

Mendocino County

James Feenan - comments on CDP 2003-0079 (Falk)

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From: "Kraemer, Melissa@Coastal" <Melissa.Kraemer@coastal.ca.gov> **Planning & Building Services**
To: "pbscommissions@mendocinocounty.org" <pbscommissions@mendocinocounty.org>
Date: 4/24/2020 5:58 PM
Subject: comments on CDP 2003-0079 (Falk)
Cc: Julia Acker <ackerj@mendocinocounty.org>, "Merrill, Bob@Coastal" <Bob.Me...

Coastal Commission staff offers the following comments and recommendations on the subject CDP (<https://www.mendocinocounty.org/home/showdocument?id=33622>).

1. We recommend conditions 9-a and 15-b be modified to require that landscaping not only within 50 feet of ESHA be comprised of native plants, but to require that any landscaping used on the property at all shall be comprised only of native, regionally appropriate species. The suggested changes are necessary to ensure that the approved project, as conditioned, is consistent with the ESHA protection policies of the LCP, because plant seeds can travel by wind, animal fur, or other means of dispersal distances of greater than 50 feet. If landscaping consisting of invasive species were to be planted anywhere on the property, such incompatible plantings in proximity to sensitive habitats could have the potential to invade nearby sensitive areas and degrade those areas. In addition, adhering to a planting scheme on the property that uses only native, regionally appropriate plants (as opposed to allowance of nonnative but non-invasive species to be used) is a feasible mitigation measure for the applicant to implement to help offset (mitigate) the impermissible degradation to the sensitive habitat that will result from authorizing the proposed development in close proximity (as close as 10 feet) to the ESHA in violation of ESHA buffer policies of the LCP. Importantly, having a condition that requires recordation of these landscaping restrictions on the deed will ensure that future property owners are aware of the limitations on the use and enjoyment of the property.
2. We recommend adding a condition restricting all areas of the property, except for the approved development footprint, to open space (no future development allowed, other than habitat restoration/invasive species removal) and requiring a map of the open space restricted area to be recorded against the deed (a deed restriction/recordation requirement similar to the condition #17 deed restriction/recordation requirement). In this way, current and future owners of the property will understand not only the site hazards and related restrictions/limitations (pursuant to condition #17) but also the limitations on future development on the property due to the prevalence of ESHA. Without this feasible mitigation measure, current and future property owners may (unwittingly) undertake minor additions and accessory uses (e.g., garden beds, trampolines, decking and pergolas, etc.) that commonly are associated with residential uses within sensitive habitat areas, which would lead to degradation of those areas. This suggested condition is necessary in order to make the findings that the approved project is as consistent with the LCP as possible (including the ESHA protection policies) and to help mitigate the impermissible degradation

to the sensitive habitat that will result from authorizing the proposed development in close proximity to the ESHA in violation of ESHA buffer policies of the LCP.

3. We haven't had time to evaluate the takings claim but we understand the County plans to approve the project to avoid an unconstitutional taking of private property for public use.

Thank you for considering these comments and feel free to contact us with any questions.

Melissa B. Kraemer

North Coast District Supervisor
California Coastal Commission
1385 Eighth Street, Suite 130
Arcata CA 95521
(707) 826-8950 ext. 9
www.coastal.ca.gov