PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN that the proposed development described below is within the coastal zone and, pursuant to the Eureka Local Coastal Program, the Coastal Development Permit is scheduled for a public hearing before the Acting Development Services Director on Thursday, April 25, 2019 at 9:30 a.m., in Room 207, Second Floor, Eureka City Hall, 531 “K” Street, Eureka, California.

Project Title: Schmidbauer Stormwater Drainage Improvement Coastal Development Permit

Project Applicant: Schmidbauer Lumber Inc. Project Number: CDP-19-0004

Location: 1099 West Waterfront Drive, Eureka, California

APNs: 003-072-004, and -007, 003-082-004 and -005

Zoning and General Plan Designation: MG (General Industrial)/GI (General Industrial)

Description: The project involves after the fact approval, as well as approval of future stormwater drainage improvements at the Schmidbauer lumber mill and log yard. The improvements were/are necessary to comply with General Permit for Stormwater Discharges Associated with Industrial Activities Order No. 2014-0057-DWQ (National Pollutant Discharge Elimination System No. CAS000001) issued by the State Water Resources Control Board. Additionally, Ecological Right Foundation and Schmidbauer Lumber, Inc. have agreed upon a consent decree and time schedule to mitigate the drainage conditions that are causing Numeric Action Level exceedances in the stormwater.

Date of Project Application: February 4, 2019

Staff Contact Person: Riley Topolewski, Senior Planner; City of Eureka, Development Services Department, Community Development Division; 531 “K” Street, Eureka, CA 95501-1165; phone: (707) 268-1971, fax: (707) 441-4202, email: rtopolewski@ci.eureka.ca.gov

All interested persons are invited to comment on the project either in person at the scheduled public hearing, or in writing. Written comments on the project may be submitted at the hearing or prior to the hearing by mailing or delivering them to the Community Development Division, Third Floor, 531 K Street, Eureka. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting. Appeals to the City Council of the action of the Acting Director on the project may be
made within 10 calendar days of the action by filing a written Notice of Appeal, along with the filing fees as set by the City Council, with the City Clerk. The City’s final action is appealable to the California Coastal Commission. If you challenge the nature of the proposed action in court, you may be limited to raising only those issues that you or someone else raised at the public hearing described in this notice or written correspondence delivered to the public entity conducting the hearing at or prior to the public hearing. The project file is available for review at the Development Services Division, Third Floor, City Hall. If you have questions regarding the project or this notice, please contact the department at (707) 441-4160; fax: (707) 441-4202; e-mail: planning@ci.eureka.ca.gov
DIRECTOR OF DEVELOPMENT SERVICES PUBLIC HEARING

ADMINISTRATIVE STAFF REPORT
April 25, 2019

Project Title: Schmidbauer Stormwater Drainage Improvement Coastal Development Permit

Project Applicant: Schmidbauer Lumber Inc. Project Number: CDP-19-0004

Location: 1099 West Waterfront Drive, Eureka, California

APNs: 003-072-004, and -007, 003-082-004 and -005

Zoning and General Plan Designation: MG (General Industrial)/GI (General Industrial)

Description: The project involves after the fact approval, as well as approval of future stormwater drainage improvements at the Schmidbauer lumber mill and log yard. The improvements were/are necessary to comply with General Permit for Stormwater Discharges Associated with Industrial Activities Order No. 2014-0057-DWQ (National Pollutant Discharge Elimination System No. CAS000001) issued by the State Water Resources Control Board. Additionally, Ecological Right Foundation and Schmidbauer Lumber, Inc. have agreed upon a consent decree and time schedule to mitigate the drainage conditions that are causing Numeric Action Level exceedances in the stormwater.

Date of Project Application: February 4, 2019

Staff Contact Person: Riley Topolewski, Senior Planner; City of Eureka, Development Services Department, Community Development Division; 531 “K” Street, Eureka, CA 95501-1165; phone: (707) 268-1971, email: rtopolewski@ci.eureka.ca.gov

Appeal Jurisdiction: The Director’s action on the Coastal Development Permit is appealable to the Planning Commission. The Planning Commission’s action on an appeal is appealable to the City Council. The City’s final action on the Coastal Development Permit is appealable to the Coastal Commission.
**Staff Recommendation and Suggested Motion:** Adopt a Resolution of the Director of Development Services approving the Coastal Development Permit subject to conditions of approval.

“I hereby adopt a “Resolution of the Director of Development Services of the City of Eureka approving the Coastal Development Permit for Stormwater Drainage Improvements at 1099 West Waterfront Drive.”

**Background:**

The project involves after the fact approval, as well as approval of future stormwater drainage improvements at the Schmidbauer lumber mill and log yard. The improvements were/are necessary to comply with General Permit for Stormwater Discharges Associated with Industrial Activities Order No. 2014-0057-DWQ (National Pollutant Discharge Elimination System No. CAS000001) issued by the State Water Resources Control Board. Additionally, Ecological Right Foundation and Schmidbauer Lumber, Inc. have agreed upon a consent decree and time schedule to mitigate the drainage conditions that are causing Numeric Action Level exceedances (NALs) in the stormwater. NALs allow for permit holders to gauge whether their stormwater program is effective in preventing pollutants from discharging in stormwater. An NAL exceedance is an indication that the facility’s BMPs are not effective in reducing pollutants.

The project location is adjacent to an environmentally sensitive habitat area (ESHA). A freshwater emergent wetland as classified by the National Wetland Index, is located near the northwest corner of Koster and W. 14th Streets. The potential exists for the adjacent ESHA to be impacted due to the NAL exceedances. The stormwater improvements, as laid forth in this project, will serve to greatly reduce, if not altogether stop these NAL exceedances.

This drainage improvement project involved/will involve modifications to the log yard drainage areas, and installation of stormwater vaults, pumps, controls and a stormwater treatment system. The two major drainages that required/will require modification and maintenance include: (1) the eastern log yard and eastern ditch, which drains east and northward into the City’s storm drain system that empties to the slough, and then to Humboldt Bay on the outgoing tide; and (2) the southern (former log yard) and southern drainage ditch, which drains south and westward into the City’s storm drain system and to Humboldt Bay on the outgoing tide (see Attachment 3). Stormwater samples from these two drainage areas have shown the Industrial General Permit (IGP) stormwater exceedances were occurring, which required/will require improvements to stop or mitigate the discharge to Waters of the State. Waters of the State are defined as any surface water or groundwater, including saline waters, within the boundaries of the state, including all waters within the state’s boundaries, whether public or private, including waters in both natural and artificial channels.
Improvements included/will include grading, such as relocating the gravel fill material, to improve drainage and create a settling basin and drainage swales with associated berms and check dams. The gravel fill material consists of a depth of approximately 2.5 feet of existing, on-site material. The gravel has been shaped into a swale that will help to control the flow of stormwater into the City of Eureka’s storm drain located on W. 14th Street. Check dams will be installed as features of the eastern ditch at intervals of 20’ on center. A vegetative swale and infiltration area will be installed on the eastern portion of parcel 003-082-005 with periodic berms to limit the flow during heavy stormwater events. New drainage inlets and stormwater vaults are also proposed to be installed along with electrical conduit to power new pumps and possibly the treatment system. Other improvements include installing infiltrator pipes for added storage below grade, and installation of a tracking grid at the Koster Street exit. A tracking grid is used to reduce off-site tracking of sediment. The tracking grid will be situated partially above grade, while the footings and compacted base below is approximately two feet below grade.

**Applicable Regulations:** The Eureka Municipal Code, Section 10-5.29310.1 specifies that a coastal development permit shall only be approved upon making the finding that the proposed development conforms to the policies of the certified local coastal program (LCP).

**Analysis:** The project site is located in the California Coastal Zone and a Coastal Development Permit is required. The City of Eureka has permit jurisdiction for issuing the Coastal Development Permit, and the project is appealable to the State Coastal Commission. Staff has reviewed the adopted Local Coastal Program for goals and policies that may affect or be affected by the project and found the following:

Land Use Plan:

**SECTION 6. NATURAL RESOURCES**

*Goal 6.A*

*To protect and enhance the natural qualities of the Eureka area’s aquatic resources and to preserve the area’s valuable marine, wetland, and riparian habitat.*
6.A.3 The City shall maintain and, where feasible, restore biological productivity and the quality of coastal waters, streams, wetlands, and estuaries appropriate to maintain optimum populations of aquatic organisms and for the protection of human health through, among other means, minimizing adverse effects of wastewater and stormwater discharges and entrainment, controlling the quantity and quality of runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

6.A.7 Within the Coastal Zone, the City shall ensure that environmentally sensitive habitat areas are protected against any significant disruption of habitat values, and that only uses dependent on such resources shall be allowed within such areas. The City shall require that development in areas adjacent to environmentally sensitive habitat areas be sited and designed to prevent impacts which would significantly degrade such areas, and be compatible with the continuance of such habitat areas.

6.A.8 Within the Coastal Zone, prior to approval of a development, the City shall require that all development on lots or parcels designated NR (Natural Resources) on the Land Use Diagram or within 250 feet of such designation, or development potentially affecting an environmentally sensitive habitat area, shall be found to be in conformity with the applicable habitat protection policies of the General Plan. All development plans, drainage plans, and grading plans submitted as part of an application shall show the precise location of the habitat(s) potentially affected by the proposed project and the manner in which they will be protected, enhanced or restored.

The CDP Project involves stormwater drainage improvement at 1099 West Waterfront Drive which, when implemented, will reduce the effects of stormwater discharges and entrainment and control the quantity/quality of runoff. Through the improved collection, infiltration and monitoring of stormwater runoff, as encompassed in the project, any impacts to adjacent environmentally sensitive habitats shall be reduced.

Project referrals were sent out to all agencies that may have an interest in the proposed stormwater improvements involved in this CDP application. There were two respondents that suggested conditions be applied to the CDP approval. Tribal representatives requested that any ground-disturbing work utilize the Inadvertent Discovery Protocol, which calls for the immediate stoppage of work in the event of an inadvertent discovery of possible archeological materials, and for the immediate contact of tribal personnel. The City of Eureka Engineering department also called for any and all stormwater, or other utility connections to be coordinated and supervised by the appropriate city staff. Based upon the referral responses, and incorporated conditions of approval, the finding can be made that the proposed CDP project will cause no negative impacts to public health, welfare and safety, and will most likely improve all three.

California Environmental Quality Act: The coastal development permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, the project qualifies for a Class 4 exemption (Section 15304) from CEQA which exempts minor alterations in the condition of land.
which do not involve removal of healthy, mature, scenic trees, and including such things as minor grading, gardening or landscaping, minor trenching and backfilling. Section 15003.2(b) Cumulative Impact- describes an exceptions to CEQA exemptions that make them inapplicable in when the cumulative impact of successive projects of the same type in the same place, over time is significant. The proposed project is a unique occurrence that is not part of a successive group of projects of the same type in the same place. Section 15003.2(c) Significant Impact- makes exception to a CEQA exemption when it is used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The project, stormwater runoff improvements, does not propose any unusual circumstances where there is a reasonable possibility that the activity will have a significant effect on the environment. Section 15304 (a) exempts grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist. Section 15304 (f) exempts minor trenching and backfilling where the surface is restored. The project is located on relatively flat land, and the work will not be undertaken in a waterway, wetland, scenic area, or an area of severe geologic hazard.

Summary:
SHN Consulting Engineers will adhere to City of Eureka standards regarding connection to City of Eureka stormwater facilities. The applicant will also utilize Inadvertent Archeological Discovery Protocol when conducting any ground disturbing work. The proposed project does not conflict with the development standards contained in the City’s Implementation Plan, nor does the project conflict with the Land Use or Implementation Plan.

Based on the discussion above, the proposed project is consistent with the Local Coastal Program, and the Coastal Development Permit can be approved with conditions.

Support Material:
Attachment 1: Director Resolution .................................................................pages
Attachment 2: Vicinity Map .................................................................pages
Attachment 3: Plan Sheets .................................................................pages
RESOLUTION OF THE DIRECTOR OF DEVELOPMENT SERVICES
OF THE CITY OF EUREKA APPROVING THE COASTAL DEVELOPMENT PERMIT
FOR SCHMIDBAUER LUMBER, INC. STORMWATER DRAINAGE IMPROVEMENTS
AT 1099 WEST WATERFRONT DRIVE (CDP-19-0004).

WHEREAS, Schmidbauer Lumber Inc. is proposing stormwater improvements on their privately owned parcel located at 1099 West Waterfront Drive; and

WHEREAS, the project is within the coastal zone and the City of Eureka’s coastal permit jurisdiction and a Coastal Development Permit is required; and

WHEREAS, work taking place at the project location will be located approximately 1600 feet from Humboldt Bay; and

WHEREAS, the project location is adjacent to an environmentally sensitive habitat area (ESHA), wherein the stormwater improvements, as laid forth in this project, will serve to greatly reduce, if not altogether stop the NAL exceedances; and

WHEREAS, the proposed project was submitted to referral agencies and City departments for review and comment and concern was expressed by the City of Eureka Engineering Department regarding the approval of any connection to City of Eureka facilities; and

WHEREAS, the coastal development permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, the project qualifies for a Class 4 exemption (Section 15304) from CEQA which exempts minor alterations in the condition of land which do not involve removal of healthy, mature, scenic trees, and including such things as minor grading, gardening or landscaping, minor trenching and backfilling. Section 15304 (f) exempts minor trenching and backfilling where the surface is restored. Section 15003.2(b) Cumulative Impact - describes an exceptions to CEQA exemptions that make them inapplicable in when the cumulative impact of successive projects of the same type in the same place, over time is significant. The proposed project is a unique occurrence that is not part of a successive group of projects of the same type in the same place. Section 15003.2(c) Significant Impact - makes exception to a CEQA exemption when it is used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The project, stormwater runoff improvements, does not propose any unusual circumstances where there is a reasonable possibility that the activity will have a significant effect on the environment. The project is located on relatively flat land, and the work will not be undertaken in a waterway, wetland, scenic area, or an area of severe geologic hazard.

NOW THEREFORE, BE IT RESOLVED by the Director of Development Services of the City of Eureka, that: 
1. The Schmidbauer Lumber stormwater improvements project is located on parcels 003-072-004, 003-072-007, 003-082-004 and 003-082-005.
2. The purpose of the project is to improve the stormwater infrastructure, thus satisfying the consent decree between Schmidbauer Lumber Inc. and Ecological Right Foundation, and reducing stormwater runoff from the Schmidbauer site.
3. The project is located within the City of Eureka’s coastal permit jurisdiction.
4. The project location is approximately 1600 feet easterly from Humboldt Bay.
5. The project is located adjacent to an ESHA, and will serve to greatly reduce NAL exceedances into the ESHA.
6. The project, as conditioned, will have no effect on Humboldt Bay.
7. The project does not conflict with the Land Use and Implementation Plan.
8. The project, as conditioned, does not conflict and is in conformance with the adopted and certified Implementation Plan (Zoning) and the Land Use Plan.
9. The project is subject to the California Environmental Quality Act (CEQA); however, the project qualifies for a Class 4 exemption (Section 15304). Section 15304 (f) exempts minor trenching and backfilling where the surface is restored. Section 15003.2(b) Cumulative Impact- describes an exceptions to CEQA exemptions that make them inapplicable in when the cumulative impact of successive projects of the same type in the same place, over time is significant. The proposed project is a unique occurrence that is not part of a successive group of projects of the same type in the same place. Section 15003.2(c) Significant Impact- makes exception to a CEQA exemption when it is used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The project, stormwater runoff improvements, does not propose any unusual circumstances where there is a reasonable possibility that the activity will have a significant effect on the environment.

BE IT FURTHER RESOLVED and determined by the Development Services Director that the project, as conditioned, is approved, and that the decision to approve with conditions the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not be limited to: written testimony submitted prior to the date of the decision; the staff report; site investigation; agency comments; project file; and, the evidence submitted with the permit application.

FURTHER, approval of the Coastal Development Permit is conditioned on the following terms and requirements. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.

1. Prior to connection to City of Eureka stormwater facilities, approval of the connection, fees, and encroachment or other permits, as necessary, must be obtained from the Public Works Engineering Department, along with required inspections during and/or following connection, to the satisfaction of the Public Works Department.
2. The project approval is conditioned on the applicant utilizing Inadvertent Discovery Protocol when doing any ground disturbing activities. Inadvertent Discovery Protocol states that If archaeological resources are encountered during construction activities, all
onsite work shall cease in the immediate area and within a 50 foot buffer of the discovery location. A qualified archaeologist shall be retained to evaluate and assess the significance of the discovery, and develop and implement an avoidance or mitigation plan, as appropriate. For discoveries known or likely to be associated with native American heritage (prehistoric sites and select historic period sites), the Tribal Historic Preservation Officers for the Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, and Wiyot Tribe are to be contacted immediately to evaluate the discovery and, in consultation with the project proponent, City of Eureka, and consulting archaeologist, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. Historic archaeological discoveries may include 19th century building foundations; structural remains; or concentrations of artifacts made of glass, ceramic, metal or other materials found in buried pits, old wells or privies.

In the event of discovery or recognition of any human remains during construction activities, the landowner or person responsible for excavation would be required to comply with the State Health and Safety Code 7050.5. Construction activities within 100 feet of the find shall cease until the Humboldt County Coroner has been contacted to determine that no investigation of the cause of death is required. If the remains are determined to be, or potentially be, Native American, the landowner or person responsible for excavation would be required to comply with Public Resources Code Section 5097.8. In part, PRC Section 5097.98 requires that the Native American Heritage Commission (NAHC) shall be contacted within 24 hours if it is determined that the remains are Native American. The NAHC would then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the landowner or the person responsible for the excavation work for the appropriate means of treating the human remains and any associated grave goods within 48 hours of being granted access to the site. Additional provisions of Public Resources Code Section 5097.98 shall be complied with as may be required.

PASSED, APPROVED AND ADOPTED by the Director of Development Services of the City of Eureka in the County of Humboldt, State of California, on the 25th day of April, 2019.

_______________________________________
Rob Holmlund, Director of Development Services