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Cc: [Johnson, Cliff](mailto:Johnson,Cliff)
Subject: RE: Walker Point Schneider Residence
Date: Monday, August 8, 2022 6:14:07 PM
Attachments: [image001.png](#)

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John

We have some comments:

1. We suggest it would not be appropriate to lift the stop work order, at least not on the unauthorized portions of the development, until the County's action is final (CDP Modification is issued) – not simply upon Planning Commission approval. There will be a time gap between PC approval and CDPM issuance while the local and state appeal periods run. If an appeal were to be received, either locally to the Board and/or to the Coastal Commission, the County's action would not be final until the appeal process was complete. Therefore, we request that timing in the condition be tied to finality of County action/issuance of CDPM rather than date of Planning Commission action.
2. Before everyone agrees with the responses and stipulations in Mr. Johnson's letter, would it be helpful to have an updated map that shows the "agreed upon" wetland setback area. The letter refers to "as discussed and depicted" in the August 2nd meeting, but as I recall there were no well defined lines depicted during the Zoom call, and also some people were having bandwidth issues so were unable to see the shared screen/maps. Perhaps the County can circulate an updated map that shows some of the key features at issue and referenced in the letter, including wetland setback area, planting area, restoration area, fence line, easement area, etc. We understand the desire to finalize things in time for the August 18th agenda, but without having the information needed to inform the County's decision on hand and circulated ahead of time, perhaps it would be prudent to delay a bit longer and schedule for a subsequent PC agenda.
3. We have not yet offered comments on the July 18th Restoration Plan, which was only recently circulated. The plan proposes plantings of willows, alders, and blackberry to mitigate damage caused by unpermitted activities. A map is not included with the plan but would be helpful to understand where plantings are proposed. Does the Restoration Plan also address road removal? It's unclear. We note that Mr. Johnson suggests circulating the plan to the THPOs and Adam Canter for comment, and because those comments haven't yet been received (that we're aware of), perhaps that is another reason to delay bringing this to the PC until comments can be received and integrated

into an updated revised plan. Perhaps the plan should be updated to clarify/depict specify restoration details/plans for riparian impact areas, wetland impact areas, blackberry impact areas, and road removal/restoration areas. Did CDFW ever comment on the plan?

In terms of Coastal Commission staff comments – we would suggest provisions be included for monitoring beyond the proposed three years if the success standard isn't reached in that time frame (e.g., if plants die in year 3, and additional plantings occur thereafter, there should be an additional three years of monitoring). We also recommend the County consider requiring additional plantings above and beyond what's proposed (which is associated with the violation/unpermitted development) in order to make the findings for consistency with the ESHA/riparian protection policies of the LCP. Because the County is considering whether or not to approve a reduced setback, and because the HBAP requires certain minimum setback distances from ESHA/wetlands/riparian areas (typically 100-200 feet), and because those minimum setbacks won't be provided in this case, the County's consideration of the CDPM should evaluate (ideally based on an analysis from a qualified biologist) whether a setback distance of less than the prescribed LCP standard (for the house encroachment within 100 feet) is adequate to protect the resources of the ESHA. In some cases, a reduced setback may be sufficient but only with certain additional mitigation measures, such as enhancement planting and other measures. The existing Restoration Plan on file doesn't address the idea of planting/enhancement from this context; it only addresses mitigation/restoration related to unpermitted development/damage. Has the County communicated with CDFW on this question of reduced setback adequacy? If not, this may be another good reason to postpone agendizing this on the Aug 18th PC hearing.

4. The wood fence was discussed as appropriate as a symbolic permanent feature to separate the residential uses/curtilage from the sensitive wetland, ESHA, and arch. resources buffers. In addition to the fence protection, we recommend the County impose a condition that expressly lists the restrictions within the protected area – i.e., list out future uses and development that may be allowed within the restricted area (e.g., mowing? It is important to specify future development and uses that are allowed in the restricted area, potentially subject to future CDP authorization, if needed). When the Coastal Commission deals with CDPs that impose restrictions on future uses and development in sensitive areas of a property, we normally impose conditions requiring applicants to execute and record a deed restriction over the open space area which clearly describes the restrictions on development and uses in the designated open space area. The record document should include a legal description and corresponding graphic depiction of the legal parcel subject to the permit as well as a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the designated open space area prepared by a licensed surveyor. The deed restriction

should run with the land, binding successors and assigns of the applicant/landowner in perpetuity. We recommend imposing this type of condition on this permit and provide you with example language if needed.

5. Mr. Johnson's letter requests that the drainage plan be required 30 days after the PC's approval. Since there is no draft drainage plan in place at this time (that we're aware of), the County's conditions should specify the minimum contents and goals of the required plan. Presumably the plan should provide for appropriately directing runoff away from sensitive areas in a manner that will not lead to concentrated stormwater runoff, etc. The Tribes may have further thoughts on this.
6. With respect to the conservation easement, Mr. Johnson's letter states that the applicant should not be required to provide an endowment for the easement. As discussed at the meeting the other day, the applicant should be required to pay for the costs associated with the Tribes' involvement in monitoring, restoration oversight, and Unit 6 stabilization and recovery. We recommend conditions of the CDPM make this clear.
7. We also suggest that the County's CDPM specify through conditions that the Tribes shall be allowed access to the cultural site via the applicant's property. It's premature to assume that the Tribes will be able to access the cultural site via the existing 10-foot-wide easement along the outer perimeter of the applicant's property that is held by a separate individual (and it's unclear what the current state of that access easement is – e.g., it's possibly routed through/along a wetland overgrown with dense blackberries and other brush so may not be accessible). So we recommend the CDPM specify the access arrangement for the Tribes across the applicant's property (with 24-hour notice as requested by the applicant) for both the short-term (during the restoration plan time frame) and any long-term access arrangements.

Finally, Mr. Johnson's letter near the end states that they believe the PC's approval of the CDPM "would comprise a 'complete resolution' to this matter" with the Coastal Commission, County, and the three Tribes. We do not agree with that statement, because as mentioned earlier, the PC's action is not final until after the Commission's appeal period has completed and no appeals have been filed.

Thanks

Melissa

From: Ford, John <JFord@co.humboldt.ca.us>

Sent: Friday, August 5, 2022 4:38 PM

To: ted@wiyot.us; Jason Ramos <jramos@tgc.bluelakerancheria-nsn.gov>; Janet Eidsness

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Cc: Johnson, Cliff <CJohnson@co.humboldt.ca.us>

Subject: Walker Point Schneider Residence

Good Afternoon:

Please find attached a letter from Travis Schneiders Attorney agreeing with the 11 provisions put forward by the Wiyot and Blue Lake Tribes. There are a couple of requests including:

1. Advance notice of inspections by Tribal monitors.
2. Lifting the Stop Work Order upon Planning Commission approval.

We will start work on drafting the conditions to implement these provisions.

Please let me know if you have any questions.

John

John H. Ford
Director of Planning and Building
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