
RE: PLN-2023-18280 Daniels

From Jacobson, Rebecca@Coastal <rebecca.jacobson@coastal.ca.gov>

Date Fri 11/22/2024 9:09 AM

To Slavey, Collin <cslavey@co.humboldt.ca.us>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>; Thomas Bond <thomas.bond.architect@gmail.com>

Cc Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>; Mitchell, Catherine@Coastal <catherine.mitchell@coastal.ca.gov>

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Hello,

Given the oceanfront location of this proposed residence in an inherently hazardous location, we recommend the County condition the permit to require the applicant to execute and record a deed restriction requiring the landowners to acknowledge and agree that the site is inherently hazardous and may be subject to extraordinary geologic and erosion hazards, the landowner shall not construct any bluff or shoreline protective devices to protect the subject development should it become threatened in the future, and the landowner agrees to remove the development permitted under the CDP when bluff retreat and erosion reaches the point where the structure is threatened. Below is an example of this type of condition routinely imposed by Mendocino County for CDPs for new development on blufftop lots. And below the Mendocino County condition example is an example of a series of conditions that the Commission uses for these situations. We recommend the County impose similar conditions in this case to ensure consistency with the hazards policies of the South Coast Area Plan (specifically Coastal Act sections 30253 codified in the SCAP).

Humboldt County used similar conditions of approval that our office recommended in PLN-2023-18203-MOD1, for reference. Note that the subject parcel and permit in Shelter Cove are inherently different from that of PLN-2023-18203-MOD1 which was on a blufftop lot in McKinleyville, due to the oceanfront location on a marine terrace, topography, size of setback, and storm surge events at this location in Shelter Cove. Due to this difference, the conditions may need to be altered to take those physical factors into consideration while applying section 30253 and other hazards policies. If you have questions or want to discuss please let me know.

8. Prior to the final inspection or issuance of a certificate of occupancy on any building permit in reliance of this Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel, which shall provide that:
 - a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
 - b. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
 - c. The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
 - d. The landowner shall not construct any bluff or shoreline protective devices to protect the subject single family residence, the guest cottage/accessory dwelling, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
 - e. The landowner shall remove the house and its foundation, the family care unit/accessory dwelling, garage, septic system, or other improvements permitted under this Coastal Development Permit when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach or ocean before they can be removed from the bluff top, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;
 - f. The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

1. No Future Shoreline Protective Device and Removal of Development.

- A. By acceptance of this Permit, the applicants agree, on behalf of themselves and all successors and assigns, that no shoreline protective device(s) shall be constructed to protect the development approved pursuant to Coastal Development Permit No. XXXX including, but not limited to, the residence, foundation, and deck, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or any other applicable law.
- B. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that they are required to

remove all or a portion of the development authorized by the permit, and restore the site, if:

- i. the County or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices;
- ii. essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
- iii. the development requires new and/or augmented shoreline protective devices that conflict with relevant Coastal Act policies.

C. In the event the edge of the bluff recedes to within 10 feet of the authorized development but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the landowner(s), that addresses whether any portions of the structures are threatened by waves, erosion, storm conditions, bluff failure, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the structures without shore or bluff protection, including, but not limited to, removal or relocation of the structures. The report shall be submitted to the Executive Director and the appropriate local government officials. If the geotechnical report concludes that the structures are unsafe for occupancy, the permittee shall, within ninety (90) days of submitting the report, apply for a CDP amendment to remedy the hazard, which shall include removal of the threatened portion of the structure.

2. Assumption of Risk, Waiver of Liability, and Indemnity Agreement. By acceptance of this permit, the permittee acknowledges and agrees (a) that the site may be subject to hazards from earth movement, earthquake shaking, liquefaction, differential settlement, erosion, flooding, and other geologic and flood hazards, some of which will worsen with future sea level rise; (b) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims,

demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. Deed Restriction. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the permittee has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (a) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (b) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

Thank you,

Rebecca Jacobson

Coastal Program Analyst

California Coastal Commission, North Coast District

707-826-8950 ext. 207

I am currently on a hybrid schedule, working in the office two days per week.

The fastest way to reach me is by email.



From: Slavey, Collin <cslavey@co.humboldt.ca.us>

Sent: Monday, November 18, 2024 11:09 AM

To: Jacobson, Rebecca@Coastal <rebecca.jacobson@coastal.ca.gov>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>

Cc: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>; Mitchell, Catherine@Coastal <catherine.mitchell@coastal.ca.gov>
Subject: Re: PLN-2023-18280 Daniels

Hello Rebecca,

I just got off the phone with Tom Bond and we were looking for those recommended Conditions of Approval. I haven't seen them come in over email yet. Have you finished drafting them?

Thank you,



Collin Slavey

Associate Planner

[Planning and Building Department](#)

3015 H Street | Eureka, CA 95501

Office: 707-268-3716

Cell: 707-382-8177

Email: cslavey@co.humboldt.ca.us

From: Slavey, Collin <cslavey@co.humboldt.ca.us>

Sent: Tuesday, October 29, 2024 4:44 PM

To: Jacobson, Rebecca@Coastal <rebecca.jacobson@coastal.ca.gov>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>

Cc: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>; Mitchell, Catherine@Coastal <catherine.mitchell@coastal.ca.gov>

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Thank you Rebecca.



Collin Slavey

Associate Planner

[Planning and Building Department](#)

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Phone: 707-268-3716

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Hi Collin and Cliff,

I am working on some recommended conditions for this project that I will get to you within the next week or so. Just wanted to let you know in case you're drafting the staff report.

Thank you,

Rebecca Jacobson

Coastal Program Analyst

California Coastal Commission, North Coast District

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