

Travis Schneider Coastal Development Permit and Special Permit Modification

Application Number: PLN-2022-17762

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

Recommended Planning Commission Action

1. Describe the application as a public hearing.
2. Request staff present the project.
3. Open the public hearing and receive testimony from the public.
4. Close the public hearing and adopt the resolution to take the following actions:

1) Find the project exempt from environmental review pursuant to Section 15301, 15303 15304 and 15333 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Modification to the Coastal Development Permit and Special Permit, and 3) approve the Travis Schneider Coastal Development Permit and Special Permit Modification project subject to the recommended conditions.

Executive Summary:

An application for a Coastal Development Permit and Special Permit Modification for an alteration in the configuration and location of a single-family residence and for the removal of the temporary road installed previously without permits. The residence was constructed within 100 feet of a one parameter wetland and adjacent to Environmentally Sensitive Habitat areas. The road was installed on both parcels. The CDP modification includes after the fact major vegetation removal for removal of native blackberries within a one parameter wetland and removal of native blackberries and willow and alder trees adjacent to the slough in an Environmentally Sensitive Habitat Area (ESHA). The modification includes habitat restoration for these areas. Construction of a fence or other protective methods for existing sensitive areas are also proposed. The road and proposed fencing, as well as a portion of the residence are located within 100 feet of a coastal wetland area. A known archaeological site and Tribal Cultural Resource was disturbed as a result of the major vegetation removal.

County staff has worked closely with the three Wiyot Area Tribes and the Coastal Commission since January of 2022 to document the disturbance and potential damage to the archaeological site and coastal natural sources that occurred on the property from unpermitted development and to develop appropriate mitigation for the damage and to develop conditions of approval to adequately protect these important coastal resources. To that end County staff included the recommended conditions of approval from a July 26, 2022 joint memo from the Wiyot tribe and the Bear River Tribe, as recommended with revisions necessary for implementation. County staff also held a meeting with the three Wiyot Area Tribes, the Coastal Commission and the project applicant on August 2, 2022 where these conditions were discussed. County staff left the meeting understanding that there was consensus with all parties on the recommended conditions, with the notable exception of the Bear River Band's objection to the excavation and data recovery of portion of the archaeological site that the Wiyot Tribe and Blue Lake Rancheria were seeking.

On August 17, 2022 the Planning Commission received comment letters from the Wiyot Tribe, the Blue Lake Rancheria, and the California Coastal Commission all asking the Planning Commission to reject the staff recommendation of conditional approval. The Wiyot Tribe requested that the County conduct additional environmental review under CEQA, allow additional time to review the project and proposed restoration and mitigation, and suggested that the recommended conditions were inadequate and unclear regarding implementation and, monitoring and enforcement. The Blue Lake Rancheria requested that the County revoke the building permit and allow additional time to review the proposed restoration and mitigations. The Blue Lake Rancheria also stated that it was unclear how the recommended conditions would be implemented, monitored or enforced. The Coastal Commission stated that the proposed project did not adequately address the violations of the Local Coastal Plan nor adequately protects coastal resources on the site. On August 18, 2022 the Bear River Band provided comments stating that they were in agreement with the staff

recommendation with the exception of excavation of the archaeological site and instead recommended that the cost of the excavation and data recovery be put instead into a fund to be used for future mitigation of cultural resource damage not limited to the project site.

At the Planning Commission meeting of August 18, 2022 the project was discussed and the Commission voted to continue the project to the September 1st Planning Commission meeting with direction to staff to work with the Tribes and the Coastal Commission to identify appropriate conditions and to address the concerns and objections raised in the letters submitted August 17, 2022. The Planning Department reached out to the Tribes and the Coastal Commission on August 19th to schedule such a discussion, however both the Wiyot Tribe and the Blue Lake Rancheria did not respond to the request for a meeting.

Given that the recommended conditions were developed in consultation with the Tribes and the Coastal Commission, agreed to in principle during the August 2nd meeting, and that the parties have not offered suggested alternative conditions, the Planning Department believes that the recommended conditions are appropriate to address impacts to coastal and archaeological resources. Both the Coastal Commission and the Wiyot Tribe indicated in their August 17, 2022 letters that it is unclear how the conditions will be implemented, monitored and enforced however these conditions are written with clear timing metrics and direction as to implementation. Many of the conditions require review from the Tribes and completion of specific actions *prior* to lifting the stop work order. A restoration report is required to be submitted by December 31st of each year and a Tribal monitor is required to be on-site during all ground disturbance associated with any work that is adjacent to the archaeological site. The Coastal Commission states that the conditions do not address temporal loss of coastal resources as a result of the removal of blackberry, however while perhaps not clear in the original staff report, the condition requiring annual monitoring and removal of invasive species was suggested by CDFW specifically to mitigate for the temporal loss of the blackberry habitat.

Planning staff has revised the conditions as necessary to address any specific concerns raised by the Tribes and the Coastal Commission, for example COA#6 was revised as suggested in the August 17th letter from the Wiyot Tribe to specify that the easement be permanent, recorded at the applicant's expense and dedicated specifically to the Wiyot Tribal Land Trust for conservation and open space. The recommended conditions of approval attached to this staff report also include the revised COA #17 as recommended by the Bear River Band for dedication to a fund to be utilized for mitigation of cultural resource damage.

The Planning Department believes that the evidence submitted supports making all of the required findings and has prepared a draft resolution for approving the Coastal Development and Special Permit Modification with conditions.

ALTERNATIVE: Several alternatives may be considered: 1) The Planning Commission could elect to add or delete conditions of approval; 2) The Planning Commission could deny approval of the requested permits if you are unable to make all of the required findings. Given that there have been objections to approval which have been raised by the Coastal Commission, Wiyot Tribe and Blue Lake Rancheria staff has prepared a draft Planning Commission resolution making the findings to deny the application.