

## Adrienne Thompson

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**From:** Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>  
**Sent:** Wednesday, January 25, 2023 5:26 PM  
**To:** Juliana Cherry; Jansen, Bente@Coastal  
**Cc:** pbscommissions; Russell Ford; Julia Krog; Samuel Vandewater  
**Subject:** RE: CDPM\_2022-0007 (Hutchinson) Staff Report Comment  
**Attachments:** CDPM\_2022-0007 (Hutchinson) Staff Report Comment ; RE: CDPM\_2022-0007 (Hutchinson) Staff Report Comment

Attached are the comments that were submitted before 5:00 PM. Commission staff provided comments related to misleading language in one of the special conditions. We trust the County's hearing process to consider comments received but we're unable to rewrite the condition for you at this point (plus it's now past 5:00 PM). We provided a suggested condition on December 21<sup>st</sup> (see highlighted at the bottom of the thread) that the County found problematic and rewrote, and we provided further comments on the updated version in early January. This is our third round of commenting on the condition. Again, we trust the County to figure out the appropriate condition language.

Thanks

Melissa

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**From:** Juliana Cherry <cherryj@mendocinocounty.org>  
**Sent:** Wednesday, January 25, 2023 3:37 PM  
**To:** Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov>  
**Cc:** Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>  
**Subject:** RE: CDPM\_2022-0007 (Hutchinson) Staff Report Comment

Bente,

I am happy to accommodate your request of 3:21 today, but note that there are several emails leading up to Commission staff giving their support to Condition #17 as written in the [published staff report](#). I think the wording of Condition #17, that you are requesting to change, is from Melissa Kraemer's email dated 1/6/2023.

Kindly state directly how Commission staff would prefer Condition #17 to read. Please send the revised text (and the basis for revising the text) today before 5 pm. Unfortunately, I do not have time before tomorrow's meeting to prepare a memo describing Commission staff's request; therefore, I will use an email that you send to me instead.

I am copying the following PBS staff on this message: Vandy Vandewater, Russell Ford, Michael McGinnis, and Nash Gonzalez.

Thank you for your message,  
Juliana Cherry, MURP  
Planner III  
Planning and Building Services

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**From:** Jansen, Bente@Coastal <[bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov)>  
**Sent:** Wednesday, January 25, 2023 3:21 PM  
**To:** Juliana Cherry <[cherryj@mendocinocounty.org](mailto:cherryj@mendocinocounty.org)>  
**Cc:** Kraemer, Melissa@Coastal <[Melissa.Kraemer@coastal.ca.gov](mailto:Melissa.Kraemer@coastal.ca.gov)>  
**Subject:** CDPM\_2022-0007 (Hutchinson) Staff Report Comment

Good afternoon Juliana,

We would like to submit for the record that the wording in Condition 17 of the staff report for CDPM\_2022-0007 is misleading due to the fact that the entire parcel is within a designated highly scenic area. Therefore, the only future development that may be exempt under PRC section 30610 and Title 14 CCR sections 13250-13253 would be repair and maintenance (Title 14 CCR section 13252). Any future improvements would NOT be exempt pursuant to Title 14 CCR section 13250(b)(1) and 13253(b)(1).

If possible, we recommend changing the wording to condition 17 accordingly.

Thank you,  
Bente



**Bente Jansen** (*she/her*)  
Coastal Program Analyst

1385 8<sup>th</sup> Street, Suite 130. Arcata, CA 95521  
Phone: (707) 826-8950 ext. 5 (currently teleworking; voice mail only)  
Email: [bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov)

From: Juliana Cherry  
Sent: Friday, January 6, 2023 9:33 AM  
To: Kraemer, Melissa@Coastal  
Cc: Garcia, Tatiana@Coastal; Jansen, Bente@Coastal  
Subject: RE: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

Melissa, I appreciate the support in getting this right. Please note that Chapter 20.532 does reference the caveats of 13250, 13252, 13253, because MCC Section 20.532.020  
<[https://library.municode.com/ca/mendocino\\_county/codes/code\\_of\\_ordinances?nodeId=MECOCO\\_TIT20ZOOR\\_DIVII\\_MECOCOZOZO\\_CH20.532CODEPEREEN\\_S20.532.020EX](https://library.municode.com/ca/mendocino_county/codes/code_of_ordinances?nodeId=MECOCO_TIT20ZOOR_DIVII_MECOCOZOZO_CH20.532CODEPEREEN_S20.532.020EX)> states except as otherwise specified in Subchapters 6 (aka 13250), 7 (aka 13252), and 7.5 (13253) ...

“Sec. 20.532.020 - Exemptions. The following developments shall be exempt from this Chapter:

- (A) Repair and maintenance activities which do not result in an addition to or enlargement or expansion of the object of such activities, except as otherwise specified in Subchapter 7, Title 14, California Administrative Code and any amendments thereafter adopted;
- (B) Activities of public utilities as specified in the Repair, Maintenance and Utility Hookup Exclusion adopted by the Coastal Commission on September 5, 1978;
- (C) Improvements to single family residences except as otherwise specified in Subchapter 6, Title 14, California Administrative Code and any amendments thereafter;
- (D) Improvements to any structure other than single family residence or a public works facility, except as otherwise specified in Subchapter 7.5, Title 14, California Administrative Code and any amendments thereafter;
- (E) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform with Section 20.480.020, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk, of the destroyed structure by more than ten (10) percent and shall be sited in the same location on the affected property as the destroyed structure;

(F) Within the Gualala Town Plan planning area, structures which are destroyed by involuntary means or forces out of control of the owner(s), provided that the structure reconstructed after involuntary loss does not exceed the floor area, height, or bulk of the previously existing structure by more than ten (10) percent, restoration is started within one (1) year of the destruction, and the structure conforms to this Division;

(G) ADUs, JADUs and associated physical development may be exempted from this Chapter when such development is found to be consistent with subsection (C), above. ”

What MCC Section 20.532.020 and 14CCR13250, 13252, and 13253 fail to do is protect ESHA and ESHA buffers that are not wetlands. Condition #17 closes this loop.

I will finalize a recommendation to amend #17 as you suggest:

“17. Future development, beyond that approved by the subject Coastal Development Permit, may be exempt from the requirement of a new Coastal Development Permit, provided development meets the exemption requirements of MCC Section 20.532.020 and PRC section 30610/Title 14 CCR §13250-13253, as applicable, and development is located outside adopted Environmentally Sensitive Habitat Area (ESHA) buffers and ESHA resource areas. Future development located within ESHA buffers or ESHA resource areas requires a coastal development permit or permit amendment.”

As the report was submitted for publication last week, I will work with my colleagues to see whether the report can be further amended or if a supplementary memo is needed. Thank you for hanging in there with me. I so appreciate the opportunity to collaborate and strengthen my understanding of how local requirements are implemented.

My sincere regards, J.

Juliana Cherry, Planner III

Planning and Building Services

From: Kraemer, Melissa@Coastal <[Melissa.Kraemer@coastal.ca.gov](mailto:Melissa.Kraemer@coastal.ca.gov)>

Sent: Friday, January 6, 2023 9:07 AM

To: Juliana Cherry <[cherryj@mendocinocounty.org](mailto:cherryj@mendocinocounty.org)>

Cc: Garcia, Tatiana@Coastal <[tatiana.garcia@coastal.ca.gov](mailto:tatiana.garcia@coastal.ca.gov)>; Jansen, Bente@Coastal <[bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov)>

Subject: RE: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

How about adding the highlighted below? The problem with only citing Section 20.532.020 is it doesn't include the caveats of 13250, 13252, 13253, so future planners may be confused if they only look at that code section and not the overarching regulations.

From: Juliana Cherry <cherryj@mendocinocounty.org <<mailto:cherryj@mendocinocounty.org>> >  
Sent: Friday, January 6, 2023 8:13 AM  
To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov <<mailto:Melissa.Kraemer@coastal.ca.gov>> >  
Cc: Garcia, Tatiana@Coastal <tatiana.garcia@coastal.ca.gov <<mailto:tatiana.garcia@coastal.ca.gov>> >; Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov <<mailto:bente.jansen@coastal.ca.gov>> >  
Subject: RE: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

Melissa, thank you. I understand. I believe that we have three different approaches (draft conditions) that accomplish the same. I believe the simple approach is best and consistency with previously adopted conditions will help my future County colleagues sort out when an exemption for Chapter 20.532 is not available. Naturally, I like mine best too! 😊

With CDPM\_2020-0007, the CPA will consider a request to materially amend CDP\_2020-0020, as the Commission appealed the local decision to approve. County staff finds no need to amend Condition #17, excepting that Commission staff suggested language clarifications. I believe that as approved by the CPA, CDP\_2020-0020 Condition #17 accomplishes the same outcome as the alternate language suggested.

By code, additions to a SFR located in a HSA would require a CDP or CDP amendment. But repair and maintenance of a previously approved structure may be exempt from Chapter 20.532.

From CDP\_2020-0020 adopted condition, PBS staff suggested no changes to CDPM\_2022-0007 Condition #17, which reads:

“17. Future development, beyond that approved by the subject Coastal Development Permit, may be exempt from the requirement of a new Coastal Development Permit, provided development meets the exemption requirements of MCC Section 20.532.020 and PRC section 30610/Title 14 CCR §13250-13253 as applicable and is located outside adopted Environmentally Sensitive Habitat Area (ESHA) buffers and ESHA resource areas. Future development located within ESHA buffers or ESHA resource areas requires a coastal development permit or permit amendment.”

Staff will present the Commission's request to amend Condition #17 to the CPA on January 26.

Thank you for reaching out multiple times on my query. I very much enjoy the opportunity to ferret out suitable conditions that support Mendocino County goals, policies, and regulations. I hope with the recent rains and earthquakes that you and your colleagues are safe, warm, and dry. And, I sincerely wish you the best in 2023!

Thank you for your message,

Juliana Cherry, MURP

Planner III

Planning and Building Services

From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov <<mailto:Melissa.Kraemer@coastal.ca.gov>> >  
Sent: Thursday, January 5, 2023 8:53 PM  
To: Juliana Cherry <cherryj@mendocinocounty.org <<mailto:cherryj@mendocinocounty.org>> >; Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov <<mailto:bente.jansen@coastal.ca.gov>> >  
Cc: Garcia, Tatiana@Coastal <tatiana.garcia@coastal.ca.gov <<mailto:tatiana.garcia@coastal.ca.gov>> >  
Subject: RE: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

Hi Juliana

I realize this version of the condition may be more confusing....

"#17. Future Development Restriction. This permit is only for the development described in CDPM\_2022-0007, including, but not limited to, construction of a 912 SF barn and equestrian rescue ranch, and residence with garage. The following future development restrictions apply:

(a) Pursuant to Title 14 California Code of Regulations (CCR) section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(a) shall not apply to the development governed by the CDPM\_2022-0007. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDPM\_2022-0007 from the County of Mendocino.

(b) In addition, an amendment to CDPM\_2022-0007 shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR §13252(a)-(b)."

What it boils down to is: (a) they need a permit for future improvements pursuant to sec. 13250 because the site is in a HSA and therefore the exemption doesn't apply; (b) they are entitled to exempt repair and maintenance activities under 30610(d)/13252 unless the cited sections require a permit (see highlighted language).

Does that make sense?

So we are not suggesting that a CDP is required for repair and maintenance that is entitled under 30610d/13252; only if those sections say that a permit is required. It's just a bit oddly worded, as you said (lawyerly).

I hope you had nice holidays and happy new year to you!

Melissa

From: Juliana Cherry <cherryj@mendocinocounty.org <<mailto:cherryj@mendocinocounty.org>> >  
Sent: Thursday, December 29, 2022 10:39 AM  
To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov <<mailto:Melissa.Kraemer@coastal.ca.gov>> >; Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov <<mailto:bente.jansen@coastal.ca.gov>> >  
Cc: Garcia, Tatiana@Coastal <tatiana.garcia@coastal.ca.gov <<mailto:tatiana.garcia@coastal.ca.gov>> >  
Subject: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

Hello Melissa and Bente,

A. Please note that given commitments on my end, I will incorporate Commission staff's suggestions for CDPM\_2022-0007 Hutchinson and its draft Condition #17.

From CDP\_2020-0020 adopted condition, PBS staff suggested no changes to CDPM\_2022-0007 Condition #17, which reads:

"17. Future development, beyond that approved by the subject Coastal Development Permit, may be exempt from the requirement of a new Coastal Development Permit, provided development meets the exemption requirements of MCC Section 20.532.020 and is located outside adopted Environmentally Sensitive Habitat Area (ESHA) buffers and ESHA resource areas. Future development located within ESHA buffers or ESHA resource areas requires a coastal development permit or permit amendment."

12-9-2021 Commission staff suggested Condition #17 changes:

"Any future development, including development that meets the exemption requirements of MCC Section 20.532.020, shall require a Coastal Development Permit Amendment or a new Coastal Development Permit."

In response to PBS request for the basis to change Condition #17, and on 12-21-2022 Commission staff suggests Condition #17 read:

"#17. Future Development Restriction. This permit is only for the development described in CDPM\_2022-0007, including, but not limited to, construction of a 912 SF barn and equestrian rescue ranch, and residence with garage. The following future development restrictions apply:

(a) Pursuant to Title 14 California Code of Regulations (CCR) section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(a) shall not apply to the development governed by the CDPM\_2022-0007. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDPM\_2022-0007 from the County of Mendocino.

(b) In addition, an amendment to CDPM\_2022-0007 shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR §13252(a)-(b)."

While the 12-9 suggested #17 is easier to understand, the 12-21 suggestion is complicated. (See 12-21-2022 message below and 12-9-2022 email for add'l detail.)

B. I would like to continue to banter about the basis to further regulate repair and maintenance activities in Highly Scenic Areas, or HSA. (Noting that software often changes this to HAS). I believe 14 CCR 13250(b)(6) applies to any improvements to an existing SFR. Does it also apply to repair and maintenance activity exemptions, as regulated by MCC Section 20.532.020.A and 14 CCR 13252? During 2021, did the Coastal Commission, who certified updates to MCC Section 20.532.020 as consistent with the Coastal Act, discuss requiring a CDP/amendment in HSA for repair and maintenance activities? I note that the 2021 certified LCP amendment does not require a CDP/amendment for repair and maintenance activities in HSAs.

Subchapter 6, 14 CCR (b)(1) requires a CDP for improvements to SFRs located in HSAs et al. Additionally, PBS staff supports closing the "ESHA protection" loop associated with Subchapter 6. By adopting conditions like #17, the County further protects non-wetland ESHA from future improvements commonly associated with a SFR (or other principally permitted land use). PBS staff regularly recommend conditions to protect all types of ESHA from future encroachments. I believe the County's practice supports the goals and policies of Coastal Element Chapter 3.1 and resolves potential conflicts between MCC Section 20.532.020.C and 14 CCR 13250 and reducing adverse environmental effects.

But there are other regulatory exemptions, besides improvements to single-family residences. MCC Section 20.532.020 exempts seven types of development from Chapter 20.532. In addition to Subchapter 6 (14 CCR 13250), this section of County Code relies on:

- \* Subchapter 7, nee 14 CCR 13252
- \* Repair, Maintenance and Utility Hookup Exclusion, nee 14 CCR 13252(a)
- \* Subchapter 7.5, nee 14 CCR 13253
- \* Replacing nonconforming structures
- \* Gualala Town Plan restoration
- \* ADUs, JADUs

My understanding is that Commission staff suggests protecting HSA by additionally requiring a CDP/amendment for "Repair and maintenance activities which do not result in an addition to or enlargement or expansion of the object of such activities, except as otherwise specified in Subchapter 7, Title 14, California Administrative Code and any amendments thereafter adopted." Please help me understand the basis to require a CDP/amendment in HSA beyond the restrictions adopted by local and State governance?

Please provide examples for when to preemptively require a property owner to obtain a CDP/amendment prior to repairing and maintaining improvements that were approved in accord with MCC Chapter 20.532.

Thank you for indulging this rather long message(!) and my wish to understand when to rely upon MCC Chapter 20.532 and its subsection 20.532.020 and when to preemptively require a property owner to obtain CDP or a permit amendment.

My best to you and your colleagues in the new year, J.

Juliana Cherry, Planner III

Planning and Building Services

From: Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov <<mailto:bente.jansen@coastal.ca.gov>> >  
Sent: Wednesday, December 21, 2022 12:21 PM  
To: Juliana Cherry <cherryj@mendocinocounty.org <<mailto:cherryj@mendocinocounty.org>> >  
Subject: CDMP\_2022-0007 Hutchinson

Hi Juliana,

My apologies not getting back to you sooner – I was going to email you yesterday but with the power outage from the earthquake I was saving my phone battery. After discussing with Melissa and Shana, here are our final thoughts on changes to the conditions to the CDPM.

1. The changes (to remove the language discussing metal roofing) to condition 21(a) are good as you proposed them in your email on 12/15/22.
2. The alternative language you proposed for condition 26 on 12/15/22 to include the sentence limiting exterior lighting to areas adjacent to doors, stairs, etc. is good.
3. The addition of condition 31 as follows is more or less what Melissa was thinking and we are happy with it.  
"Development shall be limited to those approved by CDPM\_2022-0007 and agricultural land uses. Principally permitted Agricultural Use Types may include General Agriculture, Light Agriculture, Row and Tree Crops, and Tree Crops. Conditional Agricultural Use Types may include Animal Waste Processing, Forest Production and Processing: Commercial Woodlots; Forest Production and Processing: Limited; Horticulture; Packing and Processing: General; and Packing and Processing: Fisheries Byproducts."
4. Regarding condition 17, we would like to see this changed to a future development condition that requires a CDP for all future development. Our reasoning is because the County's IP specifically refers to the Coastal Act and our administrative code. Title 14 CCR section 13250, which relates to PRC section 30160(a) states that improvements to a SFR within a highly scenic area requires a CDP (see below for snippet of the code). Since the property is within a highly scenic area, all future development, including things that may be exempt in other areas, should require a CDP. I have included sample language for the condition below, this is based on a condition we have attached to a permit.



Future Development Restriction. This permit is only for the development described in CDPM\_2022-0007, including, but not limited to, construction of a 912 SF barn and equestrian rescue ranch, and residence with garage. The following future development restrictions apply:

- a. Pursuant to Title 14 California Code of Regulations (CCR) section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(a) shall not apply to the development governed by the CDPM\_2022-0007. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDPM\_2022-0007 from the County of Mendocino.
- b. In addition, an amendment to CDPM\_2022-0007 shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR §13252(a)-(b).

Please let me know if you have any questions.

Thanks!

Bente

<https://www.coastal.ca.gov/>

Bente Jansen (she/her)

Coastal Program Analyst

1385 8th Street, Suite 130. Arcata, CA 95521

Phone: (707) 826-8950 ext. 5 (currently teleworking; voice mail only)

Email: [bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov) <<mailto:bente.jansen@coastal.ca.gov>>



## Adrienne Thompson

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**From:** Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov>  
**Sent:** Wednesday, January 25, 2023 3:21 PM  
**To:** Juliana Cherry  
**Cc:** Kraemer, Melissa@Coastal  
**Subject:** CDPM\_2022-0007 (Hutchinson) Staff Report Comment

Good afternoon Juliana,

We would like to submit for the record that the wording in Condition 17 of the staff report for CDPM\_2022-0007 is misleading due to the fact that the entire parcel is within a designated highly scenic area. Therefore, the only future development that may be exempt under PRC section 30610 and Title 14 CCR sections 13250-13253 would be repair and maintenance (Title 14 CCR section 13252). Any future improvements would NOT be exempt pursuant to Title 14 CCR section 13250(b)(1) and 13253(b)(1).

If possible, we recommend changing the wording to condition 17 accordingly.

Thank you,  
Bente



**Bente Jansen** (*she/her*)  
Coastal Program Analyst

1385 8<sup>th</sup> Street, Suite 130. Arcata, CA 95521  
Phone: (707) 826-8950 ext. 5 (currently teleworking; voice mail only)  
Email: [bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov)



## Adrienne Thompson

---

**From:** Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>  
**Sent:** Wednesday, January 25, 2023 4:42 PM  
**To:** Juliana Cherry; Jansen, Bente@Coastal  
**Subject:** RE: CDPM\_2022-0007 (Hutchinson) Staff Report Comment

I think we already sent you condition language originally. I don't have it in front of me anymore but from what I recall it starts off saying Future development will be exempt but that in fact is not true. Future improvements to the existing single family residence or to structures other than the single family residence will never qualify as exempt for the reasons stated in Bente's email. Certain repair and maintenance activities may qualify as exempt in the future if they meet the criteria for exemption. As previously stated, the reasoning is to provide clarity to the current landowners and any future landowners since the only future development that may be exempt under PRC section 30610 and Title 14 CCR sections 13250-13253 would be repair and maintenance (Title 14 CCR section 13252). Any future improvements would not be exempt pursuant to Title 14 CCR section 13250(b)(1) and 13253(b)(1).

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**From:** Juliana Cherry <cherryj@mendocinocounty.org>  
**Sent:** Wednesday, January 25, 2023 3:53 PM  
**To:** Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>; Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov>  
**Subject:** Re: CDPM\_2022-0007 (Hutchinson) Staff Report Comment

M, I completely understand. Please send an email with the condition laggy that commission staff can support and the basis to change the condition. I will use the email at tomorrow's CPA meeting. I really appreciate your support here; my workday ended at 2 PM today. Why am I still in the office :-)

With appreciation, J.

Juliana Cherry, MURP  
Planner III  
Mendocino County Planning and Building Services

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**From:** Kraemer, Melissa@Coastal <[Melissa.Kraemer@coastal.ca.gov](mailto:Melissa.Kraemer@coastal.ca.gov)>  
**Sent:** Wednesday, January 25, 2023 3:49 PM  
**To:** Juliana Cherry <[cherryj@mendocinocounty.org](mailto:cherryj@mendocinocounty.org)>; Jansen, Bente@Coastal <[bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov)>  
**Subject:** Re: CDPM\_2022-0007 (Hutchinson) Staff Report Comment

My apologies Juliana. We were corresponding back and forth on this over the holidays while I was off mostly and I'm sorry if I misunderstood the wording. I fully agree with Bente's comments. Again, my apologies  
Melissa

Sent from phone; please excuse brevity, typos

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**From:** Juliana Cherry <[cherryj@mendocinocounty.org](mailto:cherryj@mendocinocounty.org)>  
**Sent:** Wednesday, January 25, 2023 3:37:02 PM  
**To:** Jansen, Bente@Coastal <[bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov)>  
**Cc:** Kraemer, Melissa@Coastal <[Melissa.Kraemer@coastal.ca.gov](mailto:Melissa.Kraemer@coastal.ca.gov)>  
**Subject:** RE: CDPM\_2022-0007 (Hutchinson) Staff Report Comment

Bente,

I am happy to accommodate your request of 3:21 today, but note that there are several emails leading up to Commission staff giving their support to Condition #17 as written in the [published staff report](#). I think the wording of Condition #17, that you are requesting to change, is from Melissa Kraemer's email dated 1/6/2023.

Kindly state directly how Commission staff would prefer Condition #17 to read. Please send the revised text (and the basis for revising the text) today before 5 pm. Unfortunately, I do not have time before tomorrow's meeting to prepare a memo describing Commission staff's request; therefore, I will use an email that you send to me instead.

I am copying the following PBS staff on this message: Vandy Vandewater, Russell Ford, Michael McGinnis, and Nash Gonzalez.

Thank you for your message,  
Juliana Cherry, MURP  
Planner III  
Planning and Building Services

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**Sent:** Wednesday, January 25, 2023 3:21 PM  
**To:** Juliana Cherry <[cherryj@mendocinocounty.org](mailto:cherryj@mendocinocounty.org)>  
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If possible, we recommend changing the wording to condition 17 accordingly.

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Bente



**Bente Jansen** (*she/her*)  
Coastal Program Analyst

1385 8<sup>th</sup> Street, Suite 130. Arcata, CA 95521  
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Email: [bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov)

**From:** Juliana Cherry  
**Sent:** Friday, January 6, 2023 9:33 AM  
**To:** Kraemer, Melissa@Coastal  
**Cc:** Garcia, Tatiana@Coastal; Jansen, Bente@Coastal  
**Subject:** RE: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

Melissa, I appreciate the support in getting this right. Please note that Chapter 20.532 does reference the caveats of 13250, 13252, 13253, because MCC Section 20.532.020  
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[MECOCOZOCO CH20.532CODEPEREEN S20.532.020EX](#)> states except as otherwise specified in Subchapters 6 (aka 13250), 7 (aka 13252), and 7.5 (13253) ...

“Sec. 20.532.020 - Exemptions. The following developments shall be exempt from this Chapter:

(A) Repair and maintenance activities which do not result in an addition to or enlargement or expansion of the object of such activities, except as otherwise specified in Subchapter 7, Title 14, California Administrative Code and any amendments thereafter adopted;

(B) Activities of public utilities as specified in the Repair, Maintenance and Utility Hookup Exclusion adopted by the Coastal Commission on September 5, 1978;

(C) Improvements to single family residences except as otherwise specified in Subchapter 6, Title 14, California Administrative Code and any amendments thereafter;

(D) Improvements to any structure other than single family residence or a public works facility, except as otherwise specified in Subchapter 7.5, Title 14, California Administrative Code and any amendments thereafter;

(E) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform with Section 20.480.020, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk, of the destroyed structure by more than ten (10) percent and shall be sited in the same location on the affected property as the destroyed structure;

(F) Within the Gualala Town Plan planning area, structures which are destroyed by involuntary means or forces out of control of the owner(s), provided that the structure reconstructed after involuntary loss does not exceed the floor area, height, or bulk of the previously existing structure by more than ten (10) percent, restoration is started within one (1) year of the destruction, and the structure conforms to this Division;

(G) ADUs, JADUs and associated physical development may be exempted from this Chapter when such development is found to be consistent with subsection (C), above.”

What MCC Section 20.532.020 and 14CCR13250, 13252, and 13253 fail to do is protect ESHA and ESHA buffers that are not wetlands. Condition #17 closes this loop.

I will finalize a recommendation to amend #17 as you suggest:

“17. Future development, beyond that approved by the subject Coastal Development Permit, may be exempt from the requirement of a new Coastal Development Permit, provided development meets the exemption requirements of MCC Section 20.532.020 and PRC section 30610/Title 14 CCR §13250-13253, as applicable, and development is located outside adopted Environmentally Sensitive Habitat Area (ESHA) buffers and ESHA resource areas. Future development located within ESHA buffers or ESHA resource areas requires a coastal development permit or permit amendment.”

As the report was submitted for publication last week, I will work with my colleagues to see whether the report can be further amended or if a supplementary memo is needed. Thank you for hanging in there with me. I so appreciate the opportunity to collaborate and strengthen my understanding of how local requirements are implemented.

My sincere regards, J.

Juliana Cherry, Planner III

Planning and Building Services

From: Kraemer, Melissa@Coastal <[Melissa.Kraemer@coastal.ca.gov](mailto:Melissa.Kraemer@coastal.ca.gov)>  
Sent: Friday, January 6, 2023 9:07 AM  
To: Juliana Cherry <[cherryj@mendocinocounty.org](mailto:cherryj@mendocinocounty.org)>  
Cc: Garcia, Tatiana@Coastal <[tatiana.garcia@coastal.ca.gov](mailto:tatiana.garcia@coastal.ca.gov)>; Jansen, Bente@Coastal <[bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov)>  
Subject: RE: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

How about adding the highlighted below? The problem with only citing Section 20.532.020 is it doesn't include the caveats of 13250, 13252, 13253, so future planners may be confused if they only look at that code section and not the overarching regulations.

From: Juliana Cherry <[cherryj@mendocinocounty.org](mailto:cherryj@mendocinocounty.org) <<mailto:cherryj@mendocinocounty.org>> >  
Sent: Friday, January 6, 2023 8:13 AM  
To: Kraemer, Melissa@Coastal <[Melissa.Kraemer@coastal.ca.gov](mailto:Melissa.Kraemer@coastal.ca.gov) <<mailto:Melissa.Kraemer@coastal.ca.gov>> >  
Cc: Garcia, Tatiana@Coastal <[tatiana.garcia@coastal.ca.gov](mailto:tatiana.garcia@coastal.ca.gov) <<mailto:tatiana.garcia@coastal.ca.gov>> >; Jansen, Bente@Coastal <[bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov) <<mailto:bente.jansen@coastal.ca.gov>> >  
Subject: RE: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

Melissa, thank you. I understand. I believe that we have three different approaches (draft conditions) that accomplish the same. I believe the simple approach is best and consistency with previously adopted conditions will help my future County colleagues sort out when an exemption for Chapter 20.532 is not available. Naturally, I like mine best too! 😊

With CDPM\_2020-0007, the CPA will consider a request to materially amend CDP\_2020-0020, as the Commission appealed the local decision to approve. County staff finds no need to amend Condition #17, excepting that Commission staff suggested language clarifications. I believe that as approved by the CPA, CDP\_2020-0020 Condition #17 accomplishes the same outcome as the alternate language suggested.



By code, additions to a SFR located in a HSA would require a CDP or CDP amendment. But repair and maintenance of a previously approved structure may be exempt from Chapter 20.532.

From CDP\_2020-0020 adopted condition, PBS staff suggested no changes to CDPM\_2022-0007 Condition #17, which reads:

“17. Future development, beyond that approved by the subject Coastal Development Permit, may be exempt from the requirement of a new Coastal Development Permit, provided development meets the exemption requirements of MCC Section 20.532.020 and PRC section 30610/Title 14 CCR §13250-13253 as applicable and is located outside adopted Environmentally Sensitive Habitat Area (ESHA) buffers and ESHA resource areas. Future development located within ESHA buffers or ESHA resource areas requires a coastal development permit or permit amendment.”

Staff will present the Commission’s request to amend Condition #17 to the CPA on January 26.

Thank you for reaching out multiple times on my query. I very much enjoy the opportunity to ferret out suitable conditions that support Mendocino County goals, policies, and regulations. I hope with the recent rains and earthquakes that you and your colleagues are safe, warm, and dry. And, I sincerely wish you the best in 2023!

Thank you for your message,

Juliana Cherry, MURP

Planner III

Planning and Building Services

From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov <<mailto:Melissa.Kraemer@coastal.ca.gov>> >  
Sent: Thursday, January 5, 2023 8:53 PM  
To: Juliana Cherry <cherryj@mendocinocounty.org <<mailto:cherryj@mendocinocounty.org>> >; Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov <<mailto:bente.jansen@coastal.ca.gov>> >  
Cc: Garcia, Tatiana@Coastal <tatiana.garcia@coastal.ca.gov <<mailto:tatiana.garcia@coastal.ca.gov>> >  
Subject: RE: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

Hi Juliana

I realize this version of the condition may be more confusing....

“#17. Future Development Restriction. This permit is only for the development described in CDPM\_2022-0007, including, but not limited to, construction of a 912 SF barn and equestrian rescue ranch, and residence with garage. The following future development restrictions apply:

(a) Pursuant to Title 14 California Code of Regulations (CCR) section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(a) shall not apply to the development governed by the CDPM\_2022-0007. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDPM\_2022-0007 from the County of Mendocino.

(b) In addition, an amendment to CDPM\_2022-0007 shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR §13252(a)-(b).”

What it boils down to is: (a) they need a permit for future improvements pursuant to sec. 13250 because the site is in a HSA and therefore the exemption doesn't apply; (b) they are entitled to exempt repair and maintenance activities under 30610(d)/13252 unless the cited sections require a permit (see highlighted language).

Does that make sense?

So we are not suggesting that a CDP is required for repair and maintenance that is entitled under 30610d/13252; only if those sections say that a permit is required. It's just a bit oddly worded, as you said (lawyerly).

I hope you had nice holidays and happy new year to you!

Melissa

From: Juliana Cherry <cherryj@mendocinocounty.org <<mailto:cherryj@mendocinocounty.org>> >  
Sent: Thursday, December 29, 2022 10:39 AM  
To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov <<mailto:Melissa.Kraemer@coastal.ca.gov>> >; Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov <<mailto:bente.jansen@coastal.ca.gov>> >  
Cc: Garcia, Tatiana@Coastal <tatiana.garcia@coastal.ca.gov <<mailto:tatiana.garcia@coastal.ca.gov>> >  
Subject: CDPM\_2022-0007 Repair & Maintenance Activities Requiring a Permit 14 CCR 13252

Hello Melissa and Bente,

A. Please note that given commitments on my end, I will incorporate Commission staff's suggestions for CDPM\_2022-0007 Hutchinson and its draft Condition #17.

From CDP\_2020-0020 adopted condition, PBS staff suggested no changes to CDPM\_2022-0007 Condition #17, which reads:

“17. Future development, beyond that approved by the subject Coastal Development Permit, may be exempt from the requirement of a new Coastal Development Permit, provided development meets the exemption requirements of MCC Section 20.532.020 and is located outside adopted Environmentally Sensitive Habitat Area (ESHA) buffers and ESHA resource areas. Future development located within ESHA buffers or ESHA resource areas requires a coastal development permit or permit amendment.”

12-9-2021 Commission staff suggested Condition #17 changes:

“Any future development, including development that meets the exemption requirements of MCC Section 20.532.020, shall require a Coastal Development Permit Amendment or a new Coastal Development Permit.”

In response to PBS request for the basis to change Condition #17, and on 12-21-2022 Commission staff suggests Condition #17 read:

“#17. Future Development Restriction. This permit is only for the development described in CDPM\_2022-0007, including, but not limited to, construction of a 912 SF barn and equestrian rescue ranch, and residence with garage. The following future development restrictions apply:

(a) Pursuant to Title 14 California Code of Regulations (CCR) section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(a) shall not apply to the development governed by the CDPM\_2022-0007. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDPM\_2022-0007 from the County of Mendocino.

(b) In addition, an amendment to CDPM\_2022-0007 shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR §13252(a)-(b).”

While the 12-9 suggested #17 is easier to understand, the 12-21 suggestion is complicated. (See 12-21-2022 message below and 12-9-2022 email for add'l detail.)

B. I would like to continue to banter about the basis to further regulate repair and maintenance activities in Highly Scenic Areas, or HSA. (Noting that software often changes this to HAS). I believe 14 CCR 13250(b)(6) applies to any improvements to an existing SFR. Does it also apply to repair and maintenance activity exemptions, as regulated by MCC Section 20.532.020.A and 14 CCR 13252? During 2021, did the Coastal Commission, who certified updates to MCC Section 20.532.020 as consistent with the Coastal Act, discuss requiring a CDP/amendment in HSA for repair and maintenance activities? I note that the 2021 certified LCP amendment does not require a CDP/amendment for repair and maintenance activities in HSAs.

Subchapter 6, 14 CCR (b)(1) requires a CDP for improvements to SFRs located in HSAs et al. Additionally, PBS staff supports closing the “ESHA protection” loop associated with Subchapter 6. By adopting conditions like #17, the County further protects non-wetland ESHA from future improvements commonly associated with a SFR (or other principally permitted land use). PBS staff regularly recommend conditions to protect all types of ESHA from future encroachments. I believe the County’s practice supports the goals and policies of Coastal Element Chapter 3.1 and resolves potential conflicts between MCC Section 20.532.020.C and 14 CCR 13250 and reducing adverse environmental effects.

But there are other regulatory exemptions, besides improvements to single-family residences. MCC Section 20.532.020 exempts seven types of development from Chapter 20.532. In addition to Subchapter 6 (14 CCR 13250), this section of County Code relies on:

- \* Subchapter 7, nee 14 CCR 13252
- \* Repair, Maintenance and Utility Hookup Exclusion, nee 14 CCR 13252(a)
- \* Subchapter 7.5, nee 14 CCR 13253
- \* Replacing nonconforming structures
- \* Gualala Town Plan restoration
- \* ADUs, JADUs

My understanding is that Commission staff suggests protecting HSA by additionally requiring a CDP/amendment for "Repair and maintenance activities which do not result in an addition to or enlargement or expansion of the object of such activities, except as otherwise specified in Subchapter 7, Title 14, California Administrative Code and any amendments thereafter adopted." Please help me understand the basis to require a CDP/amendment in HSA beyond the restrictions adopted by local and State governance?

Please provide examples for when to preemptively require a property owner to obtain a CDP/amendment prior to repairing and maintaining improvements that were approved in accord with MCC Chapter 20.532.

Thank you for indulging this rather long message(!) and my wish to understand when to rely upon MCC Chapter 20.532 and its subsection 20.532.020 and when to preemptively require a property owner to obtain CDP or a permit amendment.

My best to you and your colleagues in the new year, J.

Juliana Cherry, Planner III

Planning and Building Services

From: Jansen, Bente@Coastal <bente.jansen@coastal.ca.gov <<mailto:bente.jansen@coastal.ca.gov>> >  
Sent: Wednesday, December 21, 2022 12:21 PM  
To: Juliana Cherry <cherryj@mendocinocounty.org <<mailto:cherryj@mendocinocounty.org>> >  
Subject: CDMP\_2022-0007 Hutchinson

Hi Juliana,

My apologies not getting back to you sooner – I was going to email you yesterday but with the power outage from the earthquake I was saving my phone battery. After discussing with Melissa and Shana, here are our final thoughts on changes to the conditions to the CDPM.

1. The changes (to remove the language discussing metal roofing) to condition 21(a) are good as you proposed them in your email on 12/15/22.
2. The alternative language you proposed for condition 26 on 12/15/22 to include the sentence limiting exterior lighting to areas adjacent to doors, stairs, etc. is good.
3. The addition of condition 31 as follows is more or less what Melissa was thinking and we are happy with it. "Development shall be limited to those approved by CDPM\_2022-0007 and agricultural land uses. Principally permitted Agricultural Use Types may include General Agriculture, Light Agriculture, Row and Tree Crops, and Tree Crops. Conditional Agricultural Use Types may include Animal Waste Processing, Forest Production and Processing: Commercial Woodlots; Forest Production and Processing: Limited; Horticulture; Packing and Processing: General; and Packing and Processing: Fisheries Byproducts."
4. Regarding condition 17, we would like to see this changed to a future development condition that requires a CDP for all future development. Our reasoning is because the County's IP specifically refers to the Coastal Act and our administrative code. Title 14 CCR section 13250, which relates to PRC section 30160(a) states that improvements to a SFR within a highly scenic area requires a CDP (see below for snippet of the code). Since the property is within a highly scenic area, all future development, including things that may be exempt in other areas, should require a CDP. I have included sample language for the condition below, this is based on a condition we have attached to a permit.

Future Development Restriction. This permit is only for the development described in CDPM\_2022-0007, including, but not limited to, construction of a 912 SF barn and equestrian rescue ranch, and residence with garage. The following future development restrictions apply:

- a. Pursuant to Title 14 California Code of Regulations (CCR) section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) section 30610(a) shall not apply to the development governed by the CDPM\_2022-0007. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDPM\_2022-0007 from the County of Mendocino.
- b. In addition, an amendment to CDPM\_2022-0007 shall be required for any repair or maintenance identified as requiring a permit in PRC section 30610(d) and Title 14 CCR §13252(a)-(b).

Please let me know if you have any questions.

Thanks!

Bente

<<https://www.coastal.ca.gov/>>

Bente Jansen (she/her)

Coastal Program Analyst

1385 8th Street, Suite 130. Arcata, CA 95521

Phone: (707) 826-8950 ext. 5 (currently teleworking; voice mail only)

Email: [bente.jansen@coastal.ca.gov](mailto:bente.jansen@coastal.ca.gov) <<mailto:bente.jansen@coastal.ca.gov>>