded by Commissioner Iver Skavdal and the following ROLL CALL vote:

AYES: COMMISSIONERS: Iver Skavdal, Noah Levy, Lonyx Landry, Peggy O'Neill,
Brian Mitchell, Sarah West

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS: Thomas Mulder

ABSTAIN: COMMISSIONERS:

DECISION: Motion Carries 6/0/1

I, John H. Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.



John H. Ford, Director,
Planning and Building Department

CONDITIONS OF APPROVAL

Approval of the Coastal Development Permit and Special Permit are conditioned upon the following terms and requirements which must be fulfilled.

For the Lot Line Adjustment

1. Prior to September 30, 2023, a Notice of Lot Line Adjustment shall be recorded for each resultant parcel. The following information must be submitted to the Planning Department for review prior to recordation:
 - a. A copy of the existing deeds and the deeds to be recorded for the adjusted parcels. If the property is not changing ownership, only the existing deeds are required.
 - b. A Preliminary Title Report regarding ownership of parcels involved. The title report documents must be current at time of submittal. Depending on the date of the report preparation, updating may be necessary.
 - c. A completed "Notice of Lot Line Adjustment and Certificate of Compliance" form for each parcel.
 - d. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$430 per notice plus \$300 for each additional legal description plus applicable notarization and recordation fees). (Fees subject to change.)
2. Prior to filing the Notice of Lot Line Adjustment, a map revision fee as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$106 per parcel) as required by the County Assessor shall be paid to the Humboldt County Planning Department, 3015 "H" Street, Eureka. The check shall be made payable to the "County of Humboldt". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
3. Prior to filing the Notice of Lot Line Adjustment, the applicant shall comply with the provisions of Section 321-14 of the Humboldt County Code concerning reapportionment or payment of special assessments.
4. Prior to filing the Notice of Lot Line Adjustment, the applicant shall provide documentation from the County of Humboldt Tax Collector that all property taxes for the parcels involved in the Lot Line Adjustment have been paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office, and all special assessments on the property must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the Notice of Lot Line Adjustment to satisfy this condition. Note: The purpose of this condition is to avoid possible title consequences in the event of a tax default and sale affecting the owner's real property interest. If property is acquired as a result of a Lot Line Adjustment and said property

has delinquent taxes, the property cannot be combined for tax purposes. This means, that the owner will receive two or more tax bills, and penalties and interest will continue to accrue against the land which has delinquent taxes. If five or more years have elapsed since the taxes on the subject property were declared in default, such property will be sold by the County Tax Collector for non-payment of delinquent taxes unless the amount required to redeem the property is paid before sale. Property combined by lot line adjustment but "divided" by tax sale will require separate demonstration of subdivision compliance of all resultant parcels prior to the County's issuance of a building permit or other grant of authority to develop the subject properties.

5. A Coastal Development Permit or Coastal Waiver shall be obtained from the California Coastal Commission prior to recordation of the Notice of Lot Line Adjustment.

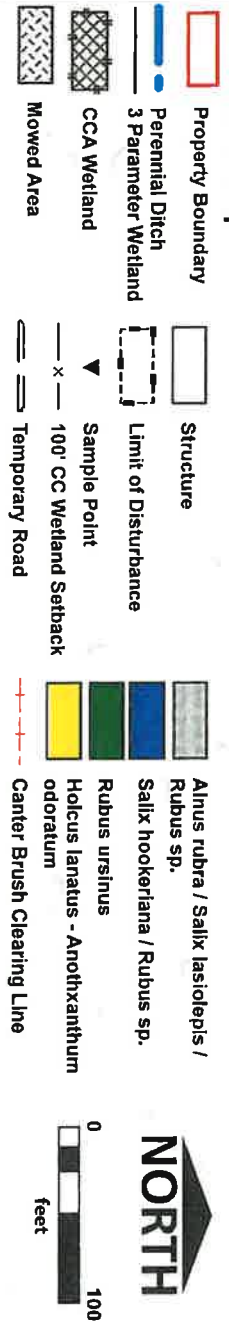
For Demolition and Restoration

1. Prior to July 31, 2024, the applicant shall demolish and remove all constructed elements and imported fill from the site including the partially constructed house, the temporary road partially on parcel 18, and all imported fill material and the parcel shall be returned to preconstruction grades. Director of Planning and Building may extend this deadline due to natural circumstances.
2. Prior to initiation of any grading or demolition activity and prior to December 31, 2023, the applicant shall obtain a grading permit from Humboldt County based upon plans showing both existing and reconstituted finished contours, with the finished contours being based on pre-construction LiDAR topographic data available on the Humboldt County GIS system.
3. In order to compensate for the damage to Environmentally Sensitive Habitat Area and the applicant shall implement a restoration plan to compensate for the damage on a 1.5:1 basis of compensation area to impact area. Prior to issuance of a grading permit, the Final ESHA Restoration Plan shall be approved by the Planning Director in consultation with the Wiyot Area Tribes and the California Department of Fish and Wildlife. The Final ESHA Restoration Plan shall include the specific location of eight alnus rubra (red alder) and two salix hookeriana (willow) trees to be planted and shall specify the area to be monitored for re-establishment of rubus ursinus (native California blackberry). The Final ESHA restoration plan shall include success criteria for to be monitored over a 3-year monitoring period. The restoration plan shall not be deemed satisfied until the success criteria has been met for a period of 3 consecutive years.
4. Prior to issuance of a grading permit the applicant shall install a temporary construction exclusion fence around the limits of demolition and grading.
5. The applicant shall submit a restoration monitoring report documenting implementation of the Final ESHA Restoration Plan no later than December 31st of each year for the first 3 years after project approval. The report shall identify whether the success criteria established in the

restoration plan is being achieved. If the success criteria is not being achieved the biologist shall provide remedial actions to ensure the success criteria is achieved in succeeding years.

6. The property owner shall complete annual monitoring for invasive species and hand-removal of invasive species from the ESHA areas and areas immediately adjacent to the ESHA areas until a qualified biologist confirms that no invasive species are present within the ESHA areas. A report of annual invasive species monitoring shall be made available to the County upon request.
7. The split rail fence or other simple wood fence shall be constructed at or above the 40-foot elevation contour or along the relocated property line. The fence design shall be submitted for approval of both the planning Director and the Wiyot Area Tribes prior to installation. Prior to any disturbance associated with the fence the applicant shall contract with a tribal monitor to be present during construction of the support posts. The tribal monitor shall be on-site during all fence post support construction.
8. Prior to issuance of a grading permit, the applicant shall contract with a tribal monitor to be present during any earth disturbing activity.
9. The applicant is responsible for reimbursing the Tribes for all tribal monitoring required by this permit.
10. A Coastal Development Permit or Coastal Waiver or correspondence indicating that none is required shall be obtained from the California Coastal Commission prior to issuance of the grading permit.
11. The site shall be stabilized for the winter to the satisfaction of the Chief Building Official prior to October 31, 2023.

Restoration Map



Located in the NW1/4 of Sec. 20, T5N, R1E, HB&M

