



# COUNTY OF HUMBOLDT

For the meeting of: 5/2/2024

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File #: 24-818

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**To:** Planning Commission

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

SUBJECT:

**Geck-Moeller; Coastal Development Permit**

Record Number: PLN-2022-17700(filed 03/30/2022)

Assessor Parcel Numbers (APN) 308-231-002

12 Hawks Hill Road, Loleta area

A Coastal Development Permit (CDP) for construction of a new 2,024 SF two-story residence (1,012 SF ground footprint).

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 24-\_\_). (Attachment 1) which does the following:
  - a. Finds the project is exempt from further environmental review pursuant Section 15303 of CEQA Guidelines; and
  - b. Makes all the required findings for approval of the Coastal Development Permit; and
  - c. Approves the Coastal Development Permit subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

**Project Location:** The project is in the Loleta area, on the East and West side of Hawks Hill Road, at the intersection of Table Bluff Road and Hawks Hill Road, on the property known as 12 Hawks Hill Road.

**Present General Plan Land Use Designation:** Agriculture Exclusive/Agriculture Grazing-160 acres (AE/AG-(160)). Eel River Area Plan. Density: 160 acres per unit, Slope Stability: Low Instability (1).

**Present Zoning:** Agriculture Exclusive (AE-160) / Archaeological Resource Area Outside Shelter Cove (A)

**State Appeal:** Due to the project consisting of a proposed Single-Family Residence (SFR) on Agricultural Exclusive lands, the project is appealable to the California Coastal Commission

**Executive Summary:** A Coastal Development Permit (CDP) to allow construction of a new 2,024 SF two-story residence, 456 SF uncovered deck, 40 SF entry deck, gravel driveway with paved apron, and a detached two-car garage constructed on an existing 25x25-foot concrete slab. The CDP will also authorize brush clearing for the home site and area north of the residence for the planting of fruit trees, logan berries, and a residential garden area. The parcel is currently developed with a well and on-site wastewater treatment system.

The parcel received approval in 1981 from the California Coastal Commission to allow a mobile home and 9 greenhouses to be placed on the property for an orchid farm. The proposed new house is being placed in substantially the same location as the previously approved mobile home location. The property is bifurcated by Hawks Hill Road. The proposed development will be on the north side of Hawks Hill Road, west of Table Bluff Road.

The subject site is in the rural area of the Eel River Local Coastal Plan. The LCP provides the following guidance:

*The zoning of all agricultural lands shall not permit any use that would impair the economic viability of agricultural operations on such lands; and a conditional use permit shall be required of any proposed use not directly a part of agricultural production of food or fiber on the parcel; except that on parcels of 60 acres or larger, a second house for parents or children of the owner operator shall be considered a direct part of agricultural production.*

In implementing this provision, the Zoning Ordinance allows a Single-Family Residence as a principally permitted use on lots less than 60 acres. The small size of this parcel does not lend itself to commercial agricultural activity. The proposed house and accessory uses are consistent with the zoning and LCP.

**Access:** The applicant is proposing a new residential driveway to access the western portion of the parcel separated at Hawks Hill Road, located equidistant from the southern tip of the parcel to the intersection at Table Bluff Road. A proposed condition requires a driveway apron to be paved 20 feet from the existing road pavement with a 30-foot-wide flare at the point of intersection with County maintained road Hawks Hill Rd. The Department of Public Works has reviewed the proposed location of the driveway on Hawks Hill Road and found it to be approvable, with conditions.

**Environmental Review:** The project is exempt from environmental review consistent with Section 15303 of CEQA Guidelines which exempts new small structures including single family residences. Technical reports provided by the applicant conclude that there are no potentially significant

environmental impacts as a result of development within the project area.

**Previous Actions:** The County has issued two Stop Work Orders (SWOs) under Code Enforcement cases CE21-0987 in December of 2021 and CE22-1518 in March of 2022. The enforcement action was in response to major vegetation removal in the amount of approximately 12,000 square feet. A neighboring property owner has submitted written objections to the approval of the proposed Coastal Development Permit (Attachment 8). Objections raised include the vegetation removal that was done in advance of permit approval, potential presence of sensitive plant species, timber conversion, traffic safety, concern over the existing well and septic system (OWTS), a lack of electrical power and concern over potential archaeological and cultural resources (see Public Comment section below). The Code Enforcement case will be resolved in this application for a CDP filed on 03/30/2022.

**Biological Resources:** Two botanical surveys have been prepared for the property. The most recent Botanical Survey was submitted July 15, 2022. Findings from this survey conclude that no special status plant species were determined to have a moderate or high potential to occur within the project area. The Botanical Assessment found that the site has been significantly altered by past agricultural and residential development and as a result there is at best a low likelihood of special status species occurring in the project area. Findings from a Botanical Survey executed in August of 2016 by SHN concur with the findings provided in the TransTerra BAA (2022). No sensitive species were observed on the parcel within the proposed project area in both 2016 and 2022.

The applicant submitted a Fauna Memo completed by TransTerra BAA (2023). This assessment was submitted by the applicant to address comments received on the project. This Memo was an assessment of existing data, surrounding habitats, and historically observed species, in relation to the temporal nature of the project site to date. The conclusions of this memo are also confirmed on a basis of habitat analyzed during field observations completed for the botanical assessment visits in 2022, finding that there are no records of occurrence and a low probability of habitat for special status species on site.

CDFW commented identifying proximity to Western Lily and Siskiyou Checkerbloom on a neighboring parcel. CDFW staff also identified that the applicant had done their due diligence with respect to technical studies on site. CDFW recommendations have been incorporated as Conditions of Approval (COAs 3-5).

In response to a CalFire referral response questioning if “timberlands” would be removed, a Timberland Assessment was submitted on August 22, 2022. The assessment found that no commercial species were observed on the project site meaning that the project area is not considered “timberland” and will not require permits or other approvals from CalFire.

**Archaeological and Cultural Resources:** A Cultural Resource Investigation Report was prepared by Roscoe and Associates in November of 2016 which concludes that no historical resources, as defined

in CEQA, Article 4, 15064.5 (a), were identified in the project area. A neighboring property owner has submitted information alleging that the southern half of the project parcel may include a former Catholic cemetery and may also include the presence of native American archaeological items, however the Cultural Resource Investigation found no evidence of either, and the proposed development would be located on the northern half of the parcel separated at Hawks Hill Road. The Tribal Historic Preservation Officers of both the Wiyot Tribe and the Bear River Band of Rohnerville Rancheria reviewed the Cultural Resource Investigation and responded that the report was sufficient to address archaeological resource concerns.

**Existing Infrastructure:** A existing well and on-site wastewater treatment system (OWTS) exist on the property. Both were constructed in 1981 and remained generally unused. In Attachment 6, the Coastal Commission CDP only identifies the OWTS within the permit issued. Although, the well appears to have been part of the application. The well was clearly shown on the site plan submitted by the applicant and was also listed as a component of the development being requested on the application (See Attachment 5, page 6 for Site Plan, and page 19 Appendix B where the well is listed). Coastal Commission staff has not determined the well has been permitted so, to provide clarity, the existing well is proposed to be retroactively permitted through this CDP request. Normally a component of the development listed on the application and shown on the site plan would be considered approved.

The project was noticed for hearing at the Planning Commission for the meeting of July 6, 2023. Prior to that hearing, a neighbor petitioned the Superior Court to find that the County had not required closure of the well and asked for and received a stay on processing the CDP. When the County became aware of the situation, the Department of Environmental Health (DEH) required additional testing on the well to ensure that no contaminants had entered the well or the aquifer, and that the well still functioned and produced properly. No contaminants were identified. Dry weather pump testing has been completed for the existing well, indicating that the well can produce the required 720 gallons per day for DEH standards. The issue became whether to seal an existing well that has caused no damage and still functions at full capacity, which would result in the need to dig a new well, or simply to use the existing well that has been tested and determined to be safe. The court ultimately found in favor of the County. This decision is being appealed to the court of appeal. The property will be served by a well, the water source will be the same, it is a matter of whether the existing well is used or a new well. If a new well is pursued, this project will need to be modified.

Additional testing determined that the OWTS tank will need to be replaced. This replacement will be within the same footprint as the existing OWTS tank or three feet north of the existing footprint, as determined by DEH. The leech field has been determined to function and will remain in the same existing footprint identified on site and on the site plan.

Prior to issuance of the building permit for the residence, the applicant will be required to obtain approval from the Division of Environmental Health for the OWTS and well, and demonstrate

adequate electrical service available to the site from PG&E.

**Public Comment:**

The County has received several comments regarding the proposed development at Hawks Hill Road. Commenters express concerns over the existing well, septic system (OWTS), proposed driveway location, cultural/archeological resources, potential impacts to biological resources, and major vegetation removal without a permit. There is also a letter of support for the project.

The existing well was drilled in 1981 and has a permit on file with DEH. The well was also mentioned in the 1981 Coastal Commission Coastal Development Permit application materials. This permit was for an orchid farm with ancillary mobile home served by the same infrastructure which exists today. While infrastructure improvements were completed at that time (well and OWTS), the orchid farmer moved out of state and the project was never completed. Commenters expressed concern over the well not being used for so many years and questioned if it had been appropriately maintained.

Previously, in 2018, a complaint was filed on another well located on the property which led to the destruction of said well after DEH confirmed that two wells were on site and only one had been permitted. DEH has a permit on file for the destruction of the well in question in 2018. The well with permits on file was questioned in 2023 by commenters because the permit in 1981 had never been “finaled” at that time and was later “finaled” in 2022. Environmental Health required the property owner to conduct additional tests to determine that 1) the well produced adequate water supply and 2) the well did not contain harmful contaminants. The well passed both tests. Later the well would be subject to a lawsuit from opposing parties when the project was noticed in July of 2023, as mentioned above. The Court Judgement (Attachment 6) denied the Petition.

The OWTS has been reviewed by DEH and will require a tank replacement. Conditions of approval require the OWTS and the well to adhere to the regulatory standards enforced by DEH.

Biological and Cultural/Archeological resource concerns are addressed above. The applicant has relocated the driveway further north to address expressed concerns of visibility (line of sight) and proximity to other driveways. The commenter also plans to leave certain brush along the property lines to the west and to the north as a visual buffer and may plant additional native trees. The applicant has applied for Coastal Development Permit PLN-2022-17700 remedying his code enforcement actions related to major vegetation removal as noted in Previous Actions.

**OTHER AGENCY INVOLVEMENT:**

The project was referred to responsible agencies and all responding agencies have either responded with no comment or recommended approval or conditional approval. (Attachment 4)

**ALTERNATIVES TO STAFF RECOMMENDATIONS:**

1. The Planning Commission could elect not to approve the Coastal Development Permit if the

Commission is unable to make the required findings for approval. Staff has found that the required findings can be made.

2. The Planning Commission could continue the project to a date certain or uncertain if the Commission believes more findings are required to approve the project.

ATTACHMENTS:

1. Draft Resolution
  - A. Conditions of Approval
  - B. Site Plan
  - C. Public Works Conditions
  - D. Environmental Health Conditions
2. Location Map
3. Applicant's Evidence in Support of the Required Findings
4. Referral Agency Comments and Recommendations
5. APN 308-231-002 Coastal Commission Permit, 1981
6. Court Judgement on Petition for Existing Well
7. Photos from Hawks Hill Road Site Visit
8. Public Comment to Hawks Hill Project
  - A. Public Comment Memo -Well
  - B. Public Comment Memo -Driveway
  - C. Public Comment Letter to Public Works Land Use
  - D. Public Comment Memo -Environment
  - E. Public Comment Memo -Septic System
  - F. Public Comment Memo -Cultural/Archaeological
  - G. Public Comment Memo -Other
9. Public Comment Letter of Support
10. Applicant Letter to Neighbors

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