

OWNER/APPLICANT: WALTER BUEHLER
36120 SO HWY 1
GUALALA, CA 95445

REQUEST: Standard Coastal Development Permit for the construction of a replacement septic system.

LOCATION: In the Coastal Zone, on the west side of Highway 1, approximately 0.5 miles south of the Anchor Bay Store at 36120 S. Highway 1, Gualala; APN 144-100-24.

APPEALABLE: Yes (blufftop parcel)

PERMIT TYPE: Standard Coastal Development Permit

TOTAL ACREAGE: 1.5 Acres

GENERAL PLAN/COASTAL PLAN: Rural Residential (RR)

ZONING: Rural Residential, five acre minimum or two acre minimum (RR5(2))

EXISTING USES: Single Family Residential

ADJACENT ZONING: North: RR5(2)
East: RR10*1C
South: RR5(2)[FP]
West: Pacific Ocean

SURROUNDING LAND USES: North: Single Family Residential
East: Hotel
South: Single Family Residential
West: Pacific Ocean

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically Exempt from CEQA – Class 1 (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment.

PROJECT DETERMINATION: Approve with Conditions

PROJECT DESCRIPTION: The project consists of replacement of the existing septic system, which includes a septic tank, pump tank and treatment tank. Minor grading would occur and grass would be replaced once construction is complete.

SITE DESCRIPTION AND SETTING: The 1.5 acre subject parcel is situated near the town of Anchor Bay, on the west side of Highway 1, approximately 0.5 miles south of the Anchor Bay Store. The site is surrounded to the north by residential development, to the east a visitor serving facility, to the south vacant residential land and to the west the Pacific Ocean. The subject parcel is currently developed with a 760 square-foot single family residence with a business license to operate as a vacation home rental. The existing house is approximately 30 feet from the bluff edge with the existing septic components to the north of the house. The site has approximately 0.5 acres of usable space, with the rest consisting of steep bluff and rocky intertidal areas. The site has been determined, in the septic proposal for permit

ST#25044, to have a minimum area with soils that can meet current county regulations regarding soil depth, texture, and ground slope restrictions for the installation of a septic system.

Portions of the subject parcel are designated as being located within a floodplain (a combining district of FP). All proposed improvements are located outside of the floodplain portions of the parcel, as shown on the FEMA Flood Zone map.

OTHER RELATED APPLICATIONS:

- ST#25044 design for proposed septic system replacement.
- BL# 500-02 vacation home rental business license application for the subject property.

SUMMARY OF REFERRAL AGENCY COMMENTS:

Planning – Ukiah	BL 500-02 Vacation Home Rental
Mendocino Department of Transportation	No comment.
Environmental Health – Fort Bragg	Approved SER on file. DEH can ok CDP at this time. ST#25044
Building Inspection – Fort Bragg	No response
Assessor	No response
U.S. Fish and Wildlife Service	No response
Caltrans	Any work within the State right of way will require an encroachment permit. From what was submitted, there appears to be no work requested within the State right of way.
Department of Fish and Wildlife	Recommendations are outlined in Attachment A and have been incorporated into the conditions of approval as Condition 9.
Coastal Commission	No response
Gualala Municipal Advisory Council	On 1/08/2015, the regular meeting of the Gualala GMAC was held. Among the items discussed was the above CDP. There was concern among the council about the lack of information included with this packet. After some debate, a decision was recorded that in a 4-2 vote, the CDP was passed with the following caveat: That the Mendocino County Health Dept. states the project is up to their current standards and is acceptable to them.

KEY ISSUES: Coastal Development Permit applications are subject to the findings enumerated in Section 20.532.095 and Section 20.532.100 of the Mendocino County Code (MCC). **ATTACHMENT A** of this report individually addresses each of the Required Findings for all Coastal Development Permits and any Supplemental Findings applicable to this project.

The issues listed below are drawn from **ATTACHMENT A** and have been determined to be “key issues” because they either require special conditions for the findings to be made, or they address matters of particular concern by referral agencies.

Erosion: The proposed replacement septic system is located in a relatively flat area with the coastal bluff approximately 30 feet from the proposed improvements. The proposed septic replacement will not encroach any further upon the bluff edge than existing development, therefore a geotechnical investigation was not required. The proposed septic system replacement will be located further from the bluff edge than the existing system. Best Management Practices shall be implemented during construction to prevent delivery of sediment over the bluff edge. The Environmentally Sensitive Habitat Area Study (prepared by North Coast Resource Management) and California Department of Fish and Wildlife staff provided mitigations during ground disturbance, which staff recommends as **Condition 9 (f)**.

Natural Resources: An Environmentally Sensitive Habitat Area Study was completed by North Coast Resource Management (NCRM) in June 2007. An Addendum to ESHA Study was submitted by NCRM in August of 2007. At that time the project was placed on hold at the request of the applicants. The applicants requested to continue working on the application in October of 2014 and therefore an updated study was requested. An Update to the Environmentally Sensitive Habitat Area Study was submitted by NCRM in December of 2014. The proposed improvements would be located in an existing lawn, which is characterized by landscaping of non-native species. Three sensitive habitats were identified in the vicinity of the project components: a small wetland, a coastal riparian area, and several special status plants.

A small wetland (approximately twenty (20) feet by twenty-five (25) feet) was observed within the disturbed lawn area, extending from the existing house path to near the existing parking area gate and adjacent fence. Less than one (1) inch of water was observed in the wetland area and the dominant plant species includes low bulrush (*Isolepis cernua*), tall flatsedge (*Cyperus eragrostis*), and California wax myrtle (*Morella californica*). It should be noted that this site was observed during the winter rainy season and had not been previously observed in the surveys completed by NCRM in 2007.

A coastal riparian area was located to the east of the proposed septic system components, across Highway 1; however, it falls within the one hundred (100) foot buffer of the proposed improvements. The riparian area was observed by NCRM to be biologically rich and supportive of a diverse assemblage of coastal wetland and riparian plant species. NCRM noted that the riparian habitat area is hydrologically connected to the small drainage that flows through the study area and then into the Pacific Ocean. With regards to the small drainage within the study area, NCRM makes the following determination:

Within the property, riparian vegetation was located within the drainage but not of a sufficient dominance to qualify it as a coastal riparian vegetation or as an ESHA. Due to the lack of habitat connection between the ESHA across the highway (off property) and the proposed septic development, no adverse impacts are anticipated as a result of the project. (NCRM 2014)

The Northern Bishop Pine Forest Series (NBPF) and several special status plant communities were observed by NCRM to be present on the property, adjacent to the existing house. Within the NBPF, smaller areas of Coastal Terrace Prairie (comprised of the Pacific Reedgrass Alliance) were identified as well as areas of disturbed habitat and rock bluff. Along the bluff edge and near the house are shrub and grass species associated with the NBPF series.

A Reduced Buffer Analysis was completed as part of the updated Environmentally Sensitive Habitat Area Study, submitted by NCRM in December of 2014, to propose a reduced buffer of fifty (50) feet between the proposed improvements and identified ESHA. Due to the various constraints of the site a reduced buffer of fifty (50) feet cannot be complied with because the proposed improvements must be located as close as fifteen (15) feet from the wetland and special plant community ESHAs. Despite the proximity to the ESHAs, NCRM states that the proposed development will constitute an overall site improvement for the following reasons:

- The enhanced design of the proposed system to that of the existing septic.
- The improved location of the septic leach lines, which will be located further from the bluff edge than the existing leach lines, reducing the potential for erosion of the bluff and providing greater protection to the resources in the event of a system failure.
- The location is confined to already disturbed ground, the lawn area.

As part of the Reduced Buffer Analysis the biologist outlined the requirements of Section 20.496.020 of the Mendocino County Code as demonstrated through **Table 1**, located in Attachment A. NCRM makes the findings that the ESHAs will not be significantly degraded, the proposed replacement is the least environmentally damaging alternative, and that all feasible mitigation measures are adopted.

The California Department of Fish and Wildlife (CDFW) provided comments on the proposed septic system replacement. CDFW staff stated that "the proposed replacement site is situated almost completely within an existing lawn and former driveway. Due to the constraints of the parcel, it appears that the

proposed location is the least environmentally-damaging feasible alternative.” CDFW staff recommended some revisions to the recommended mitigation measures from NCRM.

Based on the findings of the Environmentally Sensitive Habitat Area Study, and the inclusion of the recommended mitigation and protection measures by NCRM and CDFW the proposed short term construction activities will have a less than significant impact on the identified ESHAs. These mitigation and protection measures are included as **Condition 9**.

Access Roads: The parcel is currently accessed by a private driveway off Highway 1, and no additional access is proposed. Mendocino Department of Transportation reviewed the application and did not state concerns relating to access. California Department of Transportation (Caltrans) reviewed the application and in a response dated December 4, 2014 they stated that “any work within the State right of way will require an encroachment permit. From what was submitted there appears to be no work requested within the State right of way.” The applicant is advised on **Condition 4**, which requires compliance with State, Federal and Local regulations.

Drainage: Drainage is subject to Section 20.492.025 of MCC, and provides regulations mitigating the impact of stormwater runoff and erosion. **Condition 10** is recommended to reduce impacts from altering land forms (grading) and redirecting stormwater flows, and to ensure the development is provided with adequate drainage. In addition, the Environmentally Sensitive Habitat Area Study and CDFW staff provided mitigations during ground disturbance, which staff recommends as **Condition 9 (f)**.

PROJECT DETERMINATION FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, the Coastal Permit Administrator approves the proposed project, based on the following findings and conditions.

REQUIRED FINDINGS FOR THIS COASTAL DEVELOPMENT PERMIT:

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment, within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. The proposed development is in conformity with Resource Protection Impact Findings for Development in Environmentally Sensitive Habitat Areas. The resource as identified will not be significantly degraded by the proposed development. There is no feasible less environmentally damaging alternative. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

CONDITIONS OF APPROVAL:

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

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. 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.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resource(s) in accordance with Section 22.12.090 of the Mendocino County Code.
9. To provide for the protection of natural resources the following mitigation and protection measures shall be required for the duration of the proposed project:
 - a. Prior to initiation of construction activities, exclusionary fencing shall be placed at the boundary of the 15-foot minimum buffer, to prevent potential impacts to ESHA, the exclusionary fencing shall be placed on the site by a qualified biologist.

- b. The proposed septic system tanks shall be located as close as possible to the existing septic tank location. Tanks shall not be placed within fifteen (15) feet of the ESHAs.
 - c. The edge of the proposed leach lines shall be aligned, as close as possible, on their southern side, to the existing home on the parcel.
 - d. Contractors shall avoid the wetland ESHA. During construction and soil disturbance, the contractors shall maintain a minimum of a fifteen (15) foot buffer between the environmentally sensitive plant communities and construction materials shall be stored outside the fifteen (15) foot buffer. Solid materials, including the removed septic tank, the new septic tank, dirt fill, or other materials shall not be stored or placed within a five (5) foot buffer of the ESHA.
 - e. Fluid materials, including fuels, lubricants, or other construction-related fluids shall be stored in the driveway and disposed of offsite. If spillage of toxic materials occurs, on the parcel, Mendocino County Planning and Building and Environmental Health Divisions shall be contacted and the affected area shall be cleaned and restored to its natural condition. If disposed offsite, the identified materials shall be deposited at an approved location. Additionally, any spillage of toxic materials shall be reported as necessary following the California Office of Emergency Services spill/release notification guidance.
 - f. To ensure erosion does not occur as a result of the proposed septic system replacement, soil disturbance shall be conducted during the dry season (typically April to October) and erosion mix seeding and hay mulch shall be applied to all exposed soil associated with the development prior to the onset of the rainy season. Straw mulching shall be with clean straw (such as rice, barley, wheat or weed-free straw). Annual ryegrass (*Festuca perennis*) shall not be used. If excess fill remains after installation is shall be removed from the site and disposed of at an approved location. Plants or seed for landscaping and/or erosion control shall be native plants, or if non-native, shall be non-invasive. No known invasive species shall be used; a list of invasive species is accessible at <http://www.cal-ipc.org/paf/>.
 - g. To ensure soil compaction does not occur within and adjacent to the wetland area, construction activities shall not occur during saturated soil conditions. Saturated soil conditions means that soil and or surface material pore spaces are filled with water, causing a loss of bearing strength, potentially resulting in the deflection of soil or road surface under a load, such as to create wheel ruts.
 - h. No trees or shrubs shall be removed as a result of the septic system installation. If it is determined that trees or shrubs must be removed, Mendocino County Planning and Building Services shall be contacted prior to removal to provide appropriate mitigation measures. Mitigation measures would consist of replanting at a 1:1 ratio, with a 100% survival rate for five (5) years, and any damaged or dead plants shall be replaced, at minimum, on an annual basis.
 - i. The owner of the property shall avoid the pruning of the live limbs of the existing Bishop pine trees and restrict planting of non-native plants outside of the garden beds along the house in perpetuity.
10. Best Management Practices shall be utilized during construction related activities to prevent delivery of sediment into identified ESHA.

Staff Report Prepared By:

DATE

JULIA ACKER
PLANNER I

April 30, 2015
JA

ATTACHMENTS

- A Coastal Permit Approval Checklist
- B Location Map
- C Topographic Map
- D Aerial Map
- E Wide Aerial Map
- F CCPR Aerial
- G Site Plan
- H Enlarged Site Plan
- I ESHA
- J Zoning Map
- K General Plan
- L LCP
- M GMAC
- N Adjacent Parcels
- O Fire Hazard
- P FEMA Flood Zone
- Q Ground Water Resources
- R Highly Scenic
- S Soils
- T Earthquake Fault Zone