



December 3, 2021

SENT VIA EMAIL

Russian River Recreation & Park District
PO Box 195
Guerneville, CA 95446

Sweetwater Springs Water District
PO Box 48
Guerneville, CA 95446

Re: File No.: ORD19-0011
Address: 17448 River Lane, Guerneville
APNs: 071-220-068

Dear Russian River Recreation and Park District,

On 25 December 2019, the Russian River Recreation and Park District filed an Ordinance Determination (ORD19-0011) requesting a legal non-conforming determination of the subject property's historic use as a public access point to the Russian River. The Russian River Recreation and Park District intends to purchase and maintain the lot as a public access point to the Russian River in perpetuity.

The subject site is zoned Low-Density Residential (R1 B6 1) with a one unit per acre density, and designated with the following combining districts: Floodway (F1), Floodplain (F2), Riparian Corridor (RC50/50, 50' setback development/50' agriculture) and Valley Oak Habitat (VOH). The Low-Density Residential base zone allows for parks and similar uses with a Use Permit pursuant to Section 26-20-20(e) of the Zoning Code. Section 26-02-140 of the Zoning Code does define park or trails. The proposed use of a beach access and trail is similar to a 'park' use in that trails and access points to a beach and/or the Russian River and/or a park are both reasonably used for recreation and therefore considered similar in nature. Additionally, the Riparian Corridor combining zone, Section 26-65-040(L) allows for certain activities and uses within the streamside conservation area. Those certain uses include, 'Bikeways, trails, and parks on publicly owned land or public use easements or on private lands subject to a zoning permit. Therefore, the Riparian Corridor combining zone does not preclude public trail access to the Russian River on the subject property. Additionally, this legal non-conforming determination would not include any new structures or development onsite, therefore the presence of the Floodway and Floodplain combining zones do not preclude the public access trail to the Russian River.

Sonoma County Code Article 94 (Non-Conforming Uses) Section 26-94-010, discusses the limitations on non-conforming uses and states:

The lawful use of land existing on the effective date of the ordinance codified in this chapter although such use does not conform to the regulations specified by this chapter for the district in which such land is located, may be continued but shall not be enlarged or increased, nor be extended to occupy a greater area than that occupied by such use at the time of the adoption of said ordinance, and that if any use ceases, the subsequent use of such land shall be in conformance with the regulations specified by this chapter for the district in which such land is located provided that:

- (a) *A legal nonconforming use may be replaced by a use of the same or less intensity upon obtaining a use permit or a use permit waiver;*



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- (b) Pursuant to policy LU-1f of the general plan, a legal nonconforming use may be expanded one time not to exceed ten percent (10%) of the total existing floor area for any structures subject to lot coverage and setback requirements and to all other applicable requirements of the this code, and provided that such structures are not located within a designated redevelopment project area;*
- (c) A legal nonconforming use consisting of a mobile home may be replaced with a newer and larger mobile home in the same location, subject to Article 82.*

The application documents, specifically affidavits submitted by the public, substantiate the historic use of the subject parcel as a 'passive recreation area' and that the use has not ceased or been closed for more than a year.

The subject parcel provides trail access to and includes a portion of a beach located on the Russian River, widely known as Vacation Beach. Vacation Beach encompasses the following neighboring parcels, APN: 071-220-067, 071-220-018, 071-220-019, and 071-220-020; specifically APN: 071-220-067 is located between the parcel in question, APN: 071-220-068, and the Russian River corridor. The subject parcel was created by Vacation Beach Subdivision No. 3 recorded on June 3, 1936, Sonoma County Records Book 50, Page 38-40, Block A, Lot 1. The tract of land subdivided by Vacation Beach Subdivision No. 3 was previously owned by A. Genelly, and was held in Genelly family ownership since the early 1900's until the property was transferred to Citizens Utility in 1953. Affidavit submitted by Herbert A. Genelly substantiates that the subject property has been historically used as a point of access for recreation to the Russian River.

Ownership transfer of the subject property has occurred twice since parcel creation, from 1) Genelly to Citizens Utility and from 2) Citizens Utility to Sweetwater Springs Water District (DN 1992-0041217). Included in application submittals were a total of fifteen public affidavits of those who have historically used the subject property for river access, which further authenticates the fact the site has been used as such dating back to at least 1950. Affidavits submitted are significant in staff's determination as they are written statements of facts to be used as evidence, voluntarily made by the public regarding the historic use of the property. Affidavit submitted by Herbert A. Genelly Jr. indicates that the property was used as an access point to Vacation Beach by the public during his family's ownership of the property from the early 1900's to 1953. Affidavit submitted by Xenia Zabelin a resident of the vacation beach subdivision since 1951 further substantiates the generational and continuation of use of Vacation Beach since the beginning of her residency in 1951. Affidavit submitted by Jack Bushgen, a former employee of Citizens Utility, who began his employment with the utility company in 1988, confirms that the subject property was used as an access point to the Russian River since at least 1988. Affidavit submitted by Ed Fortner, the General Manager of Sweetwater Springs Water District (property owner) states that to the Water District's knowledge the subject property has been used as a river access point since the District's acquisition of the property in 1992. A further summary of all public affidavits submitted is included below.

The legal description for the subject parcel conveyed in Quitclaim Deed, Document Number 1992-0041217 (which references the subject parcel as Parcel 50), indicates the subject parcel's boundary extends to the low-water mark.

Permit Sonoma has determined the pertinent documents submitted with ORD19-0011, on file with Permit Sonoma, and available historic zoning maps, collectively substantiate the historic use of the property as a public access point to the Russian River. Our determination is based on the following findings:



1. The first zoning designation of the property was R1-Single-Family Residential in 1961 per Sonoma County Ordinance 698, which would have required a Use Permit for the creation of a public access trail. Prior to 1961, Ordinance 230 adopted in 1945, Section 7.1 classified unincorporated areas of the County not included under the terms of Ordinance 230 as U-Unclassified District. Per Section 12.2(a) of Ordinance 230 the U district allowed uses permitted within any A, K, R, R-R, C or H-1 districts. Per Section 14.1(b) of Ordinance 230, public uses were allowed as permitted uses within the A-Agriculture District. Therefore, prior to 1961 the use of the subject parcel as a 'passive recreation area' would not have required a Use Permit.
2. Credible evidence in the form of affidavits, further summarized below, were included in the application submittal regarding the historic use of the property for a publically accessed 'passive recreation area' since the 1950's, which pre-dates 1961 zoning. Therefore, this historic use is considered pre-code and legal non-conforming, according to Sonoma County Code Chapter 26 Article 94. – Nonconforming Uses.

<i>Affidavit Name & Date</i>	<i>Affiliation</i>	<i>Date Range</i>
Herbert A Genelly Jr.	Previously owned (until 1953) & Family of original Subdivision	Early 1900's
Richard Deering (8/9/2019)	Russian River Resident since 1966	1940's
Nick Mironov (10/4/2019)	Vacation Beach user	1950
Vera Mironov (10/7/2019)	Vacation Beach user	1950
Katherine Meyer (10/2/2019)	Vacation Beach user	±1950
Xenia Zabelin (10/3/2019)	Resident of the Vacation Beach Subdivision as of 1951 Generational use of Vacation Beach	1951
Laura Clemens (11/14/2019)	Generational use of Vacation Beach	1955
Laura Giffether (9/15/2019)	Family owned property in Vacation Beach Subdivision 17754 Orchard Avenue since the 1930's Generational use of Vacation Beach	Over 50 years ±1969
Margaret Dodderer (9/29/2019)	Generational use of Vacation Beach	Over 60 years ±1959
Vic Teshin (11/14/2019)	Vacation Beach user	1955
Jack Bushgen	Citizens Utility (previous property owner) employee	1988
Ed Fortner	Sweet Water Springs Water District (current property owner)	1992
Hans Bruhner (11/11/2019)	Property owner within the Vacation Beach Subdivision as of 2003	2003

John Harreld (10/4/2019)	Property owner and full time resident of Guerneville	2004
Howard & Suarez (9/12/2019)	Property owners within the Vacation Beach Subdivision since 2014	2014
Angelina Lavroushin (10/21/2019)	Generational use of Vacation Beach	Not specified.

3. The current use of the property is substantially unchanged.
4. The use of the property is subject to Sonoma County Code Chapter 26 Article 94. – Nonconforming uses.

This legal nonconforming use determination does not grant approval of any permits, including but not limited to design review, building, well & septic, or grading permits. In addition, approvals from agencies outside of Permit Sonoma may be required. Additionally, in accordance with Sonoma County Code Chapter 26 Article 94, this legal nonconforming use determination does not allow future expansion of the use.

This decision may be appealed in writing, along with an appeal fee, within 10 (ten) calendar days of the date of this letter.

If you have any questions or need further information, please contact the project planner, Marina Herrera at Marina.Herrera@sonoma-county.org or by phone at 707-565-2397.

Sincerely,



Marina Herrera
Permit Sonoma

ec:



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