

Conditions of Approval

Exhibit D: Project plans, prepared by Stephanie Barnes-Castro, revised 8/22/19.

- I. This permit authorizes the demolition of an existing single family dwelling and construction of a new single family dwelling as indicated on the approved Exhibit "D" for this permit. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Demolition Permit from the Santa Cruz County Building Official.
 - C. Obtain a Building Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - D. Obtain a Grading Permit from the Santa Cruz County Building Official.
 - E. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with the Planning Department. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. A copy of the text of these conditions of approval incorporated into the

full size sheets of the architectural plan set.

2. One elevation shall indicate materials and colors as they were approved by this Discretionary Application. If specific materials and colors have not been approved with this Discretionary Application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material sheet in 8 1/2" x 11" format for Planning Department review and approval.
 3. Grading, drainage, and erosion control plans.
 4. Details showing compliance with fire department requirements.
 5. The following notes shall be placed on the building plans:
 - a. Construction activities shall be limited to weekdays between the hours 8am-5pm unless a temporary exception to this time restriction is approved in advance by County Planning.
 - b. Parking of construction vehicles behind the State Beach gate shall be restricted to the project site and one additional vehicle along the parcel frontage.
 - c. Construction vehicles, activities, and materials shall at no time impeding pedestrian and emergency vehicle access or block private driveways or the public right of way.
 6. **Civil plans shall be consistent with Architectural plans and show the ceiling height of the basement at less than 7 feet 6 inches. Added by ZA 9/20/19**
 7. **The building plans must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site which clearly depict the total height of the proposed structure. Maximum height is 28 feet. Added by ZA 9/20/19**
- B. Meet all requirements of and pay Zone 5 drainage fees to the County Department of Public Works, Stormwater Management. Drainage fees will be assessed on the net increase in impervious area.

- C. Meet all requirements of the Santa Cruz County Sanitation District. Proof of sanitary sewer service availability is required prior to application for a Building Permit.
- D. Meet all requirements of the Environmental Planning section of the Planning Department.
 - 1. If removal of woody vegetation, grading activity, or other use of heavy equipment is to commence between February 1st and August 31st, a survey for active bird nests shall be conducted by a qualified biologist within 15 days prior to the start of such activity. The survey area shall include the project area, and a survey radius around the project area of 50 feet for MBTA birds and 250 feet for birds of prey.
- E. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.
- F. Submit plan review letters prepared and stamped by the project Geologist and Geotechnical Engineer.
- G. Pay the current fees for Parks and Child Care mitigation for 3 additional bedrooms. Currently, these fees are, respectively, \$1000 and \$109 per bedroom.
- H. Pay the current fees for Roadside and Transportation improvements for 3 additional bedrooms. Please contact the Department of Public Works for a current list of fees.
- I. Pay the current Affordable Housing Impact Fee. The fees are based on unit size and the current fee for a dwelling 2,001 up to 2,500 square feet is \$3 per square foot.
- J. Provide required off-street parking for 3 cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
- K. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- L. *“Notice of Geologic Hazards, Acceptance of Risk, Liability Release, and Indemnification” shall be recorded on the parcel with the format and content of that document to be reviewed and accepted by the County of Santa Cruz prior to recordation. The Notice will provide for property owner (and all successors and assigns) agreement to an acknowledgement of coastal and geologic hazards, an acceptance of and assumption of risk, a waiver of liability against the County,*

and an indemnification of the County; the final language of such provisions will be consistent with the following:

1. Coastal Hazards. That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, tidal scour, coastal flooding, liquefaction and the interaction of same;
2. Assume Risks. To assume the risks to the Applicant and the properties that are the subject of this CDP of injury and damage from such coastal hazards in connection with the permitted development;
3. Waive Liability. To unconditionally waive any claim of damage or liability against the County, its officers, agents, and employees for injury or damage from such coastal hazards in connection with the permitted development;
4. Indemnification. To indemnify and hold harmless the County, its officers, agents, and employees with respect to the County's approval of the development 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 coastal hazards in connection with the permitted development; and

M. Property Owner Responsible. That any adverse effects to property caused by the permitted development shall be fully the responsibility of the property owner.

Added by ZA 9/20/19

- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All conditions listed in the Biotic Report approval letter prepared by Juliette Robinson, dated April 3, 2019 shall be implemented. (See conditions III. G and H).
 - C. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.

- D. The project must comply with all recommendations of the approved soils reports.
- E. No winter grading will be allowed on this parcel.
- F. All construction activities shall comply with the following requirements:
 - 1. Construction activities shall be limited to weekdays between the hours 8am-5pm unless a temporary exception to this time restriction is approved in advance by County Planning.
 - 2. Parking of construction vehicles behind the State Beach gate shall be restricted to the project site and one additional vehicle along the parcel frontage.
 - 3. Construction vehicles, activities, and materials shall at no time impede pedestrian and emergency vehicle access or block private driveways or the public right of way.
 - 4. The applicant shall designate a disturbance coordinator and a 24-hour contact number shall be conspicuously posted on the job site. The disturbance coordinator shall record the name, phone number, and nature of all complaints received regarding the construction site. The disturbance coordinator shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- G. To minimize impacts to surrounding habitat and compensate for encroachment into the 100-foot wetland buffer:
 - 1. No work shall occur within areas identified as wetland habitat.
 - 2. Prior to construction, high visibility construction fencing or flagging shall be installed around the limits of work to prevent inadvertent disturbance within the surrounding sensitive habitats. No work-related activity including equipment staging, vehicular access, grading, and vegetation removal shall be allowed outside of the limits of work.
 - 3. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored outside the designated limits of work.
 - 4. Upon project completion, areas of exposed soil shall be re-vegetated with locally native erosion control species. Non-native grasses or forbs may not be used for erosion control.
 - 5. Implement the native plant restoration plan (as prepared by Barbara Jackel

Landscape Design) that depicts areas for native plant revegetation. A final version of this plan shall be submitted to Environmental Planning staff for approval prior to implementation. The approved Restoration Planting Plan shall be implemented prior to final building inspection and shall include the following minimum elements:

- a. Establishment of designated restoration areas on site.
 - b. Species, size and locations of all plants intended for removal.
 - c. Species, size and locations of species being planted.
 - d. Information regarding the methods of irrigation for replacement plantings.
 - e. 5-year management plan for maintenance and monitoring of restored areas to maintain 100% survival of installed container stock in years 1-3, and at least 80% survival in years 4-5. Replacement plants shall be installed as needed during the monitoring period to meet survival rates. Annual reports shall be submitted to the County Planning Department by December 31 of each monitoring year.
 - f. An invasive plant removal and control program that targets removal and control of English ivy, jubata grass, ginger, and ice plant.
6. Prior to final building inspection approval, planting of the mitigation area(s) shall be inspected and approved by Environmental Planning staff

H. To avoid impacts to nesting birds:

1. If removal of woody vegetation, grading activity, or other use of heavy equipment begins outside the February 1 to August 31 breeding season, there will be no need to conduct a preconstruction survey for active nests.
2. Trees intended for removal shall be removed during the period of September 1st through January 31st, in order to avoid the nesting season.
3. If removal of woody vegetation, grading activity, or other use of heavy equipment is to commence between February 1st and August 31st, a survey for active bird nests shall be conducted by a qualified biologist within 15 days prior to the start of such activity. The survey area shall include the project area, and a survey radius around the project area of 50 feet for MBTA birds and 250 feet for birds of prey.
4. If no active nest of a bird of prey or MBTA bird is found then no further avoidance and minimization measures are necessary.

5. If active nest(s) of MBTA birds or birds of prey are found in the survey area, an avoidance buffer of 50 feet for MBTA birds and 250 feet for birds of prey shall be established around the active nest(s). The biologist shall monitor the nest, and advise the applicant when all young have fledged the nest. Removal of vegetation, grading activity, or other use of heavy equipment may begin after fledging is complete.
 6. If the biologist determines that a smaller avoidance buffer will provide adequate protection for nesting birds, a proposal for alternative avoidance/protective measures, potentially including a smaller avoidance buffer and construction monitoring, may be submitted to Environmental Planning staff for review and approval prior to removal of vegetation, grading activity, or other use of heavy equipment.
 7. If removal of vegetation, grading activity, or other use of heavy equipment stops for more than two weeks during the nesting season (February 1st - August 31st) a new survey shall be conducted prior to re-commencement of construction.
- I. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.
- J. **Stockpiling of grading materials shall be placed on the ocean side of the property (within the parcel boundaries), outside of the 100 foot riparian setback. Added by ZA 9/20/19**

IV. Coastal Hazards Response Alternatives. By acceptance of this permit, the applicant acknowledges and agrees, on behalf of itself and all successors and assigns, that:

- A. **The approved single-family home replacement project will be constructed and may be used consistent with the terms and conditions of this permit for only as long as the approved development remains safe for occupancy and use. If coastal hazards result in an unsafe site or unsafe structure, the property owner agrees to abate or address dangerous conditions in accordance with County regulations and/or Orders of the Chief Building Official and these Conditions of Project Approval. If all or any portion of improvements are deemed uninhabitable, the property owner agrees to remove the improvements and restore the affected area, unless an alternative response is proposed by the property owner and approved by the County of Santa Cruz, and also by the California Coastal Commission if the project location is within the Coastal**

Commission's primary jurisdiction.

B. Requirement for Geotechnical and Coastal Hazards Reports: Ten-foot Trigger. In the event that in the future the blufftop edge recedes to within ten feet of the single-family dwelling, the property owner shall undertake the following activities to determine whether selection and pursuit of a Coastal Hazards Response Alternative is required:

- 1. Notify the Santa Cruz County Geologist, and**
- 2. Retain a licensed geologist or civil engineer with experience in coastal processes and hazard response to prepare a geotechnical investigation and Coastal Hazards Report that addresses whether all or any portions of the residence and related development are threatened by coastal hazards, and that identifies actions that should be taken to ensure safe use and occupancy, which may include removal or relocation of all or portions of the threatened development and improvements, or other alternate response(s).**
- 3. Agree to undertake activities to pursue an appropriate Coastal Hazards Response consistent with these Conditions of Approval and in accordance with adopted and applicable County of Santa Cruz and California Coastal Commission regulations. The geotechnical investigation and Coastal Hazards Report shall be submitted to the Executive Director of the California Coastal Commission, and to the Planning Director, Chief Building Official and County Geologist of Santa Cruz County. If the residence or any portion of the residence is proposed to be removed, the Applicant shall submit a Removal and Restoration Plan.**

C. Removal and Restoration. If an appropriate government agency so orders, or as a result of the above-referenced geotechnical investigation and Coastal Hazards Report, it is determined that any portion of the approved development will be proposed for removal due to coastal hazards, the Applicant shall, prior to removal, submit two copies of a Removal and Restoration Plan to the County of Santa Cruz Planning Director for review and approval. No removal activities shall commence until the Removal and Restoration Plan and all other required plans and permits are approved. If the Director determines that an amendment to this permit or separate grading and coastal development permits are legally required in order to authorize the activities, the Applicant shall as soon as immediately feasible submit the required application, including all necessary supporting information to ensure it is complete. The Removal and Restoration Plan shall clearly describe the manner in which such development is to be removed and the affected area restored so as to best protect coastal resources, and shall be implemented immediately upon Director approval, or County approval of the permit application, if necessary. Added by ZA 9/20/19

V. Operational Conditions

- A. In the event that future County inspections of the subject property disclose non compliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

VI. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.

- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:

1. COUNTY bears its own attorney's fees and costs; and
2. COUNTY defends the action in good faith.

- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.

- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.
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Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.