

From: [REDACTED]

[REDACTED]

[REDACTED]

Date: 2/22/2022 8:47 PM

Subject: CCC Comments: Back Diamond (CDP 2017-0033) & MCC Section 20.500.020(E)

Hi Juliana,

Yes, we are providing additional comments. Please relay the following to the CPA for consideration with the CDP application.

LUP policy 3.4-12 and MCC Sec. 20.500.020(E) both, in part, state "Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development or public beaches or coasta-dependent uses." In addition, Mendocino County Code cannot be interpreted as being more permissive than the Coastal Act per MCC Section 20.304.035. Section 30235 of the Coastal Act states, "Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coasta-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply..."

'Existing' development has consistently been interpreted to mean development that existed prior to either 1.) passage of the CA Coastal Act, OR 2.) certification of the local jurisdiction's LCP. With reference to this, my colleagues recommend reviewing A-1-MEN-09-052 (BluePort LLC), 1-81-187-A2 (Jordan), A-1-MEN-07-028 (Jackson Grube), NCR 78-CC-807-A1 (Hosander/Kiss), etc..

I would also like to specifically reference Condition 11.d of CDP 2020-0024 (Boothe) which states, "The landowner shall not construct any bluff or shoreline protective devices to protect the subject structures or other improvements in the event that these structures are subject to damage, or other erosion hazards in the future." Juxtaposed with the current project's Condition 10.d as written, it appears the latter part of the sentence, "without first obtaining a coasta development permit or permit amendment" was unnecessarily added onto the County's original permit condition language. We suggest removing this portion of text from condition 10.d and eliminating condition 16 altogether since the proposed development does not meet the definition of the term 'existing'.

Thank you,  
Tatiana

Tatiana Garcia  
Coastal Program Analyst  
CA Coastal Commission- North Coast District  
1385 8th Street Arcata, CA 95521  
707-826-8950

-----Original Message-----

From: Juliana Cherry [REDACTED]

Sent: Tuesday, February 22, 2022 12:17 PM

To: [REDACTED]

Cc: [REDACTED]  
<to>

Subject: CCC Comments: Back Diamond (CDP 2017-0033) & MCC Section 20.500.020(E)

Hello Tatiana,

Thank you contacting me this morning and for your query about Conditions #10.d and #16.

A. Broadly speaking:

Please review the code language; I think that you are referring to MCC Sec. 20.500.020(E). I could be wrong, but I think local regulations do not state "structures existing prior to adoption of the County's certified LCP."

Please note that this project site is unlikely to be effected by erosion hazards (See MCC Sec. 20.500.020(E). The beach and dunes to the west will provide some protection from flood hazards, but over time development along Ward Avenue may be affected by sea level rise, flooding, and wave rush. In the future, the Coastal Permit Administrator may consider applications from property owners proposing protection for existing development, public beaches, or coastal dependent uses.

I do believe that property owners have the right to propose development through the application process. Mendocino County should not preclude property owners from applying for specified types of development; this would conflict with local regulations including MCC Chapter 20.532.

B. Specific to CDP\_2017-0033 conditions #10.d and #16:

Condition 10.d lists the requirements of the Deed Restriction that the property owner will place on the title of their property. With the adoption of Condition #10.d, the property owner would be required to first obtain a coastal development permit prior to the construction of specified shoreline protective devices. I can envision that the applicant would need to demonstrate that the development satisfies all local codes, including when shoreline protective devices are necessary.

#10.d reads: "The property owner shall not construct any shoreline protective devices to protect the subject structures or other improvements in the event that these structures are subject to damage, or other geologic, fire, flood, or other hazards in the future without first obtaining a coastal development permit or permit amendment..."

I do not believe that there is a conflict between Condition #16 and MCC Sec. 20.500.020(E). I believe the language is fairly similar.

#16. "In accordance with MCC Section 20.500.020(E), a coastal development permit, or permit amendment, is required prior to constructing seawalls, breakwaters, revetments, groins, harbor channels and other structures affecting natural shoreline processes or retaining walls. These structures shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses.

If you would like to discuss this, I can be reached most weekday mornings via email or ~~###-###-####~~ (mobile). In an effort to keep everyone in the loop, I am copying the applicant's agent on my reply to your message of this morning. Please let me know whether Coastal Commission staff will be providing additional comments on this project prior to the public hearing

scheduled this week on Thursday morning.

At the best,

-- J.

Juiana Cherry, MURP

Panner III

Direct Line 707-234-2888

-----Original Message-----

>>> "Garcia, Tatiana@Coasta" [REDACTED] 2/22/2022 10:51 AM >>>

Hi Juiana,

I'm confused by a couple of the recommended conditions included in the staff report for this project.

Conditions 10.d and 16 imply that shoreline proactive devices may be allowed with a CDP, however, Sec 20.500.020 only allows such devices for structures existing prior to adoption of the County's certified LCP. Not for newly approved development. Any shoreline protective devices used to protect nearby public beaches and coastal dependent uses which may also protect the subject property is purely incidental and in no case should a device be allowed for the subject development and any associated CDP.

Thanks,

Tatiana

Tatiana Garcia

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