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Mendocino County

NOV 14 2019

Planning & Building Services

November 13, 2019

Keith Gronendyke, Planner III
Planning Commissioners

Mendocino County Planning & Building Services
860 North Bush Street
Ukiah, CA 95482

RE: MS #2018-0004 – Comments on Staff Report and Request for Clarifications
Owners: Ken & Roswitha Schaffer
Site: 3980 South Highway One, Albion, CA
APN 123-030-09-00

Dear Keith,

Thank you for your continued attention to this project. We are pleased that this item is coming before the Planning Commission shortly.

There are a couple of items in the Staff Report that I believe should be clarified.

As we have an application for a Coastal Development Permit for which you are preparing your Staff Report (CDP #2018-0018) for the appurtenant Single-Family Residence, it's important to make sure that the record is clear.

You and I are set to discuss these items in person on November 14, 2019, whereupon we may resolve my concerns. However, as the Planning Commissioners are already reviewing their packets, I am asking that this letter be distributed to them in advance of the hearing so that they are apprised of my requests.

Please see my commentary and requests on the following pages.

I look forward to meeting with you and bringing this item before the Commission next week.

All the best,


Amy Wynn
Principal Planner

Encl: n/a

CC: Julia Acker, Chief Planner (electronic only); Ken & Roswitha Schaffer, applicants; Bob Schlosser, architect (electronic only); file

APPLICANT'S NAME

The applicant's names are spelled Ken and Roswitha Schaffer.

Please revise the Resolution and its Attachment A accordingly and make a note for the upcoming CDP Staff Report.

PUBLIC ACCESS (Staff Report Page 3 [PDF page 5]):

This application concerns only the modification of a condition of approval requiring a specific location of driveway access from State Route 1, and has no nexus to public access to the ocean.

For clarification, **we request a Memo from Staff revising the language in the staff report** as such:

*"As shown on the Mendocino County Local Coastal Program Land Use Map 18: Albion, there is a potential proposed shoreline access trail that would conceptually start at approximately the same point as the proposed new access from State Route 1, the first public road, and continue southwest within the parcel boundary to the southwest corner and then proceed northwest along the existing coastline and continue past the applicant's northwesterly property line and terminate at a point along the coast. **As this application is concerning only the changing of the condition requiring a specific location of an encroachment from State Route 1, any issues related to public access will be addressed in the Coastal Development Permit application (CDP 2018-0018).** As such, this project is in compliance with Section 30212 of the Mendocino County Coastal Element."*

There is no a proposed trail on the property; rather, there is "Shoreline Access – Proposed" illustrated on LCP Map 18. The LCP maps were certified by the Coastal Commission in 1985, before Nollan & Dolan, which were adjudicated in 1987.

Nollan assumed that a public entity can lawfully impose conditions which mitigate genuine impacts caused by development, including conditions that mitigate interference with pre-existing public rights. As there are no pre-existing public access rights on this parcel, there is no nexus for an extraction.

When the subject parcel was listed for sale in 2016, we engaged an attorney who specializes in access rights to explore whether there would be a nexus for extraction of public access on this parcel. If necessary for the CDP application, we can ask our attorney to write an Opinion Memo to assist Staff and the Planning Commission in their understanding of this item.

In the meantime, what we learned during our conversations was that just because the potential access extraction is noted on a county land use map does not demonstrate that a nexus for such an extraction exists. There is no evidence, nor has any been presented, that demonstrates any pre-existing public access rights. Aerial photos from the 70s and 80s illustrate the road to the rock quarry that exists on the parcel; while evidence of pedestrian trails are visible on parcels to the north, none are evident on the subject parcel.

After consultation with our attorney, we may request a more extensive edit to the Staff Report language; however, for the purpose of this Subdivision application, I felt that a light touch would suffice. I've borrowed language from other sections of your Staff Report.

Transportation/Circulation, Pages 4-5 of Staff Report

The Staff Report makes the following statement:

"As part of the application materials submitted by Wynn Coastal Planning, there was a series of communications with The California Department of Transportation (Caltrans). In correspondence dated May 23, 2017, it appears that Caltrans recommends the above noted permitted encroachment location be moved 720 feet to the south to the southeast property corner where there is an existing partially paved encroachment from State Route 1."

Staff Report, Pages 4-5 (PDF pages 6-7)

...

"Condition of Approval #2. The access from State Route 1 to parcel Two of Parcel Map P 5-72 shall be located as indicated on the site plan dated July 19, 2018. The previously approved encroachment location at the northeast corner of parcel 2 shall remain as currently improved."

Resolution Exhibit A, Page 1 (PDF page 33)

Neither in our 2017 email communiques with CalTrans nor in their comment letters dated January 10 and April 30, 2019, does CalTrans recommend abandonment of the northeastern access to the property (**Exhibits 1 – 3**).

In 2017 and 2019, CalTrans concurred with our finding that the northeastern and southeastern access points are unsafe; however, their recommendation stated that *"the existing access at postmile 44.15 will need to be obliterated,"* and that *"there shall be no use of the existing Schaffer Subdivision Road access point at postmile 44.27 without proper development."*

In the CalTrans comment letter dated April 30, 2019, their *recommendations* are (in short):

Postmile 44.15

- southeastern corner of property
- *The existing access at postmile 44.15 will need to be obliterated*

Postmile 44.21

- requested access point
- *The driveway is required to be constructed to CalTrans current standards per Appendix J of the CalTrans Encroachment Permit Manual*

Postmile 44.27

- Existing subdivision road
- *There shall be no use of the existing Schaffer Subdivision Road access point at postmile 44.27 without proper development (site bench, paving, geometric standards, etc)*

To ensure that the record is correct and consistent, we request clarification of the CalTrans comments as follows:

~~*"As part of the application materials submitted by Wynn Coastal Planning, there was a series of communications with The California Department of Transportation (Caltrans). In correspondence dated May 23, 2017, it appears that Caltrans recommends the above noted permitted encroachment location be moved 720 feet to the south to the southeast property corner where there is an existing partially paved encroachment from State Route 1."*~~

...

"In addition, CalTrans submitted comment letters dated January 10, 2019 and April 30, 2019, which noted and recommended the following:

- *There are currently two existing, unpermitted road approaches to the applicant's parcel from State Route 1. Neither driveway meets CalTrans current standards for a private residence due to inadequate corner sight distance, substandard throat width, a lack of driveway tapers, the lack of a paved approach, and other*

associated improvements that may be needed to meet minimum standards, such as drainage improvements.

CalTrans comment letter, 2019.01.10

- The plans submitted in the package for CDP #2018-0018 show a new driveway to be constructed approximately 150-feet north of the existing driveway at the south end of the parcel at postmile 44.15 (LT).

CalTrans comment letter, 2019.01.10

- The modification of the condition of approval would allow flexibility to move the existing approved encroachment from State Route 1 to a location approximately 150-feet to the south.
 - The new driveway location appears to be at postmile 44.21 and the existing, non-compliant driveway is located at postmile 44.15.
 - The new driveway location will require an approved encroachment permit, an \$820 deposit, and a \$20,000 performance bond required prior to the issuance of the permit.
 - The driveway is required to be constructed to CalTrans current standards per Appendix J of the CalTrans Encroachment Permit Manual....
 - The existing access at postmile 44.15 will need to be obliterated.
 - There shall be no use of the existing Schaffer Subdivision Road access point at postmile 44.27 without proper development (site bench, paving, geometric standards, etc.)


CalTrans comment letter, 2019.04.30

"For clarity's sake, we note the following:

- Postmile 44.15 = existing access at southeastern property corner
- Postmile 44.21 = proposed access point
- Postmile 44.27 = existing Subdivision Road access"

In addition, we request that the Condition of Approval be modified as below to reflect CalTrans' recommendations, and that the County not extrapolate from same a recommendation that was not given.

- Condition of Approval #2. The access from State Route 1 to parcel Two of Parcel Map P 5-72 shall be located as indicated on the site plan dated July 19, 2018. The previously approved encroachment location at the northeast corner of parcel 2 shall remain as currently improved. There shall be no use of the existing Schaffer Subdivision Road access point at postmile 44.27 without proper development (site bench, paving, geometric standards, etc.)

From: **Teresa Spade, WCPlan** Teresa@WCPlan.com 
Subject: Fwd: Schaffer encroachment 3980 North Highway One
Date: May 23, 2017 at 10:50 AM
To: Amy Wynn Amy@WCPlan.com



You have to love Jim - he is so helpful. He laid everything out clearly and even took pictures. Looks like they can upgrade the existing approach or opt for a new approach about 150 feet north.

Teresa

Begin forwarded message:

From: "Shupe, James D@DOT" <james.shupe@dot.ca.gov>
Subject: RE: Schaffer encroachment 3980 North Highway One
Date: May 23, 2017 at 9:42:56 AM PDT
To: "Teresa Spade, WCPlan" <Teresa@WCPlan.com>
Cc: "Mccall, Amber@DOT" <amber.mccall@dot.ca.gov>

Schaffer

Address: 3980 North Hwy. 1

Location: 01-MEN-001-44.15 (LT)

Morning Teresa,

I stopped and evaluated this existing road approach in Albion.

- Corner sight distance to the north is 700' and exceeds Caltrans minimum standard of 605' at 55mph.
- Corner sight distance to the south is 360' and impaired beyond that for a distance of 300' due to the vertical curve in the road. Beyond that 300' vehicles are visible once again to a distance of 700'+. North bound speeds are reduced because of the horizontal curve north of the Albion River Bridge.
- This existing road approach is undersized for today's standards, it's width at the throat is 8", it will need to be a minimum of 12' at the driveway throat.
- This existing approach does not have standard flares and tapers, see minimum driveway specification.
- The existing 12" I.D. RCP culvert is intact however, it is 80% plugged with soil and will need to be extended to gain acceptable width at the driveway throat.
- The existing decorative hedge to the south will need to be trimmed back to achieve available sight distance to the south.
- The existing Pine tree will need to be removed for sight distance and the enlarged road approach requirements.
- I located the flagged property corner.

I do believe that this is a good candidate for an upgrade to current standards. Another option would be to relocate this driveway farther to the north about 150' to balance the available corner sight distance, just a thought, not a requirement. If the Schaffer's wish to move ahead with an upgrade or construct a new relocated driveway, the items needed would be:

- A driveway construction or re-construction plan developed that meets requirement noted in the residential driveway specification sheet. I would recommend a wider driveway than 12' with an appropriately sized HDPE or RCP culvert.
- Minimum estimated Encroachment Permit fee of \$820.00.
- Once the plan is approved and prior to Permit issuance, a Performance Bond or Cash in lieu of Performance Bond in the amount of 20K. When the road approach project is

complete, the Bond would be released.

The complete application package would need to be sent up to our Eureka office at:

Caltrans – Permits
Atten: Amber McCall
P.O. Box 3700
Eureka, Ca. 95502

Give me a call anytime if you would like to chat about this project and let me know if you need any forms. Thanks,

Jim Shupe
South Region Permit Inspector
(707) 463-5722
(707) 498-5174



From: Shupe, James D@DOT
Sent: Friday, May 12, 2017 6:35 AM
To: 'Teresa Spade, WCPlan' <Teresa@WCPlan.com>
Subject: RE: Schaffer encroachment 3980 North Highway One

Schaffer
Address: 3980 North Hwy. 1
Location: 01-MEN-001-44.15 (LT)

Morning Teresa

Hi Teresa,

Looks like an existing paved approach and a good candidate for upgrade to current standards. I would like to stop by this location and check corner sight distance along with the RCP culvert condition and size. Looks like sufficient sight distance to the north, I will check the sight distance to the south. I have attached the current minimum residential road approach specifications so you can see how this approach matches up. The Caltrans R/W at this location could be prescriptive, or it could be 30' wide measured from center line, also attached is the map.

Let me take a look next week and get back to you, Thanks,

Jim Shupe
South Region Permit Inspector
(707) 463-5722
(707) 498-5174

From: Teresa Spade, WCPlan [<mailto:Teresa@WCPlan.com>]
Sent: Thursday, May 11, 2017 4:55 PM
To: Shupe, James D@DOT <james.shupe@dot.ca.gov>
Subject: Schaffer encroachment 3980 North Highway One

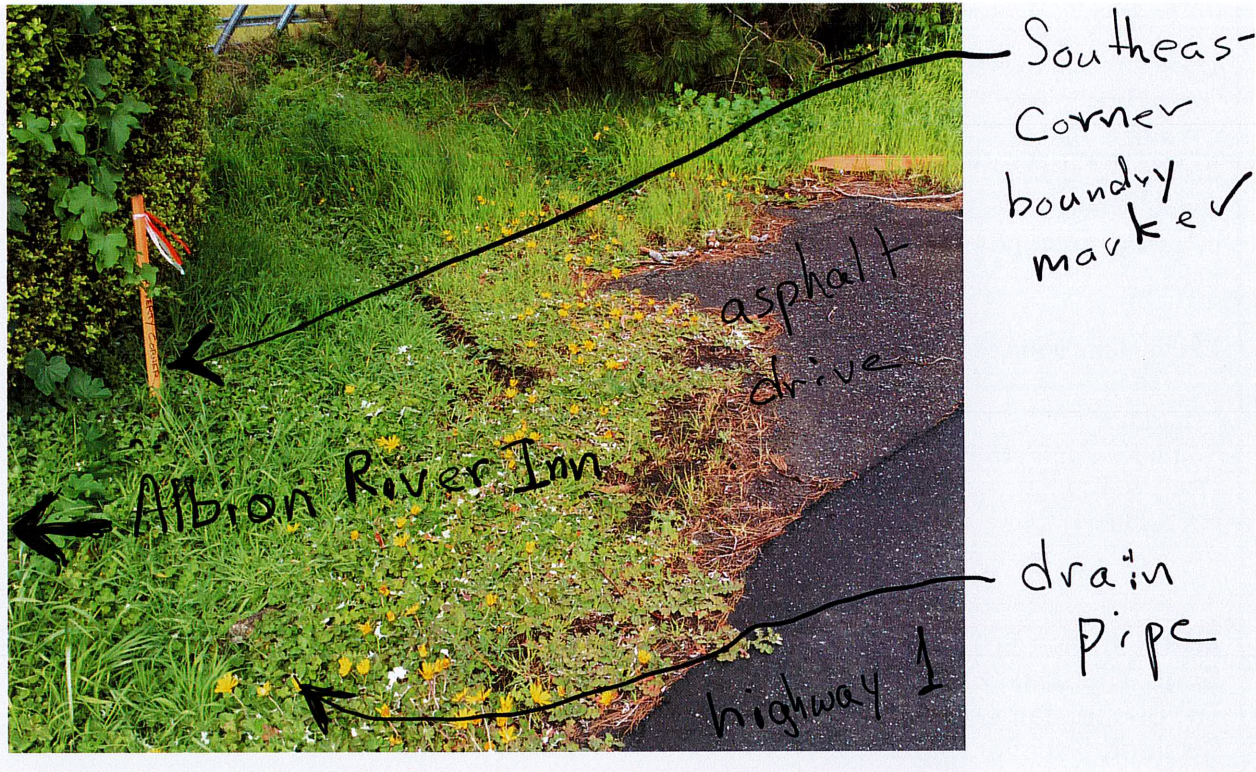
Hi Jim -

We are working with a property owner who owns property in Albion located at 3980 North Highway One (see ParcelQuest map attached). He has an access point that he is wondering if he can use for his primary access to the property. It already has some paving there so there was a question as to whether an existing encroachment has been approved there. The picture shows the access point. It is in the very southeast corner of the property, next to where the Albion River Inn is. Do you have any information on this property, and do you think that access point might be feasible?

Thanks,

Teresa Spade, AICP, Senior Planner
Wynn Coastal Planning
703 North Main St, Fort Bragg, California 95437
p. 707-964-2537 f. 707-964-2622
www.WCPlan.com & FaceBook





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DEPARTMENT OF TRANSPORTATION

DISTRICT 1, P. O. BOX 3700
EUREKA, CA 95502-3700
PHONE (707) 441-4540
FAX (707) 445-6314
TTY 711

Schaffer MS #2018-0004; Comments on Staff Report
November 13, 2019



*Making Conservation
a California Way of Life.*

Mendocino County

JAN 14 2018

Planning & Building Services

January 10, 2019

Mr. Keith Gronendyke
Mendocino County
Department of Planning and Building Services
860 North Bush Street
Ukiah, CA 95482

Schaffer CDP
1-MEN-1-44.22
CDP-2018-0018

Dear Mr. Gronendyke:

Thank you for the opportunity to comment on the Coastal Development Permit to construct a 5,164 sq. ft. single-family residence with porch/deck, garage and attached private art gallery. The project is located adjacent to State Route 1 near the community of Albion (1-MEN-1-44.22). We have the following comments as this project moves forward:

There are currently two existing, unpermitted road approaches to the applicant's parcel from State Route 1. Neither driveway meets Caltrans current standards for a private residence due to inadequate corner sight distance, substandard throat width, a lack of driveway tapers, the lack of a paved approach, and other associated improvements that may be needed to meet the minimum standards, such as drainage improvements.

The plans submitted in the package for CDP_2018-0018 show a new driveway to be constructed approximately 150-feet north of the existing driveway at the south end of the parcel at postmile 44.15(LT). The comments outlined in this letter apply only to the driveway location shown in these plans. If the plans change in the future, Caltrans requests an additional opportunity to review and comment on the proposal.

Encroachment Permits:

As a condition of approval, we request the County require the applicant to obtain an approved encroachment permit from Caltrans prior to beginning construction of the proposed project.

- This driveway will need to meet current Caltrans standards for a private residential driveway, including a minimum throat width of 12-feet. Please refer to the Caltrans Encroachment Permits Manual, Appendix J, "Road Connections and Driveways" for details (link below).

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to enhance California's economy and livability"*

- We request the County require the applicant to obliterate the existing, unpermitted southern driveway at postmile 44.15(LT), which does not meet current Caltrans standards for a driveway approach.
- Any work within Caltrans right-of-way will require an encroachment permit from Caltrans. Permits to construct, upgrade, own and operate road approaches to the state highway system are issued to the individual or legal entity with ownership rights of that road approach. A deposit of \$820 will be required when the permit application is submitted, and a \$20,000 performance bond will be required prior to permit issuance.
- Encroachment permit applications are reviewed for consistency with state standards and are subject to Department approval. To streamline the permit application and review process, we encourage the applicant to consult with our Permit staff prior to application submittal.
 - Requests for permit applications can be sent to: Caltrans District 1 Permits Office, P.O. Box 3700, Eureka, CA 95502-3700, or requested by phone at (707) 463-4743. For additional information, the Caltrans Permit Manual and Standard Application is available online at:
<http://www.dot.ca.gov/hq/traffops/developserv/permits/>.

We look forward to working with you as this project continues to evolve. Please feel free to contact me with any questions about the comments outlined in this letter at (707) 441-4540 or tatiana.ahlstrand@dot.ca.gov.

Sincerely,



TATIANA AHLSTRAND
Associate Transportation Planner

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a California Way of Life.*

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE DIRECTOR
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SACRAMENTO, CA 94273-0001
PHONE (916) 654-6130
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April 30, 2019

Mio Mendez
Staff Planner
County of Mendocino
Department of Planning and Building
860 North Bush Street
Ukiah, CA 95482

Schaffer Residential
1-MEN-1-44.2
MS-2018-0004

Dear Mr. Mendez:

Thank you for the opportunity to comment on the parcel modification to amend a specific condition of approval of a subdivision. The modification of the condition of approval would allow flexibility to move the existing approved encroachment from State Route 1 to a location approximately 150-feet to the south. The project is located on SR 1 in the community of Albion (1-MEN-1-44.2). Caltrans last commented on this project in January 2019 and we have the following comments as the project moves forward:

- The new driveway location appears to be at postmile 44.21 and the existing, non-compliant driveway is located at postmile 44.15.
- The new driveway location will require an approached encroachment permit, an \$820 deposit, and a \$20,000 performance bond required prior to the issuance of the permit.
- The driveway is required to be constructed to Caltrans current standards per Appendix J of the Caltrans Encroachment Permit Manual (link below).
- **The existing access at postmile 44.15 will need to be obliterated.**
- There shall be no use of the existing Schaffer Subdivision Road access at postmile 44.27 without proper development (site bench, paving, geometric standards, etc.)

PM 44.15 = southeastern corner
PM 44.21 = requested encroachment
PM 44.27 = existing subdiv road

Any work within the Caltrans right of way will require an encroachment permit from Caltrans. Applications are reviewed for consistency with State standards and are subject to Department approval. To streamline the permit application and review process, we encourage the applicant to consult with our Permit staff prior to submitting application submittal. Requests for permit applications can be sent to: Caltrans District 1 Permits Office, P.O. Box 3700, Eureka, CA 95502-3700, or requested by phone at (707) 463-4743. For additional information, the Caltrans Permit Manual and Standard Application is available online at:
<http://www.dot.ca.gov/trafficops/ep/index.html>.

Mr. Mendez
April 30, 2019
Page 2

We look forward to continuing to work with you as this project moves forward. Please feel free to contact me with any questions about the comments outlined in this letter at (707) 441-4540 or tatiana.ahlstrand@dot.ca.gov.

Sincerely,



TATIANA AHLSTRAND
Associate Transportation Planner

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