# **PLANNING COMMISSION** STAFF REPORT- COASTAL DEVELOPMENT **USE PERMIT**

**MAY 1, 2025** U\_2023-0012

PROJECT PLANNER CONTACT

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**SUPERVISORIAL DISTRICT:** 

**RECOMMENDATION:** 

**ENVIRONMENTAL DETERMINATION:** 

willers@mendocinocodinty.gov	
PROJECT SUMMARY	
OWNER:	Westport Village Society, Inc. PO Box 446 Westport, CA 95488
APPLICANT:	Thad Van Bueren PO Box 326 Westport, CA 95488
REQUEST:	Coastal Development Use Permit to improve public coastal access by establishing a recreational trail, constructing a driveway, a parking lot, and a stairway from the blufftop to DeHaven Beach. Additionally, the project proposes to install wayfinding signage at the trailhead, State Route 1, and various points throughout the property.
LOCATION:	In the Coastal Zone, 1.4± miles north of the Westport town center, situated west of the State Route 1 (SR1) and Branscomb Road (CR 429) intersection, Located at 39000 N. Highway 1, Westport; APN: 013-890-01.
TOTAL ACREAGE:	26± Acres
GENERAL PLAN:	Remote Residential 20-Acres Minimum (RMR20) General Plan (Chapter 7 – Coastal Element)
ZONING:	Remote Residential 20-Acres Minimum (RMR:20) Mendocino County Code Title 20, Division II
CODE REFERENCE:	Active Recreation Mendocino County Code (MCC) Section 20.380.010(C)
APPEALABLE	Yes

District 4 (Norvell)

**Negative Declaration** 

Approve with Conditions

#### PROJECT BACKGROUND & INFORMATION

**PROJECT DESCRIPTION:** Coastal Development Use Permit to improve public coastal access by constructing a paved driveway at State Route 1 (SR1) post mile (PM) R79.023, a paved parking lot for five (5) vehicles including one Americans with Disabilities Act (ADA) accessible parking space, improving and establishing an existing pedestrian footpath parallel to the ocean and SR1, and constructing a concrete stairway from the headland south of DeHaven Creek leading to the blufftop. The DeHaven Management Plan has been prepared by Thad Van Bueren on April 5, 2022. Westport Village Society, Inc. assumes liability and responsibility for operating and maintaining the project.

The proposed driveway would be constructed approximately 425 feet south of its intersection with Branscomb Road. Log barriers would be placed along the perimeter of the parking lot to prevent vehicular entry onto the surrounding terrain. Several shore pine trees, and non-native shrubs are proposed to be removed to allow for the driveway and parking lot. Establishment of the access trail will primarily entail minor improvements, mowing, and maintenance. The permittee obtained a State of California Department of Transportation (Caltrans) Encroachment Permit (Permit No. 01-24-N-RC-0009) on December 26, 2024, with special provisions that have been incorporated into the conditions of approval.

The proposed stairway would be constructed on an already disturbed area that has been previously used as an access route to DeHaven Beach. The stairway, as proposed, would require drilling piers into supporting bedrock and a retaining wall. The California Coastal Commission stated a wood type with a polyurea coating as a treatment method to preserve the wood, or Heart Redwood, or untreated cedar or redwood, or inert metal (aluminum) for sections of the stairway not in direct contact with the ground would be permitted. The use of timber treated with ACZA is not recommended by Coastal Commission staff for use adjacent to waters in the Coastal one, since it has the potential to leach into the ground and subsequent waterways. Substantial current research shows the bioaccumulation and toxicity of copper in aquatic habitats.

Signage would be posted at the parking lot trailhead advising visitors of rules which limit use to daylight hours and do not allow camping, fires, littering, and fireworks. A second sign would be posted at the parking lot trail head directing persons with disabilities access to beach and bluff viewpoints. A sign at the driveway approach on SR1 would state that Recreational Vehicles (RVs) and large vehicles are prohibited. Access to beach and viewpoints would be provided and signed for persons with disabilities. Barriers would be placed marking wheelchair ramps and the limits of safe approach of the bluff.

**SITE CHARACTERISTICS:** The project site is located within the Coastal Zone, 1.4± miles north of the Westport town center, 117± feet from the SR 1 and Branscomb Road (County Road: 429) intersection. Located at 39000 N. Highway 1, Westport (APN: 013-890-01). The 26± acre parcel is bordered to the east by SR 1 and Westport-Union Landing State Beach to the north.¹ The California Coastal Trail (CCT) is situated on the subject parcel and runs parallel to SR1. The subject parcel is dominated by an uplifted marine terrace bisected by DeHaven Creek from the east. The property ranges from mean sea level to a maximum elevation of 112 feet above sea level.² The California Coastal Trail is a work-in-progress with the goal of providing trail access to and along California's 1,100-mile-long coast. When complete, the CCT will be a continuous trail system along or near the coast, linking the Oregon border to the Mexican border. The vision is for a continuous system that connects parks, beaches, bicycle routes, hostels, and the state trails networks.³

From east to west, the slope on the subject parcel ranges from 0 degrees to 86 degrees.<sup>4</sup> The project site is mapped within a Moderate fire hazard area and is served by CAL FIRE.<sup>5</sup> Approximately 15.6 of the 26± acre parcel is an Environmentally Sensitive Habitat Area (ESHA). The swale on the northeastern side of the terrace includes a 2.7± acre wetland. Five special status natural communities were identified in the project area including Dune Mat at the mouth of DeHaven Creek, Coastal Dune Willow on the northeast portion, pockets of California Oatgrass Grassland on the northern and southern portion, Seaside Woolly Sunflower to the north, and Slough Sedge adjacent to the Coastal Dune Willow.

<sup>&</sup>lt;sup>1</sup> State Park Map.

<sup>&</sup>lt;sup>2</sup> Van Bueren, Thad. DeHaven Management Plan. September 23, 2023.

<sup>&</sup>lt;sup>3</sup> California Coastal Commission. Public Access Action Plan. June 1999.

<sup>&</sup>lt;sup>4</sup> Estimated Slope Map.

<sup>&</sup>lt;sup>5</sup> Fire Hazard Zone Map.

REFERRAL AGENCIES

#### **Public Services:**

Access: State Route 1

Water District: None Sewer District: None Fire District: CalFire

**AGENCY COMMENTS:** On November 28, 2023, and November 8, 2024, project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their submitted recommended conditions are discussed in this staff report and contained in Conditions of Approval. A summary of the submitted agency comments is listed below.

COMMENT

REFERRAL AGENCIES	COMINENT
Department of Transportation	No Comment
Environmental Health	No Comment
Building Division-Fort Bragg	No Response
Assessor's Office	No Response
Air Quality Management District	No Response
Archaeological Commission	Comments
Planning Division- Fort Bragg	No Comment
CALFIRE	No Comment
California Coastal Commission	No Response
California Dept. of Fish & Wildlife	No Comment
Northwest Information Center	Comments
Trails Advisory Council	No Response
Westport MAC	Comments
California Native Plant Society	No Response
Caltrans	Comments
US Dept of Parks and Recreation	No Response
US Natural Resources Conservation	No Response
Potter Valley Tribe	No Response
Sherwood Valley Band of Pomo	Comments
Cloverdale Rancheria	No Response
Redwood Valley Rancheria	No Response

**Archaeological Commission:** On February 14, 2024, the Archaeological Commission accepted the Archaeological Survey associated with the project site and recommended to incorporate the Archaeologists recommendations into the conditions of approval.

**Northwest Information Center:** Based on results from a recorded Archaeological Survey, the proposed project has a low possibility of containing unrecorded archaeological sites. We recommend the further plans and measures described in the Archaeological Survey prepared by Thad Van Bueren.

**Sherwood Valley Band of Pomo Indians:** On December 15, 2023, the Sherwood Valley Tribe stated the proposed project is within Sherwood Valley traditional territory and contemporary use is still very prevalent in this cultural resourced area. As the project moves forward, the Tribe may request cultural monitoring onsite. In the event of an inadvertent discovery the Tribe would like to go on record as the Most Likely Descendant (MLD) of the area. Contact information is available by request from the Mendocino County Planning & Building Department.

Westport Municipal Advisory Council (WMAC): On January 10, 2024, WMAC wrote a letter of support for the subject project.

**CALTRANS:** The permittees obtained a Standard Encroachment Permit from CALTRANS. All transportation information and CALTRANS comments will be addressed under the Transportation, Utilities portion of the Staff Report.

California Department of Fish and Wildlife (CDFW): On December 13, 2024, CDFW provided the

following comments and recommendations as a Trustee Agency role including, CDFW understands that the project is proposed to occur within the 100 foot buffer but that impacts would not occur to special status plants. CDFW recommends targeting invasive species for removal for a period of 3-5 years property wide, the implementation of Best Management Practices should be placed on the slope and under the stairs for erosion control. CDFW also recommended several conditions of approval to maintain the trail and parking area and avoid environmentally sensitive habitat areas, which shall be discussed in the Environmentally Sensitive Habitat and Others section below.

California Coastal Commission: On December 23, 2024, CCC staff responded expressing concerns regarding the type of wood proposed and stated "ACZA coated timber is not recommended by staff for use adjacent to waters in the Coastal Zone since it has the potential to leach into the ground and subsequent water ways. Substantial current research shows the bioaccumulation and toxicity of copper in aquatic habitats". Additionally, the CCC requested the permittee specify how and where concrete washout will occur in a manner that captures slurry and wastewater and that ensures protection of water quality of adjacent coastal waters, including demonstrating that all concrete wash out will occur outside of ESHAs and ESHA buffers. CCC recommended several best management practices that will be incorporated as conditions of approval.

## **PROJECT ANALYSIS**

#### LOCAL COASTAL PROGRAM CONSISTENCY:

**Land Use and Planning Areas**: The project site is located within the boundaries of the Local Coastal Plan (LCP). The subject parcel is classified as Remote Residential (RMR), as defined in Chapter 2 of the Coastal Element of the Mendocino County General Plan. The intent of this classification is to:

"...be applied on lands having constraints for commercial agriculture, timber production or grazing, which are well suited for small scale farming and low density agricultural/residential uses by the absence of such limitations as inadequate access, unacceptable hazard exposure or incompatibility with adjoining resource land uses. The classification is also applied to some areas which might not otherwise qualify except for the fact that the land has been divided and substantial development has occurred. Conditional uses include Residential clustering, cottage industry, conservation and development of natural resources, recreation-education, public facilities and utilities determined to be necessary on Remote Residential Lands."

The subject parcel is situated within the Rockport to Little Valley Road Planning Area (includes Westport and Inglenook). This planning area is characterized by two distinct natural settings: the narrow or nearly nonexistent coastal shelf north of Ten Mile River and the gentle slopes separated from the ocean by dunes extending from the river to Little Valley Road north of Cleone. Potential development hinges upon access via Highway 1 and Branscomb Road. Any substantial capacity improvement to Highway 1 would require some cuts and fills and bridges. Most traffic on this segment of the highway will also use the section between Little Valley Road and Fort Bragg, where no additional capacity will be available.

Major development in this area is constrained due to the topography, the agricultural and timber resources, and the highly scenic character of much of this segment of the coast. North of the Ten Mile River the coastal zone boundary is 1,000 yards from the shoreline, nearly all of it visible from Highway 1. This stretch is grand in scale, containing spectacular meetings of land and sea as the highway climbs to provide sweeping views of the Lost Coast and drops to narrow gulches near the shore. The most spectacular views have been permanently protected through public acquisition of lands lying between Highway 1 and the ocean. 80% of the land west of Highway 1 in this area is in public ownership. The LCP has given further protection to the scenic and rural qualities of this area by ruling out creation of major new subdivisions and by the retention of rangelands and timberlands in large parcels and by designating specific areas between Hardy Creek and the Ten Mile River as highly scenic areas within which new development must be subordinate to the character of its setting consistent with Policy 3.5-3. The LCP recognizes the existing subdivisions: Ocean Meadows, Seaside and Westport Beach Subdivision where each existing legally created parcel in each subdivision is allowed one residence as a principal permitted use.

portion of the subdivision which is located within the coastal zone shall be designated on the land use maps as Remote Residential, with a minimum parcel size of 20 acres (RMR-20), corresponding to the average size of the existing parcels. One housing unit shall be allowed as a principal use on each existing parcel, except as designated visitor service facility on the Land Use Maps, provided that prior to the issuance of a coastal development permit for any new development, all of the applicable standards and policies of this plan shall be met. Site development review shall be a requirement for new development within the Westport Beach Subdivision applying the standards or policies 3.5-3 and 3.5-4.

The subject parcel was created as a portion of the Westport Beach Subdivision approved in 1971 and the subdivision map indicates one 10 foot wide pedestrian easement on the parcel just south of DeHaven Creek. The project proposal to construct a driveway, a parking lot for five vehicles, a stairway, and formalize segments of the existing California Coastal Trail is consistent with the conditional uses in the RMR land use classification. The DeHaven Management Plan, prepared by Thad Van Bueren on September 23, 2024, states the five proposed management actions are conserving natural resources and habitats, maintain and improve coastal access, enhance the scenic character of the property, secure ownership of deeply buried mineral resources, and facilitate public education and sustainable traditional tribal uses. The proposed project would be situated on a terrace west of SR 1 and would minimize visual impacts by constructing the driveway and parking lot adjacent to existing vegetation. The parking lot would then connect to the California Coastal Trail to the west. The proposed stairway would be located northwest of the parking lot and would be constructed on an existing access point. The proposed project conforms to the conditional uses of the RMR land use classification and the provisions of the Planning Area.

**Zoning**: The subject parcel is situated within the Remote Residential zoning district, which is intended to be applied to lands within the Coastal Zone which have constraints for commercial agriculture, timber production or grazing, but which are well-suited for small scale farming, light agriculture and low-density residential uses, or where land has already been divided, and substantial development has occurred. Pursuant to Mendocino County Code (MCC) Section 20.380.015(E) Coastal Open Space Use Types, Active Recreation is a permitted use upon the issuance of a coastal development use permit.

The project, as proposed, would construct a driveway from State Route 1, construct a parking lot and a stairway descending down to DeHaven Beach, and would formalize existing segments of the California Coastal Trail. MCC Section 20.340.020 describes Active Recreation as the establishment of facilities which constitute "development" as defined in Section 20.308.035(D), and that involve only minor supplement and that may have the potential for environmental impacts requiring mitigation or which may involve hazards, generate noise, dust, additional traffic, or have other potential impacts. Examples include construction of spectator sports facilities, recreational boating facilities, shooting ranges, rodeo facilities and recreational trails. Considering the proposed project includes establishing segments of a recreational trail known as the CCT, the proposed project complies with the conditional uses of the RMR zoning district.

**Grading, Erosion, and Runoff**: The project site is currently undeveloped and mildly vegetated. The project includes constructing a driveway, a parking lot, a stairway, and formalizing segments of the California Coastal Trail. Proposed earthwork includes 15 cubic yards of cut and 15 cubic yards of fill. A Geotechnical Investigation was prepared by Brunsing Associates, Inc. (BAI) on July 23, 2024, for the proposed project. The proposed graded areas would be cleared of existing vegetation debris, and surface soils containing organic matter would be stripped. The project anticipates stripping about 4 to 6 inches. BAI stated "finished pad surfaces should be graded to drain away from improvements. A minimum surface drainage of two percent is recommended. Soil subgrades should be finished true to line and grade to present a smooth surface."

The proposed driveway in length would be 35± feet and the parking lot would be approximately 44 feet by 57 feet. Grading for the parking lot would match the existing grade with the exception of the accessible parking area, which shall not exceed a slope of 1.8% in any direction. Minor bedrock cut for stairs will be redistributed and compacted upslope. Surface vegetation will be mulched on the surrounding area.

The permittee proposes a Stormwater Pollution Prevention Plan (SWPPP) to incorporate Best Management Practices (BMPs) to control runoff and erosion. BMPs shall be implemented before, during construction, and under stairway for erosion and runoff control. Conditions of Approval No. 27, and No. 41 through No. 51 address BMPs to be incorporated.

The proposed construction of the stairway intends to place the lower steps as close to the toe of the cliff as feasible, while limiting the amount of cut into the cliff to accommodate the timber stairs. BAI anticipates the stairway foundation would remain intact if foundation recommendations are implemented. With conditions of approval, BAI recommendations, and BMPs, the proposed project is consistent with the purposes of MCC Chapter 20.492 – Grading, Erosion, and Runoff.

Environmentally Sensitive Habitat and Other Resource Areas: The LCP Habitats & Resources Map indicates the presence of an Anadromous Stream special habitat and a beach marine and freshwater habitat. A Botanical & Wetland Delineation Report, prepared by Kyle Wear in July 2023, identified several environmentally sensitive habitat areas (ESHAs). A 2.7± acre wetland is located between SR1 and the blufftop. A smaller wetland is situated on the bluff face to the southwest of the property. The DeHaven Creek hosts Coho Salmon (Oncorhynchus kisutch) and Steelhead (Oncorhynchus mykiss irideus). Other ESHAs include the Dune Mat (*Abronia latifolia – Ambrosia chamissonis Herbaceous Alliance*), Seaside Woolly-sunflower - seaside daisy - buckwheat patches (*Eriophyllum staechadifolium – Erigeron glaucus – Eriogonum latifolium Herbaceous Alliance*), Coastal Dune Willow – Sitka Willow – Douglas Spiraea Thickets (*Salix hookeriana – Salix sitchensis, Spiraea douglasii* Shrubland Alliance), Sough Sedge – Water-Parsley – Small-fruited Bulrush Marsh (*Carex obnupta – Oenanthe sarmentosa – Scirpus microcarpus* Herbaceous Alliance), and Idaho Fescue – California Oatgrass Grassland (*Destuca idahoensis – Danthonia californica* Herbaceous Alliance). The wetland, Coho Salmon, and Steelhead are also identified as ESHA.

<u>Native Species</u>: As noted in the botanical report, there is a native grass component in some areas including California Oatgrass, Shrubs and brambles include coyote brush, Cascara, California blackberry, Douglas's iris, cow parsnip, California poppy, yarrow, and beach pines.

Two site visits were conducted on the project site on January 2, 2024, and February 13, 2024, with the County and the California Department of Fish and Wildlife (CDFW) staff. Staff observed the existing trail's proximity to the bluff edge and requested the permittee re-route it to meet a 25-foot setback. CDFW requested the permittee flag the re-routed trail to ensure it would not impact ESHA. The second site visit was conducted to confirm ESHA would be avoided. CDFW, as a Trustee Agency, understands the stairway would be constructed within 100 feet of special status plants and concurs with the reduction if the following recommendations are incorporated:

• Target invasive species (property wide) for removal for a period of 3-5 years.

### Proposed Stairway:

- The proposed stairway has been re-designed and is of a slightly smaller footprint than considered during previous site visits.
- CDFW would agree with the contractor's recommendation to use a rubber-wheeled excavator as it would likely have less impact than a tracked piece of equipment.
- Harvest native plants from proposed development areas, as feasible, and replant post-construction and after first rain event (typically October or November) including: seaside daisy, lupin, and woolly sunflower.
- If soil is to be excavated, it is recommended to save the top 6-8 inches and replace when construction is complete and shall not be used as fill elsewhere on project site.

#### From property line to the eastern side of trail behind stairway:

• Along with appropriate erosion control measures, cast native, northern Californian grass seed mix appropriate for blufftops and ensure mix does not contain invasive and non-native species.

#### Trail Maintenance:

- If and when the trail is re-routed to account for bluff retreat, native species should be avoided.
- Mowing should occur outside of the bloom period of native species (typically March to August).
- Target non-native species on the trail and outside of ESHA during spring and summer months
  using a weed whacker or loppers.

<sup>&</sup>lt;sup>6</sup> Site Plans. Sheet C-103

- Encourage re-growth of native plants by collecting native seed onsite and casting in early fall.
- Install signs near ESHA and native habitat locations that direct visitors to stay on trail. Signs could
  include language such as, "habitat restoration area keep out".

## Parking lot and trail:

- Considering some shore pines are proposed to be removed, CDFW recommends a minimum replacement ratio of 1:1 on either side of existing trees
- Install low, symbolic fencing on the driveway perimeter to reduce expansion of parking area and to guide users to stay on trail and within the proposed, developed areas.
- Install signs that state use prohibitions including fires, biking, motorized vehicles, and camping.

The DeHaven Management Plan prepared by Thad Van Bueren on September 23, 2023, stated a segment of the California Coastal Trail (CCT) exists on the subject parcel and would need to be mowed regularly and gradually move east as the bluff retreats in order to maintain at least a 25 foot setback for safety except when the trail would adversely impact identified habitat values. The Botanical and Wetland Delineation Report stated that the project would not impact special status plants or wetlands and would not result in additional vegetation clearing in ESHA. The trails would be maintained by mowing outside of ESHA and ESHA blooming periods. Development of the stairway shall minimize removal of vegetation and amount of bare soil. Any native vegetation removed for the stairway shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of buffers and to prevent erosion. Landowner shall post signage directing the public to stay on path and outside of environmentally sensitive habitats.

On December 23, 2024, the California Coastal Commission (CCC) reviewed the project referral and recommended that the permittee:

- Replace the ACZA wood type with an alternative material, citing concerns about ACZA's potential
  to leach into the ground and nearby waterways.
- Specify how and where concrete washout will occur in a manner that captures concrete slurry and
  wastewater and that ensures protection of water quality of adjacent coastal waters, including
  demonstrating that all concrete wash out will occur outside of ESHAs and ESHA buffers.
- Specify Best Management Practices (BMPs) including, but not limited to,
  - Do not wash concrete trucks or equipment into storm drains, streets, gutters, or streams.
  - Establish and mark designated washout areas with signs.
  - Provide containment for wash water and inspect daily for leaks.
  - Properly dispose of washout materials, preferably by allowing water to evaporate and recycling hardened concrete.
  - Do not discharge concrete wash water into surface waters, storm drains, or the ground without proper disposal measures or permits.
  - Develop and implement a plan to prevent concrete leachate from entering the environment for at least 30 days after pouring.
  - Development should only be authorized to occur during the dry season (May 19th –
    October 15) and development occurring at or near the shoreline should only occur during
    low tides to limit the risk of high groundwater and discharge.
  - All ground-disturbing activities and concrete operations shall occur during dry weather only.
     No work shall occur within 72 hours of 50% or greater forecast of rain by the National Weather Service.
- If the tremie method is used [during pier drilling], any waters discharged from the forms in such operations shall be pumped off, collected in a holding tank, shall not be discharged to the marine environment and must be appropriately disposed of offsite.

 A wood type with a polyurea coating as a treatment method to preserve the wood, or Heart Redwood, or untreated cedar or redwood, or inert metal (aluminum) for sections of the stairway not in direct contact with the ground would be permitted.

The applicant stated, "if groundwater is encountered in stairway pier holes (which is unlikely given that it will be built in the dry period and the geotechnical bore holes did not encounter any water) we will instruct the contractor to dewater them, rather than fill them by the tremie method. The concrete washout for the stairway pour will be adjacent to the parking lot at the trailhead next to that lot, which is outside of all ESHAs and buffers". Furthermore, CCC staff accepted the changes and stated all concerns were addressed. With the incorporation of CDFWs and CCCs recommendations, the proposed project would be consistent with MCC Chapter 20.496 – Environmentally Sensitive Habitat and Other Areas.

Hazards Areas: The purpose of MCC Chapter 20.500 – Hazard Areas is to insure that development in Mendocino County's Coastal Zone shall: (1) minimize risk to life and property in areas of high geologic, flood, and fire hazard; (2) assure structural integrity and stability; and (3) neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

MCC Chapter 20.500.020(B) No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry. These developments shall only be allowed as conditional uses, following a full environmental, geologic and engineering review and upon a finding that no feasible, less environmentally damaging alternative is available. Mitigation measures shall be required to minimize all adverse environmental effects.

MCC Section 20.500.020(E) Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses. Environmental geologic and engineering review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other significant adverse environmental effects.

One of the main goals of the California Coastal Act is to maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principals. The proposed project to improve public access by constructing a driveway, parking lot, and stairway from the blufftop to the beach would further the public welfare. A Geotechnical Investigation and Slope Stability Analysis was prepared by Brunsing Associates, Inc. (BAI) on July 23, 2024. No evidence of faulting was observed by BAI and the potential for fault rupture at the project site is considered low. BAI anticipates that the proposed stairway would be subject to occasional storm waves during high tides. Wave action is expected to worsen as sea level rise takes effects. The LCP Land Capabilities Map indicates the blufftop parcel is situated on Marine Terrace Deposits (Zone 2). North of the project site where DeHaven Creek and the beach intersect has the potential to flood. Marine Terrace Deposits are susceptible to seismic activity, leading to intermediate to strong shaking.

Pursuant to LCP Policy 3.4-12, BAI stated the proposed stairway is in the most feasible location considering it has previously been disturbed. BAI stated that a retaining wall has been judged necessary for the public access stairway. In addition, all the recommendations presented in the report are intended to provide support for the proposed stairways 75 year lifespan. Any plants located at the top of the bluff may be anchoring the bluffs and slowing erosion. Removing any plants at the top of bluff is prohibited unless a qualified geologist determines the removal of plants would not increase erosion. BAI stated, "the proposed stairway, at base landing elevation 14 feet above mean sea level, will be subject to occasional storm waves

<sup>&</sup>lt;sup>7</sup> Brunsing Associates, Inc. Geotechnical Investigation. July 23, 2024.

<sup>&</sup>lt;sup>8</sup> LCP Map Land Capabilities.

<sup>&</sup>lt;sup>9</sup> Ibid.

during high tides" and "our recommended foundation system, piers drilled deep into bedrock, should withstand the effects of periodic, surficial wave erosion over the next 75 years". Condition of Approval No. 18 requires the project to post signage at the head of the stairway advising visitors of high tide conditions and to take caution. BAI stated the subject parcels blufftop, west of the proposed stairway, are slumping northerly, into the creek channel. The landslides do not appear to be enlarging easterly, toward the proposed stairway location. With shallow moderately hard bedrock encountered in our borings, the potential for deep-seated landsliding is considered low".

The proposed stairway would be supported by drilled cast-in-place concrete piers and would require the construction of a retaining wall to prevent and resist hydrostatic pressures. The subject parcel is mapped within a Moderate Fire Hazard severity zone and would be served by California Department of Forestry and Fire Protection (CalFire). With the recommendations provided by BAI, the proposed project would be consistent with MCC Chapter 20.500 – Hazard Areas.

**Visual Resources and Special Treatment Areas**: The property is not mapped within a designated Highly Scenic area or a Special Treatment Area. The proposed project is not applicable to LCP Policy 3.5-3 or Policy 3.5-4. The proposed project would grant public access to the California Coastal Trail, Pacific Ocean, and bluff. Although the project site is not designated as Highly Scenic, the proposed project would create a vantage point for members of the public. The project would be visually compatible with the character of the surrounding areas and would enhance visual quality by granting public access to the parcel. Additionally, there is no lighting or glare proposed for this project. As proposed, the project is consistent with MCC Chapter 20.504 – Visual Resource and Special Treatment Areas.

Transportation, Utilities, and Public Services: The project, as proposed, would not require utilities including water supply, septic and leach field, or utility connections. The project proposes constructing a paved driveway west of SR 1 at post mile (PM) R79.023 that would connect to a paved parking lot and the CCT. The permittee applied for a Caltrans District 1 Encroachment Permit (No. 01-24-6RC-0009) which states the encroachment is situated south of a controlled access freeway delineated with a wider right of way along SR 1. The driveway is proposed to meet Caltrans requirements including, but not limited to, adequate sight distance. A standard traffic control plan (T13) will be implemented during construction of the driveway approach from the right-of-way (SR1) as described in the Encroachment Permit. The Encroachment Permit states, "no less than once a year, Westport Village Society (permittee) will assess the need for any repairs or adjustments to how the facility is used. This will permanently impact highway operations for the benefit of the public by facilitating pedestrian coastal access". Alternative driveway locations were considered but would impact ESHA or would be unsafe due to a curve in the roadway. In accordance with the Caltrans Encroachment Permit, work within SR1 and construction of road approach and driveway would be managed by Caltrans District 1 Representative. The Caltrans Encroachment Permit includes General and Special Provisions that shall be adhered to including traffic control plans, stormwater control, drainage, excavations, and driveway construction.

The LCP states, "Westport does need a community building, a building to house fire equipment, and a playfield. Gradual increases in visitor traffic and new homes in the Westport Beach Subdivision to the north will support increased retail sales and service in town". Considering the project site is within the Westport Beach Subdivision, public roadway capacity has been considered and would be adequate to serve the proposed development.

The project was referred to Caltrans and Mendocino County Department of Transportation (MCDOT) for comments. On December 1, 2023, MCDOT responded with no comments at this time. On December 11, 2024, Caltrans responded to the project referral. In summary, Caltrans recommends the County include approval of signage located on SR1 at the driveway approach that state "No Entry by RVs/ No Vehicles Towing Trailers". Caltrans requires all driveways that meet the state highway system to be paved. Condition of approval No. 25 regarding road standardization was requested by CALFIRE.

**Archaeological and Cultural Resources**: The permittees provided an Archaeological Survey prepared by Thad Van Bueren on April 5, 2022. The Archaeological Survey recommended that the Discovery Clause be added as a condition of approval and particular care should be exercised in areas that were not accessed during this survey. The proposed project was referred to the Northwest Information Center (NWIC), Cloverdale Rancheria, Potter Valley Tribe, Redwood Valley Rancheria, and Sherwood Valley Band of Pomo

<sup>&</sup>lt;sup>10</sup> Fire Hazard Map.

Indians. NWIC stated "the proposed project has a low possibility of containing unrecorded archaeological sites. We recommend the further plans and measures described in the Archaeological Survey prepared by Thad Van Bueren." On February 14, 2024, the Archaeological Commission accepted the survey and recommendations in the Archaeological Survey.

On December 15, 2023, Sherwood Valley Band of Pomo Indians stated "the Tribe is requesting the information MC Planning and Building will receive from [Northwest Information Center] and also the Archaeological Survey. The Tribe has no further cultural resource information to add at this time. The proposed project is within Sherwood Valley traditional territory and contemporary use is still very prevalent in this cultural resourced area. As this project moves forward the Tribe may request cultural monitoring onsite. In the event of an inadvertent discovery the Tribe would like to go on the record as the MLD of the area." As of January 7, 2025, Cloverdale Rancheria, Potter Valley Tribe, and Redwood Valley Rancheria have not responded.

On November 21, 2024, the County requested additional consultation with Sherwood Valley Band of Pomo Indians, THPO Valerie Stanley. As of December 31, 2024, no further comments were received. With the incorporation of Conditions of Approval No. 8 and 9, the project conforms to the provisions of Archaeological and Cultural Resources.

**Public Access:** Access to the shoreline is a key mandate of the Coastal Act and LCP. The term "maximum access" as used by the Coastal Act is intended to make the shoreline a public resource readily available to the public and to prevent it from becoming a private enclave of those fortunate or wealthy enough to own property on or near the shore. The Access Component required in every LCP must contain policies concerning provision, maintenance, and management of public shoreline access and must designate existing and proposed accessways for public use. Access must be provided for viewing, active recreation and scientific research at the water's edge of the ocean and tidal rivers. The coast should be available to users of all transportation modes including drivers, bus riders, bicyclists, hikers, equestrians, and the handicapped. The Coastal Act's requirement for "maximum public access implies that all coastal environments capable of tolerating use at a reasonable risk to both humans and habitat be open.

LCP Policy 3.6-14: New and existing public accessways shall be conspicuously posted by the appropriate agency and shall have advance highway signs except those for which specific management provisions have been made and specified in Chapter 4. Additional signs shall designate parking areas and regulations for their use and shall include regulations for protection of marine life and warning of hazards, including high tides that extend to the bluffs. Access shall not be signed until the responsibility for maintenance and liability is accepted and management established. All accessways shall be designed and constructed to safety standards adequate for their intended use. Hazardous blufftops shall be marked or, if lateral access use is intended, shall have a cable or other clear barrier marking the trail or limit of safe approach to the bluff edge. The County of Mendocino shall seek to implement this policy where appropriate by requesting Caltrans, or other responsible agencies to maintain and sign such accessways.

The project site is on a blufftop parcel west of the intersection of State Route 1 and Branscomb Road. The LCP Land Use map indicates Branscomb Road Inland Trail and Westport – Union Landing State Beach are the nearest existing shoreline access point. The proposed project would formalize an existing five (5) foot wide trail parallel to SR1 and would be continuously mowed. A non-exclusive easement appurtenant to and for the benefit of the parcel has been recorded on the property's deed for the purpose of ingress, egress, access, road, highway and recreational purposes. In addition, an Irrevocable Offer to Dedicate Title in Fee and Declaration of Restrictive Covenants was made on the 9<sup>th</sup> day of December 2022, by the Westport Village Society, Inc. (the offeror). Westport Village Society, Inc. (WVS) has entered into an agreement with the State Coastal Conservancy on such terms and conditions as are mutually agreeable, requiring the public land trust to hold the lands or, where appropriate, to provide nondiscriminatory public access consistent with the protection and conservation of either coastal or other natural resources, or both. The conservancy, as appropriate, shall periodically review the agreement and determine whether the public land trust is in compliance with the terms and conditions.<sup>11</sup>

Pursuant to MCC Section 20.528.015(A), easements for lateral shoreline accessways shall extend

<sup>&</sup>lt;sup>11</sup> California Government Code Section 831.5.

landward twenty-five feet from mean high tide or toe of the bluff or the first line of terrestrial vegetation if the width of the beach is greater than twenty-five feet. Pursuant to Mendocino County Code Section 20.528.045, the permittee prepared the DeHaven Management Plan on September 23, 2023, which intends to protect, enhance, and restore the natural resources and habitats on the subject property while enabling access for the public and traditional tribal uses compatible with that conservation goal. The proposed management actions include:

- 1. Conserve resources and natural habitats
  - a. A map has been prepared to delineate the ESHAs onsite, highlighting areas to avoid in order to minimize significant impacts on resources, special-status communities, and habitats.
  - b. Bluff retreat shall be monitored at frequent intervals to inform realignment of foot trails to be setback a minimum of 25 feet from the bluff edge.
  - c. Secure partnerships with academic institutions, agencies, and groups like Audubon Society and California Native Plant Society
- 2. Maintain and improve coastal access
  - a. Advisory sign at trailhead to encourage resource conservation and public safety.
  - b. Trail alignment when bluff retreats
  - c. Mowing foot trails
  - d. Proposed stairway and parking lot
- 3. Enhance the scenic character of the property
  - a. Construct development in such a way that would not impact visual resources
  - b. Reach out to owner of overhead telephone lines to promote relocation
- 4. Secure ownership of deeply buried mineral resources
  - a. WVS states it would be desirable to acquire reserved mineral rights from current owner to support a permanent moratorium on offshore drilling.
- 5. Facilitate public education and sustainable traditional tribal uses.
  - a. Partnerships with educators, scientists, local Tribes.
  - b. Potential for nature walks and citizen science projects, ecological restoration projects, and cooperative management the supports traditional gathering and fishing by local tribes.

The Westport Village Society (WVS) will maintain liability and other types of insurance to support its management of the property, dedicating necessary funding for monitoring maintenance, and repairs. The DeHaven Management Plan stated a restrictive covenant was granted to the State Coastal Conservancy and recorded with the property title. That covenant defines those purposes as follows: "The offeror (WVS) has acquired the real property for the purposes of cultural resources protection; open space protection; protection, enhancement, and restoration of natural resources and habitat; and public access and beach recreation compatible with such uses (collectively, the "acquisition purposes"). No use of the real property inconsistent with the acquisition purposes is permitted. No development, as defined in California Public Resources Code section 30106, shall be permitted on the real property except as reasonably necessary for the acquisition purposes." Additionally, The WVS has entered into an agreement with the State Coastal Conservancy under Government Code Section 831.5 that qualifies it for partial immunity from liability.

The DeHaven Management Plan outlines a public engagement process conducted in 2022, during which the public expressed support for WVS' management of the property, public access improvements, habitat and resource conservation, traditional tribal use, and recreation uses. Additionally, WVS consulted with representatives of local tribes including Cahto Tribe, Coyote Valley Band of Pomo, Intertribal Sinkyone Wilderness Council, Kai Poma nonprofit, Potter Valley Tribe, Round Valley, Scotts Valley Band of Pomo, and Sherwood Valley Band of Pomo Indians. WVS stated "their input favored protecting cultural resources, conserving natural resources and habitats, and maintaining access for traditional gathering, fishing, and cultural activities". 12

The project proposes to provide five (5) uncovered parking spaces total including one (1) ADA accessible parking space. The project would install signage to designate the parking area, access signage for persons with disabilities, and to restrict encroachment in ESHA and hazard areas. No restrooms, garbage collection,

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<sup>&</sup>lt;sup>12</sup> Van Bueren, Thad. The DeHaven Management Plan. 2023.

water, or other amenities are proposed. A sign at the parking lot will encourage conservation and respectful visitation with no overnight parking, camping, fires, or littering. Pursuant to MCC Chapter 20.476.025, free standing signs on SR 1 shall meet the following standards: not project into a private or public right of way, extend no higher than forty (40) square feet on any single sign face, all on-site signs shall conform to a 50 foot setback. All signs shall, where feasible, be made of wood, signs shall not block public views of the ocean, and no flashing or moving signs or lighting creating the effect of movement shall be permitted.

In accordance with MCC Section 20.528.015(F), the DeHaven Management Plan states, "the trail from the parking lot west to bluff edge will be accessible for persons with handicaps and one of the five parking spaces will be designated and signed exclusively for handicapped use". The trail from the parking lot to the beach and blufftop viewpoints shall be stable, firm and slip resistant and shall comply with the Uniform Building Code Section 11B-302. The DeHaven Management Plan declares that WVS will conduct annual inspections on the stairway and parking lot and will maintain the trails by weed whacking and mowing outside of ESHA blooming seasons. Conditions of Approval No. 12 through 19 address signage. Conditions of Approval No. 20 requires the trail from the parking lot to viewpoints shall be stable, firm and slip resistant and shall comply with the Uniform Building Code Section 11B-302.

As previously discussed in the Environmentally Sensitive Habitat and Other Areas section, logs would be placed along the perimeter of the driveway and parking area to prohibit vehicular encroachment on sensitive natural resources and for public safety. WVS would closely monitor bluff erosion as well. On a site visit in January 2024, WVS, CDFW and County staff discussed re-routing the trail to address potential bluff erosion and public safety concerns. County staff requested WVS to re-route the trail and to flag the proposed trail, so it is located at a minimum of 25 feet from the bluff edge and outside of ESHA. The second site visit on February 13, 2024, conducted by WVS, CDFW, and County staff, verified that the proposed re-routed trail met the 25 foot setback and ESHA requirements. As proposed, the project is consistent with MCC Chapter 20.528 and the LCP Section 3.6 – Shoreline Access and Trail/ Bikeway System policies.

**ENVIRONMENTAL DETERMINATION:** Negative Declaration. An Initial Study for the proposed project was completed by staff in accordance with the California Environmental Quality Act (CEQA). Based on this initial evaluation, it was found that the project would not produce any significant environmental impacts. As such, a Negative Declaration was prepared. It is noted in the Initial Study that the proposed project could result in some environmental impacts, but these were considered to be less than significant.

DATE

Appeal Period: 10 Days Appeal Fee: \$2,674.00

## **ATTACHMENTS:**

- A. Location Map
- B. Aerial Map
- C. Site/Tentative Map/Project Plans
- D. General Plan Map
- E. Zoning Map
- F. LCP Maps
- G. Adjacent Owner Map

- H. Fire Hazards Map
- I. Landslide Hazards
- J. Slope Map
- K. Soils Map
- L. Wetlands
- M. State Park

RESOLUTION AND CONDITIONS OF APPROVAL (EXHIBIT A):
NEGATIVE DECLARATION AND INITIAL STUDY AVAILABLE ONLINE AT:

https://www.mendocinocounty.gov/government/planning-building-services/meeting-agendas









































