



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
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MEMORANDUM

DATE: MAY 12, 2022
TO: COASTAL PERMIT ADMINISTRATOR
FROM: JULIANA CHERRY, PLANNER III
SUBJECT: CDP_2018-0007 SCOTT AND CLARIFYING THE SCOPE OF THE VIOLATION

BACKGROUND: A meeting notice was posted at the property on April 22, 2022. At that time staff walked the property and discovered an outhouse located among the willow thickets, in the surveyed riparian ESHA, and less than 50-feet from the shed. Stored in the shed are a refrigerator, sink, range, wood stove, and two beds. A small solar panel is affixed to the roof.

On March 9, 2018, the property owner applied to resolve a code violation relating to construction of a shed on undeveloped land along and adjoining Manchester Beach. The northern property boundary follows a stream and wetland vegetation is found along this boundary (See *Wildlife Scoping Survey, Botanical Survey, Point Arena Mountain Beaver Survey, and Wetland Delineation Report* dated January 25, 2019 and prepared by Spade Natural Resources Consulting). The survey report section 3.3 *Existing Development* describes the site as follows:

The property is developed with a pre-existing fence and gate, a roadway down to the ocean, and remnants of the mill that was previously located on the site, including a small concrete slab and remnant paving throughout the flat portion of the property. The subject structure is a 400 square foot structure, used for storage and occasional camping, which was placed on the existing slab.

The slab and shed are located within an ESHA buffer; the outhouse is located within a riparian ESHA.

During April 2018 and April 2020 staff sent correspondence requesting specified items to complete the application. On August 10, 2020, the applicant's agent requested a hearing and on January 13, 2022, the Coastal Permit Administrator heard staff's recommendation, comments from the applicant's agent, and written comments from California Coastal Commission staff. (Upon assurance from the applicant and their agent that on-site ESHA had not been disturbed, staff determined MCC Section 20.532.060 and a Report of Compliance would not be required to complete the application.) The matter was continued to May 12, 2022. A revised application was filed on February 22, 2022. The updated and revised application, requesting to remove the shed, was distributed to agencies for comment and a staff report prepared.

RECOMMENDATION: The Coastal Permit Administrator approve the request to remove the shed *and require removal of all other structures on the property*. The May 12, 2022 Staff Report includes twelve recommended findings and eleven recommended conditions. As the scope of the application materials, including the botanical survey report, does not mention development within the riparian ESHA, Attachment A lists suggested clarifications to the May 12, 2022 recommended findings and conditions.

ATTACHMENT:

A. Refined and clarified findings and conditions

REFINED AND CLARIFIED
PROJECT FINDINGS AND CONDITIONS

Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Coastal Zoning Code (MCC), the Coastal Permit Administrator approves dismantling and removing the shed (which is 400-square feet in size and storing a refrigerator, beds, sink, range, stove and roof-mounted solar panels) and all other structures on the property, including an outhouse and any other development located in an environmentally sensitive habitat area, from the property located at 16200 S Hwy 1, Manchester (APN: 132-170-07), adopts the following findings in support of this decision, and recommends the property owner resolve the violation to the satisfaction of Mendocino County Code Enforcement Division.

AMENDED FINDINGS:

1. Pursuant with MCC Section 20.532.095(A)(1), the proposed conforms with the certified Local Coastal Program as it proposes to remove an unauthorized shed and other structures located within an environmentally sensitive habitat area or ESHA buffer (and the application demonstrates that there are other feasible on-site locations for development); and
2. Pursuant with MCC Section 20.532.095(A)(2), removing the ~~shed~~ unauthorized development from the property does not require access to utilities, access roads, drainage and other necessary facilities; and
3. Pursuant with MCC Section 20.532.095(A)(3), in the Range Lands District accessory uses, like a shed or storing vehicles, are allowed either after obtaining a coastal development or when accessory to a principally permitted use; as no permit has been obtained, removing the ~~shed~~ unauthorized development will resolve a violation of local codes and lessen or eliminate potential conflicts with County goals, policies, and implementation measures including those associated environmentally sensitive habitat areas, hazards, visual resources; and as proposed the project does satisfy other provisions of Division II; and
4. Pursuant with MCC Section 20.532.095(A)(4), the proposed ~~development~~ removal of the shed and other unauthorized development, if completed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act and is determined to be Categorically Exempt from further environmental review; and
5. Pursuant with MCC Section 20.532.095(A)(5), the project is not anticipated to have any adverse impact on any known archaeological or paleontological resources, as it is unlikely that the ground will be disturbed when the 400-square-foot shed is dismantled and removed from the property and Condition 8 is in place when archaeological sites or artifacts are discovered; therefore, the project satisfies MCC Section 22.12 regarding protection of cultural resources; and
6. Pursuant with MCC Section 20.532.095(A)(6), other public services, including but not limited to, solid waste and public roadway capacity have been considered; for example, removing a shed from the property is unlikely to affect State Route 1 capacity and the project does not require solid waste treatment or access to groundwater; therefore, MCC Chapter 20.516 implementation measures are not applicable to the proposed; and
7. Pursuant with MCC Section 20.532.095(B)(1), Coastal Element Appendix 13 lists four public access routes nearby; therefore, public access policies as implemented by MCC Chapter 20.528 *Coastal Access Regulations and Open Space Easements* are satisfied; and
8. Pursuant with MCC Section 20.532.100(A)(1), removing unauthorized development less than 50-feet from an environmentally sensitive habitat area, especially when there are other feasible less environmentally damaging alternative locations on-site, satisfies MCC Chapter 20.496 *Environmentally Sensitive Habitat and Other Resource Areas* regulations; and when dismantling and removing the ~~shed~~

unauthorized development, the applicant proposes to follow the avoidance measures recommended by the surveying biologist, Spade Natural Resources Consulting; and

9. Pursuant with MCC Section 20.532.100(A)(2), removing unauthorized development is compatible with the long-term protection resources lands, such as Range Lands; and
10. Pursuant with MCC Section 20.532.100(B)(1), the recommended avoidance measures will protect the environmentally sensitive habitat areas; no new roads, wells, septic or leach fields are proposed; the project maintains views from beaches, public trails (including the four nearby trails), roads and views from public viewing areas, or other recreational areas including Manchester State Park; removing unauthorized development ensures the preservation of the rural character of the site and maximizes preservation of prime agricultural soils; and land uses, including temporary camping that is excluded pursuant with MCC Section 20.460.030(D), are compatible and would maintain productivity of on-site and adjacent agricultural lands; and
11. Pursuant with MCC Section 20.532.100(B)(2), no conversion of land under Williamson Act Contract to non-agricultural use is proposed as the property is not under contract; and
12. Pursuant with MCC Section 20.532.100(B)(3), no conversion of grazing land to non-agricultural use is proposed.

AMENDED CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Coastal Zoning Code. The permit shall become effective after the ten working-day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress toward completion of the project must be continuous.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The property owners shall secure all required building permits for the proposed project, as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective or has enjoined or otherwise prohibited the enforcement or operation of one or more

such conditions.

7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the property owner shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.
9. Within one-year of the effective date of this permit, the shed, outhouse, and all other material stored on-site or associated with the structure(s), shall be removed from the property. Any development located within surveyed environmentally sensitive habitat areas or their buffers shall be removed from the property.
 - a. Within 30-days of the effective date of this permit, the property owner shall apply for a building permit to demolish the shed, outhouse, and any other unauthorized structures.
 - b. Prior to the conclusion of the initial effective period of this permit, the property owner shall demonstrate to Mendocino County Code Enforcement staff that violations have been resolved to the satisfaction of Mendocino County.
10. In accordance with MCC Chapters 20.456, 20.472, and 20.532 and prior to storing vehicles on site, the property owner shall obtain a coastal development permit or permit amendment.
11. The property owner shall observe the avoidance measures and procedures detailed in Section 6.2 of the Wildlife Scoping Survey, Botanical Survey, Point Arena Mountain Beaver Survey, and Wetland Delineation Report prepared by Spade Natural Resources Consulting and dated January 25, 2019, including:
 - a. Report subsection 6.2.1 Seasonal pre-construction special status plant survey;
 - b. Report subsection 6.2.2 Point Arena Mountain Beaver;
 - c. Report subsection 6.2.3 Special Status Birds and Bats; and
 - d. Report subsection 6.2.4 Special Status Amphibians.