

MEETING DATE: October 24 2017

PREPARED BY: M. Jones

PRESENTED BY: M. Jones

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** Coastal Development Permit (CDP 1-17/18), Design Review Permit (DR 1-17/18)

**APPLICANTS/OWNERS:** City of Fort Bragg (Applicant/Owner)

**REQUEST:** Coastal Development Permit Amendment to replace previously removed cable stair access to the Glass Beach of Noyo Headlands Park with a new set of stairs located approximately 50 feet to the north.

**LOCATION:** The project is in the Coastal Zone.

**ASSESSOR'S PARCEL NO.:** 008-010-35  
**ZONING:** Timber Resources Industrial (IT)

**ENVIRONMENTAL DETERMINATION:** An MND has been prepared for the project (CDP1-17) and circulated for public comment. An addendum to the MND was prepared for the modified project (CDP 1-17/18).

**SURROUNDING LAND USES:**

NORTH:	Parks & Open Space
EAST:	Timber Resources Industrial (IT)
SOUTH:	Timber Resources Industrial (IT)
WEST:	Ocean

**APPEALABLE PROJECT:**  Can be appealed to California Coastal Commission as project is west of the westernmost public road and within 300 feet of the bluff top.

### PROJECT BACKGROUND

In the summer and fall of 2014, the City constructed the North Coastal Trail project. In spring of 2015, the City expanded the number of parking spaces on the site from 33 to 66 spaces in order to handle the exceptional level of use of the site. When the project was designed, the City anticipated a modest increase in use, however the number of visitors has increased exponentially from a high of 2,000 visitors/day (pre-project) to a high of 14,000 visitors/day post project. The increased visitation impacts the glass beach stairs (a popular destination) and resulted in erosion of the base of the stairs. In 2015, the City repaired the cable stairs to address damage caused by high visitor use and winter storms.

In fall of 2016, the City removed the stairs permanently as they had eroded again due to high use and winter storm damage. In the winter of 2016, the City Council hired Lee Welty Associates to redesign the stairs so that they could better accommodate the high level of use and survive the brutal winter ocean environment.

## **PERMIT HISTORY**

**Coastal Development Permit (CDP 10-10), Design Review (DR 11-10), and Variance (VAR 2-11)** were granted on August 24, 2011 to complete: 1) 20+ acres of habitat restoration; 2) construction of 4.5 miles of coastal trail, two parking lots with access road, storm drain improvements, three restrooms, benches, beach access stairs; and 3) installation of interpretive signage, resource protection fencing, site safety signage and welcome signage.

**Coastal Development Permit (CDP 3-11)** was granted on September 14, 2011 to complete habitat restoration of approximately five acres of coastal habitat on Glass Beach Headlands, including the restoration and closure of five miles of volunteer trails and establishment of a two foot wide, 1,400 foot long official dirt trail. Restoration activities would include hand and mechanical removal of non-native plants, planting and propagation of native plants and restoration of eroded coastal bluffs and perched dunes. The restoration portion of CDP 3-11 has been constructed. State Parks has indicated that they will not build the two foot wide 1,400 foot long official dirt trail.

**Coastal Development Permit Amendment (CDP 10-10/14), Design Review Amendment (DR 11-10/14), and Variance Amendment (VAR 2-10/14)** were approved in January of 2014. These amendments authorized changes to the project design to protect cultural resources and relocate the south trail parking lot from Noyo Point Road to the end of the runway.

**Coastal Development Permit Amendment (CDP 10-10/14/14), Design Review Amendment (DR 11-10/14/14), and Variance Amendment (VAR 2-10/14/14)** were approved in January of 2014 to construct the middle section of the Coastal Trail through the Mill Pond area and two side trails on Johnson Point.

**Coastal Development Permit Amendment (CDP 10-10/14/14/15), Design Review Amendment (DR 11-10/14/14/15), Conditional Use Permit (USP 11-14/15)** were approved on June 24, 2015 for the following minor additions to the project: (1) a 1 acre dog park; (2) 1,800 linear foot of multi-use trail; (3) 33 parking space addition to the existing Elm Street parking lot; (4) development of improvements (paving, fencing, gates, traffic signs) to an existing roadway; and (5) relocation and reuse of 460 SF Visitor Center and associated decks, stairs and ADA access ramp to the Noyo Center project site.

**CDP 1-17** was approved on March 8 2017 to replace the previously removed cable stair access to the Glass Beach of Noyo Headlands Park with a concrete stair set elevated on

four sets of pilings. The project includes construction of a concrete stair bulwark at the western terminus of the stairs on the beach.

## PROJECT DESCRIPTION

Coastal Development Permit Amendment to replace previously removed cable stair access to the Glass Beach of Noyo Headlands Park with a new set of stairs. The replacement stairs would be relocated approximately 50 feet to the north in an area with fewer sensitive resources and less slope. The stairs would be constructed out of gabion baskets with rock and/or earthen stairs with redwood stops for 80% of the length. The last 20% would consist of concrete stairs.

## CONSISTENCY WITH THE ZONING CODE

### Land Use

The proposed use of a park with a multi-use trail and associated support facilities is a permitted use in the Timber Resources Industrial Zone (TI) and lies within the Coastal Zone (CZ). The proposed development activities of nature preserve, parks and trails are permitted uses within the TI Zone.

### Zoning Standards

Due to the type of project many of the zoning standards are not applicable to the proposed project. However, setbacks, height limits and fencing requirements are applicable. Only the Visitor Center and fencing must comply with setback requirements.

Standard	Standard	Proposed Condition	Compliance
Setback front	15 feet from front property line.	100 feet from front property line	Yes
Setback side	10 feet abutting Parks and Recreation (PR)	385 feet from side property line	Yes

### Landscaping

The project will not include landscaping. There are no landscaping standards (17.34.060) that apply to parks.

### Outdoor Lighting

The project will not include outdoor lighting.

### Automobile Parking

The Coastal General Plan includes the following policy:

**Policy LU-5.7.** Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.

The North Elm Parking Lot has 66 parking spaces, which appears to be adequate parking for the facility on most days. The replacement of the Glass Beach stairs is not anticipated to increase the number of visitors to the facility.

### **Fire Safety**

The project is not located in an area of great fire danger, and therefore no special measures are required.

**Life Safety** According to Department of Homeland Security, Federal Emergency Management Agency (FEMA) FIRM community panel 060184 0005 C, the Glass Beach stairs are located in Zone V a location of high surf velocity. The City has installed safety signage at the top of the stair location. The replacement signage should advise people to stay off the beach in high surf conditions. Staff has added Special Condition 1:

**Special Condition 1: The project will comply with all relevant mitigation measures identified in the MND for this project, including:**

Mitigation Measure 19: The City shall install Tsunami warning signage at the top of the beach stairs, which instructs people where to go in the event of an earthquake.

Mitigation Measure 20: The City shall install safety signage that warns trail users to stay off the beach and the stairs during times of high surf action.

## **COASTAL DEVELOPMENT PERMIT ANALYSIS**

### **RESOURCE MANAGEMENT (17.50)**

#### **CULTURAL RESOURCES (17.50.030)**

Coastal LUDC section 17.50.030 requires that an archaeological report be prepared for any projects located on the former Georgia Pacific Mill Site. A number of archaeological reports have been prepared for the project because it is a site of archaeological resources, including:

- Data Collection Plan for the Fort Bragg Coastal Trail Project in the City of Fort Bragg, Thad VanBueren, 2014
- Historic Property Treatment Plan for the Fort Bragg Coastal Trail Project in the City of Fort Bragg, Thad VanBueren, 2011
- Combined Historic Property Survey report and Finding of Effect for the Fort Bragg Coastal Trail Project in the City of Fort Bragg, Thad VanBueren, January 2011
- Historic Resources Evaluation Report for the Fort Bragg Coastal Trail Project in the City of Fort Bragg, Thad VanBueren, 2011

A Data Collection Plan is not required for this project as the project has been designed to avoid impacts to cultural resources. Further the City has completed Native American consultation on this project and the Sherwood Band of Pomo Indians has concluded consultation with the City.

Mitigation measures were identified in the MND for this project that will ensure that impacts to cultural resources will be less than significant. These mitigation measures are incorporated into the project as **Special Condition 1**.

**Special Condition 1:** The project will comply with all relevant mitigation measures identified in the MND for this project, including:

- Mitigation Measure 17: If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the County Coroner contacted. Pursuant to Public Resources Code Section 5097.98, if the remains are thought to be Native American, the coroner will notify the Native American Heritage Commission (NAHC) who will then notify the Most Likely Descendent (MLD). At this time, the person who discovered the remains will contact the project archaeologist so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.
- Mitigation Measure 18: The City shall require Native American monitoring of all construction activities that will result in grading or movement of native soils.

The Coastal General Plan also includes the following policy with regard to cultural resources:

**Policy OS-4.1. Preserve Archaeological Resources.** New development shall be located and/or designed to avoid archaeological and paleontological resources where feasible, and where new development would adversely affect archaeological or paleontological resources, reasonable mitigation measures shall be required.

The project has been designed to avoid cultural resources.

#### **ENVIRONMENTALLY SENSITIVE HABITAT AREAS (17.50.050)**

A number of biological reports were prepared for the project as required under Coastal LUDC Section 17.50.050(B). The MND provides a comprehensive analysis of potential impacts of the project on ESHAs and mitigation measures to reduce these impacts to less than significant.

#### **Upland ESHA**

One area of “other types of ESHA” (e.g. rare plant upland ESHAs) has the potential to be impacted by the project. Section 17.50.050G delineates the kinds of development that are permissible within other types of ESHA:

**F. Development within Other Types of ESHA** shall protect ESHA against any significant disruption of habitat values and shall be limited to the following uses:

1. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that (1) the length of the trail within the riparian corridor shall be minimized, (2) the trail crosses the stream at right angles to the maximum extent feasible, (3) the trail is kept as far up slope from the stream as possible, (4) trail development involves a minimum of slope disturbance and vegetation clearing, and (5) the trail is the minimum width necessary. Interpretive signage may be used along

- permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources.
2. Restoration projects where the primary purpose is restoration of the habitat.
  3. Invasive plant eradication projects if they are designed to protect and enhance habitat values.
  4. Pipelines and utility lines installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.

As the Glass Beach Stairs falls under the exception as a Resource Dependent use (a trail) and the stairs are located approximately 50 feet from an area of North Coast Riparian Scrub (NCBS) (see Figure 5a below from the SEIR). The project as designed will pass through a buffer area for North Coast Riparian Scrub. The project will also take place in an area that is within a buffer for a wetland seep. The project will insure that the wetland seep can proceed unimpeded upon completion of the project. Impacts to the ESHA should be minimized to the degree practical and as required by the MND through Special Condition 1.

**Special Condition 1:** The project will comply with all relevant mitigation measures identified in the MND for this project, including:

Mitigation Measure 1: During construction, permanent and temporary impacts to ESHA natural communities shall be avoided/minimized to the extent feasible. The ESHA natural communities which have the potential to be disturbed by the project shall be shown on site plans. Areas in disturbance is to occur shall be defined on-site by readily identifiable barriers that will protect the surrounding native habitat areas.

Mitigation Measure 2: The City shall restore disturbed areas of NCBS located within 100 feet of the project site through the removal of invasive Himalayan Blackberry, Ivy and Ice Plant.

Mitigation Measure 3: During and following construction, drainage control methods shall be incorporated into the project in a manner that minimizes erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction.

Mitigation Measure 4: During construction, any disturbance within jurisdictional wetlands or other waters will take place between June 15 and October 31 in any given year, when the surface water is likely to be dry or at seasonal minimum. Deviations from this work window are not permitted by the City's Certified LCP.

Mitigation Measure 5: Timing of construction: All ground-disturbing activities and concrete paving operations shall occur during dry weather only. Construction of the stairs on the beach shall be limited to periods of low tide and low wave action to minimize the potential for discharge of materials into the ocean.

**Special Status Animals:** As noted in the MND, there is a small potential to impact shoulderband snails, nesting birds and marine animals and the MND includes mitigation measures to address these potential impacts.

**Special Condition 1: The project will comply with all relevant mitigation measures identified in the MND for this project, including:**

Mitigation Measure 13: If any native shoulderband snails are observed during ground disturbance activities in suitable habitat, such snails shall be relocated to suitable habitat outside of the area of disturbance to avoid/minimize injury or mortality.

Mitigation Measure 14: Prior to construction, nest surveys for double-crested cormorant and oyster catchers shall be conducted by a qualified biologist prior to construction. Prior to and during construction, if active double-crested cormorant nests are observed, a minimum 200-ft (61-m) buffer/exclusion zone delineated by highly visible flagging/stakes shall be established by a qualified biologist around each active nest until all young have fledged; a 100-ft (30.5-m) exclusion zone is required for active black oystercatcher nests.

Mitigation Measure 15: Prior to and during construction, if project activities cannot feasibly avoid the typical nesting bird season (from March 15 to July 31 for most bird species), weekly bird surveys of the project areas that will be under construction shall be conducted by a qualified biologist with experience in conducting breeding bird surveys, beginning 30 days prior to the disturbance of suitable nesting habitat. If a protected native bird nest is found, clearance/construction will not occur within an appropriate buffer/exclusion zone (determined by a qualified biologist) delineated by highly visible flagging/stakes until August 1, or until any active nests are vacated.

Mitigation Measure 16: Prior to construction, a qualified biologist shall conduct surveys to identify potential marine mammal haul-out sites in the vicinity of the BSA. Binoculars or a spotting scope shall be used for surveying potential haul-out locations, with implementation of exclusion zones as appropriate by a qualified biologist. If project activities will occur within designated exclusion zones, the qualified biologist shall survey potentially affected beach areas for presence of marine mammals. The surveys shall occur the day before work activities are scheduled to commence, with both a morning and afternoon count. If a marine mammal is found to be hauled out within a defined exclusion zone, project construction shall not occur within that exclusion zone until the marine mammal has departed. The condition of any marine mammal observed shall be noted. Marine Mammal Center personnel shall be contacted if the animal appears to be injured or in distress.

**HAZARDS AND SHORELINE/BLUFFTOP DEVELOPMENT (17.54)**

Coastal General Plan Policy SF-1.9 (see below) requires that development approvals within the bluff retreat setback include findings that no feasible less environmentally damaging alternative is available and that all feasible mitigation measures have been provided to minimize adverse environmental effects. A blufftop retreat analysis was prepared for the site by Brunsing and Associates in 2004. The Glass Beach stairs are located within the retreat setback identified in the report, however it is impossible to install the glass beach stairs outside of the bluff retreat setback. The City completed further geotechnical analysis of the site and has determined that it is the location of an old landslide, thus the use of driven piers is the only feasible way of providing public access to the beach.

**SHORELINE ACCESS (17.56)**

In the Coastal Zone, the LCP requires that the City evaluate potential impacts of new development to public access to the coast. The project will improve public access by providing a stair to Glass Beach. The Coastal General Plan includes many policies that relate to shoreline access and the project's consistency with each is analyzed in the Subsequent EIR.

### **GRADING & EROSION CONTROL (17.62)**

The CLUDC requires the identification of best management practices for the prevention of erosion and sedimentation during construction prior to approval of a grading permit. **Special Condition 2** has been added to ensure that these documents are submitted to the Department of Public Works and approved prior to issuance of the grading permit.

**Special Condition 2:** Prior to issuance of the grading permit the applicant shall identify best management practices for sedimentation and erosion control for approval by the Community Development Director.

**Adequacy of water supply, sewage disposal, solid waste, and public roadway capacity.** The project does not include new facilities that would impact water supply, sewage disposal or roadway capacity.

### **DESIGN REVIEW AND VISUAL ANALYSIS**

Design Review is intended to ensure that the design of proposed development and new land uses assists in maintaining and enhancing the small-town, coastal, historic, and rural character of the community. The site is part of a scenic visual corridor and provides scenic views to the ocean. The proposed Glass Beach stairs will not impact the visual character at Glass Beach, because they will have a very low profile and will be constructed of natural materials with natural colors.

### **Environmental Determination**

A Subsequent EIR were prepared and Certified for this entire project. Additionally, a Mitigated Negative Declaration was prepared for the proposed Glass Beach Stairs Replacement project. The MND addendum tiers off of the SEIR. The City must implement all mitigation measures in the MND addendum and, by doing so, the project will have a less than significant impact on the environment.

### **Recommended Action**

1. Conduct a public hearing, close the hearing, deliberate, and:
  - 1) Adopt the MND Addendum for the Glass Beach Stairs Replacement Project;  
and
  - 2) Approve Coastal Development Permit (CDP 1-17/18) for the Glass Beach Stairs Replacement Project.

## **ALTERNATIVE ACTION**

2. Hold the public hearing, close the hearing, deliberate without a decision, and continue action to a future meeting.
3. Hold the public hearing, and continue the hearing if there is insufficient time to obtain all input from all interested parties.

## **GENERAL FINDINGS**

1. The proposed project is consistent with the purpose and intent of the zoning district, as well as all other provisions of the Coastal General Plan, Coastal Land Use and Development Code (CLUDC) and the Fort Bragg Municipal Code in general.
2. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.
3. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the type, density, and intensity of use being proposed would not endanger, jeopardize, or otherwise constitute a hazard to the public interest, health, safety, convenience, or welfare, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.
4. The project complies with Specific Use Regulations established for the project.
5. For the purposes of the environmental determination, a Mitigated Negative Declaration was prepared and certified for the project in accordance with the Environmental Quality Act (CEQA). The City Council also adopted a resolution to certify the Subsequent EIR for the larger project, from which the MND was tiered.

## **COASTAL DEVELOPMENT PERMIT FINDINGS**

1. The proposed development as described in the application and accompanying materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's certified Local Coastal Program and will not adversely affect coastal resources.
2. The project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).
3. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

4. The proposed use is consistent with the purposes of the zone in which the site is located.
5. The proposed development is in conformance with the City of Fort Bragg's Coastal General Plan.
6. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
7. Services, including but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development.
8. The project, as proposed, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site, or other reasons.
9. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood, or fire hazards due to required project modifications, landscaping, or other conditions.
10. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.
11. The resource as identified will not be significantly degraded by the proposed development.
12. There is no feasible less environmentally damaging alternative; and
13. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

### **SPECIAL CONDITIONS**

1. The project will comply with all relevant mitigation measures identified in the SEIR and the MND for this project
2. Prior to issuance of the grading permit the applicant shall identify best management practices for sedimentation and erosion control for approval by the Community Development Director.

### **STANDARD CONDITIONS**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal to the Coastal Commission is filed pursuant to Coastal Land Use & Development Code (CLUDC) Chapter 17.92 - Appeals.
2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the CLUDC.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State, and Federal agencies having jurisdiction. All plans submitted with the required permit applications shall be consistent with this

- approval. All construction shall be consistent with all Building, Fire, and Health code considerations as well as other applicable agency codes.
5. The applicant shall secure all required building permits for the proposed project as required by the Mendocino County Building Department.
  6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 100 feet of the discovery; and 2) notify the Director of Public Works within 24 hours of the discovery. Evidence of an archaeological site may include, but is not necessarily limited to shellfish, bones, flaked and ground stone tools, stone flakes produced during tool production, historic artifacts, and historic features such as trash-filled pits and buried foundations. A professional archaeologist on the list maintained by the Northwest Information Center of the California Historical Resources Information System or Listed by the Register of Professional Archaeologists shall be consulted to determine necessary actions.
  7. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
    - (a) That such permit was obtained or extended by fraud.
    - (b) That one or more of the conditions upon which such permit was granted have been violated.
    - (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety or as 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 conditions.
  8. Unless a condition of approval or other provision of the Coastal Land Use and Development Code establishes a different time limit, any permit or approval not exercised within 24 months of approval shall expire and become void, except where an extension of time is approved in compliance with CLUDC Subsection 17/18.76.070 (B).

## **ATTACHMENTS**

1. Site Location & Photos
2. Site Conceptual Drawings – Glass Beach Stairs
3. Mitigated Negative Declaration
4. MND Addendum