



**COUNTY OF MENDOCINO**  
**DEPARTMENT OF PLANNING AND BUILDING SERVICES**

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**REVISED**  
**MEMORANDUM**

DATE: APRIL 30, 2020

TO: BRENT SCHULTZ, COASTAL PERMIT ADMINISTRATOR

FROM: PLANNING AND BUILDING SERVICES STAFF

SUBJECT: CDP\_2018-0018 MODIFICATIONS AND CLARIFICATIONS TO FINDINGS AND  
CONDITIONS OF APPROVAL

The California Coastal Commission submitted comments on the subject CDP at 4:50 PM on April 29, 2020. In the limited time staff had to review and respond to these comments, staff provides this updated memorandum which supersedes the memorandum dated April 28, 2020. Additionally, staff offers the following response to the Coastal Commission comments:

1. The ESHA grassland question was resolved with CDFW.
2. ESHA buffers were agreed upon with CDFW.
3. The staff report and past prescriptive rights analysis which included the subject parcel concluded that public access would not be required at this time. County staff does not agree with the Commission that additional analysis is required. Additionally, the Commission failed to understand that the project request is for replacement of an existing fence. The existing fence has been along the property boundary for decades.
4. A Visual Analysis was completed and reviewed by County staff. The structure is not visible from State Route 1 and no additional analysis is necessary.
5. County staff added Condition 34 to address concerns with the Family Care Unit/Accessory Dwelling Unit.
6. County staff has amended Condition 8 and added Condition 33 to address these concerns about geologic hazards and future owners knowledge of restrictions on the property.

After distribution of the staff report for the subject project, County staff met with the Agent for the project on the staff report and the recommended findings and conditions of approval.

Based upon the discussion, Planning Staff first would like to clarify that the project description omitted discussion of the proposed workshop; however, the workshop is shown on the exhibits attached to the report and is therefore incorporated into the approval per Condition 3 of the permit.

Additionally, Planning Staff recommends modifications and clarifications to the Findings and Conditions of Approval contained in the circulated staff report (Pages 11 through 17). Additions are shown as underlined, deletions are shown as ~~stricken~~, and all changes are highlighted in **red ink**.

**Recommended Modifications to Findings**

Finding 2: Pursuant with MCC Section 20.532.095(A) (2), the proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities. The proposed project will be served by an existing test well, to be converted to a production well and another well yet to be drilled under this permit and an on-site sewage disposal system. The ~~existing-proposed~~ driveway off Highway 1 will be improved to Caltrans and CalFire standards and is adequate to service the proposed development. Drainage and other necessary facilities have been considered in project design; and

## Recommended Modifications to Conditions

Condition 8: Prior to the ~~issuance of final inspection or issuance of a certificate of occupancy on~~ any building, ~~septic or well~~ 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 family care unit/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.

Condition 18: Prior to the issuance of building permits for each residence, the permit holder shall submit proof to the Mendocino County Environmental Health Division that any new well is capable of delivering a minimum of 0.5 gallons per minute of potable water.

Condition 21: The driveway shall meet current Caltrans standards for a private residential driveway approach, including a minimum throat width of twelve feet.

Condition 26: Standard Best Management Practices shall be employed to assure minimization of erosion resulting from construction. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. ~~Silt fencing and orange construction fencing shall be placed and maintained for all areas where construction will occur upslope of and within 100 feet of the southern drainage and occurrences of coastal bluff morning glory.~~ Any soil stockpiles shall be covered or otherwise stabilized to prevent dust impacts. Any bare soil created by the construction phase of the project shall be re-vegetated with native vegetation and/or native seed mixes for soil stabilization. Low Impact Development techniques shall be utilized to reduce storm water runoff from new impervious surfaces.

Condition 33: Prior to issuance of any building or septic permit in reliance of this Coastal Development

Permit, the applicant shall record and execute a deed restriction against the property, in form and content acceptable to the Coastal Permit Administrator, that imposes the conditions of the permit as covenants, conditions and restrictions on use and enjoyment of the property. This deed restriction could be combined with the deed restriction required by Condition 8.

Condition 34: The Family Care Unit shall not be converted to an Accessory Dwelling Unit, unless and until Mendocino County adopts regulations to allow such activity in the future. Depending on what the regulations for establishing an Accessory Dwelling Unit are, a Coastal Development Permit may be required.