MEMORANDUM

**Date: March 2, 2022**

**To: Ignacio Gonzalez, Coastal Permit Administrator**

**From: Planner Tia Sar**

**Subject: Recommended Conditions of Approval of CDP\_2019-0044**

**Request:** The following are revisions for CDP\_2019-0044 Staff Report.

On Tuesday, March 1, 2022, Tatiana Garcia from the California Coastal Commission submitted comments regarding the project (CDP\_2019-0044). The Commission requests staff update condition #11 to include the comprehensive deed restriction condition of approval in accordance with LUP policy 3.4-12 and MCC Sec. 20.500.020 (E), blufftop development. The project shall include a running deed restriction that prohibits the use of shoreline protective devices, requires removal of structures if/when they are threatened by sea level rise and use restriction with ESHA areas on the parcel.

**Revision to Conditions** pages 11 & 12. Additional text is **underlined**. Strikeouts indicate where text would be deleted.

**Revision to Condition #1:**

*This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Coastal Code. CDP 2019-0044 ~~20~~ shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. CDP 2019-0044 ~~20~~ shall expire and become null and void at the expiration of two years after the effective date, except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.*

**Update Condition #11 (Add number (1) to previous condition and include entire condition #2).**

1. *Per the Geology Report conclusion and additional services required section. It is the responsibility of the Owner, or his/her representative, to insure that the information and recommendations contained herein are brought to the attention of all other design professionals for the project, and incorporated into the plans and that the Contractor and Subcontractors implement such recommendations in the field.*
2. *This retreat rate would result in a bluff edge setback of 32 feet from future structure improvements. This bluff setback should be considered “preliminary”, pending the results of a slope stability analysis. Sampled test borings and laboratory strength test data, obtained from a geotechnical investigation, will be needed to perform the stability analysis.*
3. *Because uncontrolled surface water is often the cause of bluff instability and foundation problems, care should be taken to intercept and divert concentrated surface flows away from building foundations and bluff slopes. Concentrated flows such as from roof downspouts, area drains and the like should be dispersed by sheet flow across the property.*
4. *BAI should be retained to perform a geotechnical investigation when preliminary plans are developed for the proposed residence. The investigation should include test borings to explore subsurface soil and rock conditions in order to determine foundation recommendations. A bluff stability analysis will also be needed, based upon the results of our subsurface exploration, laboratory testing and additional evaluation.*
5. *The Contractor should notify the owner and BAI if he/she considers any of the recommended actions presented herein to be unsafe or otherwise impractical.*
6. *The Geology Report is subject to review and revision as changed conditions are identified onsite.*
7. *Prior to the issuance of a building permit, the property owner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel. The deed restriction will include the following statements and exhibits:*
8. *The property owner understands that the site may be subject to extraordinary geologic, fire, flood, and other hazards and the property owner assumes the risk from such hazards; and*
9. *The property owner 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; and*
10. *The property owner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the property owner; and*
11. *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; and*
12. *Condition 12, which limits the activities within the ESHA and its buffers, shall be included in the statement of restrictions identified with the property; and*
13. *The property owner shall obtain a Coastal Development Permit to authorize any future development, shall be included in the statement of restrictions identified with the property; and*
14. *The conditions of Permit CDP\_2019-0044 are imposed as covenants, conditions and restrictions on the use and enjoyment of the property; and*
15. *The following shall be attached as exhibits to the Deed Restriction. The exhibits shall be reviewed and accepted by the approving authority (or their designee). The figures shall be black, white, and grey.*

*(1) The adopted findings and conditions approving CDP\_2019-0044*

*(2) The approved site plan (Dated Oct 07 2021) include the reduced 50-foot buffer boundary from ESHA*

*j) 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 taxlien.*