COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
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MEMORANDUM

DATE: JUNE 16, 2016

TO: PLANNING COMMISSION

FROM: ANDY GUSTAVSON, CHIEF PLANNER

SUBJECT: ADMINISTRATIVE APPEAL #AA_2016-0002

Appeal Statement

Mr. Gard B. Cookson (Appellant) is appealing Planning and Building Services (PBS) staff determination that private weddings attended by less than 100 persons and hosted by the guests of his bed and breakfast establishment are: (1) subject to the "no more than five (5) days per six (6) months" limitation on temporary events (MCC Section 20.168.020(B)); and (2) they are not private gatherings that are otherwise excluded from the County's limitations on temporary gatherings (MCC Section 20.168.020(E)).

The appellant's appeal statement dated April 13, 2016 and the Temporary Use Regulation (MCC Chapter 20.168) are attached.

Background

The Appellant owns and operates The Highlands Bed and Breakfast situated on a 21.89 acre parcel located at 33430 Highway 128, Yorkville (APN 049-380-38). It is a former single family dwelling that has been converted to a five (5) guest room Transient Habitation - Lodging (Limited) type use (UM 2014-0004). The nearby barn on the same parcel has been approved for five (5) events, not exceeding 200 persons, in a six (6) month period (AP 2015-0022). The use permit regulating the operation of the bed and breakfast establishment was approved on November 20, 2014 and the administrative permit regulating the temporary events was conditionally approved on January 14, 2016. These permits are attached.

On April 6, 2016, Fred Tarr, Planner II, advised the Appellant that gatherings less than 100 persons at his bed and breakfast established are (1) subject to the "no more than five (5) days per six (6) months" limitation, and (2) that invitation-only weddings hosted by bed and breakfast guest are not private gatherings excluded from the County's limitations on temporary gatherings (MCC Section 20.168.020(E)).

The subject appeal was filed on April 14, 2016.

Key Issues

1. Private Events Are Not Subject to Regulation

Mr. Cookson states*: "This is precisely the type of private events that are occurring on our property. Mr. Tarr and the Planning Department are asserting that private events cannot be commercial events. There is nothing whatsoever in this Section or anywhere that I have located in the County Code to support their 'interpretation', whether reached by a 'consensus' of the Planning Department or otherwise. Clearly, our 'events' are private-not public (we do not charge admission or sell tickets and they are not open to the public)-and are not a 'temporary gathering of people for a circus, carnival, concert, rodeo, community*

festival, lecture, art or antique show, religious purposes or other similar'-all public events. Accordingly any regulation found in Section 20.168.020 does not apply to our business."

Response**:** The Temporary Event regulation includes a private event exclusion that allows family, friends, and acquaintances to gather at a residence. It also allows a business owner or operator to host a private party for employees and business associates. In both cases, these gatherings are incidental and subordinate to the primary use which is owned or leased by the host and the attendees have a family, friendship or work affiliation with the owner. In this regard, any event at Mr. Cookson's bed and breakfast inn hosted by his guests are not private, despite that the attendees may be affiliated with the guest. The additional traffic, parking demand, water use, waste water discharge, and noise generated by type of guest-hosted event at a commercial establishment is not ordinary nor is it subordinate to the primary use.

Furthermore, Mr. Cookson obtained a use permit to operate the bed and breakfast inn. This permit does not allow any type of public event regardless of size. The guests of his inn are patrons of his business establishment which is approved to only provide transient lodging for occupants up to 5 rooms.

2. Temporary Use Regulations do not Apply to Events with less than 100 Attendees.

Mr. Cookson argues that **Section 20.168 Temporary Use Regulations** does not pertain to the temporary gatherings of less than one hundred (100) persons and therefore there is no limit to the number of temporary gatherings of less than one hundred (100) persons a property owner can have on his property.

Response: The purpose of Temporary Use Regulation (MCC Section 20.168.005) is to establish *permitted temporary uses and standards and conditions for regulating same. Because of the temporary nature of the uses they are not subject to the General Plan with respect to permitted uses and densities.* Entertainment Events or Religious Assembly is defined as one of several temporary uses governed by this chapter of the zoning code. While no permit is required to hold events with less than 100 attendees, this chapter establishes that events held more than five (5) days in a six (6) month period are not temporary activities/or uses and are therefore subject to restrictions of the underlying zoning district. In this case, Mr. Cookson's property lies in the Upland Residential Zoning District where his bed and breakfast Inn, a Transient Habitation – Limited Use Type, is allowed as conditional use with an approved use permit. This type of commercial use, which is restricted in size and is compatible in low density agricultural/residential areas, is not ordinarily associated with events.

However, Mr. Cookson can, if he wishes to establish on-going events at his establishment, apply for a modification to his existing use permit. His modification would be reviewed at a public hearing, to help to ensure events associated with his existing use would be compatible with the surrounding properties and that site improvements, such as parking, water, waste water treatment, and noise controls, are in place to support this additional activity.

Recommendation: Staff recommends that the Planning Commission uphold staff's administrative interpretation that Section 20.168.020(B) of the Mendocino County Inland Zoning Code applies to temporary gatherings of people of under one hundred (100) persons and that Section 20.168.020(E) of the Mendocino County Inland Zoning Code does not apply to commercial ventures whereby the property owner or lessee receives compensation for the use of the event facilities on the subject property.

Attachments:

A. Appeal Letter
B. Business License # BL_2014-0201
C. Use Permit Modification # UM_2014-0004
D. Administrative Permit # AP_2015-0022
E. Sections 20.168.005, 010, and 020 of the Mendocino County Inland Zoning Code Ordinance

Attachment A

THE Highlands ESTATE

April 13, 2016

Adrienne Thompson
Mendocino County Planning Commission

Re: Planning Department misreading of Sec. 20.168.020 of the Mendocino County Code and refusal to honor its prior written representations of such Code.

Dear Ms. Thompson:

Please consider this letter to be an administrative appeal to the Mendocino County Planning Commission with respect to the Planning and Building Services Department's determination that Section 20.168.020 of the Mendocino County Code requires that our business (The Highlands Estate) is only able to hold private weddings "not [to] exceed five (5) days in any six (6) month period."

In 2014, my wife and I were looking for a location to start a business hosting private weddings, and that search led to our current property (also a B&B) at 33430 Hwy 128. The purchase of the property was based on our detailed business plan of hosting private weddings on the property and also being able to operate the B&B. In working with the bank prior to the purchase, it specifically required us to make sure the property had the proper permits or authorizations to achieve the goals of our business plan. To that end, I had several communications on this very issue with Scott Perkins, at the time a Planning Technician in your office.

I asked him specifically about the ability to hold private weddings and events and about the capacity of the B&B, as this was going to be our sole business and livelihood. In regard to our business plan to conduct private weddings and events, after researching this issue, Mr. Perkins, on behalf of the Planning Department, advised, "...private events are permitted (without an administrative permit) for events of less than 100 individuals." He was well aware that our business plan was based on hosting as many private weddings and events as we could schedule. The purpose of my discussions with Mr. Perkins was to obtain express confirmation to provide to the bank that an unlimited number of private weddings and events could be conducted at our property. There was no statement whatsoever made by Mr. Perkins that there would be any limitation on the number of private weddings and events we could hold at the property. Of course, if there was any statement or implication that the number of private events would be limited to 5 per any six-month period, we would never have purchased this property, let alone incurred substantial amounts in making improvements to the property so that we could conduct weddings.

In the fall of 2015, in an email exchange with Fred Tarr of the Planning Department, he requested that I send the information from Scott Perkins. Mr. Tarr responded on October 5, 2015, explicitly advising "I'm in agreement with you regarding the no special permit required for events of less than 100 persons." Again, no mention whatsoever was made as to any limit on the number of such private events.

The Planning Department, and especially Fred Tarr, in dealing with our permits and from his personal site visit, have been fully aware of the significant investment we have made at our property and into our business. This includes, among other things, changing the barn into a habitable space with insulation, heating and air conditioning, upgrading the septic system, creating a "wedding site," constructing ADA-compliant men's and women's restrooms, and creating a handicapped parking area. Our investment in

this property - all based on the approvals we received from the Planning Department that we would be able to conduct unlimited weddings - has now reached approximately $2.5 million.

Now suddenly, Fred Tarr asserted, in a phone conversation on March 31, 2016, that our private events would be limited to 5 events in a 6-month period. After I advised Mr. Tarr that this was incorrect and contrary to the specific representations and advice of both Mr. Perkins in 2014 and Mr. Tarr himself in October 2015, he said he would look into it further. Mr. Tarr later emailed me saying, "Section 20.168.020 of County Code discusses special events and it is definitely open to varying interpretations. Surprisingly, this question has not come up before."

It was surprising, if not incredible, that Mr. Tarr made this explicit statement on the telephone, and not until he was questioned on it, did he refer to the County Code, and then conceded that he wasn't clear on his new-found interpretation. Mr. Tarr then advised that he would bring it up at the Planning Department's next staff meeting, which occurred on Wednesday, April 6, 2016.

After the staff meeting, Mr. Tarr advised that the "consensus" of the meeting was as follows:

> *"We are all in agreement that there is no special permit required for events of less than 99 persons, the disagreement lies in the limitation of these events to five (5) days in a six (6) month period which is our interpretation of Section 20.168.020 (B):* ***Duration.*** *The period of operation of the circus, carnival, rodeo, community festival, lecture, art or antique show, religious assembly or other similar activities shall not exceed five (5) days in any six (6) month period."*
>
> *Section 20.168.020 (C) discusses when administrative permits or minor use permits are necessary and Section 20.168.020 (E) provides an exclusion for private gatherings such as weddings, housewarmings, family gatherings, barbeque, etc. For the most part, your events will be commercial events, not events put on by you for family gatherings."*

It wasn't until Mr. Tarr cited Section 20.168.020 of County Code on April 1, 2016 that any specific code was brought to my attention and that I was able the review the actual language of the County Code. For clarity and convenience, I have copied the entirety of the relevant Code provisions below:

> **Sec. 20.168.020 Entertainment Events or Religious Assembly.**
>
> The temporary gathering of people for a circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious purposes or other similar activities may be permitted upon the issuance of a use permit in compliance with the following provisions:
>
> (A) **Location**. A circus, carnival concert, rodeo, community festival, lecture, art or antique show, religious assembly or other similar activities may be permitted in any zone except R-1 and R-2.
>
> (B) **Duration**. The period of operation of the circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious assembly or other similar activities shall not exceed five (5) days in any six (6) month period.
>
> (C) **Permits**.
>
> (1) Gatherings of one hundred (100) to one thousand (1,000) persons shall be required to obtain an administrative permit.

THE Highlands ESTATE

(2) Gatherings of over one thousand (1,000) persons shall be required to obtain a minor use permit.

(D) The requirements of this section shall not be intended to supersede provisions in Mendocino County Code Chapter 6.16.

(E) **Exclusions**. The provisions of this Section are not intended to include or regulate private gatherings such as weddings, housewarmings, family gatherings, barbeque, etc. *(Ord. No. 3639 (part), adopted 1987; Ord. No. 3644, adopted 1987)*

After careful review of the Code, it is clear that Subsection E expressly *excludes* private gatherings such as weddings from any regulation by the County:

> *"(E) Exclusions. The provisions of this Section are not intended to include or regulate private gatherings such as weddings..."*.

This is precisely the type of private events that are occurring on our property. Mr. Tarr and the Planning Department are asserting that private events cannot be commercial events. There is nothing whatsoever in this Section or anywhere that I have located in the County Code to support their "interpretation," whether reached by a "consensus" of the Planning Department or otherwise. Clearly, our "events" are private - not public (we do not charge admission or sell tickets and they are not open to the public) - and are *not* a "temporary gathering of people for a circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious purposes or other similar activities" – all *public* events. Accordingly, any regulation found in Section 20.168.020 does not apply to our business.

I trust that, based on the above explanation, the Planning Commission will see that Section 20.168.020 does not apply to our business of hosting private weddings and events, and conclude the we may operate our new business in the manner we imagined so that we can be a welcome part of the Mendocino County community.

Please advise me whether there will be any hearing on this appeal or if there is any further information or documentation that we can supply to you for your consideration.

Sincerely,

Gard B. Cookson

Attachment B

Treasurer-Tax Collector
(707) 463-4321

BUS. LIC. # _____
DATE ISSUED _____
(For Office Use)

Planning & Building Services
(707) 463-4281

APPLICATION FOR MENDOCINO COUNTY BUSINESS LICENSE AND CERTIFICATE OF REGISTRATION FOR COLLECTION OF TRANSIENT OCCUPANCY TAX PER ORDINANCES NO. 4200 AND NO. 4024

BL 201-2014

Business Owner(s) Name: GBC Industries Phone #: 707-894-9500

Business Name (DBA): The Highlands Estate Yorkville Phone #: 707-894-9500

Mailing Address: 33430 Hwy 128 City: ~~Cloverdale~~ State: Calif Zip: 95425

Business Address: 33430 Hwy 128 City: ~~Cloverdale~~ York ville State: Calif Zip: 95425

Assessor's Parcel Number: 049038038 Contractor's License #: N/A

Business Owner(s) Residence Address (If other than business): Same Yorkville

Property Owner(s) Name: Gaeo + Whitney Cookson Address: 33430 Hwy 128, ~~Cloverdale~~, CA 95425

Business Operator (If other than business owner): Name: — Phone #: —

Address: —

TYPE OF BUSINESS: Retail/Service: _____ Wholesale: _____ Food Facility: _____ Motel/Hotel/Rental: X

Contractor: _____ Itinerant/Junk/Etc.: _____ Multiple-Sellers: _____ Other: _____

Type of Merchandise to be Sold: 5 Room B+B Resale Acct #: _____

Type of Service to be Rendered: B+B Room Rentals + Wedding/event rentals

DESCRIPTION OF PROPOSED BUSINESS: B+B Room Rentals + Wedding/event Rentals

Estimated Value of Equipment (exclude licensed vehicles): 0

Is this a New Business? _____ or an Existing Business? X Starting Date of Business: _____

Was there a Previous Business at this Location? Yes If so, Type of Previous Business: B+B

Previous Business Name: Linda Vista B+B Previous Owner(s) Name: Robert + Linda Klein

Address: 33430 Hwy 128, ~~Cloverdale~~, CA 95425 Date closed: 8/1/14

BUSINESS TO BE CONDUCTED: Yorkville

1. Home: _____ Garage/Shop/Accessory Structure: _____ Commercial Structure: _____
2. If use is to provide lodging, give number of rooms or units: 3 but applying for 5 Approved Through UM 3-99/2014
3. Floor area (sq. ft) to be used for this business: 7,000
4. Number of employees (other than family members): 0
5. Items to be used in this business (equipment, tools, and chemicals): 0
6. Storage location of supplies, equipment, vehicles, etc.: 0

Signature:Date: J. Whitney J. Cookson 8/15/14

CERTIFICATE OF APPROVAL

N/A BL 201-2014

Receipt # 4022

FOR OFFICIAL USE ONLY

Planning

Application Cleared: (Yes) or No

Date: 8/25/2014 Signed: MG

Comments: MR

Building Services

Application Cleared: Yes or No

Date: 9/10/14 Signed: [signature]

Comments: _____

White - Tax Collector Canary - Assessor Pink - Planning Goldenrod - Applicant

CW Form 955

STAFF REPORT FOR MAJOR USE PERMIT MODIFICATION

OWNER/APPLICANT:	GARD AND WHITNEY COOKSON, TRUSTEE 33430 HIGHWAY 128 YORKVILLE, CA 95423
AGENT:	GARD COOKSON 33430 HIGHWAY 128 YORKVILLE, CA 95425
REQUEST:	Major Use Permit Modification to expand an existing transient habitation lodging-limited from a three (3) room bed and breakfast to a five (5) room bed and breakfast within a 7,000 gross square foot residence.
ENVRIONMENTAL DETERMINATION:	Categorically Exempt from the provisions of CEQA.
RECOMMENDATION:	Approve with conditions
LOCATION:	6± miles northwest of Cloverdale, lying on the south side of State Highway 128, approximately 1,000 feet west of its intersection with Mountain House Road (CR # 111), located at 33430 Highway 128, Yorkville; APN 049-380-38.
TOTAL ACREAGE:	21± Acres
ZONING:	Upland Residential-40 acre minimum (UR 40)
ADJACENT ZONING:	Rangeland 160- acre minimum and Upland Residential-40 acre minimum (RL 160 and UR 40)
GENERAL PLAN:	Remote Residential- 40 acre minimum (RMR 40)
ADJACENT GENERAL PLAN:	Rangeland 160- acre minimum and Remote Residential- 40 acre minimum (RL 160 and RMR 40)
EXISTING USES:	Transient Habitation Lodging-Limited
SURROUNDING LAND USES:	North: Winery, Transient Habitation, and Special Events East: Rural Residential West: Agriculture South: Rural Residential and Agriculture
SURROUNDING LOT SIZES:	19± Acres to 96± Acres
SUPERVISORIAL DISTRICT:	5

OTHER RELATED APPLICATIONS ON SITE:

- Minor Subdivision: #MS 122-75 established four (4) parcels of 20± acres each. The subject property is Parcel 4 of #MS 122-75.
- Major Use Permit #U 3-99 which was conditionally approved by the Planning Commission on September 2, 1999 allowed for the original three room bed and breakfast facility.

SURROUNDING AREA: On the property located approximately 1,000 feet to the southeast of the subject property (APNs 049-380-72 and 049-380-73), Mr. Michael Page applied for a minor subdivision (#MS 8-94) to create two 40 acre parcels; a use permit (#U 5-94) for the establishment of a resort and recreational facility which includes a total build-out of up to 14 cottages, office and conference room on Parcel 1 of the division; and a use permit (#U 6-94) for the establishment of a resort and recreational facility consisting of a lodge, wedding and conference facilities, winery vineyard and tasting room to be located on the proposed remainder parcel of the division (eastern parcel). On October 27, 1994, the Planning Commission approved the Minor Subdivision (#MS 8-94) which created two parcels of 40± acres each. However, the Planning Commission denied both of the use permits (#U 5-94 & #U 6-94). Mr. Page subsequently appealed the Planning Commission's decision to the Board of Supervisors, and on November 28, 1994, the Board of Supervisors reversed the decision of the Planning Commission by granting the appeal and approving both #U 5-94 and #U 6-94 for two resorts and a winery facility.

PROJECT DESCRIPTION: The applicant, Mr. Gard Cookson, requests approval of a modification of the existing use permit to increase the number of rooms in this bed and breakfast from three (3) to five (5). Each room will have a bedroom and bathroom: the applicant indicates that he is converting two sitting rooms into the bedrooms with bathrooms. A bed and breakfast facility of up to six (6) rooms is defined as transient habitation lodging-limited in Section 20.024.135(B) of the Mendocino County Code and requires Planning Commission of a major use permit or in this case a modification to a major use permit. The facility also contains private quarters within the residence, which are utilized by the proprietors. The proprietors will also provide some meals. The property also includes a tractor barn, ag barn and a swimming pool.

The house is located approximately 1,000 feet south of Highway 128 on a hill which rises in elevation from Highway 128 at a slope of approximately 13%. In addition to the buildings located on the property the applicant has approximately five acres of vineyards planted in Syrah grapes and is in the Yorkville Highlands Appellation.

CATEGORICAL EXEMPTION: As an existing facility, this project meets the Categorical Exemption of Class 1 (a): Interior or exterior alterations involving such things as interior partitions, plumbing and electrical conveyances.

The County of Mendocino approved the original Use Permit #U 3-99 based on a Mitigated Negative Declaration determination. Staff has made the determination that the addition of two (2) rooms for this bed and breakfast facility would not cumulatively add any additional negative environmental impacts to this property or surrounding properties that weren't already mitigated and recorded under the Notice of Determination that was filed in the Mendocino County Recorder's office under 1999-E0097 on 9/20/1999.

- This project will not result in any additional square footage to the existing single family dwelling.
- Additional traffic to the site will be minimal compared to the carrying capacity of State Highway 128.
- The applicant has indicated that seven parking spaces are already provided which meet the Mendocino County Zoning Code requirement of one (1) parking space for each bed, plus two (2) parking spaces for the proprietor.
- The Division of Environmental Health (DEH) has approved a new septic sanitary system for the proposed additional two bedrooms.
- According to DEH, the existing spring water system provides sufficient potable water for the proposed use permit modification.
- No grading is proposed and no additional negative impact on plants, fish or wildlife is foreseen.
- CalFire has given conditional approval to the proposed additional bedrooms and CalFire sign-off is required prior to the occupancy of the proposed bedroom additions.
- The applicant has an existing "food facility permit to operate" the bed and breakfast facility.

- The three (3) bedroom bed and breakfast facility has been operating since 1999 and there have been no complaints from neighbors and there have not been any code violations.

Staff recommends that this project be found to be categorically exempt from the provisions of CEQA under Class 1(a).

GENERAL PLAN CONSISTENCY EVALUATION: The subject parcel has a General Plan land use classification of RMR (Remote Residential):

- Policy DE-15 notes that the general uses for this classification include small scale farming and low density agricultural/residential uses which would include vineyards along with small bed and breakfast operations.

- Policy RM-104: Support the diversification and expansion of the agricultural economic base. (agri.-tourism) is consistent with this policy.

STAFF RECOMMENDATION: That the Planning Commission approves #UM 3-99/2014 based on the following findings and conditions:

Environmental Findings: On the basis of the initial evaluation, it has been determined that: The project will have no significant environmental impact. There is minimal intensification of use from the proposed project compared to that project that had previously been approved for this parcel. The proposed project does not create any new environmental impacts over the existing baseline. Therefore, the project qualifies for a Categorical Exemption.

General Plan Consistency Finding: As discussed under General Plan Consistency Evaluation, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions of approval.

Project Findings: The Planning Commission adopts the Environmental and General Plan findings above, and approves #UM 3-99/2014, subject to the following conditions of approval as recommended within the staff report:

CONDITIONS OF APPROVAL: Conditions which must be met prior to use and/or occupancy and for the duration of this permit:

1. That the application along with supplemental exhibits and related material are considered elements of this entitlement and that compliance there with be mandatory, unless a modification has been approved by the Planning Commission.

2. That this permit is subject to the securing of all necessary permits from County, State and Federal agencies having jurisdiction for the proposed development and continued use. Any requirement imposed by an agency having jurisdiction shall be considered a condition of this permit. Evidence of compliance with all permits shall be submitted to the Mendocino County Department of Planning and Building Services.

3. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:

    a. That such permit was obtained or extended by fraud.
    b. That one or more of the conditions upon which such permit was granted have been violated.
    c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

    Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

4. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

5. Additional signage may be approved up to the maximum square footage allowed pursuant to Chapter 20.184 of the Mendocino County Code (Sign Ordinance), provided they are not visible from public ways.

6. That a detailed parking for at least seven vehicles (one of which is for handicapped parking use) and circulation plan be prepared, which provides adequate area for both parking and circulation movements outside public rights-of way and private ways not intended for the public use. Said plan shall be submitted to the Department of Planning and Building Services within 30 days of approval of this entitlement.

7. The applicant shall obtain from the Division of Environmental Health a letter of approval for the proposed water source including an acceptable bacteriological analysis performed by a certified public health laboratory on a known sample from the facility's water source. Written verification shall be provided to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Division of Environmental Health.

8. All applicable conditions of approval from Use Permit #U 3-99 apply to #UM 3-99/2014.

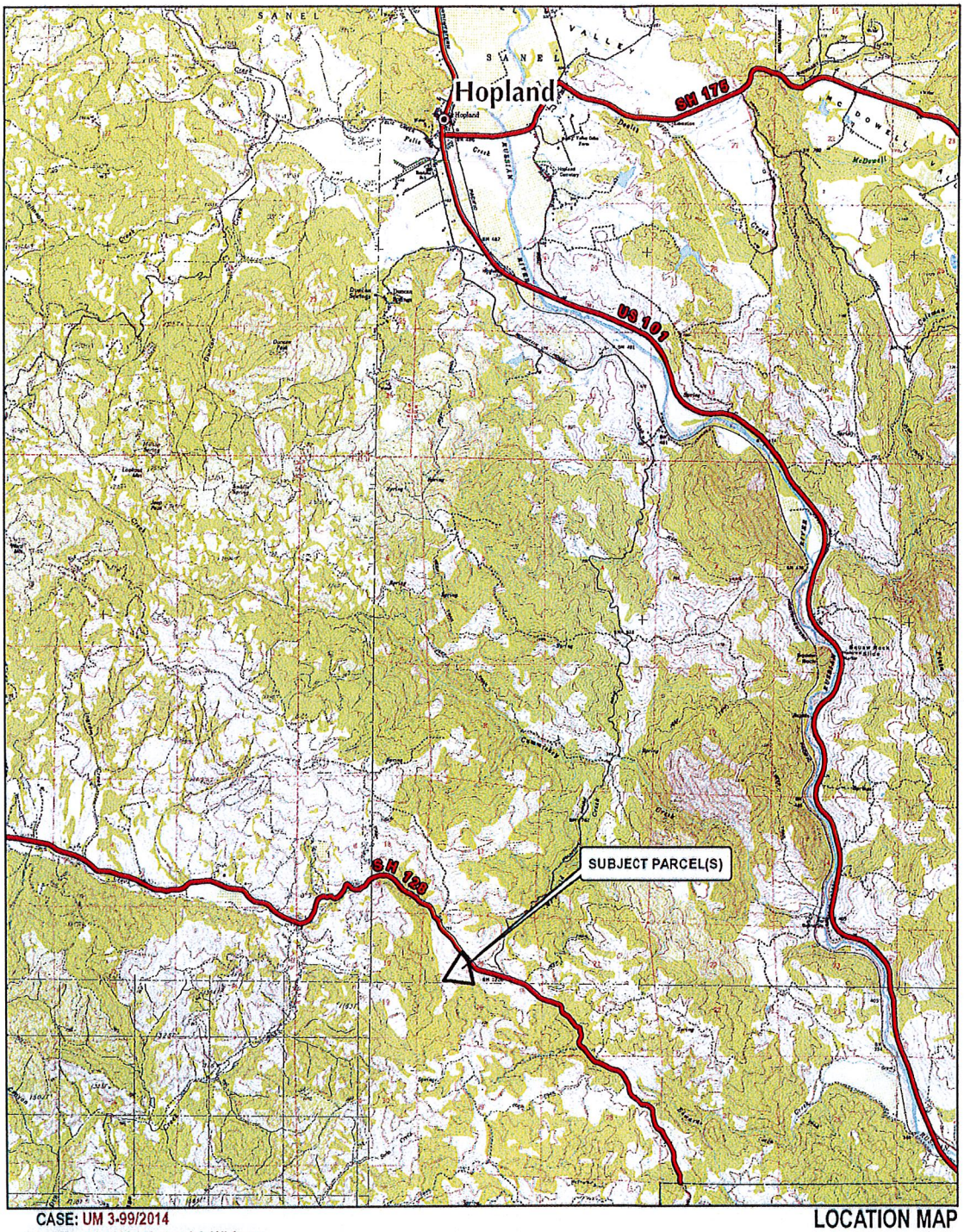
10/28/14
DATE

Fred Tarr
FRED TARR
PLANNER II

FT/AT
September 22, 2014

Categorically Exempt
Appeal Fee - $910.00
Appeal Period - 10 days

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
Assessor	X		
AVCSD	X		
Building Inspection		X	
Environmental Health			X
Dept. of Transportation		X	
CalFire			X
Caltrans	X		
CHP	X		
Tax Collector	X		



CASE: UM 3-99/2014
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
AGENT:
ADDRESS: 33430 Hwy. 128, Yorkville

LOCATION MAP

0 2,550 5,100 Feet
0 0.5 1 Miles
1:63,360

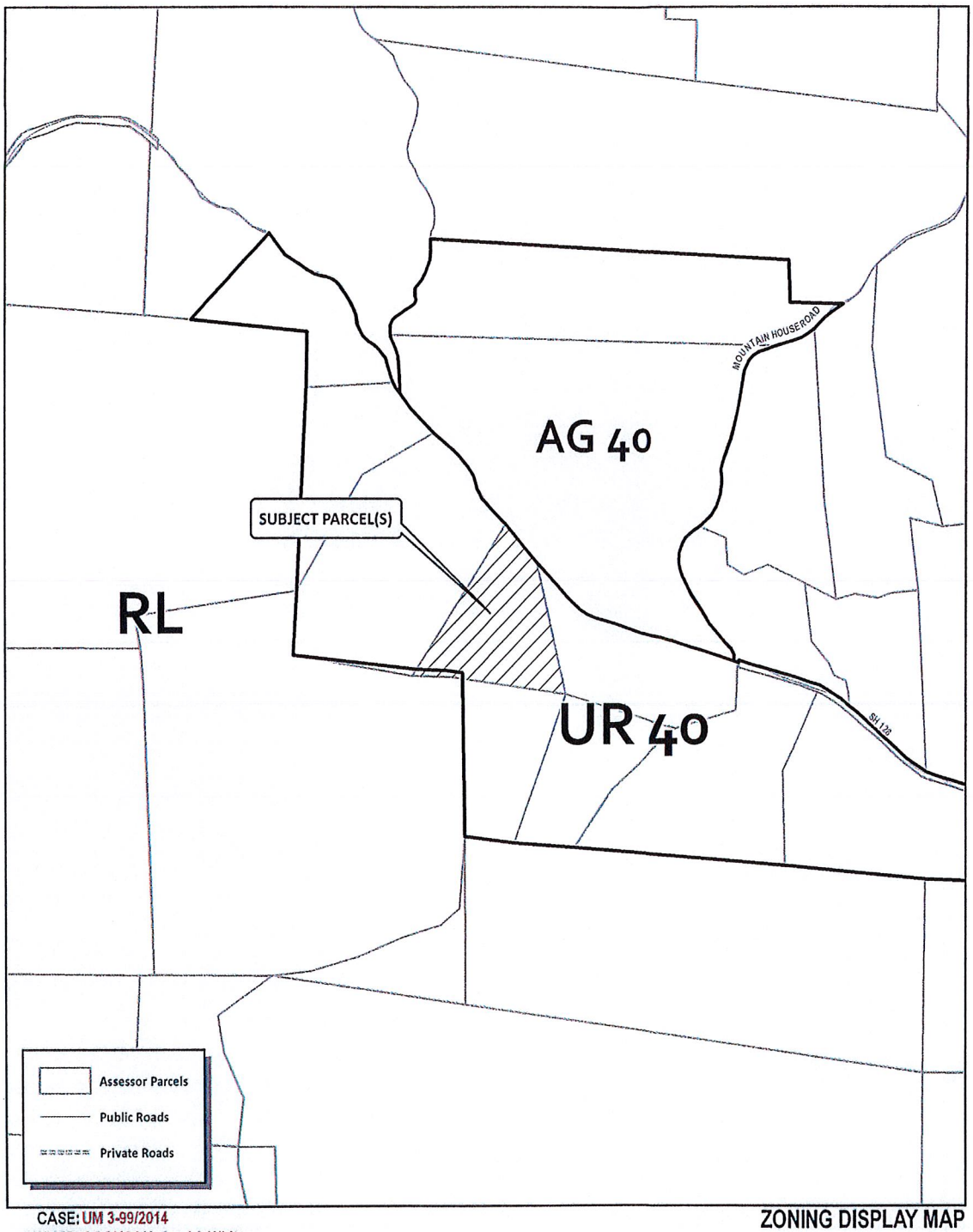
EXHIBIT NO: 1

CASE: UM 3-99/2014
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
AGENT:
ADDRESS: 33430 Hwy. 128, Yorkville

2010 NAIP AERIAL ORTHOPHOTO

0 100 200 Feet
0 0.0175 0.035 Miles
1:2,400

EXHIBIT NO: 2

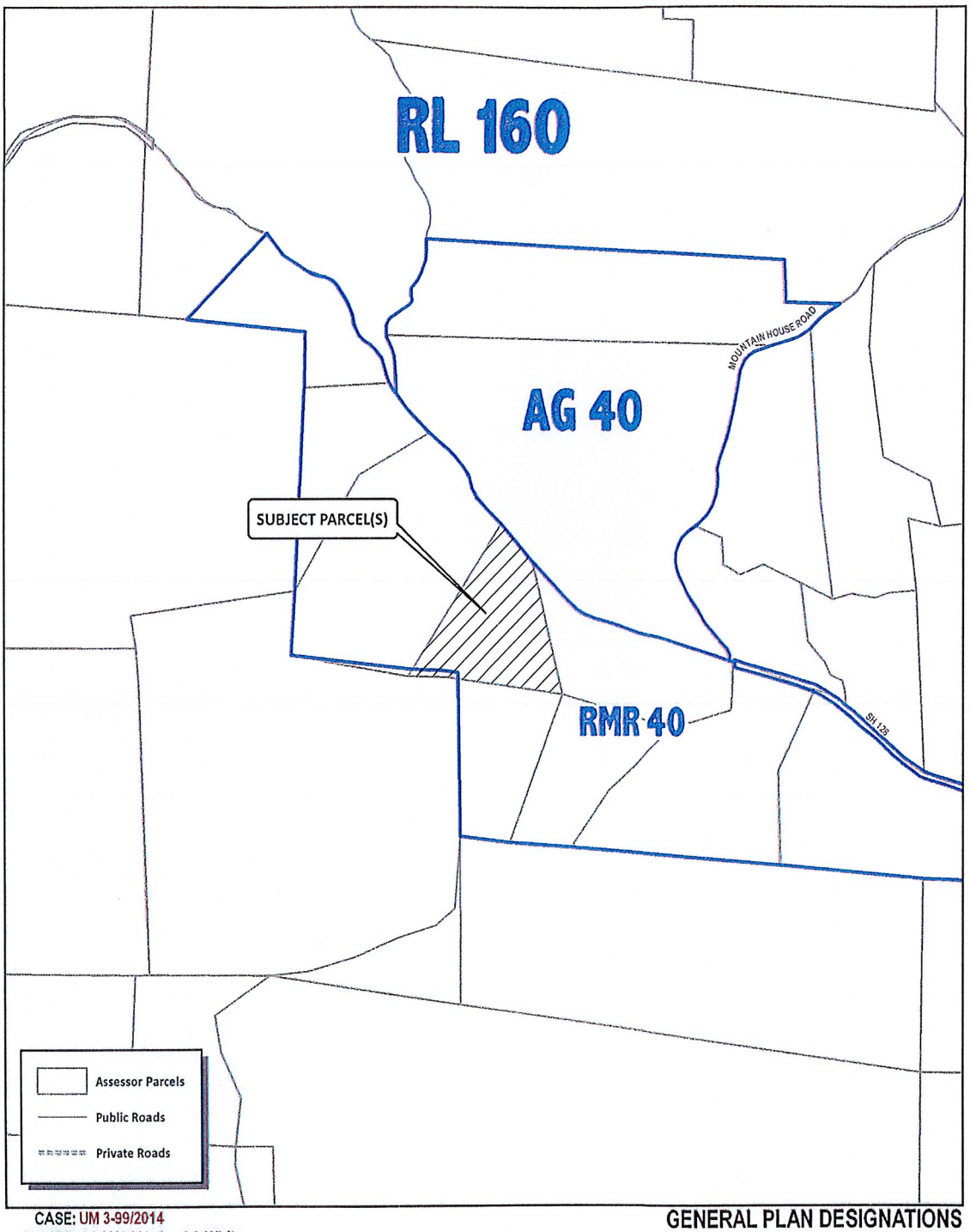


CASE: UM 3-99/2014
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
GP/ZONE: RMR 40 / UR 40
ADDRESS: 33430 Hwy. 128, Yorkville

ZONING DISPLAY MAP

0 500 1,000 Feet
0 0.075 0.15 Miles
1:12,000

EXHIBIT NO: 3

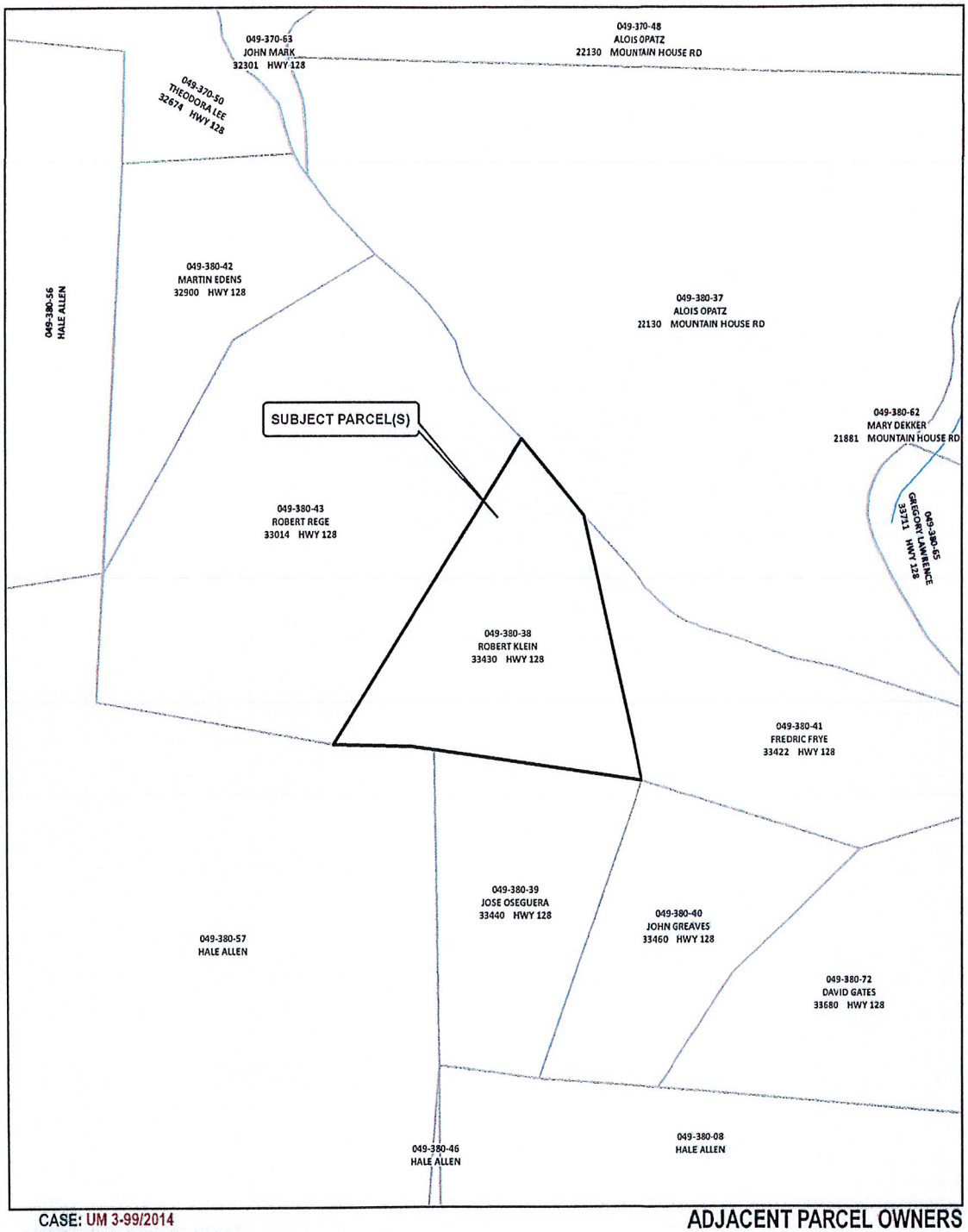


CASE: UM 3-99/2014
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
GP/ZONE: RMR 40 / UR 40
ADDRESS: 33430 Hwy. 128, Yorkville

GENERAL PLAN DESIGNATIONS

0 500 1,000 Feet
0 0.075 0.15 Miles
1:12,000

EXHIBIT NO: 4

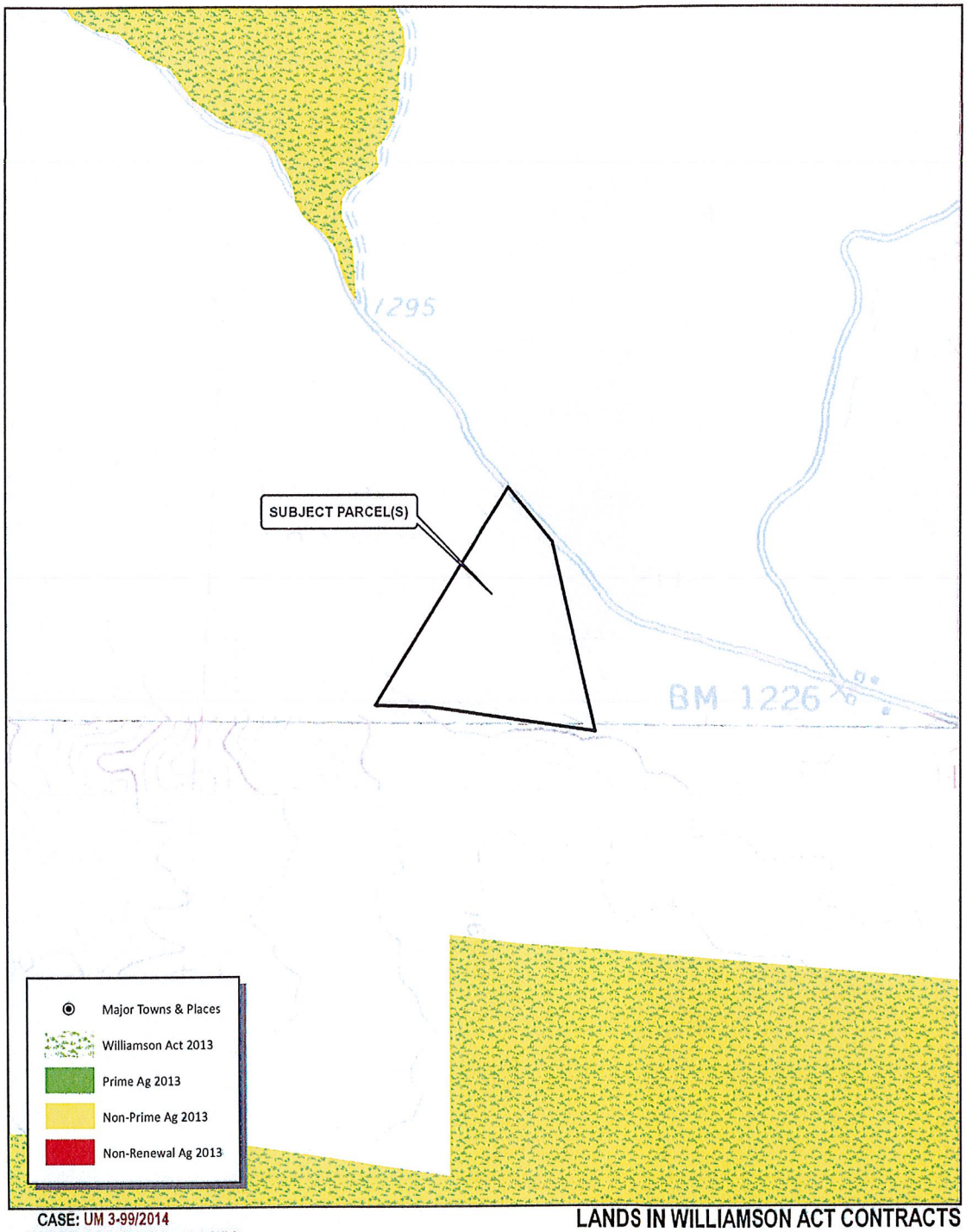


CASE: UM 3-99/2014
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
AGENT:
ADDRESS: 33430 Hwy. 128, Yorkville

ADJACENT PARCEL OWNERS

0 250 500 Feet
0 0.045 0.09 Miles
1:6,000

EXHIBIT NO: 5



CASE: UM 3-99/2014
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
AGENT:
ADDRESS: 33430 Hwy. 128, Yorkville

LANDS IN WILLIAMSON ACT CONTRACTS

0 350 700 Feet
0 0.05 0.1 Miles
1:8,400

EXHIBIT NO: 6

ZONING ADMINISTRATOR
STAFF REPORT/ADMINISTRATIVE PERMIT

JANUARY 14, 2016
AP_2015-0022

APPLICANT:	GARD COOKSON 33430 HIGHWAY 128 CLOVERDALE, CA 95425
OWNER:	GARD AND WHITNEY COOKSON 33430 HIGHWAY 128 CLOVERDALE, CA 95425
REQUEST:	An Administrative Permit for the temporary use for the gatherings of up to 200 persons for private events (weddings, receptions, birthday parties, etc.) to be held inside and outside a barn that was recently converted for assembly uses, parking, and catering for a maximum of five (5) events during a six (6) month period.
LOCATION:	6± miles northwest of Cloverdale, lying on the south side of Highway 128, 1,000± feet west of its intersection with Mountain House Road (CR 111). Located at 33430 Highway 128, Yorkville; APN 049-380-38.
TOTAL ACREAGE:	21.89± Acres
ZONING:	UR-40
ADJACENT ZONING:	RL-160, UR-40, and AG-40
GENERAL PLAN:	RMR-40
SURROUNDING USES:	Agricultural and rural residential
SURROUNDING LOT SIZES:	North: 96± acres East: 19± acres South: 19-162± acres West: 49± acres
SUPERVISORIAL DISTRICT:	5

OTHER RELATED APPLICATIONS ON SITE:

- MS_122-70 - Minor Subdivision that created the subject parcel.
- U_3-99 - Use Permit to allow for a transient habitation-lodging limited services involving the provision of room and/or board for three (3) bedroom short term rental units.
- UM_2014-0004 - Modification to U_3-99 for two additional bedroom short term rental units.
- BU_2014-0464 - Building permit to remodel a barn to provide for occupancy of up to 99 persons.
- BL_2014-0201 - Business license application for five (5) bedroom short term rental units.

OTHER RELATED APPLICATIONS IN VICINITY:

- U_77-80 - Use Permit for a winery on property located to the southeast of the subject property.

- U_23-81 - Use Permit for temporary mobile home while constructing a single family residence
- MS_8-94 - Minor Subdivision that created two parcels located approximately 500 feet to the southeast of the subject parcel.
- U_5-94 - Use Permit that was approved by the Board of Supervisors on appeal for a transient habitation resort and recreational facility for up to 14 cottages, office and conference center on one of the parcels created by MS_8-94.
- U_6-94 - Use Permit that was approved by the Board of Supervisors on appeal for a transient habitation resort and recreation facility consisting of a lodge, wedding and conference facility with winery and tasting facility located on the remainder parcel of MS_8-94.

PROJECT DESCRIPTION: The applicant is requesting the approval of Administrative Permit #AP_2014-0022 for the temporary use for the gatherings of up to 200 persons for private events (weddings, receptions, birthday parties, etc.) of the converted barn, surrounding patio area and a parking area to accommodate approximately seventy-five (75) vehicles adjacent to the barn. The administrative permit would accommodate five (5) events in a six (6) month period.

In addition to the barn, there is a single family residence that includes five (5) bedrooms with bathrooms to accommodate guests.

PROJECT DISCUSSION:

Staff has visited the site and observed the following:

- The access driveway off of Highway 128 provides good visibility for those driving from the north and south along Highway 128. Staff recommends that temporary no parking signs be placed along Highway 128 and the access driveway located between the parking area and Highway 128. The applicant has noted that there will be parking attendants.

  Staff spoke with a Caltrans representative and Caltrans is recommending a possible upgrade to the existing driveway.
- There is a relatively flat and easily accessible parking area for approximately 75 vehicles which meets the off-street parking requirement of one space per 3 people. The parking area was recently mowed and staff recommendations for fire and dust suppression are included in the conditions.
- The applicant will be providing the event attendees with a shuttle service from the parking area to the event building and has provided ADA parking adjacent to the event building.
- Bathroom facilities are located within the event building. DEH had approved the bathroom facilities and the sanitary septic sewer system when signing off Building Permit #BU_2014-0464 for the conversion of the barn to an assembly hall having a maximum occupancy of 99.
- There is an adequate well water supply for the events and the water supply for the proposed project shall be to the satisfaction of the Mendocino County Health Department
- The event building has a maximum occupancy figure of 99 people and there is also a patio area that will be used by attendees. The applicant has indicated that the patio area might be tented for certain events.
- There is space both inside and outside of the event building for caterers to prepare meal items. All caterers that are utilized must be Mendocino County Health Department approved caterers.

Staff has solicited comments from the following departments and agencies: Department of Transportation (DOT), Division of Environmental Health (DEH), Building Division, Assessor, CalFire, Caltrans, California Highway Patrol, and the Anderson Valley Fire District. As of November 16, 2015, CHP and Mendocino County DOT had not responded. Since the property is on State 128, it is not under Mendocino County DOT jurisdiction.

Any conditions that the various departments and/or agencies recommended have been incorporated into the Conditions of Approval of #AP_2015-0022.

PUBLIC COMMENTS:

Staff has reached out to the property owners of adjacent properties and has included their comments below:

- Mr. and Mrs. Frye, owners of property located south of the Cookson property, indicated support of the proposed administrative permit to allow for five special events in any six month period with up to 200 attending.

- Mr. Erik Frye wrote the following:

  "I support the temporary use for the gathering of up to 200 persons for special events on the Cookson's property next to us; we are located at 33422 Highway 128, Yorkville. Weddings are a good thing compared with the land uses occurring on our other contiguous neighbors' properties."

- Mrs. Rege who, along with Mr. Rege, are the owners of property located to the northwest of the subject property, have indicated a concern over the number of cars that would be crossing a portion of their property to reach the proposed parking area on the subject property. There is concern about being detained from accessing there home on days of the special events when vehicles are arriving and departing. They are also concerned about the use of the access driveway for commercial events. She wasn't aware that this permit would only permit up to five events over a six month period and thought that it would allow for an unlimited number of events.

The Cookson's have since spoken to the Rege's and seem to have resolved the issue. The Cookson's have assured the Rege's that there will be a window of time for attendees to arrive and that there will be no parking permitted on the access driveway.

- Lorna Opatz, who owns the winery to the North of the subject property, wrote the following:

  "Thank you for the notice and detail regarding our neighbor Gard Cookson's above-referenced permit application. We are Pete and Lorna Opatz, neighbors located directly across Highway 128 from the applicant. We are pleased to see individuals in our county making the investment for a more prosperous neighborhood. We hope that Mendocino County finds their use acceptable and that this business provides all of the community the benefit from increased tax revenues and the opportunity to showcase our beautiful county."

Hale Allen, who owns approximately 2,500 acres of grazing lands in the area to the south and west of the subject property, provides the following comments:

> *"With regard to the Cookson special events permit, we are opposed to having this kind of special event in our neighborhood. It is most unsuited to our area which is rural/farming/grazing and not urban, or even suburban. The Cookson acreage is very small and is chock-a-block to four other residences who can only suffer from such an intended invasion. It is not fair to allow the possible total disruption of people's lives for a completely new and commercial lifestyle. We did not oppose the expansion of their B&B, but this 200 hundred person event idea is a horse of a totally different color. (And, as if the purported use isn't bad enough, what's to prevent it from becoming even more disruptive with new/different owners)"*

Two items regarding Mr. Allen's comments; 1) Mr. Allen's home is not located adjacent to the Cookson property but is located closer to two other properties that were approved for special events in 1994 (U_5-94 and U_6-94) and 2) three property owners who have residences immediately adjacent to the Cookson property are supportive of the special events proposal.

On November 19, 2015, staff had a phone conversation with Mr. Allen and I explained to him that an Administrative Permit was a "Temporary Permit" that was renewed on a yearly basis and that the Permit allowed for only five special events in a six month period.

ENVIRONMENTAL REVIEW: The project is categorically exempt under as Class 4e of CEQA Guidelines which states: "Minor temporary use of land having negligible or no permanent effects on the environment."

GENERAL PLAN CONSISTENCY FINDING: The proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions being recommended by staff. The subject property General Plan Land Use Designation of RMR-Remote Residential provides for small scale farming as well as residential and recreational uses. The property includes a five (5) acre vineyard as well as a five bedroom B & B.

Goal CP-AV-8 for the Anderson Valley is to expand and diversify existing economic ventures and the Yorkville area is part of the Anderson Valley Community Planning Area.

The proposed use of the special events is consistent with the recreational use. Section 20.168.010 (A) of the Mendocino County Code allows for Entertainment Events or Religious Assembly as a temporary use in this zoning district with an administrative permit.

PROJECT FINDINGS: The Zoning Administrator approves #AP_2015-0022 subject to the conditions of approval recommended by staff, further finding:

1. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.

3. That such use preserves the integrity of the zoning district.

CONDITIONS:

A General:

1. This permit shall become effective after all applicable appeal periods have been expired or appeal processes exhausted. Failure of the permittee to make use of this permit within two years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.

2. In the event that the use of the facility should cease operation for a period exceeding one year or more, the use shall be deemed invalid and a new use permit will be required for the operation as approved by AP_2015-0022.

3. This Administrative Permit will run through January 31, 2017. The applicant has sole responsibility for renewing this permit at least 30 days prior to the expiration date. The County will not provide a notice prior to the expiration date.

4. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of this Administrative Permit.

5. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the administrative permit.

6. That the application along with supplement exhibits and related material shall be considered elements of this entitlement and that compliance there with be mandatory, unless a modification has been approved by the Zoning Administrator.

7. This permit shall be subject to revocation or modification by the Zoning Administrator upon a finding of any one (1) or more of the following grounds:

   a. That such permit was obtained or extended by fraud.

   b. That one or more of the conditions upon which such permit was granted have been violated.
   c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

   Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

8. This permit is issued without determination having been made upon the number, size or shape of parcel(s) encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

9. This permit is subject to the securing of any additional permits that may be required by County, State, and Federal Agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

Business License

10. Prior to commencement of operations, the applicant shall submit a copy of their Mendocino County Business License to the Department of Planning and Building Services. This license shall be kept active and if in the event that the license is inactive for a period of one (1) year or longer, the administrative permit and business license will automatically expire.

B Conditions which must be met prior to use and/or occupancy and for the duration of this permit:

1. The number of events will be limited to 5 days during a six (6) month period. (February 1, 2016 through July 31, 2016) and (August 1, 2016 through January 31, 2017). Each event shall be limited to a maximum of 200 people with hours limited to between 10 AM to 10 PM. Outside lighting for private events shall be downcast and shielded, and shall be limited in illumination power to only the amount required for nighttime navigation and safety of the immediate area surrounding the event area.

2. NO PARKING" signs shall be posted the day of the event along Highway 128 and the access driveway which is located between the parking area and Highway 128. Parking will be limited to the on-site parking area and the applicant must maintain open ingress and egress for emergency services.

3. Signs for the events shall not exceed 4 square feet and shall be erected no earlier than two days prior to each event and shall be removed no later than two days following each event.

4. Caltrans (Eureka Regional Office) must approve the driveway approach along Highway 128. A letter of verification satisfying their requirements must be submitted prior to the first event.

5. Amplified music shall not be played at a level that exceeds 55 dBA at the property lines of the subject parcel and that amplified music is not permitted after 10:00 p.m.

6. All food preparation to be provided by the site renters must be prepared and handled by Mendocino County Public Health Department licensed food caterers.

7. All events must be private and not open to the general public.

8. If portable chemical toilets are to be present, they must be under a maintenance contract with a pumping service licensed by the Mendocino County Health Departments. All portable chemical toilets must meet setback requirements of 30 feet from all property lines. Portable hand washing sinks must also be provided within ten (10) feet of the portable toilets.

9. The water supply for the proposed project shall be inspected and tested as potable to the satisfaction of the Mendocino County Health Department.

10. The applicant shall provide adequate trash receptacles during each event and shall be responsible for cleanup and proper disposal of any litter created by each event. A "Public Event Waste Management Plan" must be submitted to the Department of Planning and Building Services prior to the first event.

11. Access roads, interior circulation routes and parking areas shall be treated with a dust suppressant and maintained in such a manner as to ensure dust generation consistent with Mendocino County Air Quality Management Regulations. If parking is to occur within a grassy opening, the grass must be mowed prior to each event to reduce fire hazards.

12. Allow for a minimum of 20 feet wide access to parking areas.

13. The applicants shall use appropriate management techniques to insure that the total number of individuals attending is limited to 200.

14. The applicant shall secure any permits or clearance that may be necessary from the Anderson Valley Fire District regarding fire safety.

15. No campfires or cooking fires shall be allowed.

16. Approved fire extinguishers shall be placed in appropriate areas for fire suppression.

17. No permanent signs advertising the site or event are authorized by this permit.

18. The applicant shall post "No Trespassing" signs along the perimeter boundaries of the event site to prevent people from attending the events from trespassing onto adjoining neighbors' property.

19. The applicant shall provide written notice to the California Highway Patrol, Mendocino County Sheriff, Anderson Valley Fire District and those neighboring property owners who are identified on the list for receiving public notice compiled by the Department of Planning and Building Services a minimum of two weeks prior to each event. The notice shall advise of the date, time, and type of event, and the anticipated number of attendees. Copies of these notices shall be submitted to the Department of Planning and Building Services.

20. The applicants shall provide proof that there is either an access easement or other agreement that is in effect allowing for access to APN 049-380-38 over APN 049-380-43.

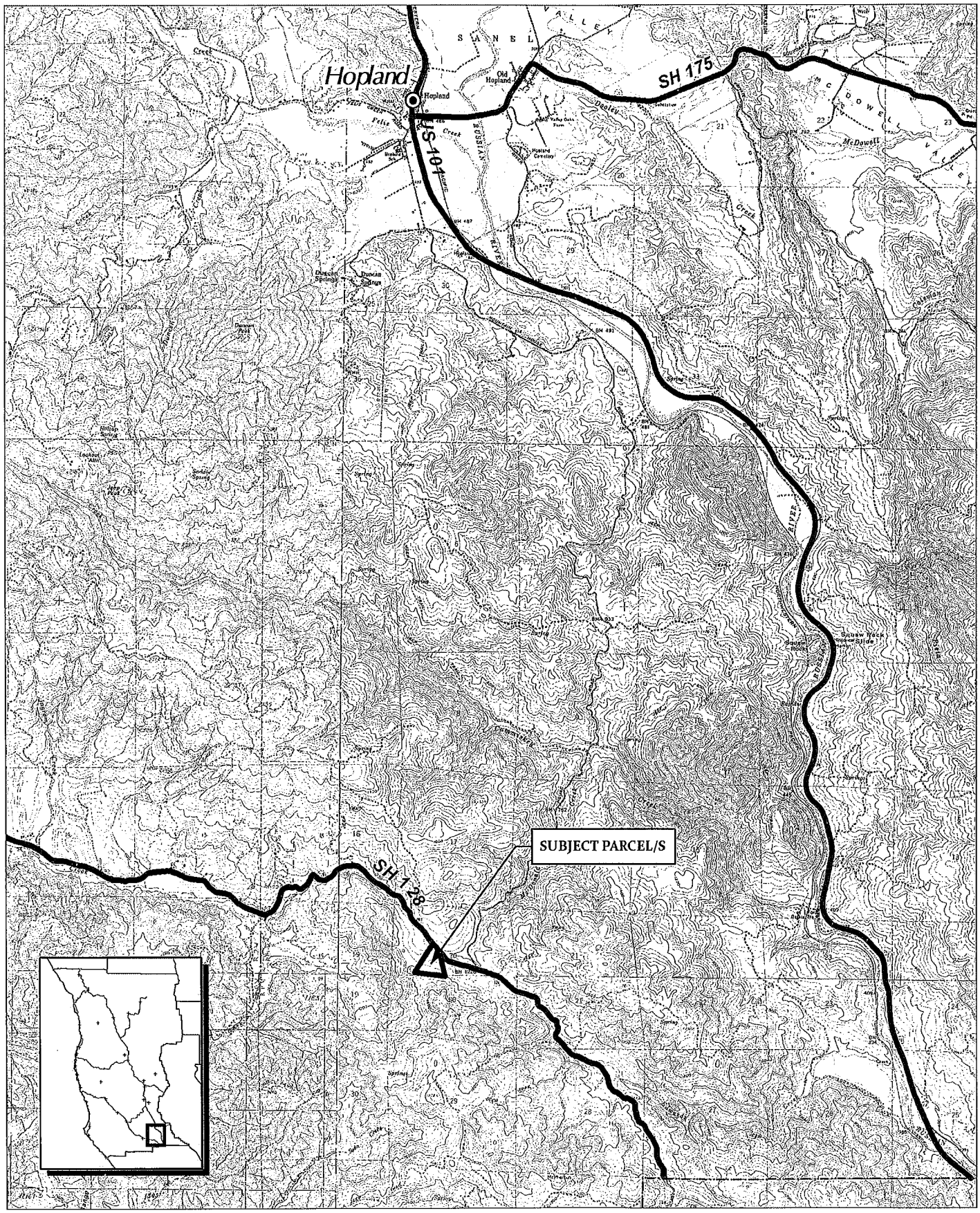
12-21-15
DATE

Fred Tarr
FRED TARR
PLANNER II

ATTACHMENTS

A. Location Map
B. 2014 NAIP Imagery

C. Site Plan
D. Adjacent Owner
E. Zoning
F. General Plan Classifications
G. Parking Plan



CASE: AP 2015-0022
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
APLCT: Gard Cookson
ADDRESS: 33430 Hwy. 128, YV

Major Towns & Places

Highways

0 2,700 5,400 Feet

0 0.5 1 Miles

1:63,360

LOCATION MAP

Map produced by the Mendocino County Planning & Building Services, September, 2015
All spatial data is approximate. Map provided without warranty of any kind.

CASE: AP 2015-0022
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
APLCT: Gard Cookson
ADDRESS: 33430 Hwy. 128, YV

0 105 210 Feet
0 0.0175 0.035 Miles
1:2,400

Public Roads

2014 NAIP IMAGERY

Map produced by the Mendocino County Planning & Building Services, September, 2015
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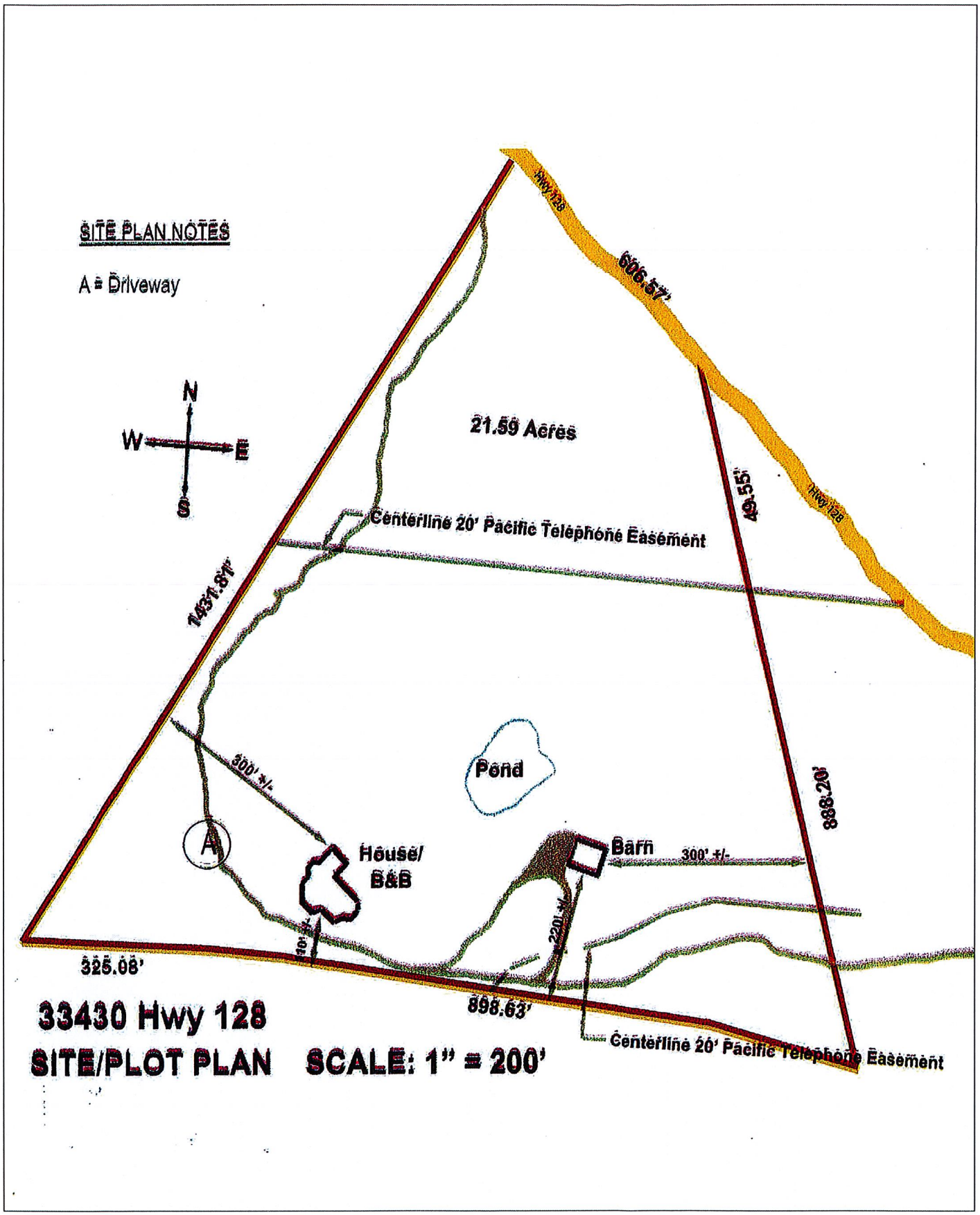
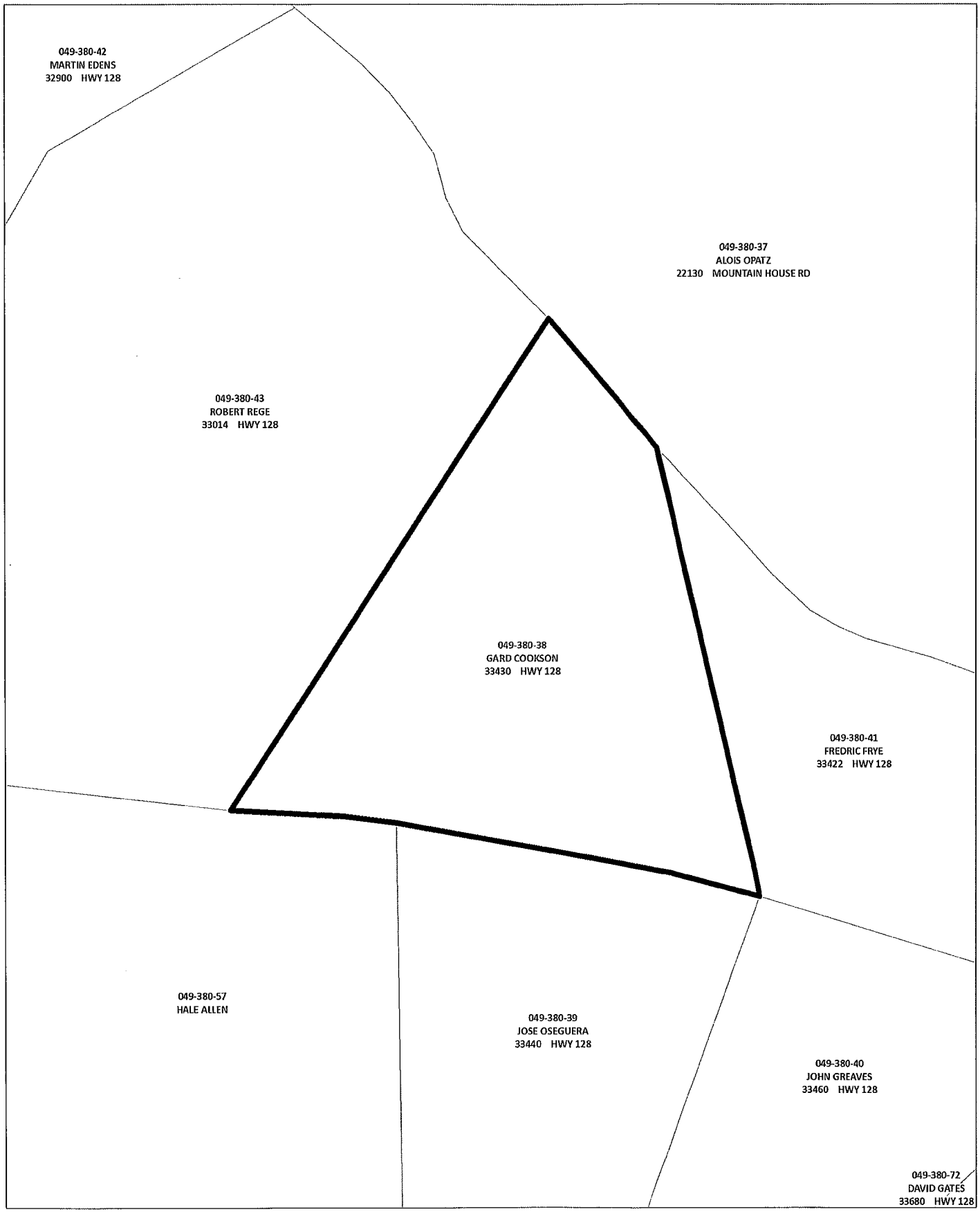


CASE: AP 2015-0022
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
APLCT: Gard Cookson
ADDRESS: 33430 Hwy. 128, YV

NO SCALE

SITE PLAN

Map produced by the Mendocino County Planning & Building Services, September, 2015
All spatial data is approximate. Map provided without warranty of any kind.

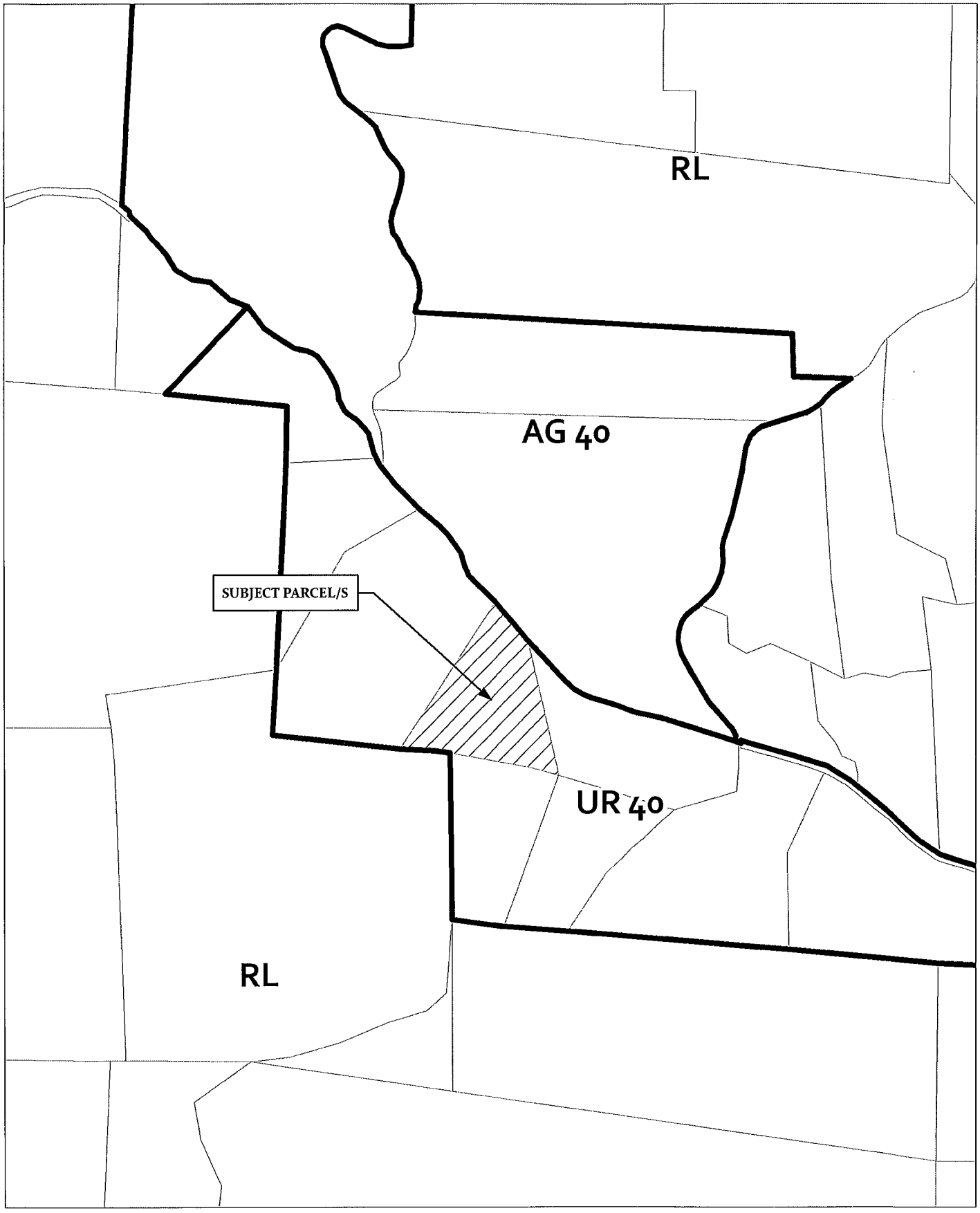


CASE: AP 2015-0022
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
APLCT: Gard Cookson
ADDRESS: 33430 Hwy. 128, YV

0 155 310 Feet
0 0.025 0.05 Miles
1:3,600

ADJACENT OWNERS

Map produced by the Mendocino County Planning & Building Services, September, 2015
All spatial data is approximate. Map provided without warranty of any kind.



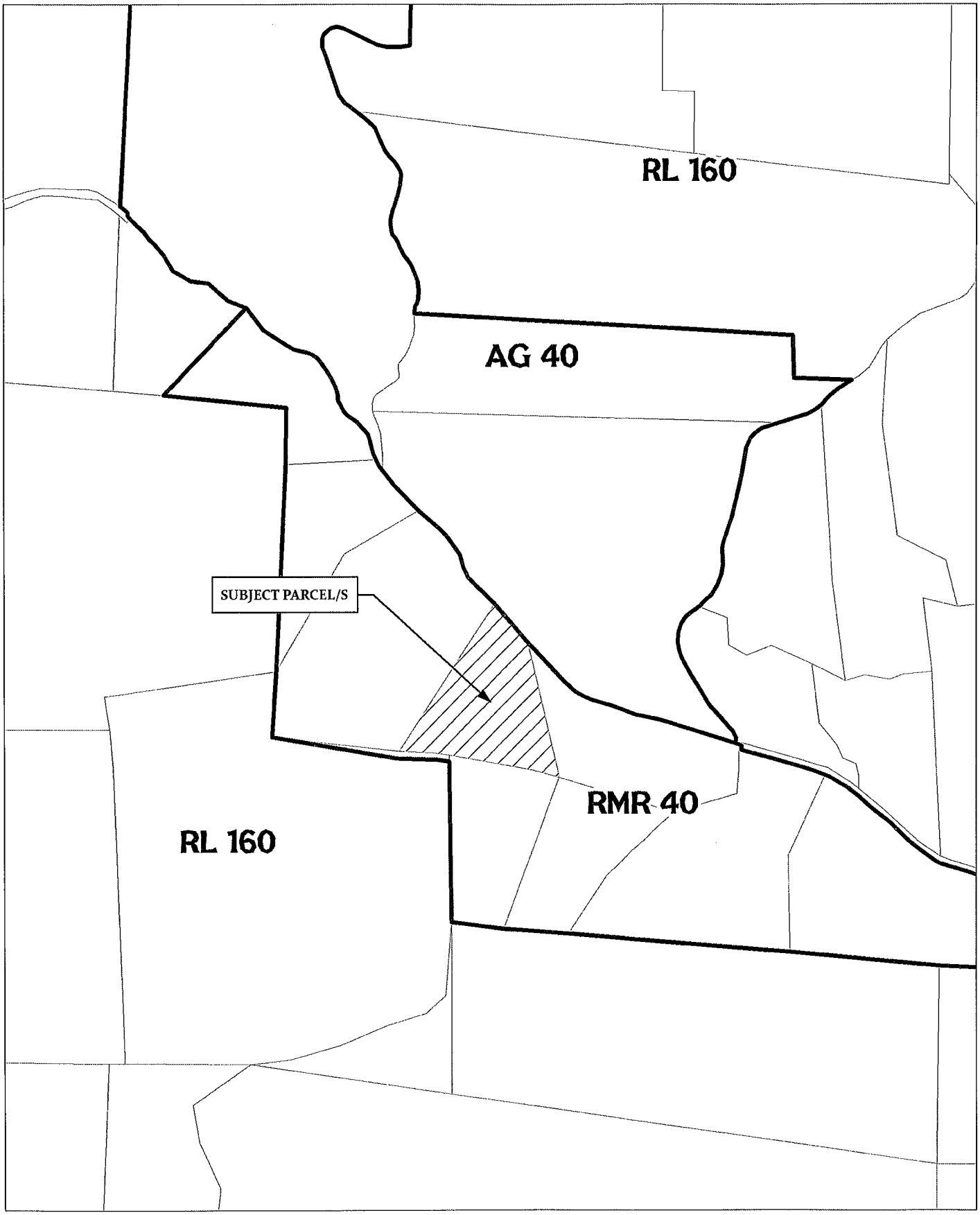
CASE: AP 2015-0022
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
APLCT: Gard Cookson
ADDRESS: 33430 Hwy. 128, YV

Zoning Master

0 500 1,000 Feet
0 0.075 0.15 Miles
1:12,000

ZONING DISPLAY MAP

Map produced by the Mendocino County Planning & Building Services, September, 2015
All spatial data is approximate. Map provided without warranty of any kind.



CASE: AP 2015-0022
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
APLCT: Gard Cookson
ADDRESS: 33430 Hwy. 128, YV

General Plan Master

0 500 1,000 Feet
0 0.075 0.15 Miles
1:12,000

GENERAL PLAN CLASSIFICATIONS

Map produced by the Mendocino County Planning & Building Services, September, 2015
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CASE: AP 2015-0022
OWNER: COOKSON, Gard & Whitney
APN: 049-380-38
APLCT: Gard Cookson
ADDRESS: 33430 Hwy. 128, YV

NO SCALE

ACCESS & PARKING PLAN

Map produced by the Mendocino County Planning & Building Services, October, 2015
All spatial data is approximate. Map provided without warranty of any kind.

Attachment E

Sec. 20.168.005 - Declaration.

The purpose of this Chapter is to establish permitted temporary uses and standards and conditions for regulating same. Because of the temporary nature of the uses they are not subject to the General Plan with respect to permitted uses or densities.

(Ord. No. 3639 (part), adopted 1987)

Sec. 20.168.010 - Identification of Permitted Temporary Uses.

The following temporary uses shall be permitted as specified by these regulations:

(A) **Entertainment Events or Religious Assembly.** The temporary gatherings of people for a circus, carnival, concert, lecture, art or antique show or religious purposes.

(B) **Construction Support.** Temporary building and structures supporting residential development and major construction.

(C) **Uses in New Subdivisions.** Temporary uses in new major or parcel subdivisions which support the sale of dwellings and lots within the same subdivision.

(D) **Camping.** The temporary camping on a parcel.

(E) **Use of a Trailer Coach.** Temporary use of a trailer coach for certain purposes.

(F) **Family Care Unit.** The temporary use of a building, structure or trailer coach, upon issuance of an administrative permit, to provide housing for (a) one (1) adult or two (2) adult persons who are sixty (60) years of age or older, or (b) an immediate family member or members who requires daily supervision and care, or (c) an immediate family member or members providing necessary daily supervision and care for the person or persons residing in the main residence.

(G) **Use of a Portable Sawmill.** The temporary use of a small portable sawmill for the milling of lumber to be used in the construction of a structure on the same premises.

(Ord. No. 3639 (part), adopted 1987; Ord. No. 4038 (part), adopted 1999)

Sec. 20.168.020 - Entertainment Events or Religious Assembly.

The temporary gathering of people for a circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious purposes or other similar activities may be permitted upon the issuance of a use permit in compliance with the following provisions:

(A) **Location.** A circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious assembly or other similar activities may be permitted in any zone except R-1 and R-2.

(B) **Duration.** The period of operation of the circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious assembly or other similar activities shall not exceed five (5) days in any six (6) month period.

(C) **Permits.**

(1) Gatherings of one hundred (100) to one thousand (1,000) persons shall be required to obtain an administrative permit.

(2) Gatherings of over one thousand (1,000) persons shall be required to obtain a minor use permit.

(D) The requirements of this Section shall not be intended to supersede provisions in Mendocino County Code Chapter 6.16.

(E) **Exclusions.** The provisions of this Section are not intended to include or regulate private

gatherings such as weddings, housewarmings, family gatherings, barbeque, etc.

(Ord. No. 3639 (part), adopted 1987; Ord. No. 3644, adopted 1987)