

MEETING DATE: May 14, 2019

PREPARED BY: S. McCormick

PRESENTED BY: S. McCormick

## AGENDA ITEM SUMMARY REPORT

**APPLICATION NO.:** Coastal Development Permit 8-18 (CDP 8-18)  
Lot Line Adjustment 1-18 (LLA 1-18)  
Variance 3-19 (VAR 3-19)

**OWNER/APPLICANT:** Habitat for Humanity of the Mendocino Coast, Inc.

**AGENT:** Chuck Greenberg

**PROJECT DESCRIPTION:** Habitat for Humanity of the Mendocino Coast is seeking approval of a Coastal Development Permit, a Lot Line Adjustment and a Variance from minimum density requirements and parcel dimensions for the construction of two single-family dwellings and related infrastructure.

**LOCATION:** 630 Dubois Lane, Fort Bragg, CA

**ZONING:** Medium Density Residential (RM) in the Coastal Zone

**ENVIRONMENTAL DETERMINATION:** A Mitigated Negative Declaration has been prepared for the project (Attachment 4 - MND and Attachment 5- MND Attachments).

**SURROUNDING LAND USES:**

SOUTH:	Private Road (Georgia Pacific Haul Road)
EAST:	Private Road (Georgia Pacific Haul Road)
NORTH:	Single Family Dwelling PG&E Yard, Public Facilities
WEST:	Single Family Dwelling

**APPEALABLE PROJECT:**  Can be appealed to City Council  
 Can be appealed to California Coastal Commission

### Recommended Action:

1. Adopt the Habitat for Humanity Dubois Project MND; and
2. Approve Coastal Development Permit (CDP 8-18); Lot Line Adjustment (LLA 1-18); and Variance (VAR 3-19) based on the findings and subject to the Special and Standard conditions.

## PROJECT DESCRIPTION

Habitat for Humanity of the Mendocino Coast, Inc. is seeking approval of a Coastal Development Permit and a Lot Line adjustment to construct two single family dwellings that will be affordable to households with low incomes.

The proposed project would be located at the terminus of Dubois Lane and consists of two parcels that are oriented north/south (Attachment 1 – Location Map). The proposed lot line adjustment would reorient the parcels to run east/west. Adjusting the lot line would facilitate development on both parcels; as the eastern half of the property cannot be developed due to a steep grade and a riparian gully with two small drainages. The proposed Lot 1 would consist of the northern portion of the site - approximately 0.49 acres in size; and Lot 2 would be the southern parcel - approximately 0.39 acres in size (Attachment 2 – Site Map).

The project is expected to be built in three phases: 1) installation of water and sewer services down Dubois Lane to the project site; 2) grading, installation of utilities and construction of driveway; and 3) construction of two single family homes.

Each residential unit would be 1,216 SF and be accessed via a single private driveway. The new residences would be single-story, three-bedroom, two-bath units with footprints measuring approximately 32' x 38'. Each of the proposed structures would be sided with Hardiplank® smooth horizontal lap with a wooden porch and railing off the front entrance. The structures would be roofed with black composition shingles and contain five solar tube skylights (Attachment 3 – Elevation and Floor Plan).

## CONSISTENCY WITH COASTAL GENERAL PLAN POLICIES

As mitigated in the attached Mitigated Negative Declaration (Attachment 4 – MND) and conditioned in this staff report, the project is consistent with all Coastal General Plan Policies. The project also supports affordable housing opportunities for lower-income large households and first time home buyers which is consistent with policy of the City's Housing Element:

Policy H-3.4 Increase Affordable Housing Development. Encourage the construction of housing units which are affordable to households with very-low to moderate incomes consistent with Chapters 18.31 and 18.32 of the Coastal Land Use and Development Code.

Policy H-3.7 Large Families. Encourage housing for large families.

Policy H-3.11 First Time Home Buyers. Encourage affordable housing for first time home buyers.

## CONSISTENCY WITH LAND USE REGULATIONS (CLUDC)

**Land Use.** The project site is designated Medium Density Residential zoning (RM) in the Coastal Zone. Pursuant to CLUDC Section 17.21.050 single family dwellings are an allowable land use in this district. The table below illustrates relevant development standards and the projects compliance with these standards:

**TABLE 1: RM DEVELOPMENT STANDARDS**

	RM Zoning District Standard	Proposed Dwelling Lot 1	Proposed Dwelling Lot 2	Compliance
<b>Front Setback</b>	20 feet, but no closer than 25 feet to a City street	+/- 31 feet	+/- 68 feet	YES
<b>Rear Setback</b>	10 feet	30-foot buffer + riparian gully	30-foot buffer + riparian gully	YES
<b>Interior Side Setback</b>	5 feet	11 feet (north) 23 feet (south)	17 feet (north) 15 feet (south)	YES
<b>Height limit</b>	35 feet	14 feet	14 feet	YES
<b>Maximum Site Coverage</b>	50%	%	%	Yes

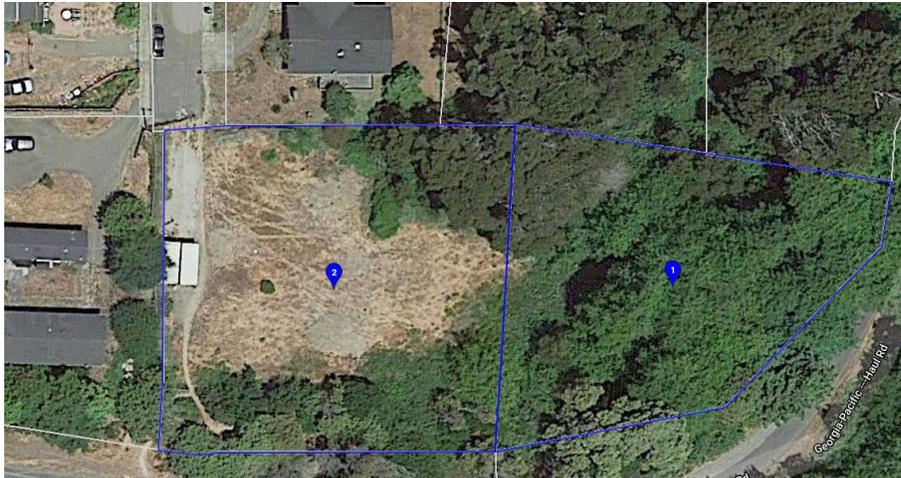
**Lot Line Adjustment.** The applicant proposes to adjust the lot lines to reconfigure the orientation on the two lots. Table 2-2 of the Coastal Land Use and Development Code (CLUDC) provides the minimum parcel size standards for new parcels within the RM zoning district. The Table below illustrates the parcel size standards in RM zoning and the projects compliance with these standards:

**TABLE 2: RM PARCEL SIZE STANDARDS**

	Minimum Width	Minimum Depth	Maximum Depth
<b>RM Parcel Size Standards</b>	<b>50 feet</b>	<b>75 feet</b>	<b>3 times width</b>
<b>Proposed Parcel Lot 1</b>	<b>63 feet</b>	<b>=/- 335 feet</b>	<b>Greater than 3 times width</b>
<b>Proposed Parcel Lot 2</b>	<b>63 feet</b>	<b>=/- 275 feet</b>	<b>Greater than 3 times width</b>
<b>Compliance</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>

The proposed lot line adjustment complies with the City’s zoning and subdivision requirements in Medium Density Residential regarding the minimum lot width and depth. The maximum depth of a parcel should not exceed three times the width - in this case, 189 feet – and therefore does not comply. Additionally, the CLUDC requires a minimum density of 6 dwelling units per acre. The proposed project would not comply with the minimum residential density requirement as the proposed density is less than two units per acre.

However, CLUCD Section 17.71.070 provides the Variance process for Planning Commission to consider waiving or modifying certain standards of the Development Code because of special circumstances that would otherwise deny a property owner privileges granted to other property owners within the same zoning district. As the entire eastern portion of the site is a riparian gully with headwaters to the Noyo River and cannot be developed per the CLUDC, the Planning Commission can make the determination that the physical characteristics of the site merit a variance regarding units per acre and parcel dimensions. As shown in the image below, the parcels as currently oriented would not allow development on APN 018-080-13, because this parcel is 100% ESHA.



In order to approve the requested Variance, the Planning Commission must first find that:

- a. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;

This finding may be made. The parcel size, shape and topography do not allow the property owner to build on APN 008-080-13 and the ESHA does not allow the property to develop about 75% of both parcels, thus the minimum unit density of 6 units/acre cannot be attained.

- b. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and

This finding may be made. The ability to develop a single family residential structure does not constitute a privilege that is not granted to other property owners within the Medium Density Residential zoning district. Indeed, in order to accommodate any development on APN 008-080-13, a lot line adjustment is necessary. Due to the presence of ESHA and an ESHA buffer, the actual development envelopment within each new parcel would be roughly 100 feet deep, which means that the effective developable area of each parcel “complies” with both the minimum and maximum parcel depth allowed and does not constitute granting a special privilege. Again, the property cannot be developed to the minimum density of 6 units/acre due to the extensive ESHA and ESHA buffers on the eastern portion of the site.

- c. The Variance or Administrative Variance is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program. In addition to any other findings and/or conditions regarding the granting of a Variance or an Administrative Variance, the City shall only grant a Variance or Administrative Variance if the City determines that the

means of accommodating the Variance or Administrative Variance: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Variance or Administrative Variance will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Variance or Administrative Variance

This Finding may be made. Approval of this Variance would not have an adverse effect on coastal resources, indeed approval of the Variance is necessary for the protection of coastal resources (riparian community and ESHA) from development. Approval of the Variance would not displace Coastal Act priority uses, as the site is zoned for residential uses and does not inhibit coastal access. Furthermore, as discussed in the Coastal Development Permit analysis regarding services below, the project description includes measures to ensure adequate services will be provided to the site. Thus, staff recommends Planning Commission approval of the Variance.

The applicant submitted a site plan for review by the Public Works Director and no findings for denial were made. New parcel descriptions shall be submitted for each newly configured parcel, accompanied by lot calculations. To satisfy the requirements of CDFW, a plat shall accompany the deed descriptions, accurately depicting the ESHA buffers to their satisfaction. The lot descriptions shall clearly document the presence of the ESHA, and the ESHA, and its buffer, will become part of the recorded deed. Additionally, the deeds will clearly state that the properties are subject to all of the conditions of CDP 8-18, as covenants, conditions, and restrictions on the use and enjoyment of the property. The documents shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens. Indemnification clauses may be added to the deeds as needed. The Public Works Director will review and approve the descriptions prior to recordation by the Mendocino County Recorder

**Special Condition 1:** New parcel descriptions shall be submitted to the Public Works Director for review and approval prior to recordation by the Mendocino County Recorder. These new deeds, along with the below described maintenance agreements, shall be recorded prior to issuance of any building permits. Required documentation includes:

- Full description of each new parcel, to be recorded as part of the deeds;
- Lot calculations for each parcel;
- Any indemnification clauses needed, which shall become a part of the recorded deeds.
- Demarcation of 30-foot buffer to ESHA, clearly illustrated on a plat, to be recorded as a deed restriction, and as a permanent exhibit to the deeds for the new parcels;
- Permanent driveway, drainage, and utility easement across the northerly parcel in favor of the southerly parcel, clearly illustrated on either the same plat as the ESHA demarcation, or on a separate plat also accompanying the deeds as a permanent exhibit;
- A statement on the deeds clearly indicating that the parcels are subject to all the conditions of CDP 8-18, in perpetuity.
- Permanent maintenance agreements between parcels for the maintenance of the private driveway, to be recorded prior to issuance of any building permit;
- Permanent maintenance agreement, for each parcel, for the upkeep of the bioretention facilities to be installed as part of this project, to be recorded prior to the issuance of any building permit; and
- Reference to all relevant documents deemed necessary by the City Engineer, including, but not limited to locations of sewer, water, and drainage infrastructure, private easements.

**Frontage Improvements.** CLUDC 17.30.090 ensures public improvements to project sites be implemented. Such improvements are related to the needs for pedestrian and vehicular circulation, and community infrastructure demands created by the project. The project would be located at the end of Dubois Lane and the driveway serving the residences would take the place of sidewalk, curb and gutter. However, curb and gutter may be necessary for on-site drainage along the private driveway and parking areas.

**Parking and Driveway.** The two proposed dwellings would be served by a shared access private driveway at the terminus of Dubois Lane. The drive would be paved 12 feet wide, along a 20-foot driveway and utility easement. The shared drive leads to two 16-foot wide approaches to each structure for cars to park. This area would allow for two parking spaces, in compliance with the CLUDC requirement for a three-bedroom single-family dwelling. The joint driveway dimensions and layout shown on the site plan have been approved by the Public Works Director and Fire Marshal.

**Landscaping.** Generally, a Landscaping Plan is not required for Single-Family Residential projects. However, due to environmentally sensitive habitat areas (ESHA) on the site, CLUDC 17.50.050(D)(3) requires a Landscaping Plan prior to construction activities where development will disturb existing or potential native plant habitat. Given that construction activities will be on the western portion of the property, where the site is comprised of compacted fill and invasive species, a Landscaping Plan would not be required. However due to the close proximity of development to ESHA the following special conditions are included per the request of the California Department of Fish and Wildlife (CDFW) staff:

**Special Condition 2:** No exotic or invasive plants shall be planted during or following site development. Plant species listed as invasive (High, Moderate, or Limited) on the California Invasive Plant Inventory (Cal-IPC Inventory) shall not be installed anywhere in the project area as they would pose a risk to the surrounding environmentally sensitive habitat areas. All proposed plantings shall be obtained from local genetic stock, per CLUDC 17.36.010(E).

Through consultation with CDFW during preparation of the Mitigated Negative Declaration (MND) pursuant to CEQA, CDFW recommended the mature acacia trees on the northern edge of the parcel remain. Although blackwood acacia trees are not native and can become invasive, it was determined the trees serve as a protective barrier to the watershed and as functional habitat for wildlife. In the future, if the trees need to be removed due to disease or risk of damaging the structures, the applicant is required to apply for a Coastal Development permit.

**Special Condition 3:** Mature blackwood acacia trees on site function as valuable riparian habitat and protect the watershed. For this reason, the applicant shall avoid removing the mature acacia trees and surrounding vegetation. In the event the trees need to be removed due to disease or risk to structures the property owner shall obtain a Coastal Development Permit and contact CDFW staff regarding the removal protocol in order to limit impact to the ESHA.

**Stormwater Management.** The City reviews and conditions new development to ensure that adequate on-site and off-site stormwater management is included in the project. The applicant submitted storm water management calculations for low impact design (LID) features that employ on-site bio-retention facilities. A Bio-retention Area Monitoring and Management Plan was also included to assure proper operation of these drainage management areas, which would be subject to review after the first year and modified as necessary. The bioretention area proposed to serve the southern lot would be located within the buffer to tan oak ESHA. Per CLUDC 17.50.050(I)(2)(e), drainage and flood control facilities are a permitted use within a Riparian Buffer.

The Public Works Department has reviewed the preliminary drainage plan and determined it is sufficient for the planning application process. However, a comprehensive grading and drainage plan would be required for review and approval by the City Engineer, prior to issuance of building permits for the project. Special Condition 4 is provided for that purpose:

**Special Condition 4:** A Grading Plan, Construction Pollution Prevention Plan and Stormwater Runoff Mitigation Plan shall be approved by the City Engineer, prior to issuance of building permit.

**Fences.** The MND prepared for the project requires a six-foot tall redwood fence (Mitigation Measure BIO-3) to be installed to physically separate the proposed structures and the 30-foot buffer to riparian ESHA in order to mitigate impacts on biological resources to a level that is less than significant. This fence would also be clearly identified and recorded by deed restriction on the Final Map. Both the required fence along the buffer and privacy fence between the two dwellings, comply with height limits and utilize appropriate materials as outlined in CLUDC 17.30.050.

**Addressing.** The single address of 630 Dubois Lane is currently assigned to both Assessor Parcels (018-080-13 and 008-080-31) that comprise the project site. If the project is approved, a new address will need to be assigned. The dwelling closest to Dubois Lane will maintain the address 630 Dubois Lane, and the southern dwelling at the end of the driveway, will be assigned 640 Dubois Lane. According to Fort Bragg Municipal Code (FBMC) 15.12 the address numbers should be not less than 3 inches in height and located in such a manner as to be clearly visible for a distance of not less than 100 feet from the public street. Given the potential difficulty of viewing addresses of the proposed structures from Dubois Lane, staff recommends the following special condition:

**Special Condition 5:** Address markers are required on dwellings per specifications of FBMC 15.12. In the case that the address numbers are not clearly visible from the public right-of-way, the address numbers shall be posted where the private driveway meets Dubois Lane.

**Fire and Life Safety.** Per California Building Code requirements, the proposed dwellings will be equipped with automatic fire sprinklers and it has been determined that the upgraded 6 inch water line would have sufficient fire flows exist to serve these sprinklers. The Fire Department has requested installation of a fire hydrant at the end of Dubois Lane, which will be incorporated into the construction plans, if the project is approved. In addition, the Fort Bragg Fire Marshal has indicated that the proposed driveway and emergency vehicle turning area is sufficient to provide emergency response to the proposed dwellings.

## **COASTAL DEVELOPMENT PERMIT ANALYSIS**

**Environmentally Sensitive Habitat Area (ESHA).** The City's Coastal General Plan, define ESHA as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments". Protection of these areas is an essential part of the California Coastal Act and numerous policies in the City's Local Coastal Program (LCP). These policies, as well as the Coastal Land Use and Development Code have been analyzed against the proposed project to ensure project compliance.

*Coastal Act Biological Scoping Survey*, March 30, 2018 was prepared by Wynn Coastal Planning and Biology to locate potentially environmentally sensitive habitat areas (ESHA), special status plants and

animals and/or their habitats on the project site. The report identified two types of potential ESHA: 1) Stream ESHA- two stream drainages enter a gully located on the eastern half of the site; and 2) Riparian ESHA – a riparian area occurs on the eastern half of site.

The report also identified a potential ESHA plant community of Tanoak on the adjacent parcel to the south. Through consultation and site visit with California Department of Fish and Wildlife (CDFW) staff, CDFW determined that the .2 acre stand of tanoak merits designation as an ESHA. Although a relatively small and isolated patch tanoak trees, these isolated “islands” of habitat can have important genetic and ecological roles. Therefore, the project has incorporated a 30-foot buffer from the tanoak ESHA. ESHA buffers are set forth by CLUDC 17.50.050(H):

**Buffer Areas:** New development adjacent to ESHA shall provide buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. The purpose of this buffer area is to provide for a sufficient area to protect environmentally sensitive habitats from significant degradation resulting from future development. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and [Wildlife], and the City, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and in no event shall be less than 30 feet in width.

In order to protect ESHA on-site, both during construction and post-construction, and comply with policies within the City’s LCP, several mitigation measures were drafted and discussed in the attached MND, and are included as part of Special Condition 6 below

**Special Condition 6:** Applicant shall comply with *all* mitigation measures in the MND, including the following regarding ESHA:

BIO-1: ESHA Resources shall be protected from disturbance by construction activities. Temporary wire mesh fencing shall be placed around habitat prior to construction activities. These protected areas shall not be used by workers or for the storage of machinery or materials. City staff shall will conduct inspections for compliance during construction.

BIO-2: No development shall occur within the 30-foot buffer to the identified ESHA of tanoak, as a result of the proposed project or any future development, except for those uses permitted in CLUDC Section 17.50.050(I)(2). This protection shall be recorded in a deed restriction and clearly shown on the recorded Parcel Map, prior to issuance of a building permit.

BIO-3: No development shall occur within the 30-foot buffer to the identified Riparian and Stream ESHA, as a result of the proposed project or any future development. This protection shall have a physical delineation in the form of a fence. This protection shall also be recorded in a deed restriction and clearly shown on the recorded Parcel Map, prior to issuance of a building permit

BIO-4: Although the existing acacia trees are nonnative, they function as valuable riparian habitat and protect the watershed. For this reason, the applicant will avoid removing the mature acacia trees and vegetation. In the event the trees need to be

removed due to disease or danger to structures, Coastal Development permit approval is required.

BIO-7: Appropriate best management practices (BMPs) shall be submitted as part of the building permit application. Measures should include the use of a silt fence or other erosion control measures to prevent sediment from entering the stream. Erosion control devices should not contain monofilament as this may pose a potential entanglement hazard to sensitive amphibian species that may occur in the area.

BIO-8: Construction activities should occur only during daylight hours to minimize disturbance caused by artificial light and noise.

BIO-9: No exotic or invasive plants shall be planted during or following site development. Plant species listed as invasive (High, Moderate, or Limited) on the California Invasive Plant Inventory (Cal-IPC Inventory) shall not be installed anywhere in the project area as they would pose a risk to the surrounding plant communities.

HYDRO-1: All work involving or associated with soil movement and/or digging shall occur during the dry season (April 1 to October 30). A grading permit will be obtained and construction best management practices (BMP's) will be implemented, including, but not limited to silt fencing and straw wattles to control sediment transport that may flow into the watershed, particularly along the buffer to the eastern fill slope.

HYDRO-2: A Construction Pollution Prevention Plan shall be submitted prior to issuance of building permit, which shall evaluate potential construction phase impacts to water quality and coastal waters, and shall specify temporary Best Management Practices (BMPs) to minimize erosion and sedimentation during construction, and prevent contamination of runoff by construction chemicals and materials.

HYDRO-3: A final Storm Water Runoff Mitigation Plan will be submitted for approval by the Public Works Department, prior to issuance of building permit. This plan shall describe post-construction Best Management Practices (BMPs) that will be used in the project to reduce increases to erosive storm water flow and to prevent polluted runoff from the built project.

**Services.** The project site is currently undeveloped and does not receive water, wastewater, or solid waste services. Water shall be provided via a 6-inch water main in DuBois to be installed by City Forces prior to or in conjunction with site development. Developer shall pay a pro rata share of the installation cost equivalent to installing a looped 2-inch main for the exclusive use of the subject parcels. This upgrade would provide sufficient water to the proposed development.

**Special Condition 7:** The applicant shall contribute the estimated cost of installing an additional 2-inch looped line in DuBois towards the cost of the construction of a new 6-inch line, prior to issuance of a building permit.

Due to the slope of Dubois Lane, a sewer lift station would be required to provide sewer to each of the proposed dwellings, and are included in the site design. Each lift station would be located on the lot which it will serve. Sewer laterals from the parcels would remain separate for their entire length and enter the sewer manhole located in Dubois Lane, about 30-feet south of Walnut Street. These sewer lift stations will be privately owned and maintained by the property owners.

Electrical would be provided by Pacific Gas and Electric Company (PG&E) and propane would be brought to the site by a professional service, as approved by the Fort Bragg Fire Marshal. Waste Management (WM) would provide weekly garbage, recycling, and green waste collection within the City and would be contracted to serve the subject site.

**Geologic Hazards.** Historically this site was used by Baxman Sand & Gravel to dispose of construction and grading related fill materials. The non-engineered fill, located on site of the proposed structures, is covered with a 18 to 24 inch layer of loose to medium density silty sand with gravel, with concrete and asphalt rubble encountered to the maximum depth explored of 9 feet (no groundwater was encountered).

The main geotechnical engineering concern is the potential for total and differential settlement of the non-engineered fill of undetermined depth. As such, the proposed structures will require special design and construction considerations. According to SHN Consulting Engineers & Geologists, Inc. author of the Geotechnical Investigation (Attachment 5 – MND Attachments), design considerations should include: 1) the footprint of the proposed structures be excavated to a uniform elevation of two feet; 2) the resulting surface shall be inspected and approved by the Geotechnical Engineer to determine whether further excavation is required; 3) the approved surface would then be brought up to sub-grade elevation with the select engineered fill compacted to at least 90 percent relative compaction. Mitigation Measure GEO-1 was included in the MND and is incorporated as a Special Condition below:

**Special Condition 8:** Development of the proposed project at the site shall comply with the design standards included in the latest version of the California Building Code (CBC), as well as the recommendations and expertise provided by licensed engineer and the geotechnical Investigation.

**Environmental Determination.** The proposed project is subject to the requirements of the California Environmental Quality Act (CEQA). The Lead Agency is the City of Fort Bragg. The City prepared an Initial Study to provide a basis for determining whether to prepare a Negative Declaration, Mitigated Negative Declaration or an Environmental Impact Report.

Following the Initial Study, the City drafted mitigation measures and prepared a Mitigated Negative Declaration which was circulated to responsible and trustee agencies and made available to the public for a 30-day review period, from March 18 to April 19, 2019. No comments were received from public agencies or the public on the MND

## **RECOMMENDATION**

Staff recommends:

1. Adoption of the Habitat for Humanity Dubois Project MND; and
2. Approve Coastal Development Permit 8-18 (CDP 8-18); Lot Line Adjustment 1-18 (LLA 1-18); and Variance 3-19 based on the following findings and subject to the conditions cited below:

## **CEQA FINDINGS**

The Planning Commission of the City of Fort Bragg finds, determines and certifies as follows, for the purpose of adopting the MND for this project:

1. The above recitals are true and correct, and are incorporated herein by reference;
2. The MND was prepared in compliance with the requirements of CEQA;
3. The MND was presented to the Planning Commission, a decision-making body for the City, the lead agency for the Project, and the Planning Commission has reviewed and considered the information contained in the MND;

4. The MND reflects the Planning Commission's independent judgment and analysis as to the environmental effects of the Project;
5. After mitigation, all project impacts are less than significant;
6. The Planning Commission has, by its review of the evidence and analysis presented in the MND and in the record, acquired a better understanding of the full scope of the environmental issues presented by the Project. In turn, this understanding has enabled the Planning Commission to make fully informed, thoroughly considered decisions on these important issues; and
7. The location of the documents or other material that constitute the record of proceedings upon which the decision is based is the City of Fort Bragg Community Development Department, 416 North Franklin Street, Fort Bragg CA 95437; the official custodian of said records is the City Clerk of the City of Fort Bragg.

### **GENERAL FINDINGS**

1. The proposed project is consistent with the purpose and intent of the Medium Density Residential (RM) zoning district, as well as all other provisions of the Coastal General Plan, Coastal Land Use and Development Code and the Fort Bragg Municipal Code in general;
2. The project is consistent with Chapter 17.82 (Parcel Maps and Final Maps) of the Coastal Land Use and Development Code;
3. The project is consistent with the Subdivision Map Act;
4. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
5. 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;
6. The project will provide affordable, for-sale housing for two low income households;
7. Setbacks are provided on the site in compliance with CLUDC Zoning Standards for the Medium Density Residential Zoning District; and
8. For the purposes of the environmental determination, a Mitigated Negative Declaration has been prepared for conformance with the California Environmental Quality Act (CEQA). As mitigated, the project will not result in significant or potentially significant environmental impacts.

### **VARIANCE FINDINGS**

1. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Development Code deprives the property of privileges enjoyed by other property in the vicinity and within the same zoning district;
2. The approval of the Variance or Administrative Variance includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
3. The Variance or Administrative Variance is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program. In addition to any other findings and/or conditions regarding the granting of a Variance or an Administrative Variance, the City shall only grant a Variance or Administrative Variance if the City determines that the means of accommodating the Variance or Administrative Variance: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Variance or

Administrative Variance will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Variance or Administrative Variance

### **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; and
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 resource as identified will not be significantly degraded by the proposed development;
9. There is no feasible less environmentally damaging alternative;
10. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted; and

### **SITE MAP FINDINGS**

1. The Site Map associated with the lot line adjustment for this project is consistent with the Local Coastal Program, and none of the findings for denial in CLUDC 18.81.070(C) can be made.

### **SPECIAL CONDITIONS**

1. New parcel descriptions shall be submitted to the Public Works Director for review and approval prior to recordation by the Mendocino County Recorder. These new deeds, along with the below described maintenance agreements, shall be recorded prior to issuance of any building permits. Required documentation includes:
  - Full description of each new parcel, to be recorded as part of the deeds;
  - Lot calculations for each parcel;
  - Any indemnification clauses needed, which shall become a part of the recorded deeds.
  - Demarcation of 30-foot buffer to ESHA, clearly illustrated on a plat, to be recorded as a deed restriction, and as a permanent exhibit to the deeds for the new parcels;
  - Permanent driveway, drainage, and utility easement across the northerly parcel in favor of the southerly parcel, clearly illustrated on either the same plat as the ESHA demarcation, or on a separate plat also accompanying the deeds as a permanent exhibit;
  - A statement on the deeds clearly indicating that the parcels are subject to all the conditions of CDP 8-18, in perpetuity.
  - Permanent maintenance agreements between parcels for the maintenance of the private driveway, to be recorded prior to issuance of any building permit;
  - Permanent maintenance agreement, for each parcel, for the upkeep of the bioretention facilities to be installed as part of this project, to be recorded prior to the issuance of any building permit; and

- Reference to all relevant documents deemed necessary by the City Engineer, including, but not limited to locations of sewer, water, and drainage infrastructure, private easements.
2. No exotic or invasive plants shall be planted during or following site development. Plant species listed as invasive (High, Moderate, or Limited) on the California Invasive Plant Inventory (Cal-IPC Inventory) shall not be installed anywhere in the project area as they would pose a risk to the surrounding environmentally sensitive habitat areas. All proposed plantings shall be obtained from local genetic stock, per CLUDC 17.36.010(E).
  3. Mature blackwood acacia trees on site function as valuable riparian habitat and protect the watershed. For this reason, the applicant shall avoid removing the mature acacia trees and surrounding vegetation. In the event the trees need to be removed due to disease or risk to structures the property owner shall obtain a Coastal Development Permit and contact CDFW staff regarding the removal protocol in order to limit impact to the ESHA.
  4. A Grading Plan, Construction Pollution Prevention Plan and Stormwater Runoff Mitigation Plan shall be approved by the City Engineer, prior to issuance of building permit.
  5. Address markers are required on dwellings per specifications of FBMC 15.12. In the case that the address numbers are not clearly visible from the public right-of-way, the address numbers shall be posted where the private driveway meets Dubois Lane.
  6. Applicant shall comply with all mitigation measures in the MND, including the following:

**BIO-1:** ESHA Resources shall be protected from disturbance by construction activities. Temporary wire mesh fencing shall be placed around habitat prior to construction activities. These protected areas shall not be used by workers or for the storage of machinery or materials. City staff shall will conduct inspections for compliance during construction.

**BIO-2:** No development shall occur within the 30-foot buffer to the identified ESHA of tanoak, as a result of the proposed project or any future development, except for those uses permitted in CLUDC Section 17.50.050(I)(2). This protection shall be recorded in a deed restriction and clearly shown on the recorded Parcel Map, prior to issuance of a building permit.

**BIO-3:** No development shall occur within the 30-foot buffer to the identified Riparian and Stream ESHA, as a result of the proposed project or any future development. This protection shall have a physical delineation in the form of a fence. This protection shall also be recorded in a deed restriction and clearly shown on the recorded Parcel Map, prior to issuance of a building permit

**BIO-4:** Although the existing acacia trees are nonnative, they function as valuable riparian habitat and protect the watershed. For this reason, the applicant will avoid removing the mature acacia trees and vegetation. In the event the trees need to be removed due to disease or danger to structures, Coastal Development permit approval is required.

**BIO-7:** Appropriate best management practices (BMPs) shall be submitted as part of the building permit application. Measures should include the use of a silt fence or other erosion control measures to prevent sediment from entering the stream. Erosion control devices should not contain monofilament as this may pose a potential entanglement hazard to sensitive amphibian species that may occur in the area.

**BIO-8:** Construction activities should occur only during daylight hours to minimize disturbance caused by artificial light and noise.

**BIO-9:** No exotic or invasive plants shall be planted during or following site development. Plant species listed as invasive (High, Moderate, or Limited) on the California Invasive Plant Inventory (Cal-IPC Inventory) shall not be installed anywhere in the project area as they would pose a risk to the surrounding plant communities.

**HYDRO-1:** All work involving or associated with soil movement and/or digging shall occur during the dry season (April 1 to October 30). A grading permit will be obtained and construction best management practices (BMP's) will be implemented, including, but not limited to silt fencing and straw wattles to control sediment transport that may flow into the watershed, particularly along the buffer to the eastern fill slope.

**HYDRO-2:** A Construction Pollution Prevention Plan shall be submitted prior to issuance of building permit, which shall evaluate potential construction phase impacts to water quality and coastal waters, and shall specify temporary Best Management Practices (BMPs) to minimize erosion and sedimentation during construction, and prevent contamination of runoff by construction chemicals and materials.

**HYDRO-3:** A final Storm Water Runoff Mitigation Plan will be submitted for approval by the Public Works Department, prior to issuance of building permit. This plan shall describe post-construction Best Management Practices (BMPs) that will be used in the project to reduce increases to erosive storm water flow and to prevent polluted runoff from the built project.

### **STANDARD CONDITIONS**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal to the City Council is filed pursuant to Land Use and Development Code Chapter 18.92 - 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 Land Use and Development Code.
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.

### **ATTACHMENTS**

- 1. Location Map
- 2. Site Map
- 3. Elevation and Floor Plan
- 4. MND – Habitat for Humanity, 630 Dubois Lane
- 5. MND Attachments – Habitat for Humanity, 630 Dubois Lane

### **NOTIFICATIONS**

Habitat for Humanity of the Mendocino Coast  
Chuck Greenberg, Agent  
'Notify Me' Subscriber Lists: Affordable Housing and Public Hearings  
Planning Commission