

**CONDITIONS OF APPROVAL**  
**PLN-2023-18280**

**APPROVAL OF THE COASTAL DEVELOPMENT PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS:**

**A. General Conditions**

1. The project shall be conducted in accordance with the approved Site Plan and Construction Plans. Minor deviations shall be permitted as provided by Humboldt County Code Section 312-11; however, all other changes shall require modification of this permit.
2. The applicant will be responsible for obtaining all necessary Federal, State and Local permits, including Building Permits from the County of Humboldt Building Division to facilitate demolition and construction.
3. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A tribal and/or archaeological monitor shall be present during initial ground-disturbing activities during project implementation. Contact the Bear River Band's Tribal Historic Preservation Officer to coordinate. Evidence of a contract or agreement for monitoring shall be submitted prior to approval of a building or grading permit.
5. When building plans are submitted, the applicant shall include a landscaping plan describing the species of plants used to replace invasive species to be removed prior to building finalization. The landscape plan shall also include design to soften the new development by screening structures with appropriate vegetation and to revegetate any disturbed landforms with attractive vegetation common to the region.
6. Prior to building permit finalization, invasive plant species on site shall be removed and the area cleared shall be revegetated with a diverse selection of native plants. Evidence demonstrating the area had been replanted appropriately shall be submitted to the Building Department

7. Deed Restriction. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Planning and Building 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 Planning and Building Director: (a) indicating that, pursuant to this permit, Humboldt County 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.
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 Humboldt County Planning and Building Department 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 Humboldt, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of livability (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, foundation, 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 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.

9. 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. PLN-2023-18280 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.

**10. 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 County, its officers, agents, and employees for injury or damage from such hazards; and (d) to indemnify and hold harmless the County, its officers, agents, and employees with respect to the County'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.

11. Tree removal shall only occur outside of nesting bird season (March 15-August 15).

12. Applicant must apply for and obtain an encroachment permit for the construction of a residential driveway on Sea Court.

13. The permit will require the driveway entrance to be surfaced with asphalt concrete or Portland cement concrete. The paved area shall extend a minimum of 20 feet back

from the edge of the existing roadway pavement and be flared approximately 30 feet to accommodate vehicle wheel turning movement at the intersection with the County road. The driveway shall intersect the County road at a 90° angle. The driveway grade shall not exceed 2% in the first 20 feet.

14. The County road is not constructed to allow on-street parking. All parking must be developed on-site, or applicant must construct a parking lane along the County road in a manner approved by this Department. All parking required by Code must be constructed prior to occupancy of building or "final" issued for building permit.
15. Site visibility must be maintained at the residential driveway entrance.
16. All retaining walls shall be constructed on the property. NO retaining walls shall be constructed in the County right of way.
17. After the building pad and driveway have been rough graded, the applicant shall contact the Public Works inspector to ensure that the proposed driveway grades are in conformance with County Code, prior to construction of the building foundation and/or driveway.
18. Applicant shall be responsible to correct any involved drainage problems within the County road right of way to the satisfaction of this Department.
19. Low Impact Development (LID): The subject property is located within the municipal separate storm sewer system (MS4) boundary area. Development of the property is required to comply with MS4 permit requirements.

**B. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:**

1. This permit shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date") except where construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date. The period within which construction or use must commence may be extended as provided by Section 312-11.3 of the Humboldt County Code.
2. Adhere to the best management practices recommended by the biologist in the submitted Biological Assessment to prevent sediment, fuels, or contaminated from entering the surrounding habitat.

### **Informational Notes:**

1. If cultural resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

The Native American Heritage Commission (NAHC) can provide information regarding the appropriate Tribal point(s) of contact for a specific area; the NAHC can be reached at 916-653-4082. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the NAHC will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to PRC 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99

The applicant is ultimately responsible for ensuring compliance with this condition.

2. FENCES/GATES: Pursuant to County Code Section 411-11 (j) and California Streets & Highways Code Sections 1481 & 1482, fences are not allowed within the public right of way of County maintained roads. Prior to constructing any fences along (or near) the right of way line, the applicant is advised to consult with the Department of Public Works Encroachment Permit Office at 707.445.7205.
3. It is important to note that fences constructed outside of the public right of way are still subject to the County's visibility Ordinance (County Code Section 341-1). Fences and gates on private property may need to be setback further to comply with the County Visibility Ordinance.
4. Fences and gates taller than 6 feet may require a building permit. The applicant is advised to consult with the Planning and Building Department – Building Division at 707.445.7245 prior to constructing any fences or gates.