



MEMORANDUM

DATE: NOVEMBER 15, 2023
TO: COASTAL PERMIT ADMINISTRATOR
FROM: MATT GOINES, PROJECT PLANNER
SUBJECT: CDP_2021-0010 (JOYCE)

On February 19, 2021, a Coastal Development Permit Application (CDP_2021-0010) was submitted to the Mendocino County Department of Planning & Building Services (MCPBS) requesting permission to establish a single-family residence with an attached garage and greenhouse, a dairy barn with an attached accessory dwelling unit and greenhouse, an equipment barn with roof mount solar, gazebo, equestrian shelter and riding area. The request includes expansion of the existing driveway, two (2) production wells, pump house, water storage, generator, fencing and septic system. Also included in the request is the placement of temporary livestock electric fencing, temporary portable farm stand and temporary occupancy of a travel trailer during construction. The project was processed using standard public agency referral, project analysis, and public hearing procedures.

On October 12, 2023, CDP_2021-0010 was posted to the Mendocino County's website under the Coastal Permit Administrator section for public viewing.

On October 30, 2023, Wynn Coastal Planning (the applicant) contacted staff to discuss the staff report prepared and posted for the CPA. Changes to the staff report were requested by WCP to better align with the biological report, be less restrictive, and be reworded or eliminated altogether.

On October 30, 2023, WCP sent staff an email with suggestions regarding the above mentioned changes. Staff has reviewed the recommendations and offers the following changes to the CDP:

PAGE CPA 2, Site Characteristics:

“the site is predominately covered by non-native coastal grasses and wetlands...”

CONDITIONS OF APPROVAL:

1. This action shall become final and effective on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the 10th 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 (2) years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.
2. The use and occupancy the premises shall be established and maintained in conformance with the provisions of Division II or Title 20 of the Mendocino County Code.
3. To remain valid, progress towards completion of the project must be continuous. The Applicants have sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

4. 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.
5. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
6. The Applicants shall secure all required permits for the proposed development of the single-family residence, accessory dwelling unit, accessory structures, and ancillary developments as required by Mendocino County Air Quality Management District (AQMD), the Building Inspection Division of the Department of Planning and Building Services (MC PBS), California Department of Transportation (CALTRANS), California Regional Water Quality Control Board (RWQCB), Division of Environmental Health (DEH), and United States Army Corp of Engineers.
7. 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.
8. 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.
9. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within 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 Coastal Code.
10. Any Building Permit request shall include all conditions of approval of Coastal Development Permit CDP_2021-0010. Conditions shall be attached to or printed on the plans submitted.
11. Prior to issuance of any Building Permit associated with this Coastal Development Permit, the property owner shall furnish an exterior finish schedule consistent with Mendocino County Coastal Element Policy 3.5-4 and Mendocino County Code of Ordinances Section 20.504.015(C) and 20.504.035 for approval from the Coastal Permit Administrator or to the satisfaction of the Director of Planning and Building Services.
12. Prior to issuance of any building permit OR Septic permit associated with this Coastal Development Permit, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include:
 - a. Development within the agricultural area of the parcel shall primarily support Coastal Agricultural use types as detailed in MCC Sections 20.368.010(B) and 20.368.015(D). Recognizing the diverse potential of the Range Lands District, permitted and conditional uses may also include Coastal Residential, Open Space, Natural Resource, Civic, Commercial, Extractive Use Types, and other relevant activities as outlined in MCC Sections 20.368.010 and 20.368.015, provided they align with the intent of preserving the parcel's suitability for agricultural uses and the overall character of the Coastal Zone; and
 - b. All Development, including agricultural uses, such as grazing, shall be limited to be no less than 50 feet away from Environmentally Sensitive Habitat Area (EHSA), deeming open space within 50 feet of any ESHA, with the following exceptions:
 - i. Removal of non-native vegetation; and
 - ii. Planting of native vegetation; and

- iii. Vegetation clearance as required by the California Department of Forestry and Fire (CALFIRE).
13. Prior to obtaining a building permit for an ADU or JADU, a deed restriction, approved by the County, shall be recorded with the Mendocino County Recorder's Office. The deed restriction shall include:
 - a. A prohibition on the use of any dwelling unit on the property, including the ADU and JADU, for transient habitation. The deed restriction shall run with the land, and be binding upon any future owners, heirs, or assigns.

Procedure:

 - i. Prepare the deed restriction in accordance with County guidelines.
 - ii. Obtain County approval.
 - iii. File with the County Recorder's Office.
 - iv. Submit proof of recorded deed restriction to the County Planning and Building Department.
 - v. Enforcement: Non-compliance may result in penalties and revocation of the building permit.
 - vi. Binding Effect: The deed restriction shall run with the land and be binding on future owners, heirs, or transfers.
 14. Prior to issuance of this Coastal Development Permit, the property owner shall provide proof of adequate water and septic capacity as required by Local Coastal Program policies Chapters 3.8-1 and 3.9-1 and MCC Section 20.516.015(B). No permit for the single-family residence shall be issued until there is demonstrated sufficient water yield to support the construction of the single-family residence or establishment of further agricultural use. If sufficient yield cannot be demonstrated, the single-family residence shall not be constructed.
 15. Prior to issuance of any Building Permit or Encroachment Permit associated with this Coastal Development Permit, all grading specifications and techniques will follow the recommendations cited in the California Building Code.
 16. Prior to issuance of any Building Permit associated with this Coastal Development Permit, the applicant shall specify BMPs to be implemented to reduce erosion and sedimentation from construction activities.
 17. ******Prior to issuance of this Coastal Development Permit, the applicant shall provide a Grading and Erosion Plan, prepared by a qualified professional, in form and content acceptable to the Coastal Permit Administrator.
 18. Prior to issuance of any building permit OR septic permit associated with this Coastal Development Permit, the applicants shall complete driveway and encroachment upgrades to the satisfaction of the State Department of Transportation (CALTRANS), including obtaining an encroachment permit for any work within state right-of-way, widening the driveway throat to 20 feet, and replacing the existing culvert.
 19. Prior to Certificate of Occupancy or final inspection of any Building Permit for the new single-family residence associated with this Coastal Development Permit, the applicant shall ensure consistency with Mendocino County Code Section 20.460.025 for temporary uses, occupancy of a travel trailer while constructing a dwelling, as follows:
 - a. The temporary use shall be terminated not later than twenty-four (24) months after issuance of building permits, unless a written request for extension of time has been submitted to and approved by the Director prior to the expiration of said twenty-four (24) months; and
 - b. All temporary uses and related improvements shall be completely removed from the premises or the provision by other means of required off-street parking spaces; and
 - c. Should the construction of the new single-family residence extend beyond the life of the Coastal Development Permit, all temporary uses permitted by this section shall be terminated; or
 - d. Renewal to the temporary use has been submitted to and approved by the Director prior to the expiration of said two (2) years.

20. This entitlement does not become effective, or operative, and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife (CDFW) filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2,814.00 OR CURRENT FEE shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within 5 days of the end of any appeal period. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to ensure timely compliance with this condition.**
21. BIO1 - All recommended Mitigation and Avoidance Measures of the Biological Scoping Survey, Wetland Delineation and Botanical Survey Report, dated January 14, 2021, and its updated reports, dated November 7, 2022, prepared by Wynn Coastal Planning & Biology (WCPB), are required to provide for the protection of identified Environmentally Sensitive Habitat Areas (ESHA). Conditions are as follows:
- a. **Potential Special-status Wildlife - Birds:** Construction in the study area has the potential to disturb special status birds during the nesting season. Removal of vegetation and construction activity near trees and vegetated areas has the potential to disturb bird nesting.
 - i. **Seasonal Avoidance:** No surveys are recommended if activity occurs in the non-breeding season (September to January). If development is to occur during the breeding season (February to August), a preconstruction survey is recommended within 14 days of the onset of construction to ensure that no nesting birds will be disturbed during development (Table 1); and
 - ii. **Nest Buffer:** If active special status bird nests are observed, no ground disturbance activities shall occur within a 100-foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active nest until all young are no longer dependent upon the nest. A biologist should monitor the nest site weekly during the breeding season to ensure the buffer is sufficient to protect the nest site from potential disturbance; and
 - iii. **Construction activities during daylight hours:** Construction should occur during daylight hours to limit disturbing construction noise and minimize artificial lights; and
 - b. **Potential Special-status Wildlife – Bats:** Construction in the study area has the potential to impact special status bat species. Bats are vulnerable when roosting for reproduction when young are not yet able to fly, and during hibernation because they can die of cold or malnutrition if hibernation is disturbed. No special features such as hollow trees, abandoned buildings or other cave analogs, which could serve as roosting or hibernation refugium, are present; therefore, the potential for negative impacts to bats is minimal. Temperatures on the Mendocino Coast usually do not drop low enough to necessitate bat hibernation; and
 - i. **Pre-construction surveys for bats:** Construction will ideally occur between September 1st and October 31 after the young have matured and prior to the bat hibernation period. If it is necessary to disturb potential bat roost sites between November 1 and August 31, pre-construction surveys should be performed by a qualified biologist 14 days prior to the onset of development activities. Pre-construction bat surveys involve surveying trees, rock outcrops, and buildings subject to construction for evidence of bat use (guano accumulation, or acoustic or visual detections). If evidence of bat use is found, then biologists shall conduct acoustic surveys under appropriate conditions using an acoustic detector, to determine whether a site is occupied. If bats are found, a minimum 50 foot buffer should be implemented around the roost tree; and
 - ii. **Roost buffer:** If active bat roosts are observed, no ground disturbance activities shall occur within a minimum 50- foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active roost until all young are no longer dependent upon the roost; and

- iii. **Construction activities during daylight hours:** Construction should occur during daylight hours to limit disturbing construction noise and minimize artificial lights; and
- c. **Potential Sensitive Land Cover and Special-status Plants** Native plants, native landscaping materials and non-invasive ornamentals shall be used, and provisions shall be made to ensure the long term survival/replacement and maintenance of the landscaping; and
 - i. All construction related activities (e.g., material storage, laying down of equipment), maximum extent of grading, and the final development footprint shall avoid all ESHA by 100 feet or greater; and
 - ii. Standard Best Management Practices (BMPs) shall be employed to assure minimization of erosion resulting from construction. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. Any soil stockpiles shall be covered or otherwise stabilized to prevent dust impacts; and
- d. **Potential Soil and Vegetation - ground compaction and vegetation disturbance from materials and vehicle:** Bare soil from the newly excavated ditch for the driveway encroachment improvements has the potential to erode and contribute excess sediment.
 - i. **Staging Area Plan:** Stage all building materials and construction vehicles in upland area preferably greater than 100 feet away from ESHAs; and
 - ii. **Employ Best Management Practices (BMPs):** Standard Best Management Practices shall be employed to assure minimization of erosion resulting from construction. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. Areas of bare soil should be seeded with native erosion control seed mix and/or covered with biodegradable erosion control materials (e.g. coconut fiber, jute, weed free straw); and
- e. **Potential Special Status Amphibians:** Construction activities will involve walking across areas where amphibians may be traveling. Staging of materials and removal of construction debris could also disturb special status amphibians that may be hiding underneath these materials. To minimize impacts to amphibians, the following avoidance measures should be followed. Filling of the existing ditch along the portions of the driveway encroachment to be widened and replacement of the culvert at the driveway encroachment have the potential to bury or crush frogs, if present at the time of that portion of the construction. Food may attract frog predators, such as raccoons, to the action areas. Working affected mammal burrows in the project area may affect the California red-legged frog (CRLF) taking shelter within these burrows. Water Pumps may draw in and harm frog tadpole, sub-adult, and/or adult CRLF.
 - i. **Contractor education:** Within two weeks prior to construction activities, project contractors will be trained by a service-approved biologist in the identification of the frogs and salamanders that occur along the Mendocino County coast. Workers will be trained to differentiate between special status (e.g. federal or state listed) and common species and instructed on actions and communications required to be conducted in the event that a special status amphibians are observed during construction. The biologist will appoint a biological monitor (e.g. the crew foreman) who will be responsible for ensuring that all crewmembers comply with the measures. The biologist will notify the construction crew leader who will address any work stoppages, and the US Fish and Wildlife Services will be contacted if a frog at any life stage (i.e. eggs, larvae ("tadpoles"), sub-adults (approximately 7 months to 3 years old), and sexually mature adults (3-4 years old)) are encountered within the action area during project activities.
 - ii. **Pre-construction search:** During ground disturbing activities, construction crews will begin each day with a visual search around the staging and impact areas to detect the presence of CRFL and other amphibians.
 - iii. **Careful debris removal:** During construction and debris removal, any wood stockpiles should be moved carefully by hand in order to avoid accidental crushing or other damage to CRFL and other amphibians.

- iv. **No construction during rain event:** If a rain event occurs during the ground disturbance period, all ground disturbing activities will cease for a period of 48 hours, starting after the rain stops. Prior to resuming construction activities, trained construction crew member(s) will examine the site for the presence of special status amphibians. If no special status amphibians are found during inspections, ground-disturbing activities may resume. If a special status amphibian is detected, construction crews will stop all ground disturbing work and will contact the California Department of Fish and Wildlife (CDFW) or a qualified biologist. Clearance from CDFW will then be needed prior to reinitiating work. CDFW will need to be consulted and will need to be in agreement with protective measures needed for any potential special status amphibians.
- v. **Biological monitoring during ditch and culvert work:** If a CRFL is detected, due to the increased potential of impact to the frog during work filling the ditch and replacing the culvert at the driveway encroachment relative to the remainder of the project, a qualified biologist will survey all suitable aquatic and terrestrial habitat within the vicinity of the ditch and/or culvert work for all stages of the frog each morning before the commencement of work on day that work will be done on the ditch and/or culvert.
- vi. **USFWS notification of CRFL:** If any life stage of CRFL is found during pre-work surveys, construction activities will cease in the action area until the biologist can safely capture, handle, and relocate the frog(s) to nearby suitable habitats well outside the action area or suitable habitats within the action area that will not be physically impacted by construction activities. The biologist will subsequently notify the Service of the number and life stage(s) of CRFLs captured, handled, and moved to nearby suitable habitats. Alternatively, frogs encountered immediately prior to construction activities can be guided (i.e. by slowly walking toward the frog so it moves out of the area on its own) from the areas of impact by the biologist. Construction will not begin until the frog “self-relocates” to a safe location well outside the action area or to suitable habitat within the action area that will not be physically impacted by construction activities.
- vii. **Mammal burrow flagging and avoidance:** CRFLs may occupy small mammal burrows within upland habitat. To the extent practical, small mammal burrows will be avoided. Prior to the start of work, burrows will be flagged for avoidance by the biologist. Burrow openings will be monitored within the active work areas and if necessary, burrow openings will be cleared of soil and other blockages.
- viii. **Screen water pumps:** Water pumps will be screened with wire mesh screens no larger than 0.2 inches to prevent CRFL tadpoles, sub-adults, and adults from entering the pump system. Although pre-activity survey’s may have detected no CRFLS, this measure is to ensure that frogs that were missed during the survey are not harmed or killed by water pumps.
- f. **Invasive Plants:** After the proposed development is built, landscaping surrounding the residence has the potential to occur. In some case, landscaping can become invasive and spread to surrounding areas that could out compete with native flora and disrupt habitat that fauna may use.
 - i. **Plant non-invasive vegetation:** While many ornamental landscapes on the California coast use non-native plants, invasive plants should not be planted. Ideally landscaping will be native to California and suitable to the project site’s environment. Some invasive plants commonly seen by biologists on the coast that should be avoided are: Iceplant (*Carpobrotus edulis*, *C. chiloensis*, & *Delosperma* sp.), cotoneaster (*Cotoneaster franchetii* & *C. pannosus*), cape ivy (*Delairea odorata*), English ivy (*Hedera helix*), pampas grass (*Cortaderia jubata* & *C. selloana*), cape weed (*Arctotheca calendula* & *A. prostrata*), Monbretia (*Crocasmia* sp.), blue gum eucalyptus (*Eucalyptus globulus*), redhot poker (*Kniphofia uvaria*), periwinkle (*Vinca major*), bulbil bugle lily (*Watsonia meriana*), and callalily (*Zantedeschia aethiopica*).
- g. **Potential Impacts to Coastal Act Wetland, Streams and Riparian Zone:** There is a potential for rain events to carry sediment from construction areas into wetland, stream, and riparian habitat. The perimeter fencing, parking for a mobile farm stand, and CALFIRE pullout are being installed south and west of the existing road. The larger easterly riparian zone is east of the road. Since the property slopes in a westward direction, the easterly riparian zones will not be impacted by disturbed soil that may increase sediment input. The driveway encroachment improvements and mobile farm stand parking, however, will be installed adjacent to the

westerly riparian area, along State Route 1 (SR 1), and has the potential to carry sediment into this sensitive area.

- i. **Perimeter fencing and straw wattles:** The perimeter fencing shall be installed after the driveway encroachment, mobile farm stand parking, and new ditch are installed; however, the perimeter fencing shall be installed first, before the installation of the western CALFIRE pullout and western entrance gate. This will separate the wetland and the special status resources within it and their buffer zones from construction related impacts. The installation of temporary orange construction fencing along ESHA buffer lines, to protect special status resources from ground disturbance and other construction activities, typically occurs before ground disturbance and other construction activities. However, in this case the perimeter fencing will perform this function, therefore temporary orange construction fencing would be redundant. During construction straw wattles shall be placed around the edges of the parking area for the mobile farm stand and the CALFIRE pullout to discourage erosion of the disturbed soils and to prevent sediment from spreading into the buffers of special status resources. Wattles shall remain and be maintained until the soils in their respective areas are stabilized. No material storage, heavy equipment use, or other impacts shall occur within the fenced off areas. Straw wattles shall be properly installed to intercept liquids leaving the construction area. All fencing shall be maintained in a functional manner. Straw wattles shall be checked and appropriate maintenance shall occur on a weekly basis and after every rain event.
- ii. **Construction during dry season:** Ground disturbing construction should only occur during the dry season. If a rain event occurs during the ground disturbance period, all ground disturbing activities will cease for a period of 48 hours after the rain stops.

h. **Potential Impacts to Sitka willow thickets, soft rush marsh, slough sedge sward, and purple needle grass grassland:** There is a potential for vegetation damage from the construction of the western entrance gate, western CALFIRE pullout, parking for a mobile farm stand, and perimeter fencing and driveway encroachment improvements. Construction will occur within the 100 foot buffers of the slough sedge sward and purple needle grass, but farther away than the 50 foot buffers. Construction will occur within the 50ft buffers for the Sitka willow thickets and soft rush.

- i. **50 foot ESHA buffer:** A Reduced Buffer Analysis (RBA) was conducted and a buffer distance of 50 feet was determined to be suitable to protect the slough sedge sward and purple needle grass grassland from the perimeter fencing development. CDFW has concur that 50 feet is an appropriate buffer distance.
- ii. **Cultural feature buffer:** For the easterly Sitka willow thickets and purple needle grass grassland, the existing road acts as a cultural feature buffer as fence installation is occurring on the opposite side of the road.
- iii. **Perimeter fencing installation:** The proposed perimeter fencing shall be installed prior to the installation of the western entrance gate, parking area for mobile farm stand, and western CALFIRE pullout in order to exclude debris, equipment, and construction personnel from entering areas with special status resources

22. The project is designed to minimize impact on Environmentally Sensitive Habitat Areas (ESHAs) by placing all buildings at least 100 feet away from these zones. Exceptions include a CALFIRE pullout, an entrance gate, and parking for a mobile farm stand, which will be within 100 feet - but more than 50 feet away - from ESHAs. A low-impact perimeter fence aligning with property boundaries, and a private roadway approach will be the only within 50 feet of ESHA buffers. These exceptions are considered to have minimal impact on ESHAs, as these areas have already adapted to existing road and traffic conditions. Erosion control measures like straw wattles will be used around the private roadway approach, CALFIRE pullout and mobile farm stand parking during grading activities. The perimeter fence shall be installed first to prevent construction activities from affecting special status resources.

Therefore, Planning Staff is recommending the Coastal Permit Administrator approve or adopt the above revisions to the staff report and conditions of approval to CDP_2021-0010.