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**STAFF REPORT
HARBOR DISTRICT MEETING
July 24, 2024**

TO: Honorable Board President and Harbor District Board Members

FROM: Rob Holmlund, Development Director

DATE: July 22, 2024

TITLE: Consider, Discuss, and Take Action on Harbor District Permit Application 2024-01 for Billboard Repair/Replacement. Consider Adopting Resolution 2024-08 Establishing Findings Relative to Permit 2024-01

STAFF RECOMMENDATION: Staff recommends that the Board consider and discuss the information presented in the staff report, accept public comments, and take action either approving or denying Permit Application 2024-01:

- Adopt Harbor District Resolution No. 2024-08 which includes:
 - Establishing Findings Relative to the Permit Application for Billboard Repair
 - Determining the Existence of a California Environmental Quality Act Exemption
 - Approving Permit 2024-01 with conditions for Billboard Repair and Continuation of Use for Five Years; or
- Deny Permit Application 2024-01

SUMMARY:

A legally nonconforming billboard located within tidally-influenced portions of Humboldt Bay was damaged during winter storms in January 2024. The owner of the billboard is seeking a permit to conduct "like for like" repair work to restore the billboard. If approved, the permit before the Board of Commissioners would allow the repair as well as implement Amendment No. 2 to Ordinance No. 7 by permitting the continued operation of the billboard for a five-year amortization period, after which the billboard will be removed.

BACKGROUND:

The HBHRC Board adopted Amendment No. 2 to Ordinance No. 7 in 2021 (Attachment A), implementing certain portions of the Humboldt Bay Master Plan related to billboards and signs in a

manner consistent with and authorized by State law. Under Ordinance No. 7 as amended, no new billboards or off-premises signs and structures may be constructed. The Ordinance further declares, consistent with state law, that all preexisting billboards erected in Humboldt Bay in conformance with state law and local ordinances in effect at the time of their erection or subsequently brought into full compliance with state law and local ordinances, and which have continuously occupied the same site without expansion or modification other than customary maintenance, are recognized as legally nonconforming. Under state law such legally nonconforming billboards may be removed only after notice to the billboard owner that provides a long enough time period for the billboard owner to recover invested capital.

Ordinance No. 7, as amended, establishes five years as the presumptively reasonable time period before a nonconforming billboard can be ordered removed. The five-year presumption is rebuttable by the billboard owner upon factual evidence that supports the need for a longer amortization period to recover invested capital. The District has not received any evidence to rebut this presumption.

To summarize, Ordinance No. 7 as amended outlines procedures for:

- Declaring preexisting billboards nonconforming;
- Requiring such nonconforming billboards to receive a Harbor District permit;
- Establishing a rebuttable amortization period for their removal; and
- Seeking approval to conduct maintenance, repair, or reconstruction within the amortization period.

The billboard in question never received a permit and never received notice of an amortization period after which it must be removed. Therefore, the District is implementing Ordinance No. 7 as amended through its review and approval of this Harbor District Permit Application 2024-01 for Billboard Repair/Replacement. The conditions of approval implement Ordinance No. 7 as amended.

DISCUSSION:

A billboard located in Humboldt Bay west of Highway 101 near Indianola cutoff was damaged during winter storms in January 2024 ([Caltrans billboard No. 6277](#) and OutFront billboard unit #4567A). Following initial storm damage to supportive beams, more of the support structure failed and the billboard collapsed into Humboldt Bay. See Attachment B for project location map and photos. Geoff Wills, on behalf of OutFront Media, applied for a Harbor District permit and other regulatory approvals (i.e. Coastal Development Permit) for Billboard Repair/Replacement. As the billboard is in the Bay and requires construction that touches the ground (or water) below the high tide line, this repair project is within Harbor District jurisdiction and the Harbor District Board is to consider issuing a permit. The purpose of the repair project is to remove the fallen existing billboard structure, replace damaged uprights, and to install six (6) new main posts and six (6) new support posts in the same location as the previous ones. The repair project will also include reconstruction of the billboard itself in the exact same location and to the same specifications (12'x40') as the damaged one.

Process to date

- Billboard damaged and Harbor District Permit for repair application filed in early 2024.

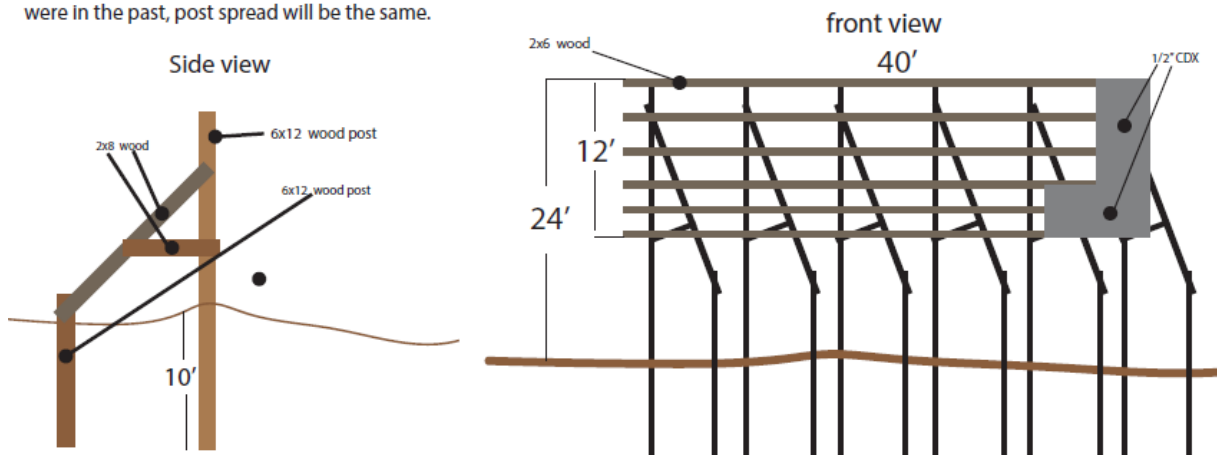
- Application accepted for filing by District Board. Comment letter received from Humboldt Waterkeeper.
- Notice of Application sent to referral agencies, tribes, adjacent property owners, published in the times standard, and posted on District website. Request for additional information letter sent to applicant.
- Site visit conducted with applicant, California Department of Fish and Wildlife (CDFW) and California Coastal Commission (CCC) representatives.
- Received email comments from CDFW (summarized below) and letter from Bear River Band of Rohnerville Rancheria requesting that Inadvertent Discovery Protocols are in place before any work begins.

Proposed Repair Project

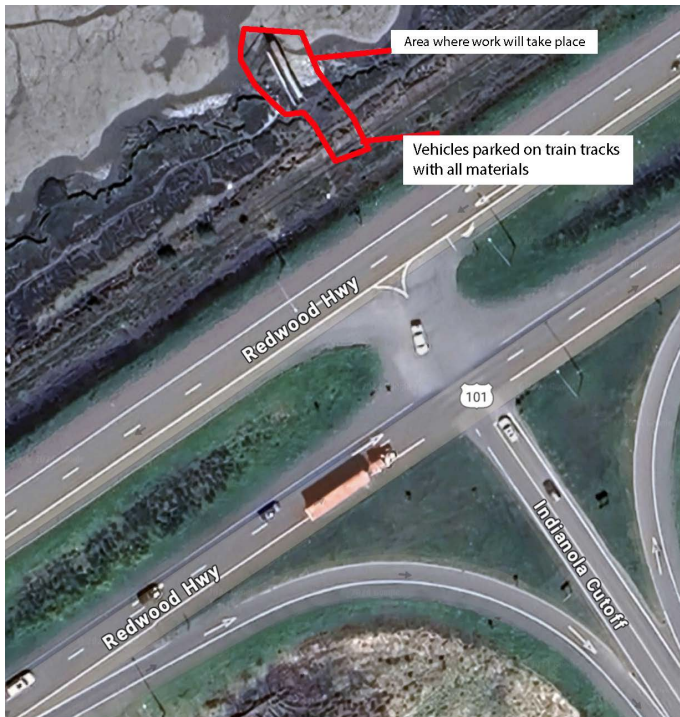
The submitted work plan includes removal of the existing fallen structure and existing uprights. The repair project would install six (6) new main posts and six (6) new support posts in the exact location as the old ones. The construction of the new uprights will involve using pile-driving techniques to drive 6x12 dimensional lumber posts into the ground to a depth of 10 feet. An excavator, accessing the site via the railroad tracks and employing wooden mats to distribute its weight, will perform the pile driving. The width of excavator is 8' and it will travel the length of the billboard which is 40'.

The repaired billboard will be constructed of CDX plywood and dimensional lumber as specified by an engineer. The structure includes vertical support posts that measure 6 inches by 12 inches, horizontal stringers that are 2x6, and half-inch CDX plywood. Additionally, the catwalks will be constructed from 4x6 wood, while back braces will use 2x8 lumber. Work will be performed by 2-4 people using standard cordless tools over a two-week time frame.

All materials will be the same, all footings will be smaller as they will be pile drove with no concrete vs hand dug with concrete as they were in the past, post spread will be the same.



Each day crews would arrive by vehicle on train tracks and park in a designated parking area, one path to and from the billboard will be used to minimize impacts from a human walking. No temporary staging is required and all materials can be staged on railroad tracks, on vehicles and carried by hand to billboard for installation. Construction timeframe is approximately two weeks.



Site Visit

A site visit was conducted with the applicants representative and representatives from California Department of Fish and Wildlife (CDFW), the California Coastal Commission (CCC), and the Harbor District. The proposed repair project methods and details were discussed during the site visit. CDFW provided the following email comments/ recommendations (per 4/25/24 email):

“The California Department of Fish and Wildlife (CDFW) is the State’s trustee for fish and wildlife resources, and as requested, I’d like to summarize our recommendations to avoid or minimize impacts to sensitive salt marsh and tidal mudflat habitat. The site location consists of remnant tidal salt marsh and intertidal mudflats, both sensitive and ecologically important wetland habitats.

Although the salt marsh is invaded with dense-flowered cordgrass (*Spartina densiflora*), it still supports a native plant community, with Humboldt Bay owl’s clover (*Castilleja ambigua* ssp. *humboldtiensis*; CRPR 1B.2) located in nearby patches of marsh. In addition, the salt marsh along this margin of the bay gets significant use by roosting shorebirds. Placement of a billboard in this location is not consistent with the ecological functions and values of these habitats and can include short- and long-term impacts to native plants, shore bird roosting, and potentially increased erosion potential of the marsh. As the Harbor District is aware, this site is under consideration for a significant marsh restoration project associated with sea level rise (SLR) resiliency. While there is no guarantee such a project would be implemented, it’s clear that installing a billboard within the footprint of a restored marsh would not be consistent with the goals of a nature based SRL resiliency project.

CDFW recommends the Harbor District take this opportunity to phase out a land use activity that is not consistent with ecosystem functions of the site and not permit the replacement/repair of the billboard. If the Harbor District chooses to permit the billboard replacement, CDFW recommends incorporating the following conditions of approval:

- Work below the mean high tide line shall only occur during low tide (i.e., no in-water work permitted)
- Uprights shall be installed with vibratory pile driving techniques rather than percussive pile driving during low tide or receding tides when water is at least 50ft from the site.
- New footings shall be installed within the footprint of existing uprights.
- Require the removal of the billboard with no option to replace it if a SLR resiliency marsh restoration project is implemented at the site.

Regardless of whether the structure is replaced, the existing failed billboard should be disassembled onsite and hauled off in pieces to minimize damage to salt marsh and tidal flat. Since the wood is pressure-treated, measures should be taken to minimize chips and sawdust from contaminating the area.”

The Applicant continues to pursue required Coastal Commission permits/approval for both removal of the damaged billboard and replacement.

Best Management Practices and Conditions of Approval

The proposed repair project will include the Harbor District’s Best Management Practices for Piling Removal and Installation (Exhibit 1).

Permit for Continuation of Billboard

In addition, the District’s Ordinance No. 7, as amended, requires that owners of non-conforming billboards obtain permits consistent with Ordinance No. 14 and allows for continuance, maintenance, repair or reconstruction provided the activities meet the established criteria and are within the amortization period. All permits shall contain at a minimum the following conditions:

- i. Giving notice that the sign, structure and use remain nonconforming to the Humboldt Bay Master Plan.
- ii. Stating reasonable amortization period after which the billboard shall be removed.
- iii. Requiring the applicant to provide financial assurance in an amount and form acceptable to the Executive Director to ensure that the billboard is removed by the end of the reasonable amortization period.

Those mandatory conditions as established by Ordinance No. 7 are covered in this permit’s Conditions.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

District staff has determined that the repair project qualifies for CEQA exemption pursuant to Class 1, §15301 Existing Facilities and Class 2, §15302 Replacement or Reconstruction. The repair project will replace severely damaged billboard uprights and associated structures and would not result in an expansion of capacity or use. Further, the repair project involves the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site and have the same purpose and capacity as the structure being replaced.

ATTACHMENTS:

- A. Amendment No. 2 to Ordinance No. 7
- B. Project Location & Photos
- C. Resolution No. 2024-08 Establishing Findings Relative to and Approving Harbor District Permit 2024-01 with Conditions for Billboard Repair (including California Environmental Quality Act – Notice of Exemption)
 - a. A-1. Harbor District Permit 2024-01 with Conditions for Billboard Repair
 - i. Exhibit 1 - BMPs

Documents incorporated here by reference are on file with the Harbor district and the initial application is available online (<https://humboldt-bay.org/public-notices-announcements-information>)