

Midcoast Community Council

*An elected Advisory Council to the San Mateo County Board of Supervisors
representing Montara, Moss Beach, El Granada, Princeton, and Miramar*
P.O. Box 248, Moss Beach, CA 94038-0248 - www.MidcoastCommunityCouncil.org

Dave Olson . **Claire Toutant** . **Lisa Ketcham** . **Dan Haggerty** . **Chris Johnson** . **Brandon Kwan** . **Barbra Mathewson**
Chair Vice-Chair Secretary Treasurer

Date: January 24, 2018

To: Dave Holbrook, Project Planner

Cc: Owen Lawlor, Lawlor Land Use
Jonathan Gervais, SMC Parks Director
Renée Ananda, CCC Coastal Program Analyst

From: Midcoast Community Council/ Dave Olson, Chair

Subject: **Vallemar Bluff Four-House Development - PLN2015-00380 –**
for 2.5-acres zoned RM/CZ, at Vallemar & Juliana, Moss Beach

The remaining comments MCC has on this project relate to LCP and Coastal Act issues that were included in our 7/26/17 memo. These are conditions that the applicant agrees to, although the coastal hazard conditions that the Coastal Commission routinely applies to blufftop development on appeal (attached) have not previously been applied by the County.

Biotic easement (Mitigation Measure 4) for the Coastal Prairie should have a deadline when it must be finalized, such as before issuance of any Building Permits.

Perimeter fence and public trail: A condition of approval should be added that requires determination by County Parks of a safe minimum width for the public trail between cliff edge and private fence, which distance should also be included as deed restricted floating easement on the four lots. Included in the trail easement should be provision for the County to monitor and enforce any necessary relocation of the private fence. Please also add condition of approval requiring minimum 50% transparency for this fence.

Coastal hazard conditions should be included, consistent with Coastal Commission requirements for other shoreline development, particularly in light of Sea Level Rise:

- Prohibit future shoreline armoring.
- Require removal of development if it becomes unsafe to occupy due to threat of coastal hazards.
- Require removal of debris that falls from blufftop onto beach.
- Require assumption of all risks of coastal hazards, waiver of liability, and indemnification agreement.
- Require recordation of deed restriction imposing coastal hazard conditions as covenants, conditions and restrictions on the use and enjoyment of the property.

Thank you for your consideration of our comments.

California Coastal Commission -- Coastal Hazard Conditions of Approval routinely applied to blufftop development on appeal.

[Aug 2014, CCC appeal A-2-SMC-09-006 & -008 -- 354 & 358 Princeton Ave, Princeton]

Assumption of Risk, Waiver of Liability, and Indemnity Agreement. By acceptance of this permit, the Permittee acknowledges and agrees on behalf of himself and all successors and assigns:

- a. **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, tsunamis, coastal flooding, landslides, bluff and geologic instability, and the interaction of same;
- b. **Assume Risks.** To assume the risks, to the Permittee and the property that is the subject of this permit, of injury and damage from such hazards in connection with this permitted development;
- c. **Waive Liability.** To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards;
- d. **Indemnification.** To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission's approval of the project 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 hazards;
- e. **Property Owner Responsible.** That any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee; and
- f. **Future Armoring Prohibited.** That the Permittee shall not construct, now or in the future, any shoreline protective device(s) for the purpose of protecting the development approved pursuant to CDP A-2-SMC-09-006 including, but not limited to, the approved building and associated foundations in the event that these structures are threatened with imminent damage or destruction from coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, coastal flooding, landslides, bluff and geologic instability, and the interaction of same or other natural hazards in the future, and by acceptance of this permit, the Permittee hereby waives any rights to construct such devices that may exist under Public Resources Code Section 30235 or the San Mateo County LCP.
- g. **Removal Required.** If the development approved pursuant to CDP A-2-SMC-09-006 is threatened by coastal hazards in the future that would typically bring about a shoreline armoring response (e.g., when the bluff has retreated to a point such that the building is unsafe to occupy), the Permittee shall remove/relocate threatened elements of the development away from such danger. Such removal/relocation shall require a separate CDP authorization.
- h. **Debris.** Any debris, including that related to the approved development, that falls from the bluff top site onto the beach or into the waters of Pillar Point Harbor shall be immediately removed and disposed of properly.

Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the Executive Director for review and approval documentation demonstrating that the Applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content

acceptable to the Executive Director: (1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.