



**COASTAL PERMIT ADMINISTRATOR
STAFF REPORT- STANDARD**

**CDP_2012-0017
APRIL 28, 2016**

OWNER: SCHWAGER GUIDO A & JEANNIE E
15350 BLACKBERRY HILL RD
LOS GATOS, CA 95030

APPLICANT: MICHAEL BARRON-WIKE
PO BOX 30
GUALALA, CA 95445

AGENT: WYNN COASTAL PLANNING
703 N MAIN STREET
FORT BRAGG, CA 95437

REQUEST: Standard Coastal Development Permit for the construction of a single family residence with attached garage. Associated developments include installation of a fence, gate, driveway, septic system, propane tank, trash enclosure, connection to utilities, power to existing test well, retaining wall and the removal of Bishop Pine trees.

DATE DEEMED COMPLETE: July 31, 2015

LOCATION: In the Coastal Zone, approximately 2.5 miles north of Anchor Bay, on the west side of Highway 1, approximately 1/4 mile north of its intersection with Gypsy Flat Road (private), located at 33100 South Highway 1, Gualala; APN 143-050-04.

TOTAL ACREAGE: 2.44 Acres

GENERAL PLAN: Rural Residential (RR), Development Limitations combining District (DL), Floodplain combining district (FP), five (5) acre minimum lot size (RR:5[DL][FP])

ZONING: Rural Residential (RR), Development Limitations combining District (DL), Floodplain combining district (FP), five (5) acre minimum lot size (RR:5[DL][FP])

EXISTING USES: Vacant, test well existing

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

RECOMMENDATION: Approve with Conditions

OTHER RELATED APPLICATIONS: CDP 36-2000 permitted the construction of a test well on the property, producing two (2) gallons per minute.

ST 24821 septic system design, approved by Division of Environmental Health, for the parcel.

PROJECT DESCRIPTION: The applicants request construction of a 2,792 square foot single family residence with a 572 square foot attached garage and 465 square foot attached workshop. The proposed

development would include 135 square feet of covered porch with 1,196 square feet of elevated and cantilevered decks. The maximum average height of the proposed development would be twenty-eight (28) feet. The applicants request installation of a private driveway encroachment onto Highway 1, a 5,600 square foot permeable concrete driveway with approximately 350 linear feet of retaining wall with a maximum height of four (4) feet. Installation of the proposed driveway requires construction of a 500 square foot free span bridge to prevent impacts to identified wetlands on the parcel. The proposed developments necessitate 269 cubic yards of cut balanced with 269 cubic yards of fill, resulting in no export or import of material to the site.

The applicants request installation of the approved septic system design (ST 24821) and approval and vesting for the probable future development of the approved septic replacement field, including associated probable future repair/replacement of the septic tank from existing infrastructure to the approved replacement field. The applicants request conversion of the existing test well into a production well, placing production well infrastructure below ground to accommodate the proposed driveway alignment, and connection of the proposed development to the well infrastructure. The applicants request installation of a propane tank and trash enclosure, removal of the existing fence easterly of property line (within Highway 1 right-of-way) and replacement with a new six (6) foot galvanized wire fence, with redwood cap and bottom rails, with a residential gate at driveway entrance to property.

The proposed development requires removal of approximately fourteen (14) Bishop pine trees that are located within the development footprint. The applicant also requests removal of an additional twenty-four (24) Bishop pine trees that are dead and dying and may be hazardous to the proposed development.

Best Management Practices will be utilized and maintained during all ground-disturbing construction activities for erosion control and protection of identified Environmentally Sensitive Habitat Areas on the parcel.

ADJACENT ZONING:

North: Rural Residential (RR)
 East: Remote Residential (RMR)
 South: Rural Residential (RR), Development Limitations combining district (DL)
 West: Pacific Ocean

SURROUNDING LAND USES:

North: Residential
 East: Residential
 South: Vacant
 West: Pacific Ocean

PUBLIC SERVICES:

Access: Proposed private driveway encroachment onto Highway 1
 Fire District: South Coast Fire Protection District
 Water District: N/A
 Sewer District: N/A
 School District: Arena Union Elementary

AGENCY COMMENTS:

On July 31, 2015 project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their required related permits, if any, are listed below. Their submitted recommended conditions of approval are contained in Exhibit A of the attached resolution. A summary of the submitted agency comments are listed below. Any comment that would trigger a project modification or denial are discussed in full as key issues in the following section.

Planning – Ukiah	No comment
Department of Transportation	Recommended contacting Caltrans regarding encroachment onto Highway 1
Environmental Health – Fort Bragg	DEH has received requested information regarding this site. A new site plan that matches the CDP’s plot plan has been submitted and approved. DEH has no further requirements prior to approval of the CDP at this time.
Building Inspection – Fort Bragg	No comment

Assessor	No response
Caltrans	No response
Sonoma State University	The proposed project area has a low possibility of containing unrecorded archaeological sites and therefore no further study for archaeological resources is recommended.
US Fish and Wildlife Service	The FWS thinks this project is unlikely to result in take of BSSB or PAMB, and will have no further input.
CalFire	Owner will adhere to CALFIRE 4290 Regulations outlined in CALFIRE 105-12 and letter of exemption dated May 12, 2015
California Dept. of Fish and Wildlife	Agreed to fifty foot buffer for applicable resources. CDFW provided recommended conditions of approval consisting of removal of invasive plant species and adherence to the recommended Mitigation Measures in the Report of Compliance.
California Coastal Commission	Verbal comments provided on site visit, along with previous email communications on alternative designs of the project.
South Coast Fire District	No response to referral; however, agent corresponded with District and the associated recommendations are included in the project file.
Point Arena City Planning Gualala Municipal Advisory Council	No response The project was reviewed at the September 3, 2015 meeting recommending approval of the project subject to the following advisory considerations: (1) Highway 1 site distance entrances shall be asphalt paved. (2) Highway 1 gates are to be electrically and remotely operated. Show conduit routing. (3) Show PG&E meter location at residence and its conduit routing. (4) Show compression strut bracing in its correct location. (5) Show bridge abutment details, drilled pile dimensions. Will bentonite drillers mud be used? (6) precast concrete bridge beam details, All bridge concrete to have integral brown coloration, rebar to be epoxy coated (salty air). (7) Show seismic Zone 4 abutment to beam connection details. (8) Provide bridge with a pedestrian footpath, concrete roadway, curb, safety railings and surface drainage. (9) Show seismic suspension of sewer pipe lines. (10) Is residence structural, leach line, bridge abutment, septic tank, drilled piling etc excavation included in the balanced cut and fill calculations? If not off haul surplus to a legal dumpsite. (11) Landscaping walls and minor exposed concrete structures to have integral brown coloring. (12) Show all fence design details along Highway 1 and at north and south lot lines. (13) Provide perforated pipelines around the periphery of the residence in gravel trenches and their surface drainage routing. (14) Show roof gutter runoff routing at grade. (15) Show underground concrete box and lid details for submersible well pump. (16) Show water pipe routing for fire protection water tanks and all underground clerical conduits. (17) No solar panels water or electric are to be provided at this time. (18) Show location of any Liquid Propane Gas (LPG) tanks with minimum of 10 feet from residence and steel bollards, as necessary. (19) Test well for minimum approved water delivery to be required. (20) Residence to have Interior fire sprinkler protection. (21) Pampas Grass and other invasive plants to be removed from Environmental Sensitive Habitat Areas (ESHA) and destroyed. (22) Design residence exterior cantilever deck to support maximum human loading preferably with structural steel. (Wood rot due to coastal climate). (23) Show location of backup electric generator, conduit and fuel tank. (24) Show any driveway illumination and conduit routing. (25) Show location around residence for access to the workroom.

KEY ISSUES: The following section is a discussion of the key issues associated with the recommended action on this project. The information contained in this, along with the information contained in the

attachments to this report, received public comments, and the entirety of the application constitute the evidence in the record to support the recommended project findings and conditions of approval.

General Plan/Zoning: The subject parcel is classified as Rural Residential by the Coastal Element of the Mendocino County General Plan and is similarly zoned Rural Residential. The Rural Residential classification is intended “to encourage local small scale food production (farming) in areas which are not well suited for large scale commercial agriculture, defined by present or potential use, location, mini-climate, slope, exposure, etc. The Rural Residential classification is not intended to be a growth area and residences should be located as to create minimal impact on agricultural viability.” (Chapter 2.2 of the County of Mendocino General Plan Coastal Element). The principally permitted use designated for the Rural Residential land use classification is “one dwelling unit per existing parcel and associated utilities, light agriculture and home occupation” (Chapter 2.2 of the County of Mendocino General Plan Coastal Element).

The proposed development consists of a single family residence with associated accessory improvements, a principally permitted use, and is therefore consistent with the Rural Residential classification of the Coastal Element of the Mendocino County General Plan. The project also complies with the zoning requirements for the Rural Residential District set forth in Section 20.376, et. seq., and with all other zoning requirements of Division II of Title 20 of the Mendocino County Code.

The site is designated with two combining districts- Floodplain (FP) and Development Limitations (DL). All proposed improvements are located outside of the FP designated portions of the parcel as shown on the FEMA Flood Zone Map. A Geotechnical Investigation Report and associated Addendum have been submitted for the proposed project to address development on this constrained parcel and will be discussed in the Hazards section of this report.

Hazards: Brunsing Associates, Inc. (BAI) performed a Geotechnical Investigation along with supplemental addendums to that report. The proposed structure is located on a gently-sloping to steep terrace on the bluff-top. BAI notes that the bluff faces primarily southwest on the parcel, with a small southwest projecting knoll and peninsula near the northwesterly end of the site. The bluff face is approximately 100 to 115 feet in vertical height along the property. A sea cave is located in the lower bluff face in the southeasterly portion of the property. Two significant landslides were also noted on the property and are discussed in the Landslides section of this document. BAI observed several ancient faults within the bedrock on the bluff faces of the property and nearby vicinity. No evidence of recent (active) fault movement was observed during site visits performed by BAI and were determined to be “inactive”.

BAI stated that they observed no evidence of recent rock falls or areas of active erosion within the sea cave and it does not appear to impact the stability of the bluff as a whole; therefore, no setback from the sea cave was recommended. BAI revised their determined appropriate setback from the bluff edge after conducting the slope stability analysis included in the 2014 Geotechnical Investigation Report Addendum. The report from BAI recommends a revised setback of 38.7 feet for development from the bluff edge. Additional setbacks from the two landslides are described in the Landslides section of this document. The BAI recommendations for setbacks are recommended as **Condition 9**.

It is the policy of the Coastal Commission and Mendocino County to require recordation of a deed restriction as a condition of development on blufftop parcels, prohibiting the construction of seawalls and requiring that permitted improvements be removed from the property if threatened by bluff retreat. The restriction also requires that the landowner be responsible for any clean-up associated with portions of the development that might fall onto a beach or into the ocean. **Condition 10** is recommended to address this issue.

BAI observed two significant landslides at the property. One is northwest of the main building area and the second is southeast of the septic field area. The proposed project is able to avoid the documented landslide areas on the parcel. BAI recommends a fifty (50) foot setback from the landslide areas for proposed development. The proposed septic tank and pump tank for the residence are shown within the recommended fifty (50) foot landslide setback for the northwesterly slide. In response to County Staff concerns regarding the location of the septic tank and pump tank, BAI provided a letter addressing recommendations for appropriate setbacks and construction methods for these improvements. BAI used a safety factor of three (3) for setback recommendations on the house and found it appropriate to reduce the safety factor to two (2) for

the septic tank and pump tank providing for a landslide setback of thirty-four (34) feet from the northwesterly slide.

All proposed residential improvements are located outside the recommended fifty (50) foot landslide buffer. The septic tank and pump tank are located outside the recommended thirty-four (34) foot landslide buffer. Recommendations provided by BAI in the various Geotechnical Investigations and associated addendums and are included as **Condition 9**.

Fire: The parcel is located in an area characterized by a high fire hazard severity rating. The project application was referred to the California Department of Forestry and Fire Protection (CALFIRE) for input. CALFIRE submitted recommended conditions of approval (CDF #105-12), requiring the applicant abide by typical conditions concerning address standards, driveway standards, and defensible space standards.

Due to the numerous constraints on the site, an exception to standard requirements was requested from CALFIRE. CALFIRE reviewed the project in December 2014 regarding exceptions to the Fire Safety Regulations, pending South Coast Fire Protection District (SCFPD) concurrence. The SCFPD signed off on the project on March 20, 2015. Following the approval from SCFPD, CALFIRE approved the requested exceptions in a letter dated May 12, 2015. Certain conditions were required from both SCFPD and CALFIRE in order to provide adequate fire protection to the site, recommended as **Condition 11**.

Natural Resources: Several reports were prepared for the property to determine the presence of biological and botanical resources, identification of Environmentally Sensitive Habitat Areas (ESHA), and selection of the least environmentally damaging alternative for the proposed development. Submitted studies were prepared by Spade Natural Resources Consulting and consisted of a Botanical Survey and ESHA Assessment in June 2012, a Biological Scoping Addendum in August 2012, and a Report of Compliance in February 2015.

Mendocino County Code requires that the sufficient buffer distance be established around all identified ESHA. The buffer distance can be reduced to fifty (50) feet with the recommendation of a biologist and agreement by the California Department of Fish and Wildlife. A Reduced Buffer Analysis was conducted and a fifty (50) foot buffer was recommended for the rare plant habitat wetland and drainage areas. By necessity, any development will occur within the Northern Bishop Pine Forest. Development will therefore need to be located within the least impacting locations within the Northern Bishop Pine Forest. Development will need to avoid the wetlands and drainages and associated fifty (50) foot buffers to the greatest extent feasible. The Report of Compliance prepared for the project analyzes two potential development proposals to determine the least environmentally damaging alternative for the proposed project.

The proposed project has been through several iterations. Overall five alternatives have been reviewed throughout the course of this project. The first three alternatives proposed a single family residence to the north of the wetland and a detached Workshop and Studio to the south of the wetland. The various biological reports showed that there were larger constraints on the parcel that originally anticipated. The residence and workshop were reduced from their originally-proposed footprints of 3,510 square feet to 3,500 square feet and then 3,158 square feet . The Report of Compliance analyzed two additional proposed alternatives for the development.

Alternative A shows the residence and driveway encroachment to the north of the wetland and septic system south of the wetland, as shown below. A driveway encroachment in this location would be a challenge as speeds are rather high since the property is bordered by a relatively straight stretch of Highway 1. In addition, a power pole would need to be relocated to accommodate this alternative. Development would still occur within the wetland area in addition to the Northern Bishop Pine Forest. Development in the wetland would consist of utility trenching for septic lines and a turnaround to allow vehicle ingress and egress.

Alternative B shows the residence to the north of the wetland and septic system and driveway encroachment to the south of the wetland, as shown below. This configuration utilizes the safest approach from the driveway onto Highway 1. This alternative would require that a bridge be constructed over the wetland, which would eliminate direct impacts to the wetland from development of septic lines (as presented in Alternative A) as the septic lines would be tied to the underside of the bridge. The bridge would potentially shade some of the wetland.

Alternatives to the proposed development, including different projects and alternative locations, were considered and analyzed by a qualified professional, as required by MCC Sections 20.496.020(A)(4)(b) and 20.532.060(E). Alternative B minimizes the number of buildings, has no direct impact to wetlands, minimizes impervious surfaces by utilizing the bridge and permeable concrete, and the buildings have been designed to conform to the slope, rather than grade the slope to conform to the buildings. Similarly, grading for the driveway is minimized by taking the greatest advantage of any level area and cut along contour while maintaining the greatest distance from ESHAs. Alternative B is considered the most feasible, least environmentally damaging alternative that avoids sensitive plant ESHA and related ESHA buffer requirements. Mitigation Measures were recommended in the Report of Compliance and are recommended as **Condition 12**.

The proposed project is not consistent with all LCP policies relating to ESHA; there are no other alternative locations on the site that would not impact identified ESHA. A least environmentally damaging alternative has been identified, which minimizes impervious surfaces and vegetation removal and mitigation measures are proposed to offset project impacts. As stated above, Section 20.496.020(A)(1) reads in part, "the buffer area shall be measured from the outside edge of Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width." The project is inconsistent with this LCP policy; however, no alternative exists on the parcel that could be found to be consistent with this LCP policy. Prohibiting development within fifty (50) feet of an ESHA would deprive the owner of all economic use of the property. Consequently, staff evaluated if denial of the project would result in an unconstitutional taking of private property for public use, which is addressed in further detail in the Staff Report and attachments.

In summary, the proposed project cannot be found consistent with LCP policies relating to ESHA; however, the proposed project is the least damaging alternative and the proposed mitigation measures required by **Condition 12** will address the impacts to ESHA. These measures will mitigate the impact of the proposed development, and restore and enhance ESHA located on the parcel.

Takings Analysis: A number of alternative development scenarios were considered for the property in the previous submittals and Report of Compliance prepared for the property. The proposed alternative is the least environmentally damaging for the following reasons:

1. While development encroaches within fifty feet of ESHA, the proposed development avoids direct impacts to the identified wetland area by spanning the wetland with a bridge, to allow vehicular access to the residence, and by attaching the septic line to the underside of the proposed bridge.
2. There are no locations for site development on the parcel that would buffer development from identified ESHA by at least fifty feet.
3. The site is highly constrained by the required landslide and bluff edge setback requirements, restricting the building envelopes.
4. Alternative designs either encroach further into ESHA setback areas, or have direct impacts upon the identified ESHA. The proposed design avoids direct impacts to the greatest extent feasible.
5. The project has been designed to minimize impervious surfaces by utilizing the bridge and permeable concrete.
6. The buildings have been designed to conform to the slope, rather than grade the slope to conform to the buildings. Similarly, grading for the driveway is minimized by taking the greatest advantage of any level area and cut along contour while maintaining the greatest distance from ESHAs.

Despite the identification of the least environmentally damaging alternative, the proposed project is not consistent with Section 20.496.020 (A)(1), which reads in part, "the buffer area shall be measured from the outside edge of Environmentally Sensitive Habitat Areas and shall not be less than fifty feet in width." The proposed project is sited less than fifty feet from ESHA boundaries.

Section 30010 of the California Coastal Act addresses regulatory takings and states the following:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

In this case, prohibiting development within fifty feet of an ESHA would deprive the owner of all economic use of the property. There are no alternative development options where the project can be at least fifty feet from ESHA, as the entire site is Northern Bishop Pine Forest.

Some factors courts examine to determine if a regulatory taking has occurred involve the presence of reasonable investment-backed expectations, the degree to which a regulation may interfere with those reasonable investment-backed expectations, and whether or not a regulation deprives an owner of all economic use of the property. Staff believes there was a reasonable investment-backed expectation that the scale of the residential development proposed is consistent with similar properties in the vicinity. Table 1 below outlines the cost the applicant has incurred since purchasing the site on June 6, 2000, in an effort to develop the property. The property was purchased for \$295,000 for approximately two and one-half (2.5) acres of vacant land. Considering the property is zoned for residential development as a principally permitted use, and residential development exists on adjacent properties, a reasonable person would have believed that the property could have been developed with a single family residence. A test well was permitted by the County (CDP 36-2000), producing two (2) gallons per minute. CDP 36-2000 stated the intent of drilling the test well was to determine if there was water for future development of a single family residence. Additionally, Northern Bishop Pine Forest became a listed rare plant community in 2008, after the property was purchased and after the test well was drilled.

The applicant has spent approximately \$874,440 to purchase the property, design the residence, prepare surveys and studies, and complete permits necessary for future development of the site. The largest expenditures were related to land costs (e.g. purchase of land). Table 1 summarizes the expenses related to the purchase and improvement of the subject parcel. The complete analysis is included as an attachment.

Table 1. Expenses Related to the Purchase and Improvement of the Property at 33100 South Highway 1, Gualala (APN 143-050-040)

Land Cost (Including Lost Interest)	
Subtotal	686,929
Test Well	
Subtotal	5,464
Architect, Geotechnical & Septic	
Subtotal	139,044
Land Surveys and Botanical	
Subtotal	10,433
Permit Fees and Resubmittal	
Subtotal	4,352
Miscellaneous (Including Owners Time)	
Subtotal	28,218
Total Expenditures	874,440

In order to assess if the applicant's expectation to build a 2,792 square foot single family residence with a 572 square foot attached garage and 465 square foot attached workshop on approximately two and one-half (2.5) acres was similar to comparable single family homes in the area, sixty-two (62) single family residences located in the vicinity were examined, as requested by the Coastal Commission. Due to the design of the

proposed development the actual footprint of the structure is 2,150 square feet. The average square footage of development in the surrounding area was 2,350 square feet (all years) and 2,020 square feet (post 1992). The analysis of the comparable development is included in the attachments.

MCC Section 20.368.010 states the principally permitted use types in the RR district, which include: single family residential, vacation home rental, light agriculture, row and field crops, tree crops and passive recreation. Due to the prevalence of ESHA on the parcel, all principally permitted uses would require encroachment into a fifty foot ESHA buffer. The allowed agricultural uses would require substantial site disturbance and clearing and are not a viable use of the property. Passive recreation use would be the only option that would be less impactful than the construction of a single family residence and possibly not require any activities meeting the definition of development under the Coastal Act. Passive recreation uses include sightseeing, hiking, scuba diving, swimming, sunbathing, jogging, surfing, fishing, bird watching, bicycling, horseback riding, boating, photography nature study and painting. These passive recreation uses do not afford the property owner an economically viable use.

According to the applicants, the property was purchased with the investment-backed expectation that the owner has the right to construct a single family dwelling on the parcel. The obtainment of a previous CDP for construction of a test well is evident that the owner wished to pursue future development of a single family home after purchase of the parcel. This intent is noted in the Staff Report for CDP 36-2000.

Alternatives to the proposed development, including different projects and alternative locations, were considered and analyzed by a qualified professional, as required by MCC Sections 20.496.020(A)(4)(b) and 20.532.060(E). The proposed project minimizes the number of buildings, has no direct impact to wetlands, minimizes impervious surfaces by utilizing the bridge and permeable concrete, and the buildings have been designed to conform to the slope, rather than grade the slope to conform to the buildings. Similarly, grading for the driveway is minimized by taking the greatest advantage of any level area and cut along contour while maintaining the greatest distance from ESHAs. The proposed project is considered the most feasible, least environmentally damaging alternative that avoids sensitive plant ESHA and related ESHA buffer requirements. Mitigation Measures were recommended in the Report of Compliance and are recommended as **Condition 12** to ensure the project does not have an adverse impact on the sensitive resources at the site.

LOCAL COASTAL PROGRAM CONSISTENCY

The Local Coastal Program sets goals and policies for managing resource protection and development activity in the Coastal Zone of Mendocino County, an area that extends from the Humboldt County line to the Gualala River. The Local Coastal Program addresses topics such as shoreline access and public trails; development in scenic areas, hazardous areas, and coastal bluffs; environmentally sensitive habitat areas; cultural resources; transportation; public services; and more. The Local Coastal Program serves as an element of the General Plan and includes Division II of Title 20 of the Mendocino County Code (MCC), and its policies must be consistent with the goals of the California Coastal Act. The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below.

Land Use. The subject parcel is classified as Rural Residential by the Coastal Element of the Mendocino County General Plan, which is intended "to encourage local small scale food production (farming) in areas which are not well suited for large scale commercial agriculture, defined by present or potential use, location, mini-climate, slope, exposure, etc. The Rural Residential classification is not intended to be a growth area and residences should be located as to create minimal impact on agricultural viability." (Chapter 2.2 of the County of Mendocino General Plan Coastal Element). The principally permitted use designated for the Rural Residential land use classification is "one dwelling unit per existing parcel and associated utilities, light agriculture and home occupation" (Chapter 2.2 of the County of Mendocino General Plan Coastal Element).

The proposed development consists of a single family residence with associated accessory improvements, a principally permitted use, and is therefore consistent with the Rural Residential classification of the Coastal Element of the Mendocino County General Plan.

The site is designated with two combining districts- Floodplain (FP) and Development Limitations (DL). The Floodplain combining district (FP) is intended "to establish special requirements and regulations to be

applied to those coastal areas of the County subject to inundation in order to prevent loss of life and property damage" (MCC Section 20.420.005). All proposed improvements are located outside of the FP designated portions of the parcel as shown on the FEMA Flood Zone Map.

The Development Limitations combining district (DL) is intended "to be used in conjunction with another land use classification on parcels or portions of parcels that according to available data have serious constraints that may prevent or seriously limit development. Such constraints include slopes over thirty (30) percent, erosion or landslide potential or other geophysical hazards" (MCC Section 20.416.005). A Geotechnical Investigation Report and associated Addendum have been submitted for the proposed project to address development on this constrained parcel and will be discussed in the Hazards section of this report.

Public Access. The proposed development is located west of Highway 1 as shown on the Location Map. The parcel is not designated as a potential public access trail on the certified Local Coastal Program map (Map# 30- Anchor Bay). The project would have no effect on public access to the coast as it is not designated as a potential coastal access point and staff did not see any potential evidence of prescriptive access points during the site visit to the property. In addition, the site would not be suitable for a public access point as the site is heavily constrained by its topography and presence of sensitive habitats covering the entire parcel. Therefore, the proposed development is in conformity with the public access and public recreation policies of the Coastal Act and the Coastal Element of the General Plan.

Hazards. Mendocino County Coastal Element Chapter 3.4, titled Hazards Management, addresses seismic, geologic and natural forces within the Coastal Zone. Brunsing Associates, Inc. (BAI) performed a Geotechnical Investigation for the proposed project, dated August 3, 2011, to determine the existing geologic site conditions and recommend appropriate construction methods, including setback from the bluff edge. A Geotechnical Investigation Report Addendum was also prepared by BAI, dated December 12, 2014, which included a slope stability analysis of the ocean bluff, update of the previous seismic design criteria per 2013 California Building Code, and a re-evaluation of the bluff setback criteria with regard to recent projections for sea level rise. A letter, dated June 18, 2015, was submitted by BAI in response to County Staff concerns related to the proposed septic tank and pump tank location, revising the recommended landslide setback for the two improvements.

Seismic Activity: The property neither lies within, nor does it adjoin a mapped Alquist-Priolo Earthquake Fault Zone. The San Andreas fault is located approximately four (4) miles to the east of the project site and is the nearest active fault. BAI observed several ancient faults within the bedrock on the bluff faces of the property and nearby vicinity. No evidence of recent (active) fault movement was observed during site visits performed by BAI and the faults were determined to be "inactive".

Bluffs and Bluff Erosion: The proposed structure is located on a gently-sloping to steep terrace on the bluff-top. BAI notes that the bluff faces primarily southwest on the parcel, with a small southwest projecting knoll and peninsula near the northwesterly end of the site. The bluff face is approximately 100 to 115 feet in vertical height along the property. A sea cave is located in the lower bluff face in the southeasterly portion of the property. Two significant landslides were also noted on the property and are discussed in the Landslides section of this document.

Section 20.500.20(B) of the MCC outlines siting and land use restrictions relative to ocean bluffs, requiring new structures to be set back a sufficient distance from the edge of the bluff to ensure their safety from bluff erosion and bluff retreat during their economic life span (seventy-five years). The MCC also states that drought tolerant vegetation shall be required within the bluff setback, and construction landward of the setback shall not contribute to erosion of the bluff face or instability of the bluff.

BAI stated that they observed no evidence of recent rock falls or areas of active erosion within the sea cave and it does not appear to impact the stability of the bluff as a whole; therefore, no setback specifically from the sea cave was recommended. BAI revised their determined appropriate setback from the bluff edge after conducting the slope stability analysis included in the 2014 Geotechnical Investigation Report Addendum. The report from BAI recommends a revised setback of 38.7 feet for development from the bluff edge. Additional setbacks from the two landslides are described in the Landslides section of this document. **Condition 9** is recommended to incorporate BAI's setback determinations from blufftop and landslide areas.

Condition 9: The recommendations in the Geotechnical Investigation dated August 3, 2011, as revised in the Geotechnical Investigation Report Addendum dated December 12, 2014, and letter dated June 18, 2015 prepared by Brunsing Associates, Inc. shall be incorporated into the design and construction of the proposed project. Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final building plans for consistency with the Geotechnical Investigation. No development shall be permitted within 38.7 feet of the blufftop edge or within 50 feet of the identified landslides except for the septic tank and pump tank improvements, which shall be located greater than 34 feet from the northwesterly landslide.

It is the policy of the Coastal Commission and Mendocino County to require recordation of a deed restriction as a condition of development on blufftop parcels, prohibiting the construction of seawalls and requiring that permitted improvements be removed from the property if threatened by bluff retreat. The restriction also requires that the landowner be responsible for any clean-up associated with portions of the development that might fall onto a beach or into the ocean. **Condition 10** is recommended to address this issue.

Condition 10: Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel, which shall provide that:

- a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
- b. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
- c. The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
- d. The landowner shall not construct any bluff or shoreline protective devices to protect the subject single family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
- e. The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach or ocean before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;

The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

Tsunami: The project site is not located in an area of potential tsunami inundation.

Landslide: MCC Section 20.500.020 (D) requires that new development avoid, where feasible, existing and prehistoric landslides. MCC code requires that development in areas where landslides cannot be avoided shall provide for stabilization measures such as retaining walls, drainage improvements and the like, provided no feasible, less environmentally damaging, alternative exists.

BAI observed two significant landslides at the property. One is northwest of the main building area and the second is southeast of the septic field area. The northwesterly slide is a translational landslide, where a highway culvert empties onto the ground on the uphill side of the head-scarp fracture. The southeasterly slide is also a translational bedrock landslide, where two highway culverts empty into this area. The

northwesterly slide is shown to be an "active slide"; however, BAI did not observe recent or incipient landslide activity in the area. BAI notes that there is a possibility that the disturbance in the northwesterly slide is connected with, or part of the southeasterly landslide. BAI states that if that is the case, a portion of this area appears to have been stabilized by the highway grading and drainage operations.

The proposed project is able to avoid the two documented landslide areas on the parcel. BAI recommends a fifty (50) foot setback from the landslide areas for proposed development. The proposed septic tank and pump tank for the residence are shown within the recommended fifty (50) foot landslide setback for the northwesterly slide. In response to County Staff concerns regarding the location of the septic tank and pump tank BAI provided a letter addressing recommendations for appropriate setbacks and construction methods for these improvements. BAI used a safety factor of three (3) for setback recommendations on the house and found it appropriate to reduce the safety factor to two (2) for the septic tank and pump tank providing for a landslide setback of thirty-four (34) feet from the northwesterly slide.

All proposed residential structures are located outside the recommended fifty (50) foot landslide buffer. The septic tank and pump tank are located outside the recommended thirty-four (34) foot landslide buffer. Recommendations are provided by BAI in the various Geotechnical Investigations and associated addendums and are recommended as **Condition 9**.

Flooding: There is a mapped 100 year flood zone on the subject parcel; however, all proposed improvements are located outside of the mapped flood zone and no conditions are necessary to ensure consistency with flood policy.

Fire: The parcel is located in an area characterized by a high fire hazard severity rating. The project application was referred to the California Department of Forestry and Fire Protection (CALFIRE) for input. CALFIRE submitted recommended conditions of approval (CDF #105-12), requiring the applicant abide by typical conditions concerning address standards, driveway standards, and defensible space standards.

Due to the numerous constraints on the site, an exception to standard requirements was requested from CALFIRE. CALFIRE reviewed the project in December 2014 regarding exceptions to the Fire Safety Regulations, pending South Coast Fire Protection District (SCFPD) concurrence. The SCFPD signed off on the project on March 20, 2015. Following the approval from SCFPD, CALFIRE approved the requested exceptions in a letter dated May 12, 2015. Certain conditions were required from both SCFPD and CALFIRE in order to provide adequate fire protection to the site, recommended as **Condition 11**.

Condition 11: The following are required as conditions of approval in order to provide for adequate fire protection at the site:

- a. The proposed project shall include non-combustible exterior siding, dual pane windows, Class A roofing, and the interior of the house shall be equipped with an automatic fire sprinkler system.
- b. A private pedestrian gate shall be constructed at the eastern property line, adjacent to Highway 1, where fire fighters can park fire trucks in the turnout on Highway 1, and utilize fire hose to defend the house. The residence shall be located within fifty (50) feet of the turnout on Highway 1. The gate shall be accessible via a lock for which the fire districts shall have universal access to.
- c. The hammerhead-T turnaround shall be located near the driveway encroachment onto Highway 1, south of the residence and the proposed bridge (as shown on the Site Plan).
- d. The driveway and bridge approach to the proposed residence shall be ten (10) feet wide, and may be used for staging in the event of a fire.
- e. The bridge shall be designed to meet AASHTO H20 wheel loading standards.
- f. Indicate parking areas for fire trucks with posted signs, stating the end of the driveway does not have a turnaround for large vehicles.

- g. A 2,500-gallon water storage tank with fire hose outlet shall be required.
- h. Any request for change to these requirements shall only be allowed with the express permission of the Coastal Permit Administrator, CALFIRE, and SCFPD.

The recommended conditions will reduce impacts of hazards and hazardous materials to a less than significant level.

Visual Resources. Protection of visual resources is a specific mandate of Section 30251 of the Coastal Act, and is subsequently addressed in Chapter 3.5 of General Plan’s Coastal Element and implemented by MCC Chapter 20.504.

The project is not located in an area that is designated Highly Scenic by the Local Coastal Plan. Consequently, the project is not subject to Local Coastal Plan Visual Resource policies relating to Highly Scenic Areas. The project site is designated as a tree removal area, where tree removal is encouraged in order to enhance public views of the ocean; however, due to the sensitive nature of the forest community (Northern Bishop Pine forest) present on this parcel tree removal will not be included as a condition of approval on this permit.

The proposed development will be visible from the sea, appearing before a forested backdrop. The development is at the toe of the slope, and should not appear as a silhouette against the sky from the sea or any other vantage point. It will appear similar to the existing single family residential development on adjacent properties.

Additionally, the project application indicates proposed materials and colors for the proposed structures. The original application included metal roofing. Materials in the Coastal Zone are required to blend with the natural surroundings and minimize reflective surfaces. The final proposed project materials and colors are as follows:

Table 2. Proposed Project Materials and Colors		
Element	Materials	Color
Siding	Stucco	Sand/Tan
Trim	N/A	N/A
Chimney	Stucco and Copper Cap	Tan/Aged Copper
Roofing	Metal standing seam	Dark Green
Window Frame	Metal- painted	Dark Bronze
Door	Metal- painted	Dark Bronze
Fencing	Wood and Galvanized Wire	Brown/Gray
Retaining Walls	Concrete- stained	Brown
Railings	Cable and Stainless Steel Posts	Stainless Steel/Gray

Staff recommends **Condition 15** requiring the project be constructed with the proposed materials and colors.

Condition 15: Prior to final inspection of a building permit in reliance on this Coastal Development Permit, Planning and Building Services shall inspect the construction of the single family residence and associated development to ensure the utilized materials and colors are consistent with the proposed project materials and colors in **Table 2**.

MCC Section 20.504.035 provides exterior lighting regulations intended to protect coastal visual resources in Highly Scenic Areas, Special Treatment Areas and Special Communities of the Coastal Zone. Exterior lighting is required to be within the zoning district’s height limit regulations, and requires exterior lighting to be shielded and positioned in a manner that light and glare does not extend beyond the boundaries of the parcel.

As part of this application, the applicant proposes exterior lighting as follows: two (2) shielded lights on the north, east and west elevations (for a total of six (6) lights) and seven (7) shielded lights on the south

elevation. All lights are proposed to be shielded and downcast. A proposed lighting fixture was submitted as part of the application, staff has reviewed the proposed design and finds it consistent with the requirements for exterior lighting in the Coastal Zone. The project is therefore consistent with the exterior lighting regulations set forth in MCC Section 20.504.025.

Staff recommends **Condition 16** requiring the project be constructed in accordance with the proposed exterior lighting design and location of light fixtures.

Condition 16: Any change to exterior lighting (either fixture or location) from what is shown on the elevations for the single family residence, included as part of the record, shall be reviewed and approved by the Coastal Permit Administrator for the life of the development.

Natural Resources. Protection of natural resources is addressed in Chapter 3.1 of the Mendocino County Coastal Element and implemented by MCC Chapter 20.496.

Several reports were prepared for the property in regards determining presence biological and botanical resources, identification of Environmentally Sensitive Habitat Areas (ESHA), and selection of the least environmentally damaging alternative for the proposed development. Botanical and biological studies were prepared by Spade Natural Resources Consulting (SNRC) and consisted of a Botanical Survey and ESHA Assessment in June 2012, a Biological Scoping Addendum in August 2012, and a Report of Compliance in February 2015.

According to the submitted studies, the dominant plant community on the parcel is Northern Bishop Pine Forest (*Pinus Muricata forest alliance*). A third to half of the Bishop Pines are noted to be dead or dying. A portion of the property is dominated by Pacific reedgrass (*Calamagrostis nutkaensis*), particularly in the area with a higher percentage of dead and dying pines. Two drainages, with one surrounded by wetland, exist on the parcel. One of the identified drainages runs through the middle of the parcel, entering from under Highway 1, through a culvert onto the parcel where it slows and fans out closer to the bluff edge. A group of swamp harebell (*Campanula californica*) was found in the middle of the wetland area. Coast Lily (*Lilium maritimum*) was found on the project site within the Pacific reedgrass meadow. Corn-lily (*Veratrum fimbriatum*) was also located within the wetland portion of the Pacific reedgrass meadow.

Potential biological resources were also scoped; however, no documented occurrences were discovered. Recommendations were provided by SNRC to limit the timing of vegetation clearing and initiation of construction. **Condition 12** is recommended limiting vegetation clearing activities and initiation of construction to the bird non-breeding season between September and January, or a qualified professional shall perform pre-construction bird surveys within 14 days of the onset of construction or clearing of vegetation. The recommendations of the study shall be followed should breeding birds be found.

Mendocino County Code requires that the sufficient buffer distance be established around all identified ESHA. The buffer distance can be reduced to fifty (50) feet with the recommendation of a biologist and agreement by the California Department of Fish and Wildlife. A Reduced Buffer Analysis was conducted and a fifty (50) foot buffer was recommended for the rare plant habitat wetland and drainage areas. By necessity, any development will occur within the Northern Bishop Pine Forest, which is present throughout the property. Development will therefore need to be located within the least impacting locations within the Northern Bishop Pine Forest. Development will need to avoid the wetlands and drainages and associated fifty (50) foot buffers to the greatest extent feasible. The Report of Compliance prepared for the project analyzes two potential development proposals to determine the least environmentally damaging alternative for the proposed project.

There are two potential building envelopes on the parcel: north of the wetland and south of the wetland. On the northern side of the wetland are soils that cannot support leach lines and would be too close to the existing well for a safe buffer between the two. Out of necessity, the septic field must be located on the southern side of the wetland. This leaves the northern side of the wetland for development of a residence with attached garage and workshop.

Additionally, there are two potential driveway encroachments for this property, one at the northerly building envelope and the other at the southerly. Caltrans has determined that the southerly approach is the safest approach onto Highway 1 and is the only feasible location for driveway entrance.

The proposed project has been through several iterations. Overall five alternatives have been reviewed throughout the course of this project. The first three alternatives proposed a single family residence to the north of the wetland and a detached Workshop and Studio to the south of the wetland. The various biological reports showed that there were larger constraints on the parcel that originally anticipated. The residence and workshop were reduced from their originally-proposed footprints of 3,510 square feet to 3,500 square feet and then 3,158 square feet . The Report of Compliance analyzed two additional proposed alternatives for the development.

Alternative A shows the residence and driveway encroachment to the north of the wetland and septic system south of the wetland, as shown below. A driveway encroachment in this location would be a challenge as speeds are rather high since the property is bordered by a relatively straight stretch of Highway 1. In addition, a power pole would need to be relocated to accommodate this alternative. Development would occur within the wetland area in addition to the Northern Bishop Pine Forest. Development in the wetland would consist of utility trenching for septic lines and a turnaround to allow vehicle ingress and egress.

Alternative B shows the residence to the north of the wetland and septic system and driveway encroachment to the south of the wetland, as shown below. This configuration utilizes the safest approach from the driveway onto Highway 1. This alternative would require that a bridge be constructed over the wetland, which would eliminate direct impacts to the wetland from development of septic lines (as presented in Alternative A) as the septic lines would be tied to the underside of the bridge. The bridge would potentially shade some of the wetland.

Table 3 is a comparison of impacts to environmentally sensitive habitat areas from both Alternative A and Alternative B.

Table 3. Comparison of Impacts		
	Alternative A	Alternative B
Development Footprint in Bishop Pine Forest- Above-Ground Development	SFR Footprint: 2500 sf Driveway: 3750 sf	SFR Footprint: 2500 sf Driveway: 6100 sf
Additional Temporary/Underground impacts	Septic Leachfield: 1200 sf Septic Line: 155 linear ft	Septic Leachfield: 1200 sf Septic Line: 20 Linear ft
Development in Wetland	30 Linear feet septic line- temporary wetland impact	Bridge over wetland- no long-term loss of wetland habitat. Temporary impacts may occur during construction of bridge. Some shading effects from bridge
Impervious surface in Wetland Buffer	750 sq ft for turnaround	2050 sq ft for bridge, driveway and turnaround

The Report of Compliance states the following with regards to their recommendations for the least environmentally damaging alternative:

Alternative A would have fewer impacts on resources; however the feasibility of Alternative A is very low given that the proposed encroachment location would require average vehicle speeds along this stretch of highway to be 30 miles per hour or lower, as evidenced by a speed study and approved by Caltrans. Alternative B would result in an overall larger footprint due to additional driveway required to meet the safer encroachment location, however overall impacts are limited to those necessary to accommodate the development.

Alternatives to the proposed development, including different projects and alternative locations, were considered and analyzed by a qualified professional, as required by MCC Sections 20.496.020(A)(4)(b) and 20.532.060(E). Alternative B minimizes the number of buildings, has no direct impact to wetlands, minimizes impervious surfaces by utilizing the bridge and permeable concrete, and the buildings have been designed to

conform to the slope, rather than grade the slope to conform to the buildings. Similarly, grading for the driveway is minimized by taking the greatest advantage of any level area and cut along contour while maintaining the greatest distance from ESHAs. Alternative B is considered the most feasible, least environmentally damaging alternative that avoids sensitive plant ESHA and related ESHA buffer requirements. Mitigation Measures were suggested in the Report of Compliance and are recommended as **Condition 12**.

Condition 12: All recommended Mitigation Measures proposed in the Report of Compliance dated February 17, 2015 prepared by Spade Natural Resources Consulting, and recommendations of the California Department of Fish and Wildlife are required to provide for the protection of identified environmentally sensitive habitat areas. Mitigations are as follows:

- a. A suitable buffer shall be established around the wetland and riparian areas. A buffer distance of fifty (50) feet is recommended and has been agreed upon by the California Department of Fish and Wildlife.
- b. Temporary silt fencing shall be installed along the edge of the buffer area adjacent to development to ensure grading and/or material storage does not occur within the buffers during construction.
- c. Impacts to wetlands during road and bridge construction and utility installation shall be minimized to the extent feasible. Utilities shall be tied to the underside of the bridge to avoid trenching within the wetland. Any areas of wetland subject to temporary impacts during construction shall be restored to prior conditions or better. No net loss of wetlands shall occur, either in quality or size.
- d. Prior to the issuance of any building permit reliant upon this Coastal Development Permit, an active management plan shall be developed for the Bishop pine forest in order to provide for the long-term health of the forest habitat. The active management plan shall be prepared by a qualified ecologist and approved by the California Department of Fish and Wildlife, and shall include: invasive species removal, pampas grass within the wetland shall be the highest priority for removal; a regular understory management regimen to facilitate the growth of new recruits; identification, removal, and prevention of pathogens killing Bishop pine trees and other native flora; and active management to maintain rare plant habitat quality in the wetlands. The active management plan shall also include a monitoring plan and performance criteria to measure success of management activities. The least number of healthy trees practicable shall be removed to accommodate development.
- e. Clearing of vegetation and initiation of construction shall be done in the non-breeding bird season, between September and January. If this cannot be done, preconstruction breeding bird surveys shall be conducted with 14 days prior to the onset of construction with the results submitted to the Department of Planning and Building Services. If birds are discovered the recommendations of the Report of Compliance shall be followed.
- f. Preconstruction bat surveys shall be required if work or vegetation removal is conducted between November 1st and August 31st. If bats are discovered the recommendations of the Report of Compliance shall be followed.
- g. Landscaping on the parcel shall not include any invasive plants and shall consist of native plants compatible with the adjacent plant communities.
- h. Any bare soil created by the construction phase of the project shall be re-vegetated with native vegetation appropriate to the habitat in the surrounding area. Erosion control best management practices (BMPs) detailed in the Erosion Control Plan for the project shall be followed.
- i. Two weeks prior to construction, contractors shall be trained in the identification of California red-legged frog and shall follow the recommendations of the Report of Compliance for visual

inspection of the work site during construction activities. If a rain event occurs, all construction shall cease for a period of 48 hours after the rain stops.

- j. A Sonoma tree vole survey shall be conducted within two weeks prior to tree removal activities. The results of the survey shall be submitted to the Department of Planning and Building Services. If Sonoma tree voles are discovered the recommendations of the Report of Compliance shall be followed.

The proposed project is not consistent with all LCP policies relating to ESHA; there are no other alternative locations on the site that would not impact identified ESHA. A least environmentally damaging alternative has been identified, which minimizes impervious surfaces and vegetation removal and mitigation measures are proposed to offset project impacts. As stated above, Section 20.496.020(A)(1) reads in part, "the buffer area shall be measured from the outside edge of Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width." The project is inconsistent with this LCP policy; however, no alternative exists on the parcel that could be found to be consistent with this LCP policy. Prohibiting development within fifty (50) feet of an ESHA would deprive the owner of all economic use of the property. Consequently, staff evaluated if denial of the project would result in an unconstitutional taking of private property for public use, which is addressed in further detail in the Staff Report and attachments.

In summary, the proposed project cannot be found consistent with LCP policies relating to ESHA; however, the proposed project is the least damaging alternative and the proposed mitigation measures required by **Condition 12** will address the impacts to ESHA. These measures will mitigate the impact of the proposed development, and restore and enhance ESHA located on the parcel.

Archaeological/Cultural Resources. The proposed project was referred to the California Historic Resource Information System (CHRIS), Northwest Information Center at Sonoma State University in September 2012. In response, CHRIS stated that the proposed project area has a low possibility of containing unrecorded archaeological sites and therefore no further study for archaeological resources is recommended. Standard **Condition 8** advises the applicant of the County's "discovery clause" which establishes procedures to follow in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

Utilities. The site is located within an area mapped as Critical Water Resources (CWR). MCC Section 20.516.015 (B)(1) states that "approval of the creation of new parcels or additional building sites shall be contingent upon an adequate water supply during dry summer months which will accommodate the proposed parcels, and will not adversely affect the groundwater table of contiguous or surrounding areas. Demonstration of proof of water supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982, as revised from time to time, and the Mendocino County Division of Environmental Health's Land Division requirements as revised." A test well was drilled on the parcel in 2000, permitted under CDP 36-2000, the test well produces approximately two (2) gallons per minute.

A septic system design has been reviewed and approved by the Mendocino County Division of Environmental Health (DEH), septic permit ST 24821. In a response to a referral for this CDP, DEH stated "the plot plan given shows the location of the septic, pump and treatment tanks have been moved. A site Evaluator must submit a revised map showing the change in location, as well as any revisions the location change may require." The revised map was received by DEH and they provided their clearance for the project in a letter dated December 30, 2015 with no further recommendations.

Public Services.

Roadway Capacity: The State Route 1 Corridor Study Update provides traffic volume data for State Highway 1. The subject property is located on Highway 1. The nearest data breakpoint in the study is located approximately one mile north of the property at the intersection of Fish Rock Road (CR 122) and Highway 1. The existing level of service at peak hour conditions at this location is Level of Service B. While the project would contribute incrementally to traffic volumes on local and regional roadways, such incremental increases were considered when the LCP land use designations were assigned to the site.

Access Roads: The applicants request installation of a private driveway encroachment onto Highway 1, a 5,600 square foot permeable concrete driveway with approximately 350 linear feet of retaining wall with a maximum height of four (4) feet. Installation of the proposed driveway requires construction of a 500 square foot free span bridge to prevent impacts to identified wetlands on the parcel. The project was referred to the Mendocino County Department of Transportation who stated they had no comment on the proposed project. The project was similarly referred to Caltrans for comment, but no response was submitted. The installation of the private driveway will require an Encroachment Permit from Caltrans. The applicant is advised of **Condition 4**, which requires the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.

Solid Waste: The South Coast Transfer Station is located approximately seven miles from the project site, providing for the disposal of solid waste resulting from the residential use. Additionally, curbside pickup is available, should the owner choose to purchase the service. Solid waste disposal is adequate to serve the proposed development.

Grading/Erosion/Runoff.

Grading: The proposed development will necessitate 269 cubic yards of cut balanced with 269 cubic yards of fill, resulting in no export from the site. The buildings have been designed to conform to the slope, rather than grade the slope to conform to the buildings. Similarly, grading for the driveway is minimized by taking the greatest advantage of any level area and future cuts along contour while maintaining the greatest distance from identified ESHAs. A Grading Plan has been prepared for the site and is included in the Attachments section. **Condition 13** is recommended requiring the implementation of the Grading Plan and any additional requirements that may result from the building permit process.

Condition 13: The Grading Plan, stamped received March 12, 2015, shall be adhered to during grading activities on the site. Any additional requirements that may result from the building permit process shall be required during any construction activities on the site.

Erosion/Runoff: An Erosion Control Plan has been prepared for the site, which is included in the Attachments section. The Plan details the location of proposed best management practices (BMPs) during construction activities. Proposed BMPs include silt fencing, fiber rolls and reseeded of disturbed soils. The Erosion Control Plan states that the erosion rate shall not exceed the natural or existing level before development. **Condition 14** is recommended requiring the implementation of the Erosion Control Plan and any additional requirements that may result from the building permit process.

Condition 14: The Erosion Control Plan, stamped received March 12, 2015, shall be adhered to during any construction activities on the site. Any additional requirements that may result from the building permit process shall be required during any construction activities on the site.

Zoning Requirements.

Intent: The subject parcel is zoned Rural Residential. The intent of the Rural Residential zoning district is "to encourage and preserve local small scale farming in the Coastal Zone on lands which are not well-suited for large scale commercial agriculture. Residential uses should be located as to create minimal impact on the agricultural viability" (MCC Section 20.376.005). This application proposes residential development on a vacant parcel, which is not well-suited for agricultural use. The proposed use is consistent with the intent of the Rural Residential zoning district.

Use: The applicant proposes a single family residence with associated improvements. A single family residence and associated improvements are consistent with the allowable uses within the zoning district.

Density: The maximum dwelling density in the Rural Residential zoning district is one single family residence per five (5) acres. The proposed development does not conflict with the dwelling density standards of the Rural Residential zoning district.

Yards: The minimum required front, side, and rear yards in the Rural Residential zoning district for a parcel of this size are twenty (20) feet from the front, rear and side yards (MCC Section 20.376.040). CalFire

typically requires thirty (30) foot setbacks on parcels over one-acre in size; however, CalFire along with the SCFPD submitted recommendations outside of their ordinary requirements due to the constraints of the parcel. The recommendations are discussed in the Fire section of this report. The proposed development is consistent with the yard setback requirements of the Rural Residential zoning district.

Height: The maximum permitted building height in the Rural Residential zoning district is twenty-eight (28) feet above natural grade for non-Highly Scenic Areas and is thirty-five (35) feet for uninhabited accessory structures (MCC Section 20.376.045). The height is measured as the vertical distance from the average ground level of the building to the highest point of the roof ridge or parapet wall (MCC Section 20.308.025 (L)). The proposed development is confined to one structure including the single family home with attached garage and workshop; therefore the maximum permitted height is twenty-eight (28) feet above natural grade. As shown on the Elevations for the proposed structure, the proposed development is consistent with the height limitations for the Rural Residential zoning district.

Lot Coverage: The maximum permitted lot coverage in the Rural Residential zoning district is fifteen (15) percent for a parcel of this size (MCC Section 20.376.065). The proposed lot coverage on the parcel is 8,202 square feet, resulting in an approximate 7.9% lot coverage. The proposed development is therefore consistent with the lot coverage requirements of the Rural Residential zoning district.

The project complies with the zoning requirements for the Rural Residential District set forth in Section 20.376, et. seq., and with all other zoning requirements of Division II of Title 20 of the Mendocino County Code.

PROJECT FINDINGS AND CONDITIONS:

ENVIRONMENTAL FINDINGS: The Coastal Permit Administrator finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, a Mitigated Negative Declaration is adopted.

COASTAL DEVELOPMENT PERMIT FINDINGS: Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopts the following findings and conditions.

1. The proposed development is in conformity with the certified Local Coastal Program, except Section 20.496.020(A)(1) relating to buffer widths from Environmentally Sensitive Habitat Areas, which is specifically addressed by the Supplemental Findings below; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities. The proposed project will be served by an existing test well, to be converted to a production well under this permit and an on-site sewage disposal system. A driveway will be constructed off Highway 1 and is adequate to service the proposed development. Drainage and other necessary facilities have been considered in project design; 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. The proposed single family residence and associated improvements is in conformity with the Rural Residential (RR) 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. An Initial Study and adoption of a Mitigated Negative Declaration is recommended; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource. The California Historic Resource Information System (CHRIS), Northwest Information Center at Sonoma State University stated that the proposed project area has a low possibility of containing unrecorded archaeological sites and therefore no further study for

archaeological resources was recommended. Standard Condition #8 advises the applicant of the County's discovery clause; 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. Solid waste service is available either as curbside pick-up or at the South Coast Transfer Station (seven miles away). The existing level of service at peak hour conditions at this location is considered Level of Service B. While the project would contribute incrementally to traffic volumes on local and regional roadways, such incremental increases were considered when the LCP land use designations were assigned to the site; and
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan. The project would have no effect on public access to the coast as it is not designated as a potential coastal access point and staff did not see any potential evidence of prescriptive access points during the site visit to the property. In addition, the site would not be suitable for a public access point as the site is heavily constrained by its topography and presence of sensitive habitats covering the entire parcel.

SUPPLEMENTAL FINDINGS:

8. The resource as identified will not be significantly degraded by the proposed development. The proposed development minimizes the number of buildings, has no direct impact to wetlands, minimizes impervious surfaces by utilizing the bridge and permeable concrete, and the buildings have been designed to conform to the slope, rather than grade the slope to conform to the buildings. Similarly, grading for the driveway is minimized by taking the greatest advantage of any level area and cut along contour while maintaining the greatest distance from ESHAs. 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 (10) 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. That this permit 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 (1) or more of the following:
 - 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.
 - d. A final judgment of a court of competent jurisdiction has declared one (1) or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) 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 resources in accordance with Section 22.12.090 of the Mendocino County Code.

Staff Report Prepared By:

Date

JULIA ACKER, PLANNER II

Appeal Period: 10 days
Appeal Fee: \$1100.00



DRAFT CONDITIONS OF APPROVAL

- **9. The recommendations in the Geotechnical Investigation dated August 3, 2011, as revised in the Geotechnical Investigation Report Addendum dated December 12, 2014, and letter dated June 18, 2015 prepared by Brunsing Associates, Inc. shall be incorporated into the design and construction of the proposed project. Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final building plans for consistency with the Geotechnical Investigation. No development shall be permitted within 38.7 feet of the blufftop edge or within 50 feet of the identified landslides except for the septic tank and pump tank improvements, which shall be located greater than 34 feet from the northwesterly landslide.
- **10. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel, which shall provide that:
- a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
 - b. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
 - c. The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
 - d. The landowner shall not construct any bluff or shoreline protective devices to protect the subject single family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
 - e. The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach or ocean before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;

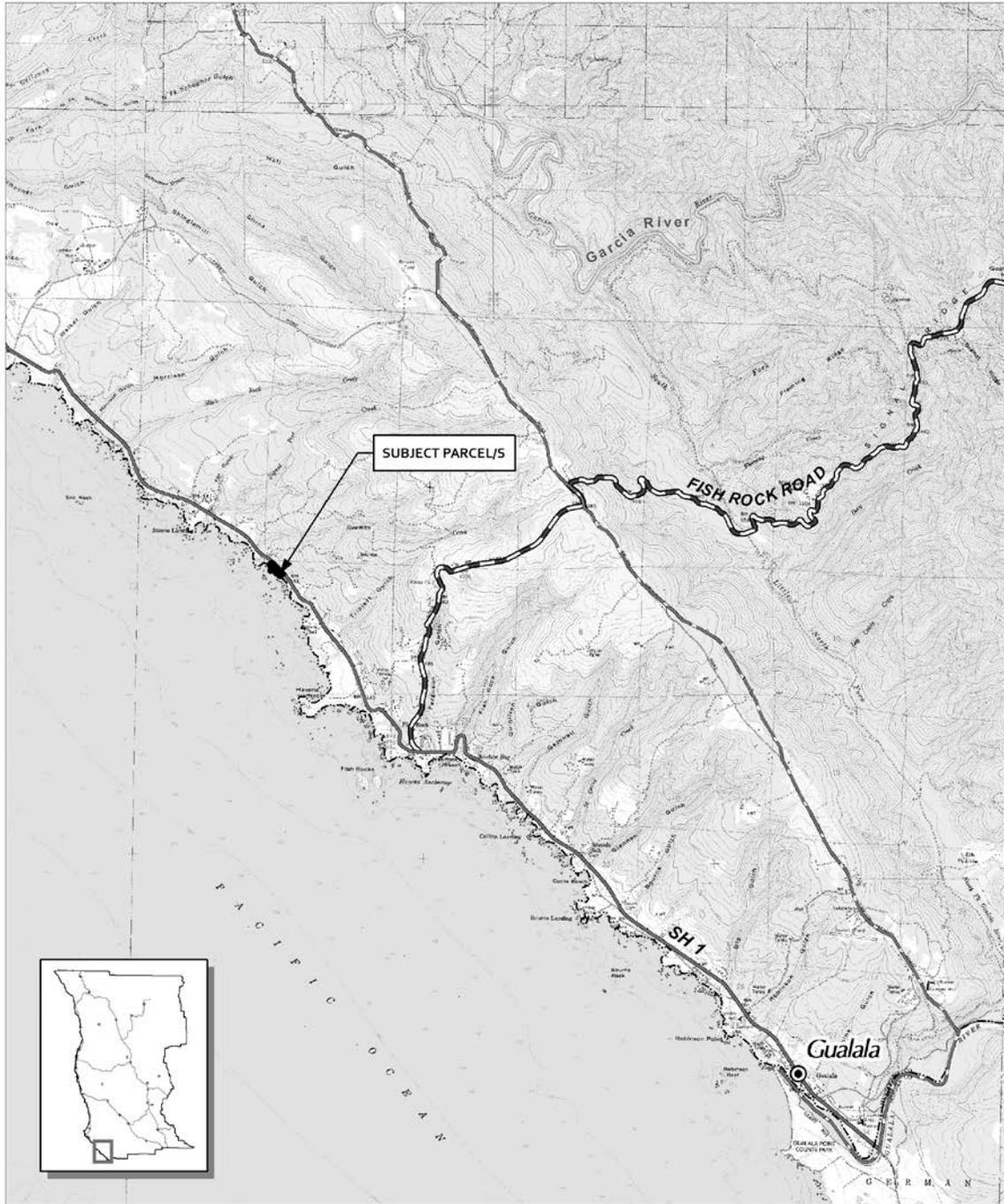
The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

- **11. The following are required as conditions of approval in order to provide for adequate fire protection at the site:
- a. The proposed project shall include non-combustible exterior siding, dual pane windows, Class A roofing, and the interior of the house shall be equipped with an automatic fire sprinkler system.

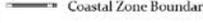
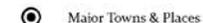
- b. A private pedestrian gate shall be constructed at the eastern property line, adjacent to Highway 1, where fire fighters can park fire trucks in the turnout on Highway 1, and utilize fire hose to defend the house. The residence shall be located within fifty (50) feet of the turnout on Highway 1. The gate shall be accessible via a lock for which the fire districts shall have universal access to.
 - c. The hammerhead-T turnaround shall be located near the driveway encroachment onto Highway 1, south of the residence and the proposed bridge (as shown on the Site Plan).
 - d. The driveway and bridge approach to the proposed residence shall be ten (10) feet wide, and may be used for staging in the event of a fire.
 - e. The bridge shall be designed to meet AASHTO H20 wheel loading standards.
 - f. Indicate parking areas for fire trucks with posted signs, stating the end of the driveway does not have a turnaround for large vehicles.
 - g. A 2,500-gallon water storage tank with fire hose outlet shall be required.
 - h. Any request for change to these requirements shall only be allowed with the express permission of the Coastal Permit Administrator, CALFIRE, and SCFPD.
- **12. All recommended Mitigation Measures proposed in the Report of Compliance dated February 17, 2015 prepared by Spade Natural Resources Consulting, and recommendations of the California Department of Fish and Wildlife are required to provide for the protection of identified environmentally sensitive habitat areas. Mitigations are as follows:
- a. A suitable buffer shall be established around the wetland and riparian areas. A buffer distance of fifty (50) feet is recommended and has been agreed upon by the California Department of Fish and Wildlife.
 - b. Temporary silt fencing shall be installed along the edge of the buffer area adjacent to development to ensure grading and/or material storage does not occur within the buffers during construction.
 - c. Impacts to wetlands during road and bridge construction and utility installation shall be minimized to the extent feasible. Utilities shall be tied to the underside of the bridge to avoid trenching within the wetland. Any areas of wetland subject to temporary impacts during construction shall be restored to prior conditions or better. No net loss of wetlands shall occur, either in quality or size.
 - d. Prior to the issuance of any building permit reliant upon this Coastal Development Permit, an active management plan shall be developed for the Bishop pine forest in order to provide for the long-term health of the forest habitat. The active management plan shall be prepared by a qualified ecologist and approved by the California Department of Fish and Wildlife, and shall include: invasive species removal, pampas grass within the wetland shall be the highest priority for removal; a regular understory management regimen to facilitate the growth of new recruits; identification, removal, and prevention of pathogens killing Bishop pine trees and other native flora; and active management to maintain rare plant habitat quality in the wetlands. The active management plan shall also include a monitoring plan and performance criteria to measure success of management activities. The least number of healthy trees practicable shall be removed to accommodate development.
 - e. Clearing of vegetation and initiation of construction shall be done in the non-breeding bird season, between September and January. If this cannot be done, preconstruction breeding bird surveys shall be conducted with 14 days prior to the onset of construction with the

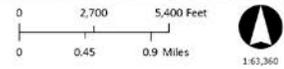
results submitted to the Department of Planning and Building Services. If birds are discovered the recommendations of the Report of Compliance shall be followed.

- f. Preconstruction bat surveys shall be required if work or vegetation removal is conducted between November 1st and August 31st. If bats are discovered the recommendations of the Report of Compliance shall be followed.
 - g. Landscaping on the parcel shall not include any invasive plants and shall consist of native plants compatible with the adjacent plant communities.
 - h. Any bare soil created by the construction phase of the project shall be re-vegetated with native vegetation appropriate to the habitat in the surrounding area. Erosion control best management practices (BMPs) detailed in the Erosion Control Plan for the project shall be followed.
 - i. Two weeks prior to construction, contractors shall be trained in the identification of California red-legged frog and shall follow the recommendations of the Report of Compliance for visual inspection of the work site during construction activities. If a rain event occurs, all construction shall cease for a period of 48 hours after the rain stops.
 - j. A Sonoma tree vole survey shall be conducted within two weeks prior to tree removal activities. The results of the survey shall be submitted to the Department of Planning and Building Services. If Sonoma tree voles are discovered the recommendations of the Report of Compliance shall be followed.
13. The Grading Plan, stamped received March 12, 2015, shall be adhered to during grading activities on the site. Any additional requirements that may result from the building permit process shall be required during any construction activities on the site.
14. The Erosion Control Plan, stamped received March 12, 2015, shall be adhered to during any construction activities on the site. Any additional requirements that may result from the building permit process shall be required during any construction activities on the site.
15. Prior to final inspection of a building permit in reliance on this Coastal Development Permit, Planning and Building Services shall inspect the construction of the single family residence and associated development to ensure the utilized materials and colors are consistent with the proposed project materials and colors in **Table 2**.
16. Any change to exterior lighting (either fixture or location) from what is shown on the elevations for the single family residence, included as part of the record, shall be reviewed and approved by the Coastal Permit Administrator for the life of the development.
- **17. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2260.25 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within 5 days of the end of any appeal period. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**



CASE: CDP 2012-0017
 OWNER: SCHWAGER, Guido & Jeannie
 APN: 143-050-04
 APLT: Michael Barron-Wike
 ADDRESS: 33100 S. Hwy. 1, GU

-  Coastal Zone Boundary
-  Major Towns & Places
-  Major Rivers
-  Highways
-  Major Roads



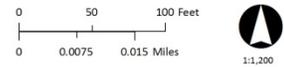
LOCATION MAP

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



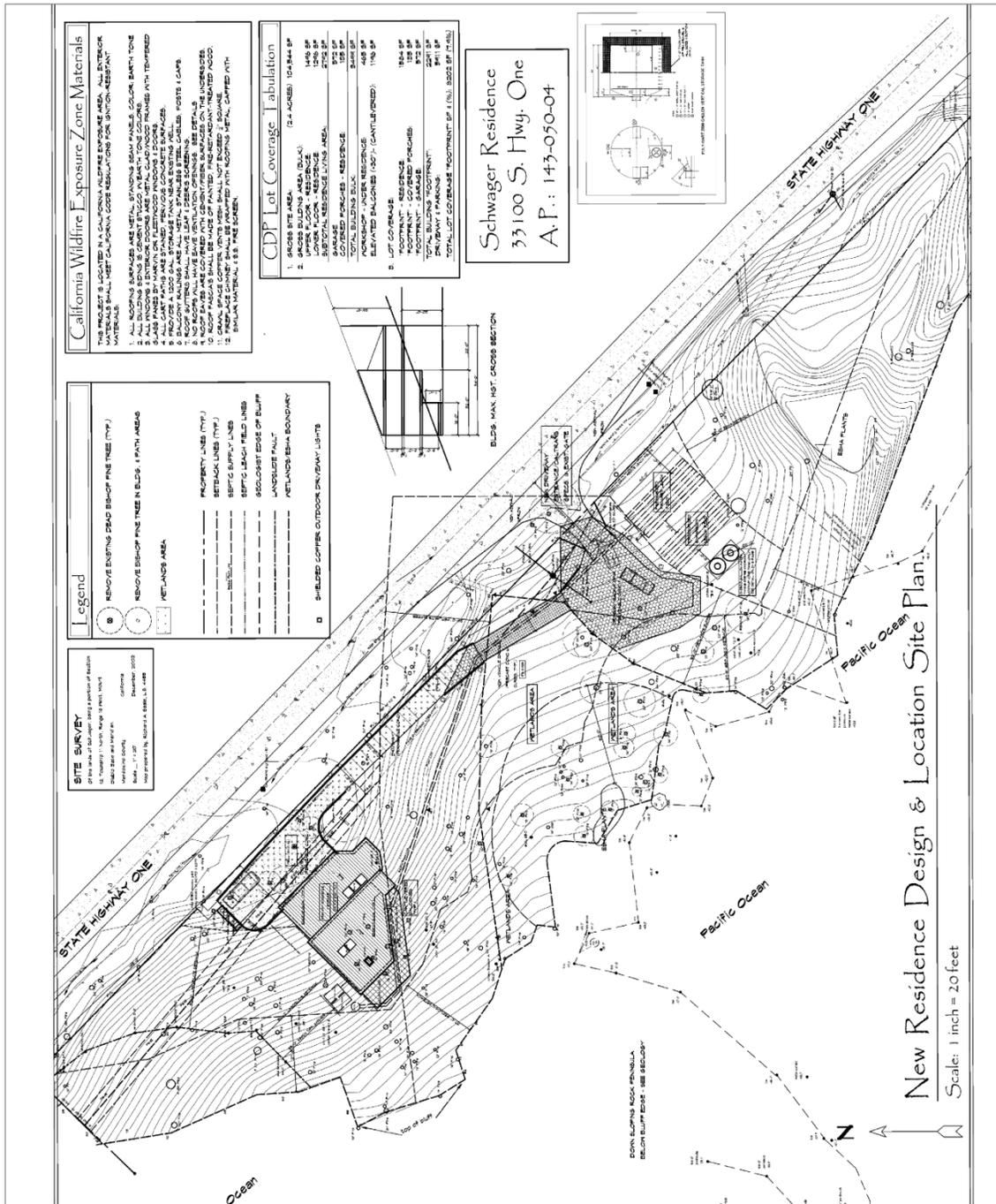
CASE: CDP 2012-0017
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ADDRESS: 33100 S. Hwy. 1, GU

Public Roads



GOOGLE EARTH IMAGERY
IMAGERY DATE: 8-17-2013

Map produced by the Mendocino County Planning & Building Services, July, 2015
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California Wildfire Exposure Zone Materials

THE PROJECT IS LOCATED IN A CALIFORNIA WILDFIRE EXPOSURE AREA. ALL EXTERIOR MATERIALS SHALL MEET CALIFORNIA CODE REGULATIONS FOR WILDFIRE-RESISTANT MATERIALS.

1. ALL ROOFING SURFACES ARE METAL STANDING SEAM PANELS, COLOR: BATHY TONE
2. ALL BUILDING SIDES TO EXPOSED WINDS TO BE FINISHED WITH 1/2" THICK CONCRETE SLABS FINISHED WITH POLYURETHANE FINISH OR FIBERGLASS AND GEL COAT FINISH.
3. EXTERIOR WALLS TO BE FINISHED WITH 1/2" THICK CONCRETE SLABS FINISHED WITH POLYURETHANE FINISH OR FIBERGLASS AND GEL COAT FINISH.
4. ROOF SYSTEM SHALL HAVE LIGHT GREEN METAL PANELS WITH 1/2" THICK CONCRETE SLABS FINISHED WITH POLYURETHANE FINISH OR FIBERGLASS AND GEL COAT FINISH.
5. ROOF FLASHING SHALL BE MADE OF PAINTED, FIRE-RESISTANT-TREATED ALUMINUM.
6. EXTERIOR WALLS SHALL BE FINISHED WITH 1/2" THICK CONCRETE SLABS FINISHED WITH POLYURETHANE FINISH OR FIBERGLASS AND GEL COAT FINISH.
7. EXTERIOR WALLS SHALL BE FINISHED WITH 1/2" THICK CONCRETE SLABS FINISHED WITH POLYURETHANE FINISH OR FIBERGLASS AND GEL COAT FINISH.
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CDP Lot Coverage Tabulation

1. GROSS INT. AREA	10,844 SF
2. GROSS BUILDING AREA (BULK)	10,844 SF
3. COVERED PORCHES - RESIDENCE	1,000 SF
4. COVERED PORCHES - GARAGE	1,000 SF
5. COVERED PORCHES - OTHER	1,000 SF
6. TOTAL BUILDING BULK	13,844 SF
7. DECKS	1,000 SF
8. PATIOS	1,000 SF
9. TOTAL DECKS & PATIOS	2,000 SF
10. TOTAL LOT COVERAGE	15,844 SF
11. TOTAL LOT COVERAGE FOOTPRINT (F.F.) (UNPAVED)	15,844 SF
12. TOTAL LOT COVERAGE FOOTPRINT (F.F.) (PAVED)	15,844 SF
13. TOTAL LOT COVERAGE FOOTPRINT (F.F.) (TOTAL)	15,844 SF

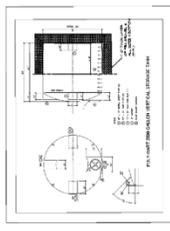
Legend

- 9. REMOVE EXISTING DEAD BRUSH PINE TREE (TYP.)
- 10. REMOVE EXISTING PINE TREE IN BLUFF, 1' PATH WIDTH
- NET-LANDS AREA
- PROPERTY LINE (TYP.)
- SETBACK LINE (TYP.)
- SEPTIC LEACH FIELD LINE
- SEPTIC LEACH FIELD END OF BLUFF
- SEPTIC LEACH FIELD END OF BLUFF
- LANDSCAPE PAULT
- NET-LANDS BOUNDARY
- SHIELDS COPPER OUTDOOR AMBIENT LIGHTS

SITE SURVEY

DATE: 11/14/12
 PROJECT: 33100 S. HWY. ONE, GU
 DRAWN BY: MICHAEL BARRON-WIKE
 CHECKED BY: MICHAEL BARRON-WIKE
 DATE: 11/14/12

Schwager Residence
 33100 S. Hwy. One
 A.P.: 143-050-04



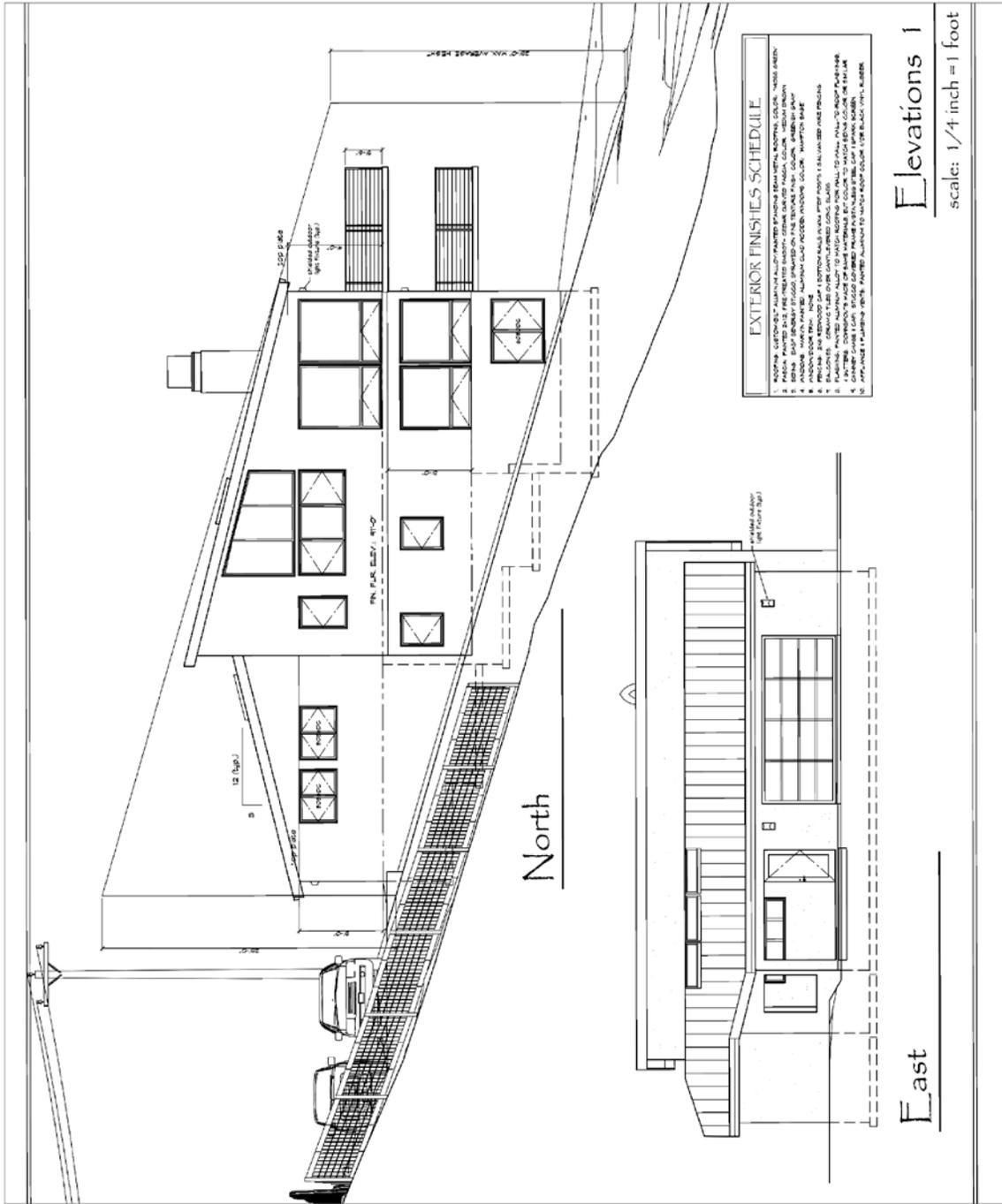
New Residence Design & Location Site Plan
 Scale: 1 inch = 20 feet

CASE: CDP 2012-0017
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NO SCALE

ESRI IMAGERY

Map produced by the Mendocino County Planning & Building Services, March, 2016
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Elevations 1

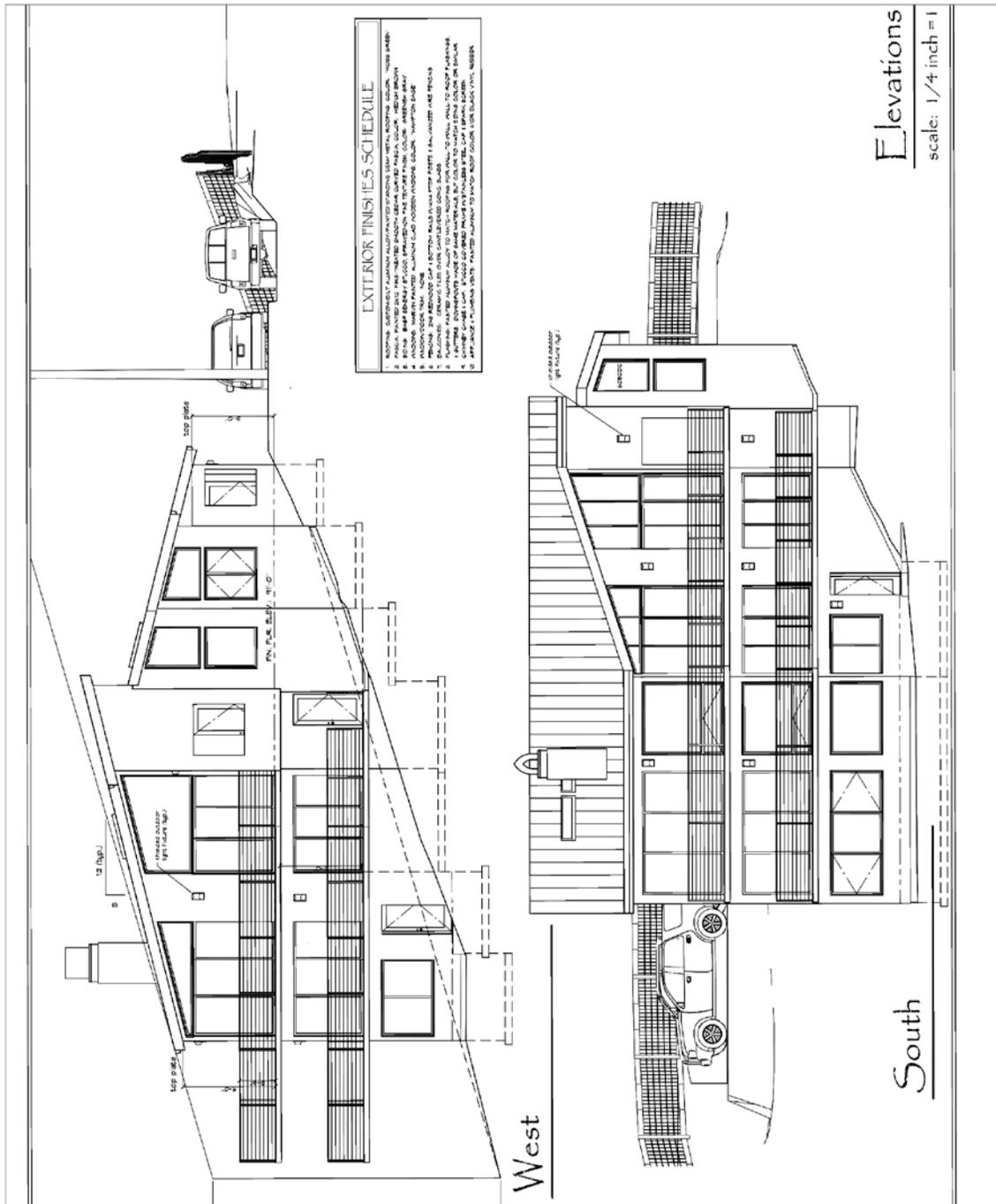
scale: 1/4 inch = 1 foot

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NO SCALE

ELEVATIONS 1

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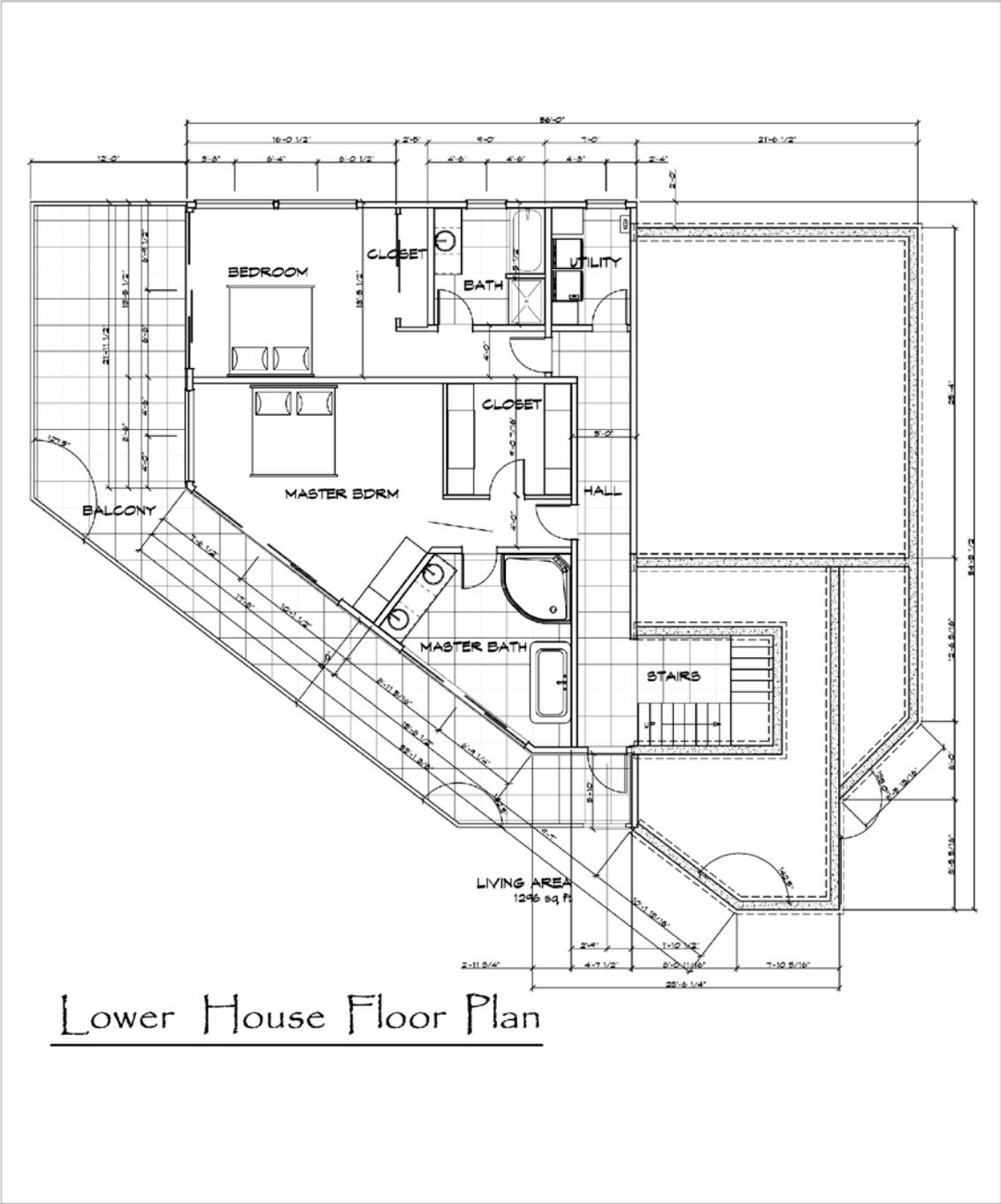


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NO SCALE

ELEVATIONS 2

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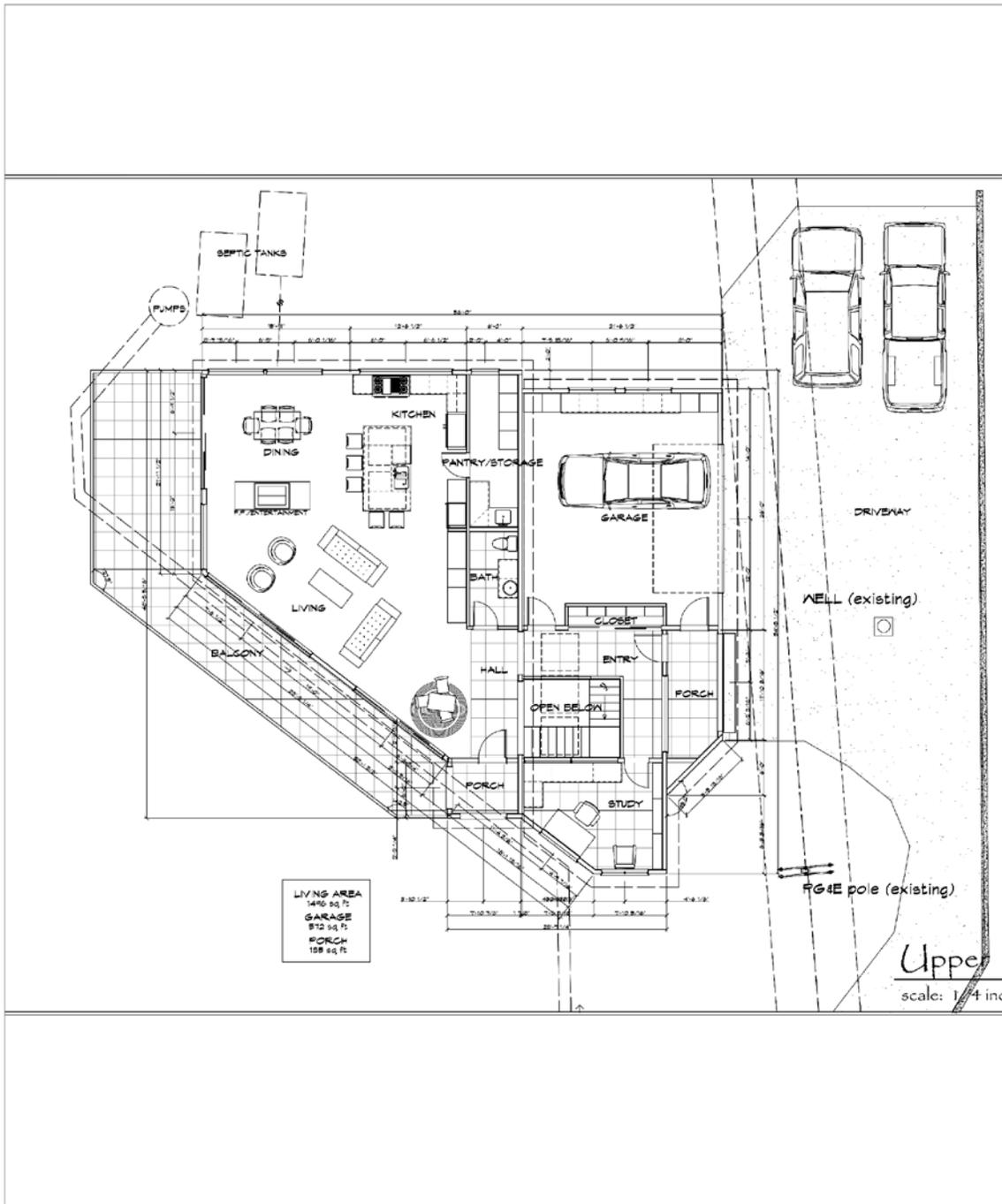
Lower House Floor Plan

CASE: CDP 2012-0017
OWNER: SCHWAGER, Guido & Jeannie
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NO SCALE

LOWER FLOOR PLAN

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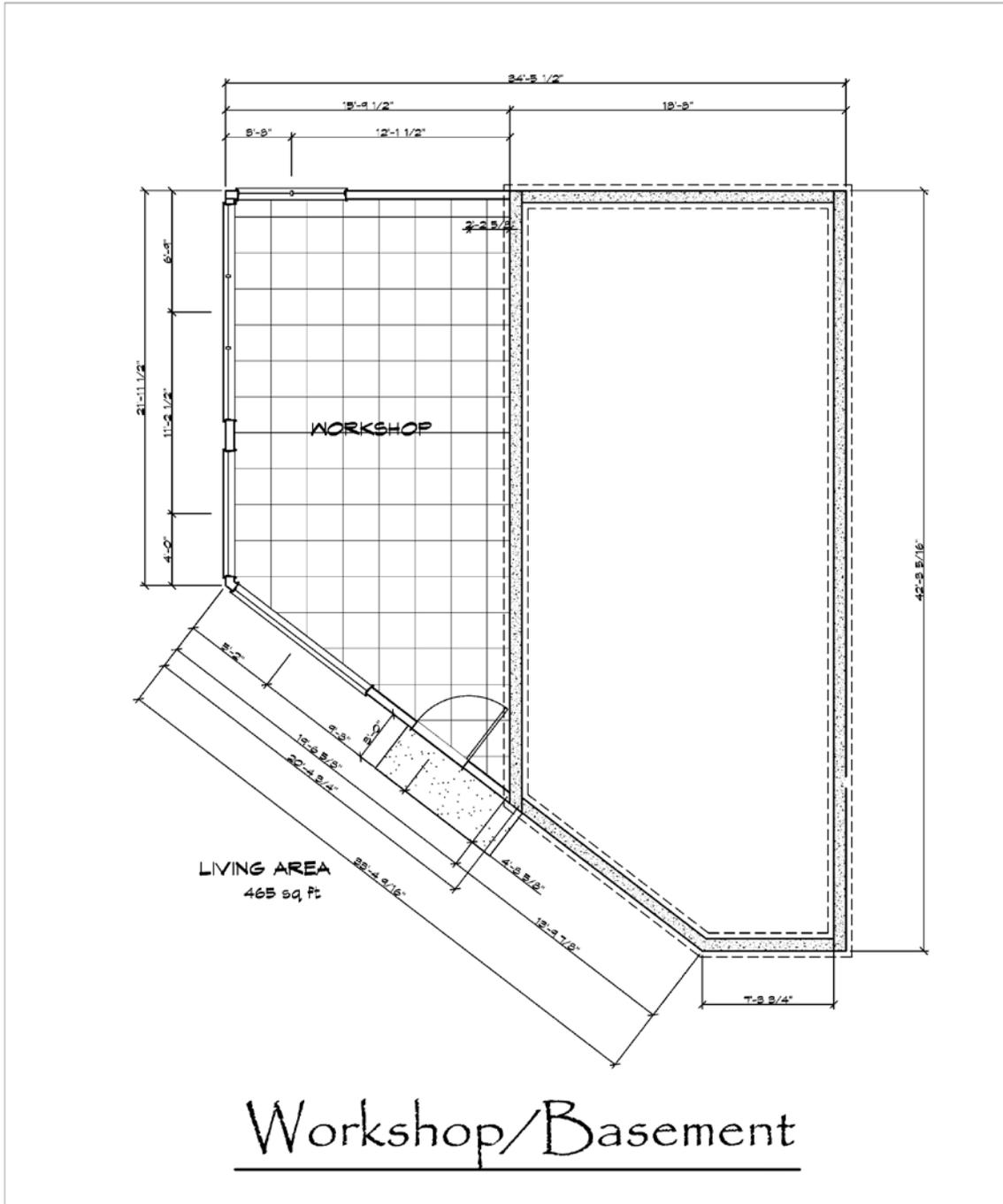


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NO SCALE

UPPER FLOOR PLAN

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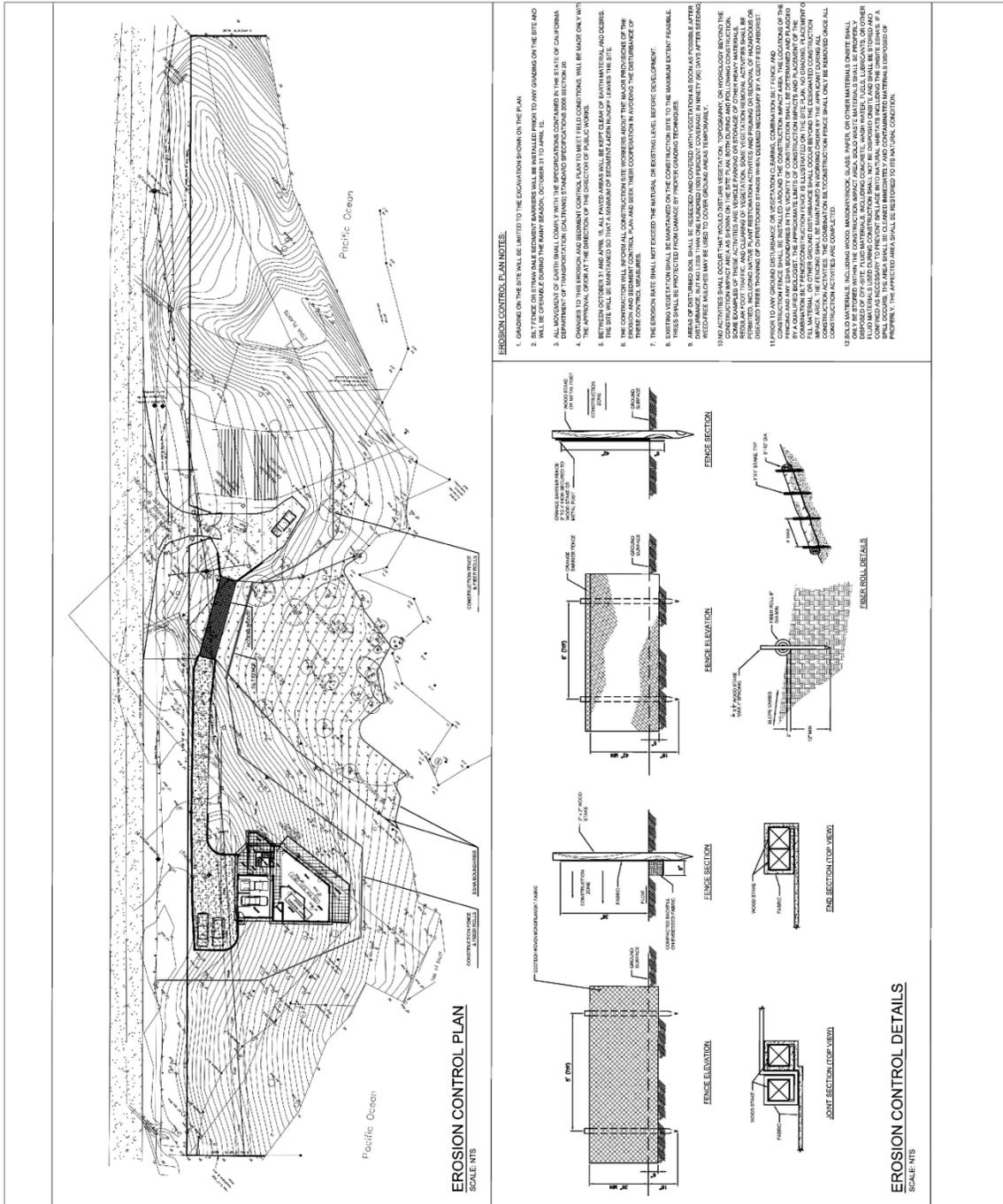


CASE: CDP 2012-0017
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NO SCALE

WORKSHOP FLOOR PLAN

Map produced by the Mendocino County Planning & Building Services, March, 2016
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- EROSION CONTROL PLAN NOTES.**
1. GRADING ON THE SITE WILL BE LIMITED TO THE EXCAVATION SHOWN ON THE PLAN.
 2. EROSION CONTROL BARRIERS SHALL BE INSTALLED PRIOR TO ANY GRADING ON THE SITE AND SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.
 3. ALL WORK SHALL COMPLY WITH THE SPECIFICATIONS CONCERNING THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) STANDARD SPECIFICATIONS DIVISION 20.
 4. CHANGES TO THIS EROSION AND SEDIMENT CONTROL PLAN TO MEET FIELD CONDITIONS, WILL BE MADE ON A WORK ORDER APPROVED BY THE DIRECTOR OF PUBLIC WORKS.
 5. THE APPROVAL OF THIS EROSION AND SEDIMENT CONTROL PLAN DOES NOT CONSTITUTE AN ENDORSEMENT OF THE CONSTRUCTION SITE WORKERS ABOUT THE MAJOR PROVISIONS OF THE EROSION AND SEDIMENT CONTROL PLAN AND DOES NOT CONSTITUTE AN ENDORSEMENT OF THESE CONTROL MEASURES.
 6. THE CONSTRUCTION SHALL MAINTAIN THE EXISTING EROSION CONTROL MEASURES THROUGHOUT CONSTRUCTION.
 7. THE EROSION RATE SHALL NOT EXCEED THE NATURAL OR EXISTING LEVEL BEFORE DEVELOPMENT.
 8. EXISTING VEGETATION SHALL BE MAINTAINED ON THE CONSTRUCTION SITE TO THE MAXIMUM EXTENT FEASIBLE. TREES SHALL BE PROTECTED FROM DAMAGE BY PROPER GRADING TECHNIQUES.
 9. AREAS OF DISTURBED SOIL SHALL BE RESEEDING COVERED WITH VEGETATION AS SOON AS POSSIBLE AFTER CONSTRUCTION. RESEEDING SHALL BE DONE WITHIN 30 DAYS AFTER SEEDING.
 10. WEED-FREE ZONES MAY BE USED TO COVER URBAN AREAS, TEMPORARILY.
 11. NO ACTIVITIES SHALL OCCUR THAT WOULD DISTURB VEGETATION, TOPOGRAPHY, OR HYDROLOGY BEYOND THE CONSTRUCTION ZONE.
 12. SOME EXAMPLES OF THESE ACTIVITIES ARE: VEHICLE PARKING OR STORAGE OF OTHER HEAVY MATERIALS, STORAGE OF FERTILIZERS, PESTICIDES, AND OTHER CHEMICALS, STORAGE OF FERTILIZERS, PESTICIDES, AND OTHER CHEMICALS, STORAGE OF FERTILIZERS, PESTICIDES, AND OTHER CHEMICALS, STORAGE OF FERTILIZERS, PESTICIDES, AND OTHER CHEMICALS.
 13. DISPERSED TREE TRIMMING OF OVERLOOKED STAMPS WHEN EXEMPT NECESSARY BY A CERTIFIED ARBORIST.
 14. FERTILIZERS AND PESTICIDES SHALL BE STORED IN A SECURE, LOCKED, AND PROTECTED AREA.
 15. FERTILIZERS AND PESTICIDES SHALL BE STORED IN A SECURE, LOCKED, AND PROTECTED AREA.
 16. FERTILIZERS AND PESTICIDES SHALL BE STORED IN A SECURE, LOCKED, AND PROTECTED AREA.
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EROSION CONTROL PLAN
SCALE: NTS

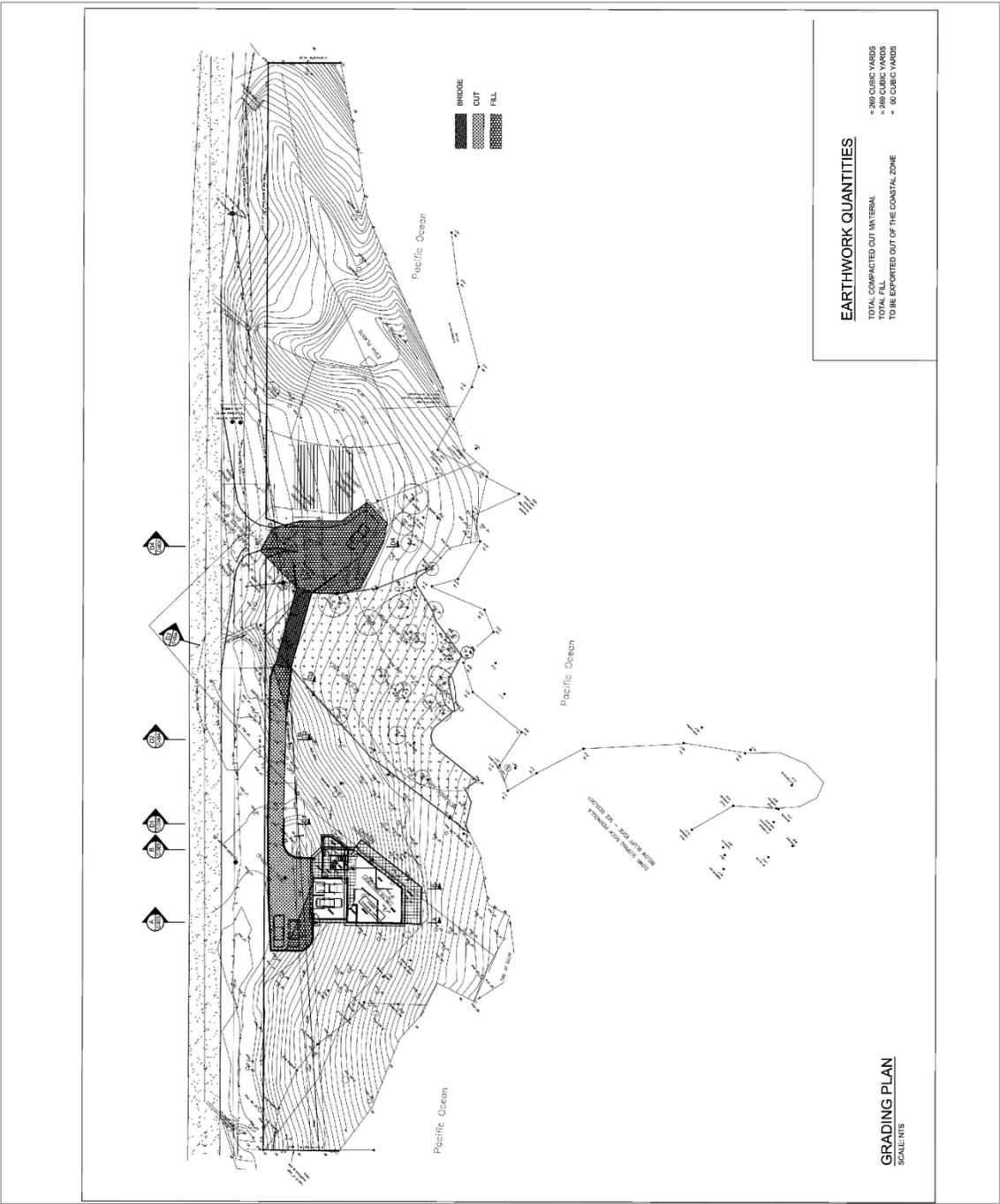
EROSION CONTROL DETAILS
SCALE: NTS

CASE: CDP 2012-0017
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NO SCALE

EROSION CONTROL PLAN

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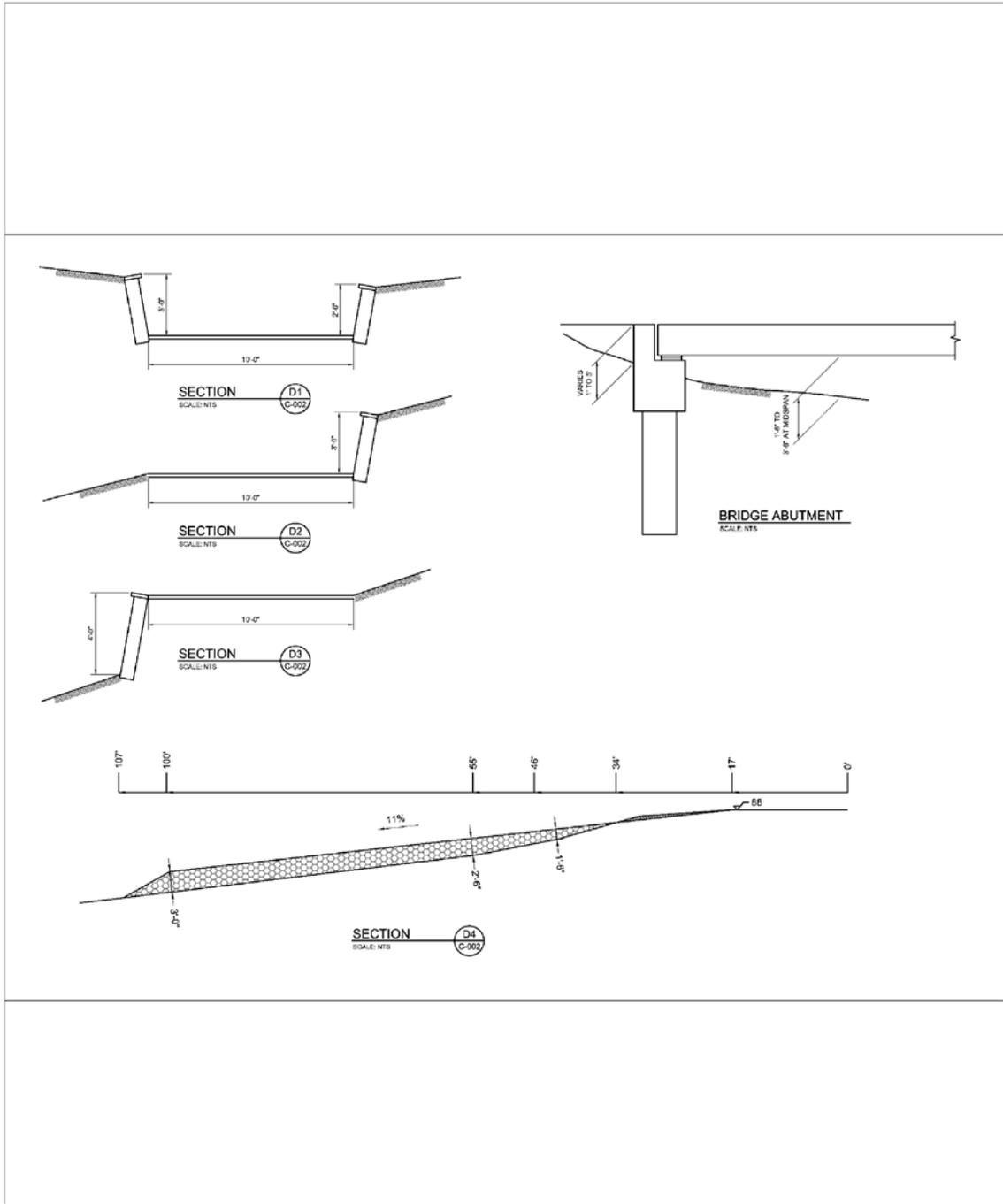


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GRADING PLAN

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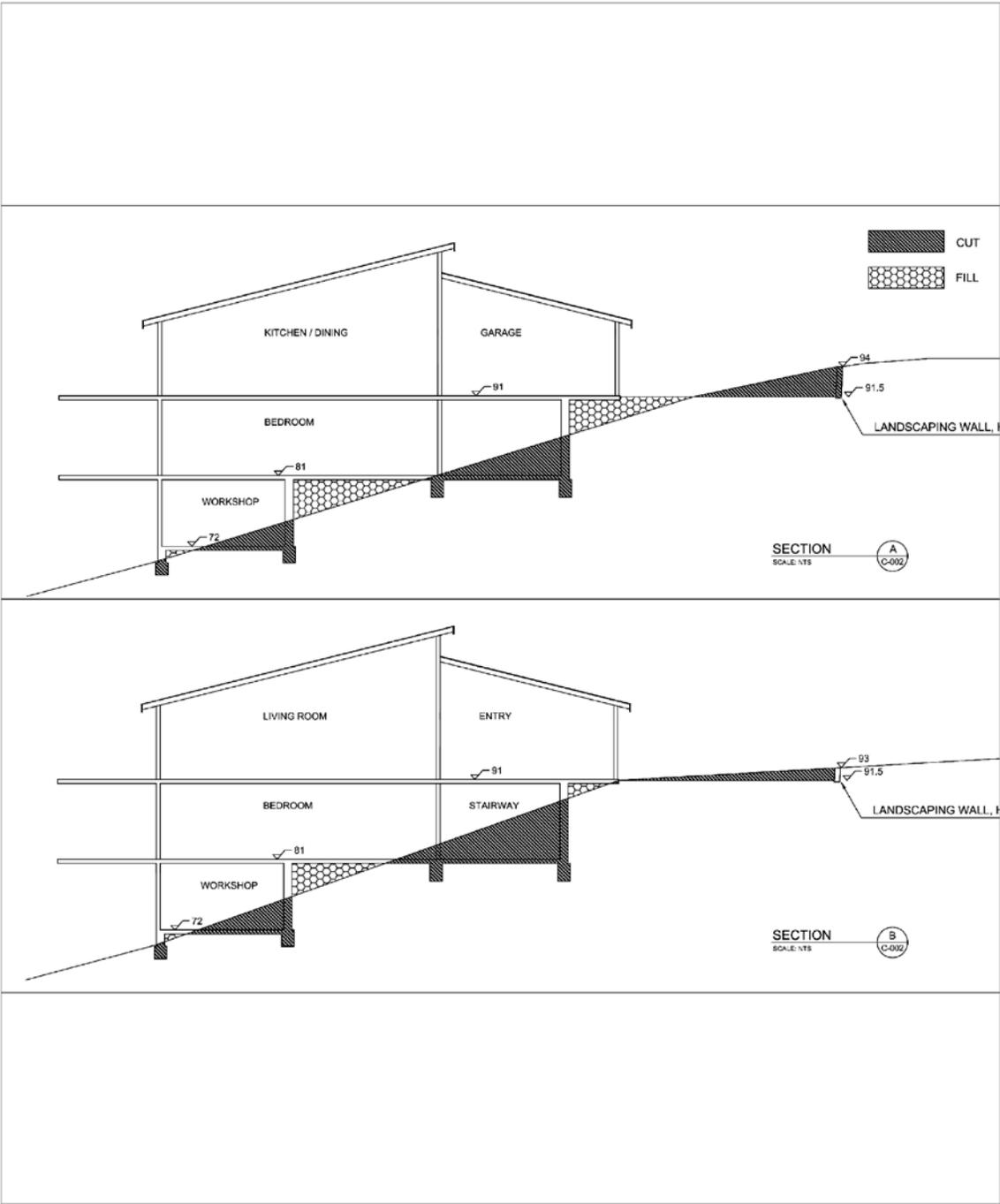


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NO SCALE

GRADING SECTIONS

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STRUCTURE SECTIONS

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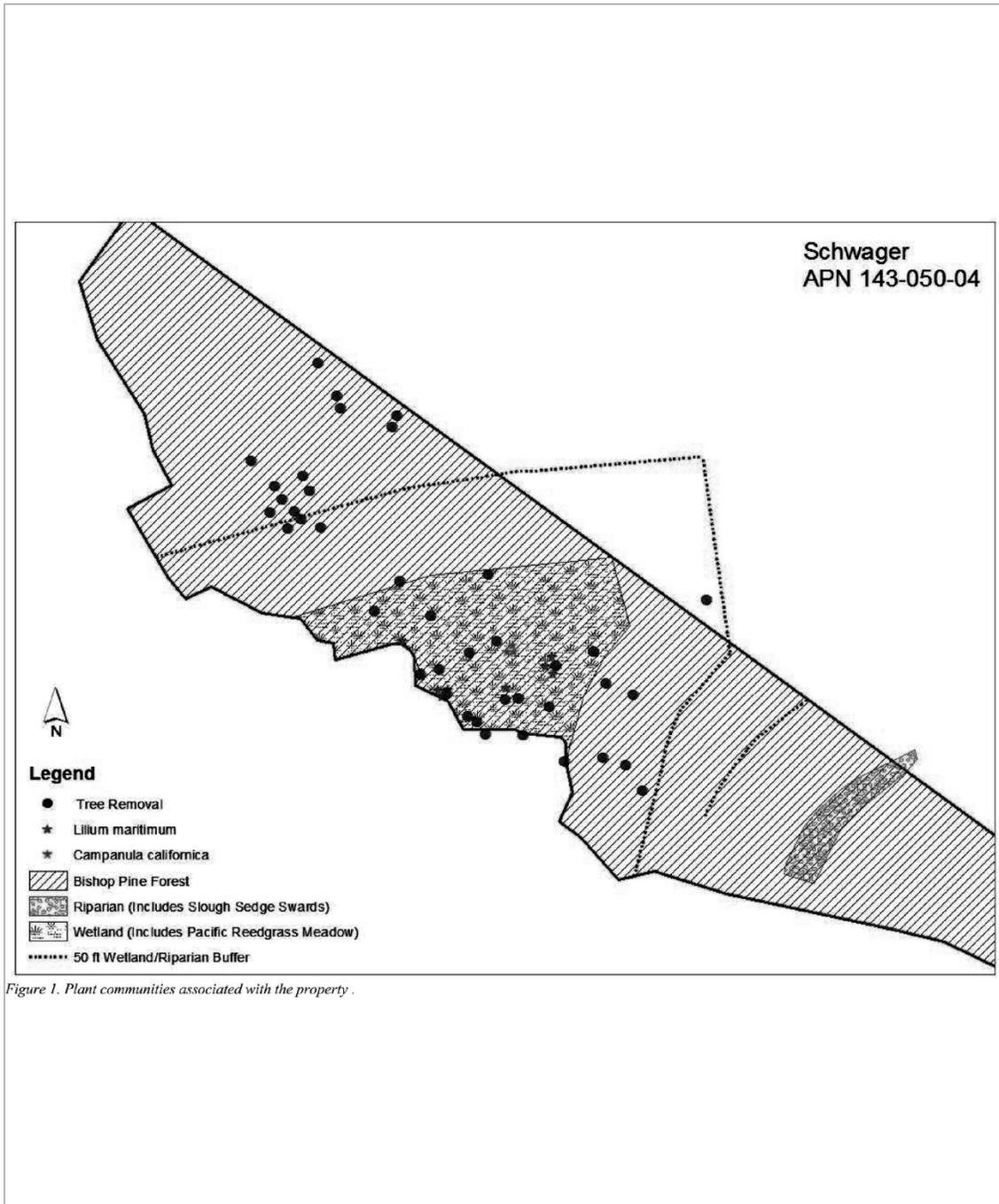


Figure 1. Plant communities associated with the property.

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PLANT COMMUNITIES

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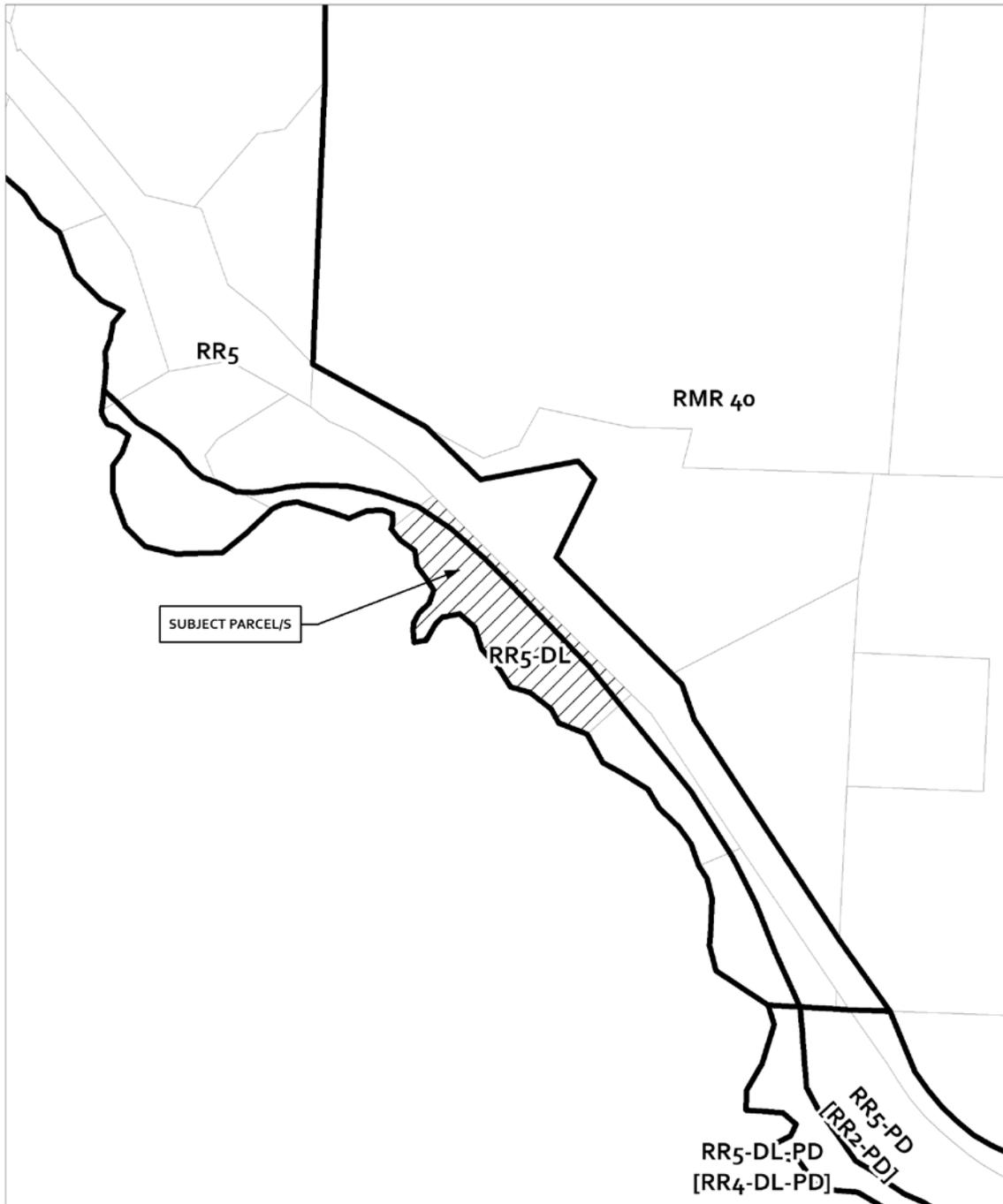
Figure 16. ESHA and geotechnical constraints of the project site.

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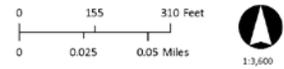
SITE CONSTRAINTS

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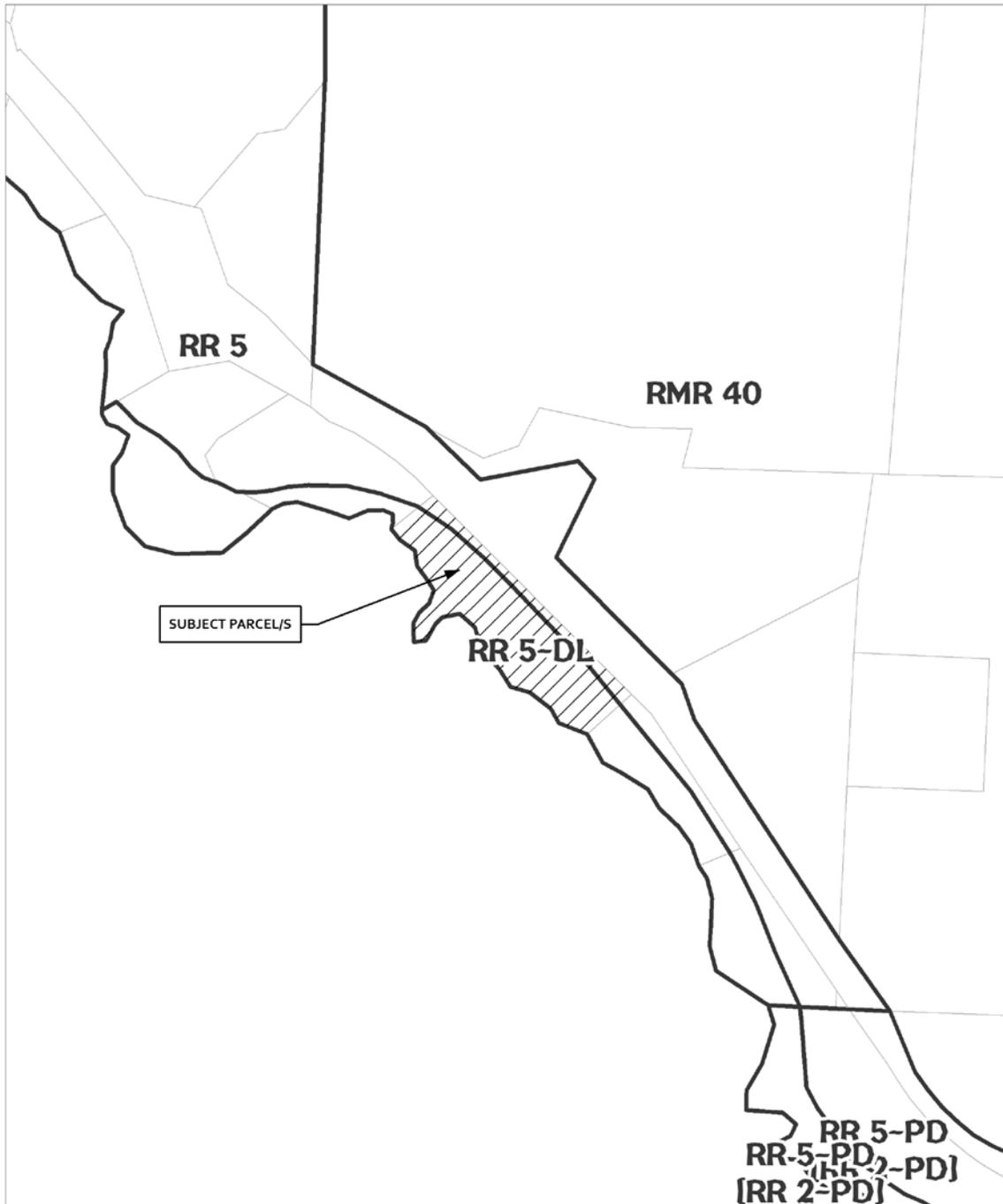
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 Zoning Master



ZONING DISPLAY MAP

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

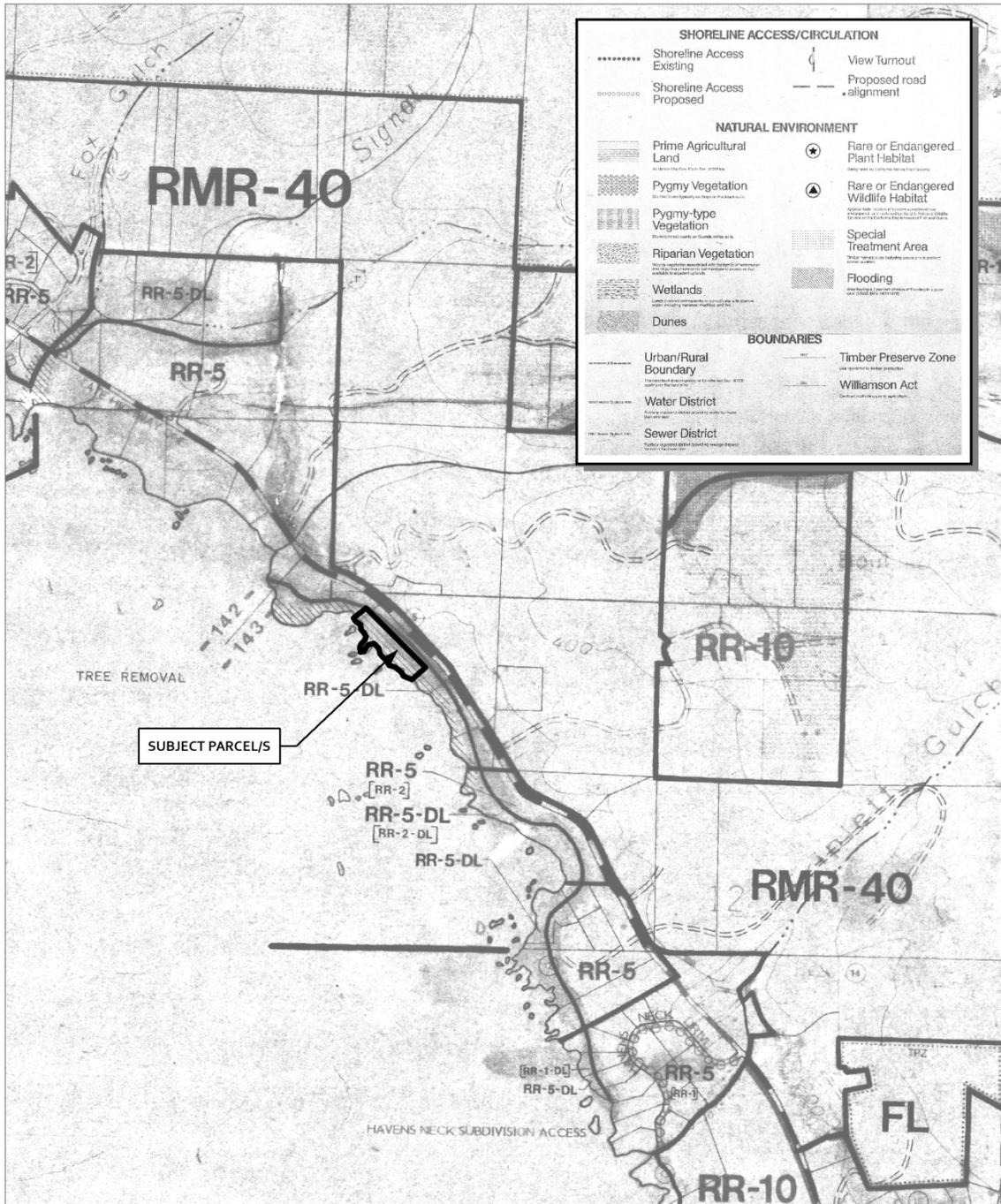


CASE: CDP 2012-0017
OWNER: SCHWAGER, Guido & Jeannie
APN: 143-050-04
APLT: Michael Barron-Wike
ADDRESS: 33100 S. Hwy. 1, GU

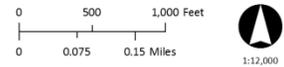
 General Plan Master

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

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

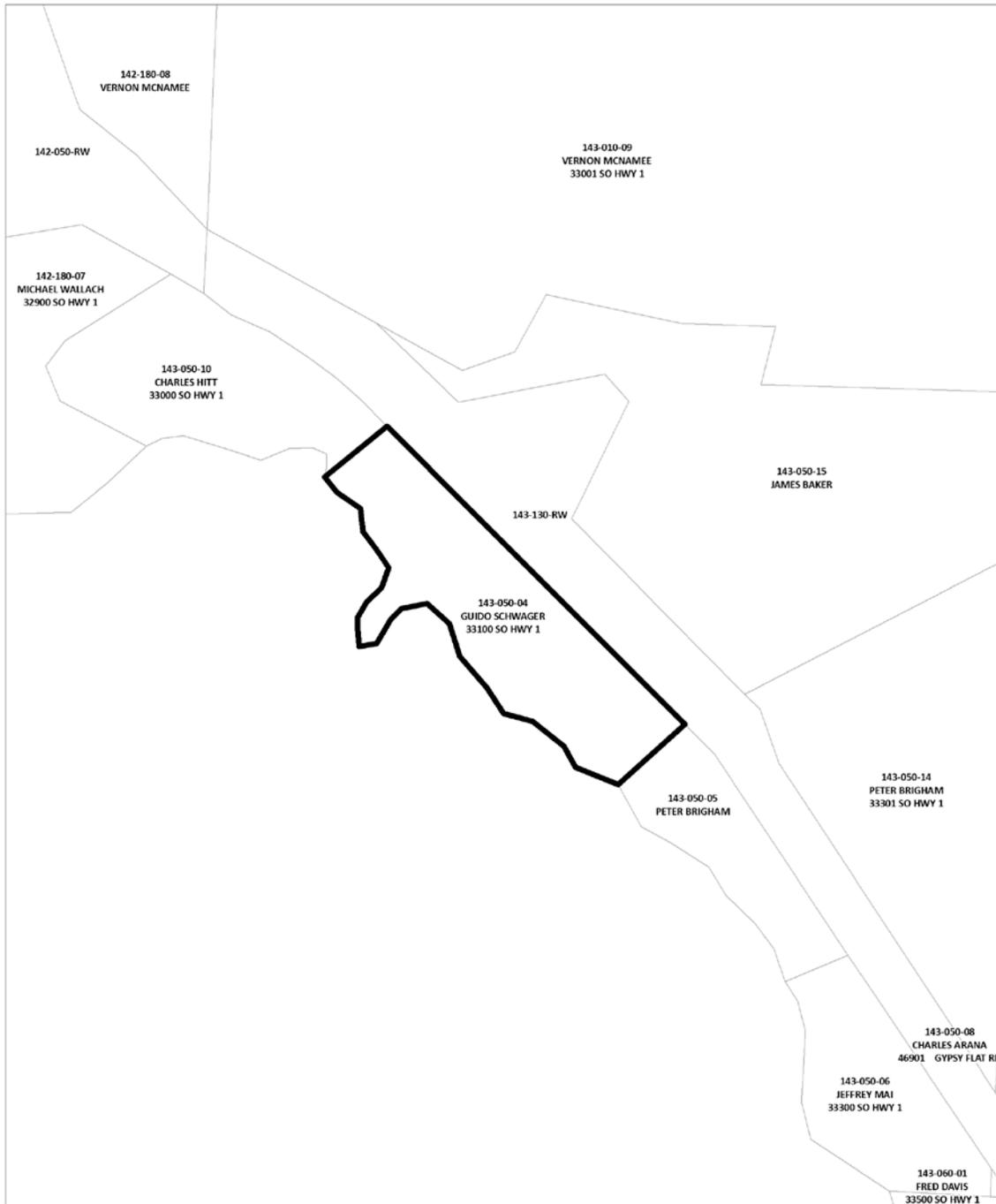


CASE: CDP 2012-0017
 OWNER: SCHWAGER, Guido & Jeannie
 APN: 143-050-04
 APLT: Michael Barron-Wike
 ADDRESS: 33100 S. Hwy. 1, GU

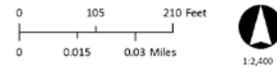


LCP MAP 30: ANCHOR BAY

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

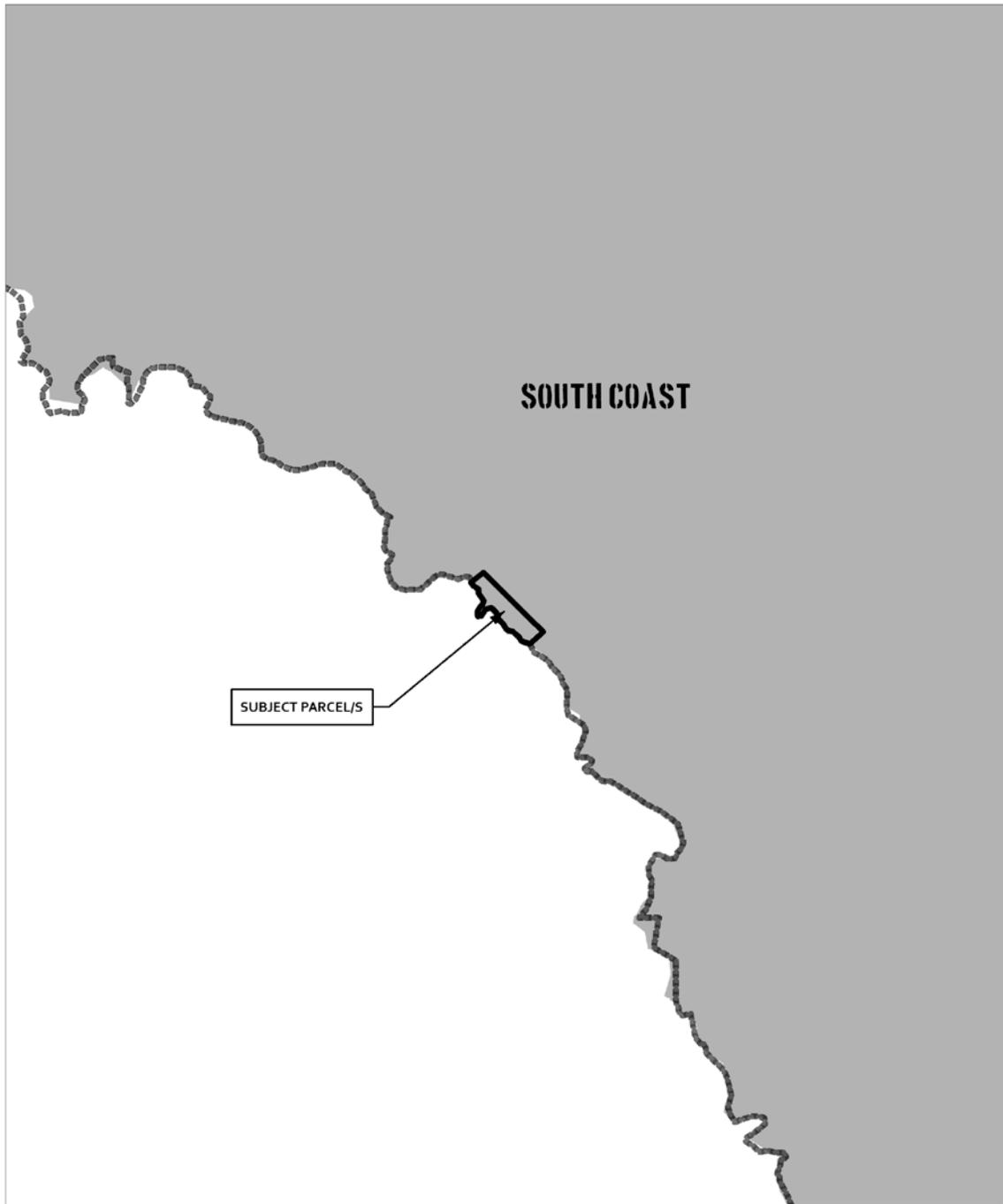


CASE: CDP 2012-0017
OWNER: SCHWAGER, Guido & Jeannie
APN: 143-050-04
APLCT: Michael Barron-Wike
ADDRESS: 33100 S. Hwy. 1, GU



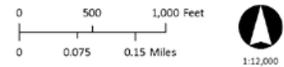
ADJACENT PARCELS

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



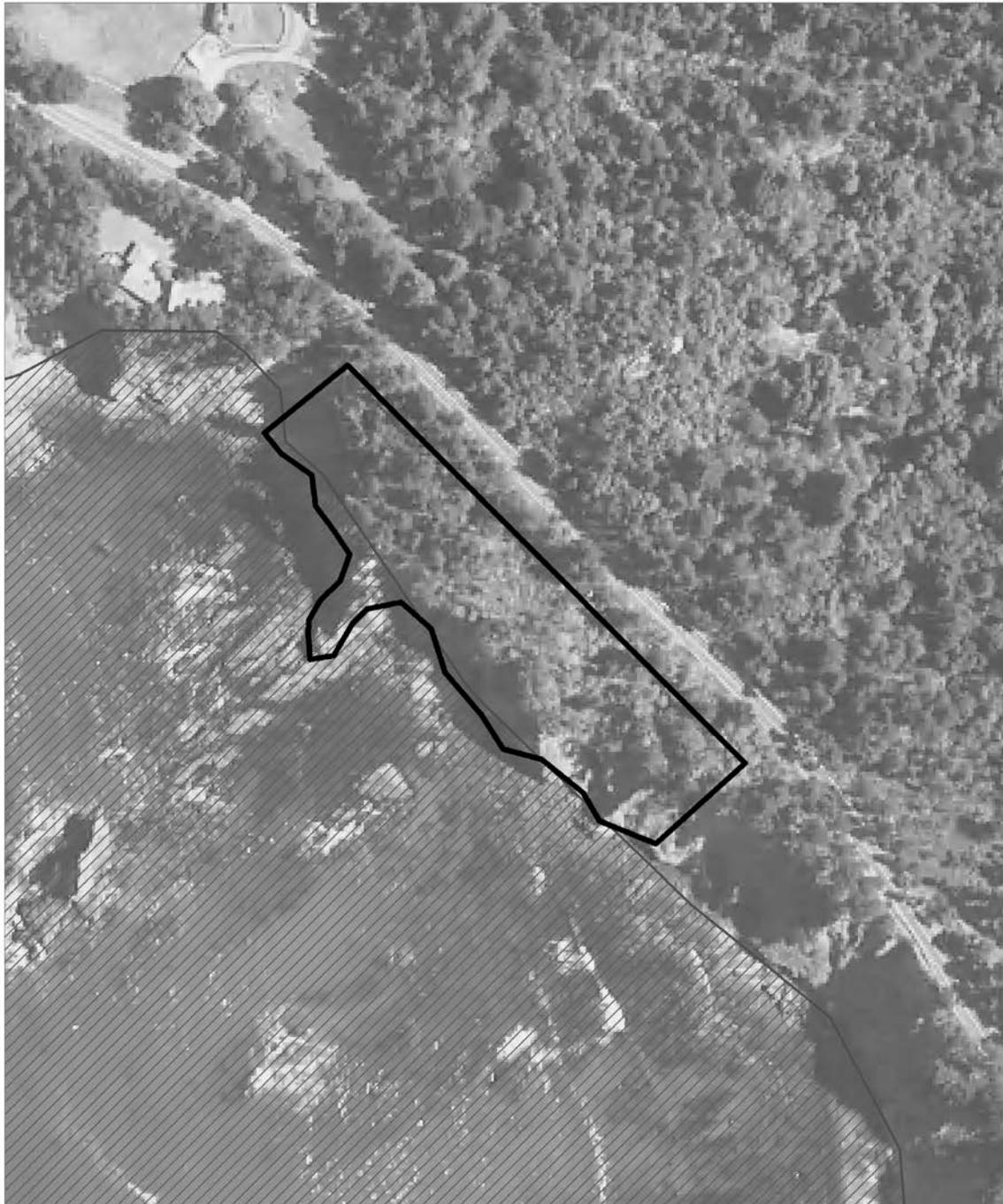
CASE: CDP 2012-0017
OWNER: SCHWAGER, Guido & Jeannie
APN: 143-050-04
APLT: Michael Barron-Wike
ADDRESS: 33100 S. Hwy. 1, GU

 High Fire Hazard

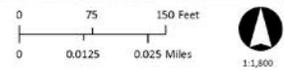


FIRE HAZARD ZONES & RESPONSIBILITY AREAS
STATE RESPONSIBILITY AREA

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

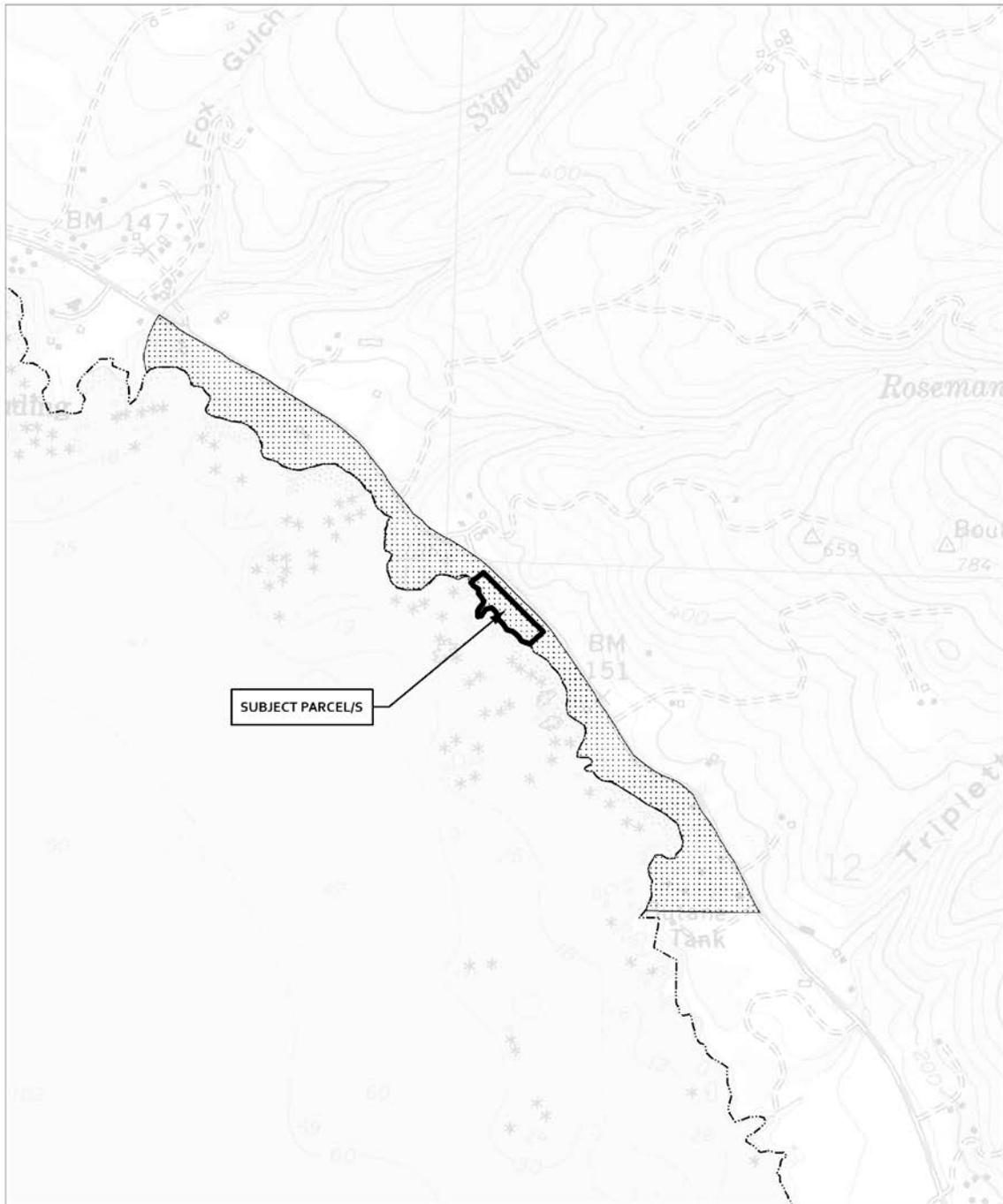


CASE: CDP 2012-0017
OWNER: SCHWAGER, Guido & Jeannie
APN: 143-050-04
APLT: Michael Barron-Wike
ADDRESS: 33100 S. Hwy. 1, GU



FEMA FLOOD ZONE
NFIP MAPS, JUNE 21st, 2011

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



CASE: CDP 2012-0017
OWNER: SCHWAGER, Guido & Jeannie
APN: 143-050-04
APLCT: Michael Barron-Wike
ADDRESS: 33100 S. Hwy. 1, GU

 Tree Removal Area

HIGHLY SCENIC & TREE REMOVAL AREAS

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

TAKINGS ANALYSIS

CDP_ 2012-0017

APRIL 28, 2016

TAKINGS ANALYSIS (Exhibits 6 – 11):

We recognize that this proposal is not consistent with the County's Local Coastal Program requirements, due to the fact that the parcel is 100% ESHA and it is impossible to develop outside of ESHA or ESHA buffer. We believe, however, that this project is an approvable project based on our Takings Analysis, presented below. We understand that the County may approve a project that is not consistent with the LCP if it can be found that a Regulatory Takings would occur if the project was not approved.

- a. *Parcel Created:*
 - i. The parcel was created on July 9, 1964 (**Exhibit 6**).
- b. *When the property was acquired, and from whom (Exhibit 7):*
 - i. Purchased June 6, 2000.
 - ii. From Daniel Ralston Caldwell, a married man and Sara Field Caldwell, an unmarried woman
- c. *Purchase price paid for the property:*
 - i. \$295,000
- d. *The fair market value of the property at the time it was acquired and the basis upon which fair market value was derived:*
 - i. \$295,000.
 - ii. The property was listed on the open market; fair market value was based on realtor comparables of the surrounding market.
- e. *Whether a general plan, zoning, or similar land use designations applicable to the property changed since the time the property was purchased:*
 - i. There have been no changes to the General Plan, Zoning or similar land use designations since the time the property was purchased.
 - ii. However, there have been changes to the interpretation of the ESHA policies since the time the property was purchased. In 2005, the County of Mendocino began expanding the previously short list of Rare Plant Communities to be protected as ESHA, beginning with the Coastal Terrace Prairie. In 2007, the County began including Northern Bishop Pine Forest (NBPF) as ESHA. While NBPF was present on the parcel when the applicants made their purchase, declaration of NBPF as a Rare Plant Community ESHA to avoid did not occur until afterward their purchase.
- f. *At the time the property was purchased, or at any subsequent time, whether the project [has] been subject to any development restriction(s) (e.g., restrictive covenants, open space easements, etc.), other than the land use designations referred to in the preceding question:*
 - i. No.
- g. *Whether the size or use of the property changed in any way since it was purchased:*
 - i. No.
- h. *A copy of any title report, litigation guarantee or similar document that might have been prepared in connection with all or a portion of the property, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc):*

- i. A Preliminary Title Report was prepared for the purchase of the property, dated December 30, 1999, by First American Title Company (**Exhibit 8**).
- i. *The approximate date and offered price of any offers to buy all or a portion of the property since the time the applicants purchased the property:*
 - i. There have been no offers to buy all or a portion of the property since the time the applicants purchased the property.
- j. *The costs associated with ownership of the property for the last five calendar years.*

These costs should include, but not necessarily be limited to, the following:

 - i. *Property taxes*
 - ii. *Property assessments*
 - iii. *Debt service, including mortgage and interest costs*
 - iv. *Operation and management costs*
 1. The applicant has expended nearly \$875,000 for purchasing and pursuing an approvable development on this parcel.
 2. See "Expenses Related to the Purchase & Improvement of the Property" (**Exhibit 9**).
- k. *Whether apart from any rent received from leasing all or a portion of the property, current or past use of the property generates any income:*
 - i. There has never been any income in any form generated from this property since the applicants made their purchase.
- l. *Submittal of County Parcel and House Size Data for Surrounding Permitted Developments (Reasonable Expectation to Build):*
 - i. The applicant had a reasonable expectation to build a house and related development on the subject property, and at the building footprint and size that is currently being proposed.
 - ii. We have extensively reviewed the County records from the Tax Assessor and the Planning and Building Services Department to document the total ground cover square footages of the homes and garages and appurtenant development (as available) that were present at the time the property was purchased. We reviewed data for parcels of the same zoning designation as the subject parcel (RR-5) that are west of Highway 1 and located on bluff top parcels (**Exhibit 10**).
 1. The homes in the surrounding area are too numerous to include copies of the county records. Extensive research was conducted to obtain the data presented, which we have documented in **Exhibit 11**. Not all records on file at the County have comprehensive information.
 2. Please see Summary of Surrounding Development, below (**Table 3**), which was utilized to determine the sizing of the Proposed Alternatives. The average building footprint in the surrounding area is 2,350sf, while the average for post Local Coastal Program residences in the surrounding area is 2,020sf; driveway data was not available in the County records. The proposed project maintains 2,291sf of building

footprint and minimizes the driveway footprint to the greatest extent feasible.

Table 3: Summary of Surrounding Development

qty parcels	PARCELS	YEAR	LOT SIZE	SFR	FOOTPRINT	STORIES	GAR	SHEDS	TOTAL STRUCTURE	FOOTPRINT
62	all years	all	2.80	2,086	1,043		642	665	3,393	2,350
13	post MCZ	1992+	1.29	1,842	921		743	356	2,941	2,020
SCHWAGER GOAL		2014	2.4	2,500	1,250	2	400	500	3,400	2,150

BOOK 666 PAGE 410

21015

Application No. U-22874

JOINT TENANCY DEED

JAMES F. MCNAMEE aka JAMES FRANCIS MCNAMEE and RUTH N. MCNAMEE, husband and wife

hereby do GRANT to

ALSO KNOWN AS KATHERINE FIELD CALDWELL JAMES R. CALDWELL and KATHERINE P. CALDWELL, husband and wife WELL

In Joint Tenancy, all that real property situated in the

County of Mendocino

State of California, described as follows:

From the NW corner of Section 12, Township 11 North, Range 16 West, Mount Diablo Meridian, proceed South 70° 46' 36" East 350.22 feet to a point on the Southwesterly right of way line of State Highway 1 opposite Station 363+95.24, said point being the point of beginning of the parcel to be conveyed hereby; thence South 44° 15' 30" West 68.90 feet to an iron pipe near the top of the bluff; thence continuing South 44° 15' 30" West 80 feet to the line of mean high water of the Pacific Ocean; thence meandering said line of mean high water in a general Southeasterly direction to a point that lies South 44° 15' 30" West 166 feet, more or less, from a point on the Southwesterly line of State Highway 1, opposite Engineer's Station 357+15.20; thence North 44° 15' 30" East 166 feet to said point on the Southwesterly line opposite Engineer's Station 357+15.20; thence along the Southwesterly line of said Highway 1, North 45° 44' 30" West 680.04 feet to the point of beginning. Containing 3.2 acres, more or less.



Dated: 7/8/64

James F. McNamee (James F. McNamee) Ruth N. McNamee (Ruth N. McNamee)

21015 SOLELY FOR RECORDERS USE COMPARED RECORDED AT REQUEST OF REDWOOD EMPIRE TITLE COMPANY... STATE OF CALIFORNIA COUNTY OF Mendocino On July 8, 1964 Joan L. Stornetta a Notary Public in and for said County and State, personally appeared James F. McNamee aka James Francis McNamee and Ruth N. McNamee known to me to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same. WITNESS my hand and official seal. (S) Joan L. Stornetta Notary Public My Commission Expires Feb. 6, 1967

BOOK 666 PAGE 410

Exhibit 6

Order No.
Escrow No. 25930
Loan No.



2000-09783
Page: 1 of 4

WHEN RECORDED MAIL TO:

Guido A. Schwager and Jeannie E. Schwager
18257 Las Cumbres Rd.
Los Gatos, CA 95030-9407

	\$20.00 PAID
X	PCO FILED
	Exempt

2000-09783
Recorded at the request of
FIRST AMERICAN TITLE CO.
06/21/2000 10:37A
Fee: 16.00 No of Pages: 4

OFFICIAL RECORDS
Mendocino County, CA
Marsha A Wharff Clk-Recorder

DOCUMENTARY TRANSFER TAX \$ 324.50

SPACE ABOVE THIS LINE FOR RECORDER'S USE

X Computed on the consideration or value of property conveyed; OR
___ Computed on the consideration or value less liens or
encumbrances remaining at time of sale.

As declared by the undersigned Grantor
Signature of Declarant or Agent determining tax - Firm Name

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Daniel Ralston Caldwell, a married man and Sara Field Caldwell, an unmarried woman

hereby GRANT(S) to

Guido A. Schwager and Jeannie E. Schwager, husband and wife, as Joint Tenants

the real property
County of

Unincorporated Area
Mendocino

State of California, described as

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

Dated June 6, 2000

STATE OF ^{Colorado} CALIFORNIA }
COUNTY OF La Plata (Daniel) } ss.

x Daniel Ralston Caldwell

Daniel Ralston Caldwell

Sara Field Caldwell

Sara Field Caldwell

On June 6, 2000 before me,

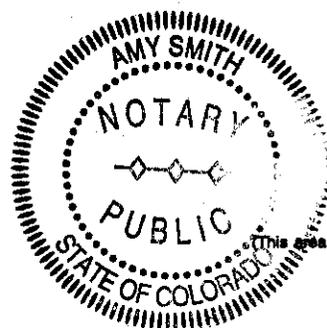
Amy Smith
personally appeared Daniel Ralston Caldwell and Sara Field Caldwell

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument. WITNESS my hand and official seal.

Signature Amy Smith exp 9/17/03

MAIL TAX STATEMENTS TO:

SAME AS ABOVE



(This area for official notarial seal)

Exhibit 7



STATE OF CALIFORNIA }
COUNTY OF Alameda }ss.

On June 13, 2000 before me, notary, personally appeared Sara Field Caldwell

~~personally known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Cara D. Turchie



(This area for official notarial seal)

Title of Document: Grant Deed
Date of Document: June 6, 2000 No. of Pages: 2
Other signatures not acknowledged: Daniel Ralston Caldwell



Order No. 25930 JG

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Mendocino, and is described as follows:

From the NW corner of Section 12, Township 11 North, Range 16 West, Mount Diablo Meridian, proceed South 70°46'36" East, 350.22 feet to a point on the Southwesterly right of way line of State Highway 1 opposite Station 363+95.24, said point being the point of beginning of the parcel to be conveyed hereby; thence South 44°15'30" West, 68.90 feet to an iron pipe near the top of the bluff; thence continuing South 44°15'30" West, 80 feet to the line of mean high water of the Pacific Ocean; thence meandering said line of mean high water in a general Southeasterly direction to a point that lies South 44°15'30" West, 166 feet, more or less, from a point on the Southwesterly line of State Highway 1, opposite Engineer's Station 357+15.20; thence along the Southwesterly line of said Highway 1, North 44°15'30" East 166 feet to said point on the Southwesterly line opposite Engineer's Station 357+15.20; thence North 45°44'30" West 680.04 feet to the point of beginning.

APN 143-050-04

2000-09783
Page: 3 of 4

ILLEGIBLE NOTARY CERTIFICATION AND SEAL DECLARATION

Government Code Section 27361.7

Fill in all applicable information and print "N/A" for any items not required.

State of Colorado

County of ~~San~~ La Plata

Name of Notary Amy Smith

Place of Notary's Oath/Bond State of Colorado
(County in the seal)

Commission I.D. Number N/A

Commission Expiration Date 9-17-03

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. (CCP 2015.5)

Executed at Ukiah, California, on 6-21-00
(Name of City) (Date)

Date 6-21-00

By Kelley Macmillan
(Signature)

For First American Title
(Firm Name)

Fill in all applicable information and print "N/A" for any items not required.

State of _____

County of _____

Name of Notary _____

Place of Notary's Oath/Bond _____
(County in the seal)

Commission I.D. Number _____

Commission Expiration Date _____

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. (CCP 2015.5)

Executed at _____, California, on _____
(Name of City) (Date)

Date _____

By _____
(Signature)

For _____
(Firm Name)

illeg.sel



2000-09783
Page: 4 of 4

Exhibit 7



*First American
Title Company*

PRELIMINARY REPORT

EXHIBIT A
LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS (By Policy Type)

1. CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990
SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notice of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims, (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof, (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land, (ii) the character, dimensions or location of any improvement now or hereafter erected on the land, (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part, or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant,
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
 Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by their policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

2. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970
SCHEDULE OF EXCLUSIONS FROM COVERAGE

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions of area of the land, or the effect of any violation of any such law, ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant, (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.

3. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970
WITH REGIONAL EXCEPTIONS

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 2 above are used and the following exceptions to coverage appear in the policy:

SCHEDULE B

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

Part One:

- Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
 Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
 Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public
 5. Unpatented mining claims, reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
 6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.



FIRST AMERICAN TITLE COMPANY OF MENDOCINO COUNTY
FIRST LOOK CHECKLIST

PLEASE CALL YOUR ESCROW OFFICER IF YOUR ANSWER IS
YES TO ANY OF THE FOLLOWING QUESTIONS

- *Are your principals using a Power of Attorney?
- *Are any of the parties in title Incapacitated or Deceased?
- *Has a change in Marital Status occurred for any of the principals?
- *Will the property be transferred to a new Trust, Partnership or Corporation?
- *Do the sellers of the property reside Out of State?
- *Is the property the subject of an Exchange?

REMEMBER, ALL PARTIES SIGNING DOCUMENTS MUST
HAVE A VALID PHOTO I.D. OR DRIVERS LICENSE

FIRST AMERICAN TITLE COMPANY OF MENDOCINO COUNTY
INFORMATION FOR YOUR SUCCESS

Order No. 25930 JG

PRELIMINARY REPORT

FIRST AMERICAN TITLE COMPANY

38958 Cypress Way, Suite 2
 Post Office Box 709
 Gualala, CA 95445
 (707) 884-4146
 Fax (707) 884-1820

Customer's Reference : Schwager: Guido A. and Jeannie E.
 Escrow Officer : Joy Glaze
 Applicant/Order No. :

In response to the above referenced application for a policy of title insurance, this Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance, describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in Exhibit A attached. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of December 30, 1999 at 7:30 a.m.

The form of policy of title insurance contemplated by this report is:

AMERICAN LAND TITLE ASSOCIATION LOAN POLICY WITH EAGLE PROTECTION ADDED

Title to said estate or interest at the date hereof is vested in:

Daniel Ralston Caldwell, a married man as his sole and separate property, as to an undivided 4/10th interest; Sara Field Caldwell, an unmarried woman, as to an undivided 4/10th interest; and Daniel Ralston Caldwell and Sara Field Caldwell, as tenants in common, as to an undivided 2/10th interest

The estate or interest in the land hereinafter described or referred to covered by this Report is:

A FEE

Exhibit 8

Order No. 25930 JG

at the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions contained in said policy form would be as follows:

1. **County Taxes** for the fiscal year 1999-2000, are as follows:

Assessors Parcel Number :	143-050-04		
Tax Code Area:	052-002	Rate:	\$1.000
First Installment:	\$619.39		Paid
Second Installment:	\$619.39		Not due but payable
Land Value:	\$120,478.00		
Improvements:	None		
Personal Property:	None		
Exemptions:	None		
Assessed:	Separately		

2. **The Lien of Supplemental Taxes** assessed pursuant to Chapter 3.5, Commencing with Section 75 of the California Revenue and Taxation Code.

3. Public Rights of Navigation, whether for recreation or commercial purposes over the waters of Pacific Ocean.

4. **A WAIVER OF ANY CLAIMS** for damages to the herein described property by reason of the location, construction, landscaping and maintenance of a Freeway and/or Highway contiguous thereto, as contained in the Deed to the State of California.

Recorded: November 1, 1940

Book 144 of Official Records at page 166, Records of Mendocino County, California.

5. **EASEMENT** over the herein described property, as granted

To: The State of California

Recorded: May 27, 1988

Book 1687 of Official Records at page 399, Records of Mendocino County, California.

Grants Easement for drainage and incidental purposes.

6. **ANY COMMUNITY INTEREST** of the spouse of any married vestee herein. **Note** - To eliminate said exception, a statement of identity and or appropriate affidavit will be required to determine marital status.

Order No. 25930 JG

NOTICE

In accordance with the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to three and one-third percent of the sales price in the case of the disposition of California real property interest by either:

1. A seller who is an individual with a last known street address outside of California or when the disbursement instructions authorize the proceeds be sent to a financial intermediary of the seller, OR
2. A corporate seller which has no permanent place of business in California.

The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500.00).

However, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if:

1. The sales price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000), OR
2. The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a resident of California, or if a corporation, has a permanent place of business in California, OR
3. The seller, who is an individual, executes a written certificate, under the penalty of perjury, that the California real property being conveyed is the seller's principal residence (as defined in Section 1034 of the Internal Revenue Code).

There have been no deeds recorded within the last six months prior to the date of this report, affecting the herein described property.

This report is subject to a cancellation charge as required by Sections 12404 et seq., of the Insurance Code of the State of California and Rule No. 2 of Department of Insurance Bulletin No. NS 35 E.F.

Property Address: 33100 South Highway 1, Gualala, CA 95445 as disclosed by Assessor's Tax Roll.

Short Term rate does not apply.

CT/mh/p00

Order No. 25930 JG

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Mendocino, and is described as follows:

From the NW corner of Section 12, Township 11 North, Range 16 West, Mount Diablo Meridian, proceed South $70^{\circ}46'36''$ East, 350.22 feet to a point on the Southwesterly right of way line of State Highway 1 opposite Station 363+95.24, said point being the point of beginning of the parcel to be conveyed hereby; thence South $44^{\circ}15'30''$ West, 68.90 feet to an iron pipe near the top of the bluff; thence continuing South $44^{\circ}15'30''$ West, 80 feet to the line of mean high water of the Pacific Ocean; thence meandering said line of mean high water in a general Southeasterly direction to a point that lies South $44^{\circ}15'30''$ West, 166 feet, more or less, from a point on the Southwesterly line of State Highway 1, opposite Engineer's Station 357+15.20; thence along the Southwesterly line of said Highway 1, North $44^{\circ}15'30''$ East 166 feet to said point on the Southwesterly line opposite Engineer's Station 357+15.20; thence North $45^{\circ}44'30''$ West 680.04 feet to the point of beginning.

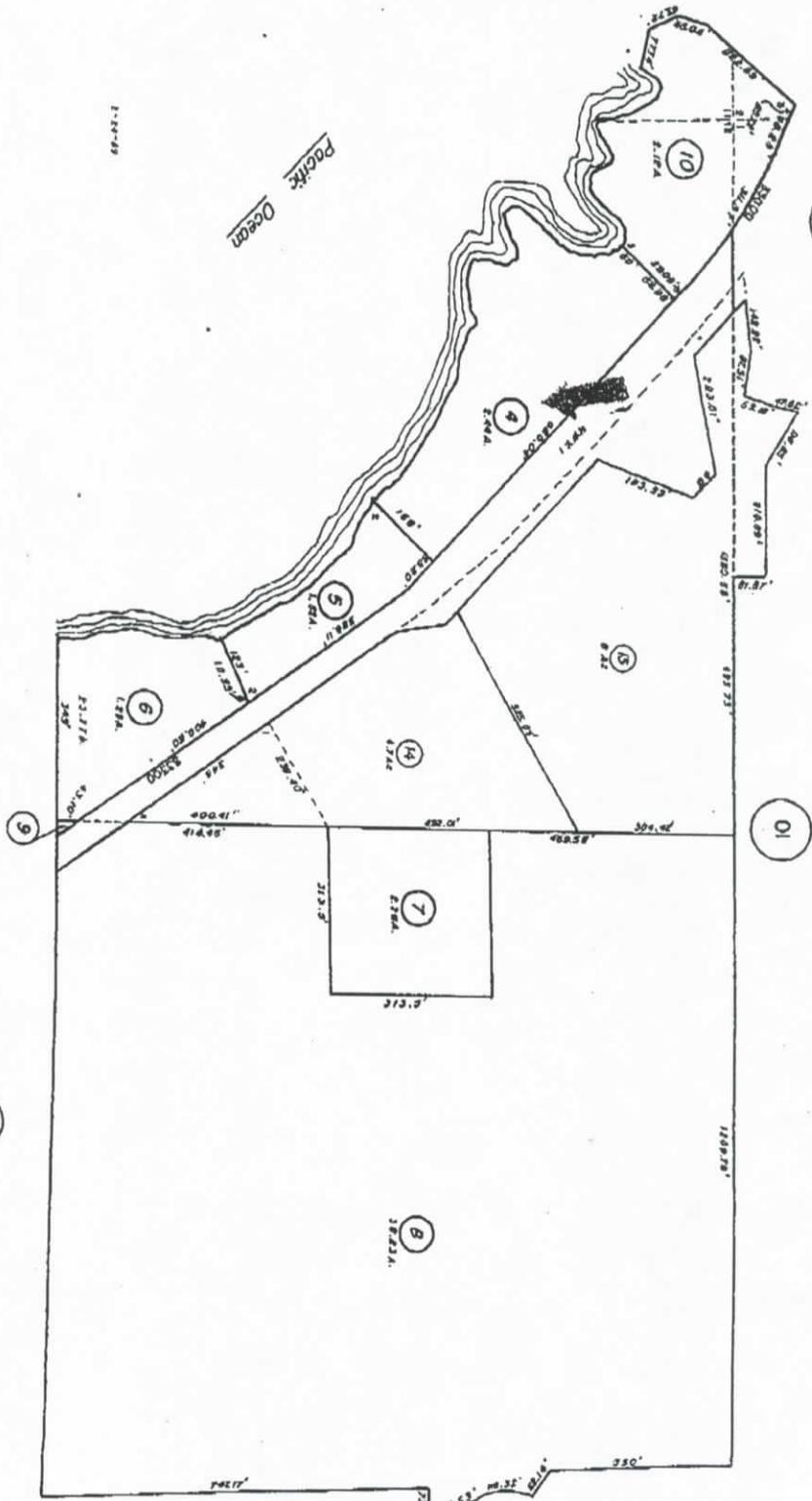
APN 143-050-04

N $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 12 T 11 N R 16 W, MDBBM
Lots 1, 2 & 3 of Cliff Dweller's Sub.

52-002

05

BK 142
18



This map may or may not be a survey of the land depicted herein. You should not rely upon it for any purpose other than orientation to the general location of the parcel or parcels depicted. First American expressly disclaims any liability for alleged loss or damage which may result from reliance upon this map.

NOTE: This map was prepared for informational purposes only. Its liability is assumed for the date dictated hereon.

Assessor's Map
County of Mendocino, Calif.
March, 1965

06

07

Exhibit 8

**ADDENDUM TO EXHIBIT A
LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS (By Policy Type)**

**11. AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY - 1987
WITH EAGLE PROTECTION ADDED**

EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 - land use;
 - improvements on the land;
 - land division; or
 - environmental protection.

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.

This exclusion does not limit the coverage described in Items 12c and d, 13 and 18 of Covered Title Risks.

2. The right to take the land by condemning it, unless:
 - a notice of exercising the right appears in the public records on the Policy Date; or
 - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking.
3. Title Risks:
 - that are created, allowed, or agreed to by you;
 - that are known to you, but not to us, on the Policy Date—unless they appeared in the public records;
 - that result in no loss to you; or
 - that first affect your title after the Policy Date—this does not limit the coverage described in Items 3b, 8, 17 and 19 of Covered Title Risks.
4. Failure to pay value for your title.
5. Lack of a right:
 - to any land outside the area specifically described and referred to in Item 3 of Schedule A; or
 - in streets, alleys, or waterways that touch your land.

This exclusion does not limit the coverage described in Items 5 and 12a of Covered Title Risks.

**12. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992 WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE
WITH EAGLE PROTECTION ADDED**

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or area of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under insuring provisions 14, 15, 16 and 24 of this policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under insuring provisions 14, 15, 16 and 24 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (this paragraph (d) does not limit the coverage provided under insuring provisions 7, 8, 16, 17, 19, 20, 21, 23, 24 and 25); or
 - (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage
 - (a) usury, except as provided under insuring provision 10 of this policy; or
 - (b) any consumer credit protection or truth in lending law.

6. Taxes or assessments of any taxing or assessment authority which become a lien on the Land subsequent to Date of Policy.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal **PAGE 19** state insolvency, or similar creditors' rights laws, that is based on:
- (a) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (b) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (c) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (i) to timely record the instrument of transfer; or
 - (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.
8. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vested shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided under insuring provision 7.
9. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting title, the existence of which are Known to the Insured at:
- (a) The time of the advance; or
 - (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification.

This exclusion does not limit the coverage provided under insuring provision 7.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Environmental protection liens provided for by the following existing statutes, which liens will have priority over the lien of the Insured Mortgage when they arise: NONE.

13. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992 WITH EAGLE PROTECTION ADDED WITH REGIONAL EXCEPTIONS

When the American Land Title Association loan policy with EAGLE Protection Added is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 12 above are used and the following exceptions to coverage appear in the policy:

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

Part One:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

Part Two:

1. Environmental protection liens provided for by the following existing statutes, which liens will have priority over the lien of the Insured Mortgage when they arise: NONE.

**4. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE
SCHEDULE OF EXCLUSIONS FROM COVERAGE**

PAGE 20

- Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions or area of the land, or the effect of any violation of any such law ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
 3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant, (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy or acquired the insured mortgage and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy (except to the extent insurance is afforded herein as to any statutory lien for labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy).
 4. Unenforceability of the lien of the insured mortgage because of failure of the insured at Date of Policy or of any subsequent owner of the indebtedness to comply with applicable "doing business" laws of the state in which the land is situated.

5. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970 WITH REGIONAL EXCEPTIONS

When the American Land Title Association Lenders Policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy, the exclusions set forth in paragraph 4 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

Part One:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**6. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE
EXCLUSIONS FROM COVERAGE**

- Following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:
1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
 - (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
 2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
 3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the extent insurance is afforded herein as to assessments for street improvements under construction or completed at date of policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
 4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable "doing business" laws of the state in which the land is situated.
 5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
 6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
 7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

7. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992 WITH REGIONAL EXCEPTIONS

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 6 above are used and the following exceptions to coverage appear in the policy.

Exhibit 8

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims, reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

8. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992 EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant,
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy,
 - (c) resulting in no loss or damage to the insured claimant,
 - (d) attaching or created subsequent to Date of Policy, or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer, or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

9. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992 WITH REGIONAL EXCEPTIONS

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 8 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

Part One:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

10. AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY - 1987 EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 - land use
 - improvements on the land
 - land division
 - environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.
This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:
 - a notice of exercising the right appears in the public records on the Policy Date
 - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking.
3. Title Risks:
 - that are created, allowed, or agreed to by you
 - that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
 - that result in no loss to you
 - that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
 - to any land outside the area specifically described and referred to in Item 3 of Schedule A, or
 - in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

Exhibit 8

**Expenses Related to the Purchase and Improvement of the Property
at 33100 South Highway 1, Gualala (APN 143-050-040R)
12/1/14**

Land Cost	
Purchase price	295,000
Interest on loan	39,150
Fees and closing costs	1,817
Real estate taxes	51,330
Lost interest on money	299,632
Subtotal	686,929
Test Well	
Permitting Bud Kemp	1,604
Drill test well Fisch Brothers (Oct. 2000)	3,860
Subtotal	5,464
Architect, Geotechnical & Septic	
Initial project development, Berle Pilsk (2003)	16,727
Geotechnical, Bailey Scientific (2003)	4,931
Septic, design, Dave Miller	3,500
Septic update, Dave Miller, (9-18-12)	547
Geotechnical, BACE (3-22-12)	2,000
Geotechnical, BACE (5-20-11)	5,225
Geotechnical, BACE (8-4-11)	850
Geotechnical, BACE (9-2-11)	1,425
Geotechnical, BACE (pending)	3,800
Architectural, second project design, Michael Barron-Wike, (Dec. 2010)	18,150
Architectural, Michael Barron-Wike (9-2-11)	21,914
Architectural, Michael Barron-Wike (12-23-11)	21,840
Architectural, Michael Barron-Wike (6-26-12)	29,135
Architectural, third project design, Michael Barron-Wike (9-4-14)	4,500
Architectural, Michael Barron-Wike (pending)	4,500
Subtotal	139,044
Land Surveys and Botanical	
Topographic survey, Richard Seale (2002)	2,000
Additional survey and staking, Richard Seale (5-20-11)	3,500
Additional survey, Richard Seale (12-13-12)	750
Additional survey, Richard Seale (1-31-13)	980
Botanical report, William Maslach (2005)	713
Additional botanical report, ASA Spade (6-1-12)	1,155
Botanical report update, ASA Spade (9-10-12)	1,335
Subtotal	10,433
Permit Fees and Resubmittal	
Coastal development permit for test well (April 2000)	460
Environmental Health, septic permit (July 2006)	543
Environmental Health (9-18-12)	296
Environmental Health (11-5-12)	35
Mendocino County, coastal development permit fee (8-6-12)	3,018
Subtotal	4,352
Miscellaneous	
Wynn Coastal Development (3-17-14)	1,511
Wynn Coastal Development (4-3-14)	1,583
Wynn Coastal Development (6-20-14)	393
Wynn Coastal Development (7-25-14)	270
Wynn Coastal Development (8-28-14)	2,503
Wynn Coastal Development (9-26-14)	1,073
Wynn Coastal Development (10-21-14)	885
Owners time for project development and to attend meetings	20,000
Subtotal	28,218
Total Expenditures	874,440

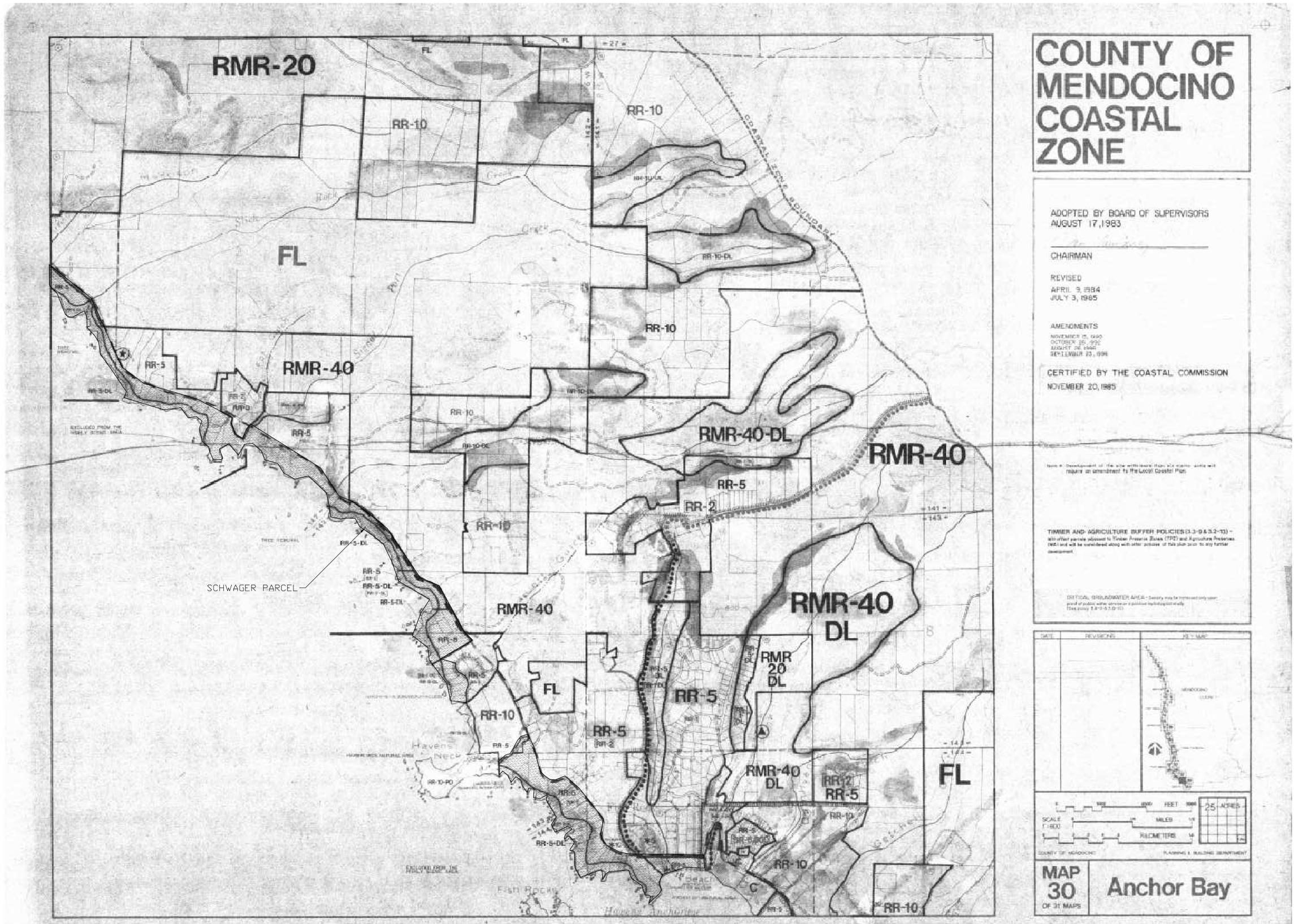


Exhibit 10

SURROUNDING DEVELOPMENT - all parcels with a zoning designation of RR-5, bluff-top

2014.07.31

year approved	APN	STREET #	STREET	NAME	LOT SIZE	orig SFR	ADDITION	TOTAL SFR	FOOTPRINT	BR	STORIES	HT	GAR	STORIES	ATTACHED	CARPORT	SFR+GAR	ADDITIONAL BLDG	BRIDGE	DECK/PATIO	LANDSCAPE	DRIVEWAY	TOTAL STRUCTURE/CCC	CDP	COMMENTS	
2001	142-131-01	31550	S Hwy 1	Waxler	1.3	960	electrical	960			1						960	Cabin							no plot plan	
							2001 bldg permit											2001 bldg permit								
1963	142-151-01	31920	S Hwy 1	Roberson	0.9	902		902									902		DECK	256					no information in file but elec. Bldg w/ no info	
2000	142-151-04	32000	S Hwy 1	Cross	0.83	1700		1700									1700									
							Reroof SFR																			
1978	142-151-06	32100	S Hwy 1	Vannelli	1.81	1300	2000 bldg permit	1300									1300								1978 Plot Plan for 3 SFR	
							#1 SFR bldg permit for reroof 3 SFR's Total																			
1952/1992	142-151-16	32060	S Hwy 1	Pronzini	1.32	1820		515 2335			2						2335								No information	
							SFR 1992 bldg permit for bath remodel																			No plot plan
1980	142-151-21	32150	S Hwy 1	Plath	1.85	1381		1381			2						1381									
							1980 bldg permit 2 bd/ 2 bath																			
1999	142-151-24	32250	S Hwy 1	Farley	7	1560		1560	1560		1						1560									
							60x26 Manuf. SFR install on fnd. Inspection on Foundation Reroof w/ plot plan																			
2009																										
2006	142-180-03	32600	S Hwy 1	Dean	3.03	2172		2172					garage	810			2982	619							CDP 38-04	
							SFR											guest cottage								
1996	142-180-06	32800	S Hwy 1	Harrison	1.62	2036		2036			2						2036								CDP 38-94	
							2 bdrm SFR w/ Addition resulting in 2036 sf																			
1979	142-180-07	32900	S Hwy 1	Wallach	2.57	774		774									774									
							SFR/cabin																			
1974	143-050-10	33000	S Hwy 1	Hitt	2.12	2424		2424					garage	484			2908									
							SFR																			
1963	143-060-01	33500	S Hwy 1	Compton	9.6	1232		249 1481					garage	225			1706	1102			288					
							SFR											SRU (1999)								
1948	143-060-05	33650	S Hwy 1	Windsor Propane Comp. Amerigas	1.36	3500		3500									3500									
							Permit for Reroof 2 permits for elec. repair																			
1994	143-060-08	25241	S Hwy 1	Halderman	0.95	1438		1438					garage	837	672		2275							CDP 5-93	CDP 505-93	
							SFR																			
1979	143-060-09	33620	S Hwy 1	Herman	0.5	1584		1584					Garage	840			2424	63								
							SFR											Storage	94							
2005	143-060-10	33600	S Hwy 1	Tosello	1.75	2000		2000					2 car detached garage & storage	720			2720	50							CDP 18-05	
							SFR											tool shed								
1952	142-151-26-00	31970	S Hwy 1	Sorenson	0.88	416		416									416									
1974	142-170-05-00	32400	S Hwy 1	Campbell	1.97	2224		2224						420			2644				420					
							no information on house but ref building permit # 0227 dated 11.1.74 for gas system installation																			
1979	142-170-07-00	32500	S Hwy 1	Graham	2.5	1876		1876									1876	1102			690					
							SFR											shop and greenhouse								
1995	142-170-08-00	32450	S Hwy 1	Alexander	2	2461		2461						1565			4026				867					
							CDP 67-94											Deattached two story garage and sewing room								
2008	143-121-01	47000	Havens Neck	Suh	0.78	2208		2208									2208									
2000	143-122-02	47070	Havens Neck	Jacobson	0.74	1430		1430						551			1981									
1974	143-121-03	47080	Havens Neck	Lotter	1	1374		386 1760						484	227		2244				406					
							386 (additional bedroom 1978)																			
1970	143-121-04	33700	S Hwy 1	Archbold	1.09	2394		2394						594	storage 108		2988									
1971	143-121-06	47120	Havens Neck	Workman	0.85	1400		1400					detached	650			2050				950					
1962	143-121-08	47170	Havens Neck	Wolinsky	1.04	2685		2685						shop 336			2685									
2001	143-121-09	47200	Havens Neck	Koploy	0.93	2918		2918						838			3756				454					
1974	143-121-10-00	33680	S Hwy 1	Tonella	4.5	1980		2362 4342						500			4842				1000					
							CDP CCC 1-91-143																			
1956	143-121-11	33660	S Hwy 1	Meyer	6.4	1952		1952									1952									
							only info in file pertains to rewire in 95																			
1998	143-122-08	47231	Havens Neck	Atkins	0.91	2099		2099						576			2675									
1998	143-122-11	47051	Havens Neck	Dewitte	1.1	2109		2109						866			2975									
1991	143-161-03	34200	S Highway 1	Sprague	2.5	4677		4677						673			5350									
pre 1984	143-161-06	34450	S Hwy 1	Newhouse	1.78	2400		2400									2400									
1971	143-161-12	34150	S Hwy 1	Dammann	1.6	3052		3052						624			3676				420					
							F8973; 1988																			
1940	143-161-14	34400	S Hwy 1	Terry	2	1624		1624					second res	877			2501									
1950	143-161-16	34300	S Hwy 1	Linscheid	2	946		946									946									
							??- SFR noted on site plan with 2 sheds... no info or data of space or time																			
1991	143-161-17	34250	S Hwy 1	Remsing	2.6	3025		3025						1200			4225				1201					
1985	143-161-19	34100	S Hwy 1	Duffield	6.5	3525		470 3995						684			4679	360			442					
							1992 addition											office								
1964	144-011-02	34650	S Hwy 1	Bidgood	2	850		850									850									
							No info but building exists. Rewire permit																			
1975	144-011-04	34730	S Hwy 1	Prince	1.87	1700		136 1836						420			2256									
							1996 addition																			

Resolution Number _____

County of Mendocino
Ukiah, California
APRIL 28, 2016

CDP_2012-0017 SCHWAGER GUIDO A & JEANNIE E

RESOLUTION OF THE COASTAL PERMIT ADMINISTRATOR,
COUNTY OF MENDOCINO, STATE OF CALIFORNIA, ADOPTING A
MITIGATED NEGATIVE DECLARATION AND GRANTING A
STANDARD COASTAL DEVELOPMENT PERMIT FOR THE
CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE WITH
ASSOCIATED IMPROVEMENTS

WHEREAS, the owner, Guido and Jeannie Schwager, filed an application for a Standard Coastal Development Permit with the Mendocino County Department of Planning and Building Services to construct a single-family residence with attached garage. Associated developments include installation of a fence, gate, driveway, septic system, propane tank, trash enclosure, connection to utilities, power to existing test well, retaining wall and the removal of Bishop Pine trees. Located in the coastal zone, approximately 2.5 miles north of Anchor Bay, on the west side of Highway 1, approximately 1/4 mile north of its intersection with Gypsy Flat Road (private road). Located at 33100 South Highway 1 (APN: 143-050-04); and

WHEREAS, an Initial Study was prepared for CDP 2012-0017 and a Mitigated Negative Declaration was noticed and made available for agency and public review on March 24, 2016 in accordance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Coastal Permit Administrator held a public hearing on, April 28, 2016, at which time the Coastal Permit Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Initial Study and adoption of a Mitigated Negative Declaration and the Project. All interested persons were given an opportunity to hear and be heard regarding the Initial Study, adoption of a Mitigated Negative Declaration and the Project; and

WHEREAS, the Coastal Permit Administrator has had an opportunity to review this Resolution and finds that it accurately sets for the intentions of the Coastal Permit Administrator regarding the Initial Study and adoption of a Mitigated Negative Declaration, and the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Coastal Permit Administrator makes the following findings;

ENVIRONMENTAL FINDINGS: The Coastal Permit Administrator finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, a Mitigated Negative Declaration is adopted.

COASTAL DEVELOPMENT PERMIT FINDINGS: Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopts the following findings and conditions.

1. The proposed development is in conformity with the certified Local Coastal Program, except Section 20.496.020(A)(1) relating to buffer widths from Environmentally Sensitive Habitat Areas, which is specifically addressed by the Supplemental Findings below; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities. The proposed project will be served by an existing test well, to be converted to a production well under this permit and an on-site sewage disposal system. A driveway will be constructed off Highway 1 and is adequate to service the proposed development. Drainage and other necessary facilities have been considered in project design; 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. The proposed single-family residence and associated improvements is in conformity with the Rural Residential (RR) 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. An Initial Study and adoption of a Mitigated Negative Declaration is recommended; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource. The California Historic Resource Information System (CHRIS), Northwest Information Center at Sonoma State University stated that the proposed project area has a low possibility of containing unrecorded archaeological sites and therefore no further study for archaeological resources was recommended. Standard Condition #8 advises the applicant of the County's discovery clause; 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. Solid waste service is available either as curbside pick-up or at the South Coast Transfer Station (seven miles away). The existing level of service at peak hour conditions at this location is considered Level of Service B. While the project would contribute incrementally to traffic volumes on local and regional roadways, such incremental increases were considered when the LCP land use designations were assigned to the site; and
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan. The project would have no effect on public access to the coast as it is not designated as a potential coastal access point and staff did not see any potential evidence of prescriptive access points during the site visit to the property. In addition, the site would not be suitable for a public access point as the site is heavily constrained by its topography and presence of sensitive habitats covering the entire parcel.

SUPPLEMENTAL FINDINGS:

8. The resource as identified will not be significantly degraded by the proposed development. The proposed development minimizes the number of buildings, has no direct impact to wetlands, minimizes impervious surfaces by utilizing the bridge and permeable concrete, and the buildings have been designed to conform to the slope, rather than grade the slope to conform to the buildings. Similarly, grading for the driveway is minimized by taking the greatest advantage of any level area and cut along contour while maintaining the greatest distance from ESHAs. There is no feasible less

environmentally damaging alternative. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

BE IT FURTHER RESOLVED that the Coastal Permit Administrator hereby adopts the Initial Study and Mitigated Negative Declaration and the Mitigations set forth in the Conditions of Approval. The Coastal Permit Administrator certifies that the Initial Study and Mitigated Negative Declaration has been completed, reviewed, and considered, together with the comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Initial Study and Mitigated Negative Declaration reflects the independent judgment and analysis of the Coastal Permit Administrator.

BE IT FURTHER RESOLVED that the Coastal Permit Administrator hereby grants the requested Standard Coastal Development Permit, subject to the Conditions of Approval in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Coastal Permit Administrator designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Coastal Permit Administrator decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Coastal Permit Administrator 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 (10) 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.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: ADRIENNE M. THOMPSON
Secretary to the Planning Commission

By: _____

BY: STEVEN D. DUNNICLIFF
Director

ANDY GUSTAVSON,
Coastal Permit Administrator

EXHIBIT A

CONDITIONS OF APPROVAL AND MITIGATION MONITORING AND REPORTING PROGRAM SCHWAGER/BARRON-WIKE - CDP_2012-0017 APRIL 28, 2016

Standard Coastal Development Permit for the construction of a single-family residence with attached garage. Associated developments include installation of a fence, gate, driveway, septic system, propane tank, trash enclosure, connection to utilities, power to existing test well, retaining wall and the removal of Bishop Pine trees.

APPROVED PROJECT DESCRIPTION: The applicants request construction of a 2,792 square-foot single-family residence with a 572 square-foot attached garage and 465 square-foot attached workshop. The proposed development would include 135 square-feet of covered porch with 1,196 square-feet of elevated and cantilevered decks. The maximum average height of the proposed development would be twenty-eight (28) feet. The applicants request installation of a private driveway encroachment onto Highway 1, a 5,600 square-foot permeable concrete driveway with approximately 350 linear feet of retaining wall with a maximum height of four (4) feet. Installation of the proposed driveway requires construction of a 500 square-foot free span bridge to prevent impacts to identified wetlands on the parcel. The proposed developments necessitate 269 cubic yards of cut balanced with 269 cubic yards of fill, resulting in no export or import of material to the site.

The applicants request installation of the approved septic system design (ST 24821) and approval and vesting for the probable future development of the approved septic replacement field, including associated probable future repair/replacement of the septic tank from existing infrastructure to the approved replacement field. The applicants request conversion of the existing test well into a production well, placing production well infrastructure below ground to accommodate the proposed driveway alignment, and connection of the proposed development to the well infrastructure. The applicants request installation of a propane tank and trash enclosure, removal of the existing fence easterly of property line (within Highway 1 right-of-way) and replacement with a new six (6) foot galvanized wire fence, with redwood cap and bottom rails along easterly property line, with a residential gate at driveway entrance to property.

The proposed development requires removal of approximately fourteen (14) Bishop pine trees that are located within the development footprint. The applicant also requests removal of an additional twenty-four (24) Bishop pine trees that are dead and dying and may be hazardous to the proposed development.

Best Management Practices will be utilized and maintained during all ground-disturbing construction activities for erosion control and protection of identified Environmentally Sensitive Habitat Areas on the parcel.

CONDITIONS OF APPROVAL AND MITIGATION MEASURES (as indicated by “*)”:**

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 (10) 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. That this permit 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 (1) or more of the following:
 - 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.
 - d. A final judgment of a court of competent jurisdiction has declared one (1) or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) 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 resources in accordance with Section 22.12.090 of the Mendocino County Code.
- **9. The recommendations in the Geotechnical Investigation dated August 3, 2011, as revised in the Geotechnical Investigation Report Addendum dated December 12, 2014, and letter dated June 18, 2015 prepared by Brunsing Associates, Inc. shall be incorporated into the design and construction of the proposed project. Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final building plans for consistency with the Geotechnical Investigation. No development shall be permitted within 38.7-feet of the blufftop edge or within 50-feet of the identified landslides except for the septic tank and pump tank improvements, which shall be located greater than 34-feet from the northwesterly landslide.

**10. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel, which shall provide that:

- a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
- b. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
- c. The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
- d. The landowner shall not construct any bluff or shoreline protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
- e. The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach or ocean before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;

The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

**11. The following are required as conditions of approval in order to provide for adequate fire protection at the site:

- a. The proposed project shall include non-combustible exterior siding, dual pane windows, Class A roofing, and the interior of the house shall be equipped with an automatic fire sprinkler system.
- b. A private pedestrian gate shall be constructed at the eastern property line, adjacent to Highway 1, where fire fighters can park fire trucks in the turnout on Highway 1, and utilize fire hose to defend the house. The residence shall be located within fifty (50) feet of the turnout on Highway 1. The gate shall be accessible via a lock for which the fire districts shall have universal access to.
- c. The hammerhead-T turnaround shall be located near the driveway encroachment onto Highway 1, south of the residence and the proposed bridge (as shown on the Site Plan).
- d. The driveway and bridge approach to the proposed residence shall be ten (10) feet wide, and may be used for staging in the event of a fire.
- e. The bridge shall be designed to meet AASHTO H20 wheel loading standards.

- f. Indicate parking areas for fire trucks with posted signs, stating the end of the driveway does not have a turnaround for large vehicles.
 - g. A 2,500-gallon water storage tank with fire hose outlet shall be required.
 - h. Any request for change to these requirements shall only be allowed with the express permission of the Coastal Permit Administrator, CALFIRE, and SCFPD.
- **12. All recommended Mitigation Measures proposed in the Report of Compliance dated February 17, 2015 prepared by Spade Natural Resources Consulting, and recommendations of the California Department of Fish and Wildlife are required to provide for the protection of identified environmentally sensitive habitat areas. Mitigations are as follows:
- a. A suitable buffer shall be established around the wetland and riparian areas. A buffer distance of fifty (50) feet is recommended and has been agreed upon by the California Department of Fish and Wildlife.
 - b. Temporary silt fencing shall be installed along the edge of the buffer area adjacent to development to ensure grading and/or material storage does not occur within the buffers during construction.
 - c. Impacts to wetlands during road and bridge construction and utility installation shall be minimized to the extent feasible. Utilities shall be tied to the underside of the bridge to avoid trenching within the wetland. Any areas of wetland subject to temporary impacts during construction shall be restored to prior conditions or better. No net loss of wetlands shall occur, either in quality or size.
 - d. Prior to the issuance of any building permit reliant upon this Coastal Development Permit, an active management plan shall be developed for the Bishop pine forest in order to provide for the long-term health of the forest habitat. The active management plan shall be prepared by a qualified ecologist and approved by the California Department of Fish and Wildlife, and shall include: invasive species removal, pampas grass within the wetland shall be the highest priority for removal; a regular understory management regimen to facilitate the growth of new recruits; identification, removal, and prevention of pathogens killing Bishop pine trees and other native flora; and active management to maintain rare plant habitat quality in the wetlands. The active management plan shall also include a monitoring plan and performance criteria to measure success of management activities. The least number of healthy trees practicable shall be removed to accommodate development.
 - e. Clearing of vegetation and initiation of construction shall be done in the non-breeding bird season, between September and January. If this cannot be done, preconstruction breeding bird surveys shall be conducted with 14 days prior to the onset of construction with the results submitted to the Department of Planning and Building Services. If birds are discovered the recommendations of the Report of Compliance shall be followed.
 - f. Preconstruction bat surveys shall be required if work or vegetation removal is conducted between November 1st and August 31st. If bats are discovered the recommendations of the Report of Compliance shall be followed.
 - g. Landscaping on the parcel shall not include any invasive plants and shall consist of native plants compatible with the adjacent plant communities.
 - h. Any bare soil created by the construction phase of the project shall be re-vegetated with native vegetation appropriate to the habitat in the surrounding area. Erosion control best

management practices (BMPs) detailed in the Erosion Control Plan for the project shall be followed.

- i. Two weeks prior to construction, contractors shall be trained in the identification of California red-legged frog and shall follow the recommendations of the Report of Compliance for visual inspection of the work site during construction activities. If a rain event occurs, all construction shall cease for a period of 48 hours after the rain stops.
 - j. A Sonoma tree vole survey shall be conducted within two weeks prior to tree removal activities. The results of the survey shall be submitted to the Department of Planning and Building Services. If Sonoma tree voles are discovered the recommendations of the Report of Compliance shall be followed.
13. The Grading Plan, stamped received March 12, 2015, shall be adhered to during grading activities on the site. Any additional requirements that may result from the building permit process shall be required during any construction activities on the site.
 14. The Erosion Control Plan, stamped received March 12, 2015, shall be adhered to during any construction activities on the site. Any additional requirements that may result from the building permit process shall be required during any construction activities on the site.
 15. Prior to final inspection of a building permit in reliance on this Coastal Development Permit, Planning and Building Services shall inspect the construction of the single-family residence and associated development to ensure the utilized materials and colors are consistent with the proposed project materials and colors in **Table 2**.
 16. Any change to exterior lighting (either fixture or location) from what is shown on the elevations for the single-family residence, included as part of the record, shall be reviewed and approved by the Coastal Permit Administrator for the life of the development.
 - **17. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2260.25 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within 5 days of the end of any appeal period. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

DATE: APRIL 28, 2016

CASE NUMBER: CDP_2012-0017

OWNER: Guido & Jeannie Schwager

APPLICANT: Michael Barron-Wike

AGENT: Wynn Coastal Planning

PROJECT DESCRIPTION: Standard Coastal Development Permit for the construction of a single-family residence with attached garage. Associated developments include installation of a fence, gate, driveway, septic system, propane tank, trash enclosure, connection to utilities, power to existing test well, retaining wall and the removal of Bishop Pine trees.

LOCATION: In the coastal zone, approximately 2.5 miles north of Anchor Bay, on the west side of Highway 1, approximately 1/4 mile north of its intersection with Gypsy Flat Road (private road). Located at 33100 South Highway 1, Gualala (APN: 143-050-04).

Environmental Checklist.

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change, may be considered in determining whether the physical change is significant (CEQA Guidelines, Section 15382).

Accompanying this form is a list of discussion statements for all questions, or categories of questions, on the Environmental Checklist. This includes explanations of "no" responses.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Agriculture and Forestry Resources	<input type="checkbox"/>	Air Quality
<input type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology /Soils
<input type="checkbox"/>	Greenhouse Gas Emissions	<input type="checkbox"/>	Hazards & Hazardous Materials	<input type="checkbox"/>	Hydrology / Water Quality
<input type="checkbox"/>	Land Use / Planning	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Noise
<input type="checkbox"/>	Population / Housing	<input type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Transportation/Traffic	<input type="checkbox"/>	Utilities / Service Systems	<input type="checkbox"/>	Mandatory Findings of Significance

I. AESTHETICS. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The subject parcel lies west of Highway 1. The public view west of the highway is dominated by dense woodland vegetation with glimpses of residential structures, visitor accommodation services and the ocean. There are no other public places or scenic vistas in the vicinity of the project site. State Highway 1 is not a designated state scenic highway.

The project is not located in an area that is designated Highly Scenic by the Local Coastal Plan (LCP), as depicted on the *Anchor Bay* LCP map. The project site is designated as a tree removal area, where tree removal is encouraged in order to enhance public views of the ocean; however, due to the sensitive nature of the forest community (Northern Bishop Pine Forest) present on this parcel tree removal will not be included as a condition of approval on this permit as it would be inconsistent with the LCP policies related to protection of Environmentally Sensitive Habitat Areas.

The proposed development will be visible from the sea, appearing before a forested backdrop. The development is at the toe of the slope, and should not appear as a silhouette against the sky from the sea or any other vantage point. It will appear similar to the existing single-family residential development on adjacent properties.

Additionally, the project application indicates proposed materials and colors for the proposed structures. The original application included metal roofing. Materials in the Coastal Zone are required to blend with the natural surroundings and minimize reflective surfaces. The final proposed project materials and colors are as follows:

Table 2. Proposed Project Materials and Colors		
Element	Materials	Color
Siding	Stucco	Sand/Tan
Trim	N/A	N/A
Chimney	Stucco and Copper Cap	Tan/Aged Copper
Roofing	Metal standing seam	Dark Green
Window Frame	Metal- painted	Dark Bronze
Door	Metal- painted	Dark Bronze
Fencing	Wood and Galvanized Wire	Brown/Gray
Retaining Walls	Concrete- stained	Brown
Railings	Cable and Stainless Steel Posts	Stainless Steel/Gray

Staff recommends **Condition 15** requiring the project be constructed with the proposed materials and colors.

Condition 15: Prior to final inspection of a building permit in reliance on this Coastal Development Permit, Planning and Building Services shall inspect the construction of the single-family residence and associated development to ensure the utilized materials and colors are consistent with the proposed project materials and colors in **Table 2**.

MCC Section 20.504.035 provides exterior lighting regulations intended to protect coastal visual resources in Highly Scenic Areas, Special Treatment Areas and Special Communities of the Coastal Zone. Exterior lighting is required to be within the zoning district's height limit regulations, and requires exterior lighting to be shielded and positioned in a manner that light and glare does not extend beyond the boundaries of the parcel.

The applicant proposes exterior lighting as follows: two (2) shielded lights on the north, east and west elevations (for a total of six (6) lights) and seven (7) shielded lights on the south elevation as part of this application. All lights are proposed to be shielded and downcast. A proposed lighting fixture was submitted as part of the application. Staff has reviewed the proposed design and finds it consistent with the requirements for exterior lighting in the Coastal Zone. The project is therefore consistent with the exterior lighting regulations set forth in MCC Section 20.504.025. Staff recommends **Condition 16** requiring the project be constructed in accordance with the proposed exterior lighting design and location of light fixtures.

Condition 16: Any change to exterior lighting (either fixture or location) from what is shown on the elevations for the single-family residence, included as part of the record, shall be reviewed and approved by the Coastal Permit Administrator for the life of the development.

II. AGRICULTURE AND FORESTRY RESOURCES. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The project site is located in an area designated as “Mendocino Grazing Land” by the State of California Department of Conservation. The parcel is zoned Rural Residential, as are surrounding parcels, and while limited agricultural uses are permitted in the Rural Residential zoning district, approval of this application would not convert any agriculturally zoned lands to non-agricultural uses. The project would not convert any land designated “Prime Farmland,” “Unique Farmland,” or “Farmland of Statewide Importance” to non-agricultural uses.

III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of any applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The project is located within the jurisdiction of the Mendocino County Air Quality Management District (AQMD). Any new emission point source is subject to an air quality permit, consistent with the District's air quality plan, prior to project construction. The AQMD also enforces standards requiring new construction, including houses, to use energy efficient, low-emission EPA certified wood stoves and similar combustion devices to help reduce area source emissions.

While the project will not include a new point source, it may contribute to area source emissions by generating wood smoke from residential stoves or fireplaces. The County's building permit plan check process ensures that this and similar combustion source requirements are fulfilled before construction is permitted to begin, consistent with the current air quality plan. Consequently, the County's building permit approval process will help to ensure new development, including this project, is consistent with and will not obstruct the implementation of the air quality plan.

The generation of dust during grading activities, another type of area-source emission, will be limited by the County's standard grading and erosion control requirements (MCC Sections 20.492.010; -020). These policies limit ground disturbance and require immediate revegetation after the disturbance. Consequently, these existing County requirements will help to ensure PM10 generated by the project will not be significant and that the project will not conflict with nor obstruct attainment of the air quality plan PM10 reduction goals.

The project will establish a single-family residence in a low density rural residential coastal setting where residential development exists on adjacent parcels. Residential uses are consistent with the County's land use plan. Approval of this project will not permit large-scale development that may result in a cumulatively considerable net increase in air pollution, including PM10.

A driveway will be installed to serve the proposed development consisting of 5,600 square-feet of permeable concrete. Additionally, the proposed development will necessitate 269 cubic yards of cut balanced with 269 cubic yards of fill, resulting in no export from the site. Air Quality Management District permitting may be required for this project. The applicant is advised of **Condition 4** that this permit is subject to the securing of all other necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.

Additionally, there are no short-term or long-term activities or processes associated with the single-family residence that will create objectionable odors. Nor are there any uses in the surrounding area that are commonly associated with a substantial number of people (i.e., churches, schools, etc.) that could be affected by any odor generated by the project.

IV. BIOLOGICAL RESOURCES: Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Several reports were prepared for the property in regards determining presence biological and botanical resources, identification of Environmentally Sensitive Habitat Areas (ESHA), and selection of the least environmentally damaging alternative for the proposed development. Submitted studies were prepared by Spade Natural Resources Consulting and consisted of a Botanical Survey and ESHA Assessment in June 2012, a Biological Scoping Addendum in August 2012, and a Report of Compliance in February 2015.

According to the submitted studies, the dominant plant community on the parcel is Northern Bishop Pine Forest (*Pinus Muricata forest alliance*). A third to half of the Bishop Pines are noted to be dead or dying. A portion of the property is dominated by Pacific reedgrass (*Calamagrostis nutkaensis*), particularly in the area with a higher percentage of dead and dying pines. Two drainages, with one surrounded by wetland, exist on the parcel. One runs through the middle of the parcel, entering from under Highway 1, through a culvert onto the parcel where it slows and spreads closer to the bluff edge. A group of swamp harebell (*Campanula californica*) was found in the middle of the wetland area. Coast Lily (*Lilium maritimum*) was found on the project site within the Pacific reedgrass meadow. Corn-lily (*Veratrum fimbriatum*) was also located within the wetland portion of the Pacific reedgrass meadow.

Potential biological resources were also scoped for; however, no documented occurrences were discovered. Recommendations were provided to limit the timing of vegetation clearing and initiation of construction. **Condition 12** is recommended limiting vegetation clearing activities and initiation of construction to the non-breeding bird season between September and January, or a qualified professional shall perform pre-construction bird surveys within 14 days of the onset of construction or clearing of vegetation. The recommendations of the study shall be followed should breeding birds be found.

Mendocino County Code requires that the sufficient buffer distance be established around all identified ESHA. The buffer distance can be reduced to fifty (50) feet with the recommendation of a biologist and agreement by the California Department of Fish and Wildlife. A Reduced Buffer Analysis was conducted and a fifty (50) foot buffer was recommended for the rare plant habitat wetland and drainage areas. By necessity, any development will occur within the Northern Bishop Pine Forest. Development will therefore need to be located within the least impacting locations within the Northern Bishop Pine Forest. Development will need to avoid the wetlands and drainages and associated fifty (50) foot buffers to the greatest extent feasible. The Report of Compliance prepared for the project analyzes two potential development proposals to determine the least environmentally damaging alternative for the proposed project.

Alternatives to the proposed development, including different projects and alternative locations, were considered and analyzed by a qualified professional, as required by MCC Sections 20.496.020(A)(4)(b) and 20.532.060(E). Alternative B minimizes the number of buildings, has no direct impact to wetlands, minimizes impervious surfaces by utilizing the bridge and permeable concrete, and the buildings have been designed to conform to the slope, rather than grade the slope to conform to the buildings. Similarly, grading for the driveway is minimized by taking the greatest advantage of any level area and cut along contour while maintaining the greatest distance from ESHAs. Alternative B is considered the most feasible, least environmentally damaging alternative that avoids sensitive plant ESHA and related ESHA buffer requirements. Mitigation Measures were recommended in the Report of Compliance and are recommended as **Condition 12**.

Condition 12: All recommended Mitigation Measures proposed in the Report of Compliance dated February 17, 2015 prepared by Spade Natural Resources Consulting, and recommendations of the

California Department of Fish and Wildlife are required to provide for the protection of identified environmentally sensitive habitat areas. Mitigations are as follows:

- a. A suitable buffer shall be established around the wetland and riparian areas. A buffer distance of fifty (50) feet is recommended and has been agreed upon by the California Department of Fish and Wildlife.
- b. Temporary silt fencing shall be installed along the edge of the buffer area adjacent to development to ensure grading and/or material storage does not occur within the buffers during construction.
- c. Impacts to wetlands during road and bridge construction and utility installation shall be minimized to the extent feasible. Utilities shall be tied to the underside of the bridge to avoid trenching within the wetland. Any areas of wetland subject to temporary impacts during construction shall be restored to prior conditions or better. No net loss of wetlands shall occur, either in quality or size.
- d. Prior to the issuance of any building permit reliant upon this Coastal Development Permit, an active management plan shall be developed for the Bishop pine forest in order to provide for the long-term health of the forest habitat. The active management plan shall be prepared by a qualified ecologist and approved by the California Department of Fish and Wildlife, and shall include: invasive species removal, pampas grass within the wetland shall be the highest priority for removal; a regular understory management regimen to facilitate the growth of new recruits; identification, removal, and prevention of pathogens killing Bishop pine trees and other native flora; and active management to maintain rare plant habitat quality in the wetlands. The active management plan shall also include a monitoring plan and performance criteria to measure success of management activities. The least number of healthy trees practicable shall be removed to accommodate development.
- e. Clearing of vegetation and initiation of construction shall be done in the non-breeding bird season, between September and January. If this cannot be done, preconstruction breeding bird surveys shall be conducted with 14 days prior to the onset of construction with the results submitted to the Department of Planning and Building Services. If birds are discovered the recommendations of the Report of Compliance shall be followed.
- f. Preconstruction bat surveys shall be required if work or vegetation removal is conducted between November 1st and August 31st. If bats are discovered the recommendations of the Report of Compliance shall be followed.
- g. Landscaping on the parcel shall not include any invasive plants and shall consist of native plants compatible with the adjacent plant communities.
- h. Any bare soil created by the construction phase of the project shall be re-vegetated with native vegetation appropriate to the habitat in the surrounding area. Erosion control best management practices (BMPs) detailed in the Erosion Control Plan for the project shall be followed.
- i. Two weeks prior to construction, contractors shall be trained in the identification of California red-legged frog and shall follow the recommendations of the Report of Compliance for visual inspection of the work site during construction activities. If a rain event occurs, all construction shall cease for a period of 48 hours after the rain stops.
- j. A Sonoma tree vole survey shall be conducted within two weeks prior to tree removal activities. The results of the survey shall be submitted to the Department of Planning and Building Services. If Sonoma tree voles are discovered the recommendations of the Report of Compliance shall be followed.

The proposed project is not consistent with all LCP policies relating to ESHA; there are no other alternative locations on the site that would not impact identified ESHA. A least environmentally damaging alternative has been identified, which minimizes impervious surfaces and vegetation removal and mitigation measures are proposed to offset project impacts. As stated above, Section 20.496.020(A)(1) reads in part, "the buffer area shall be measured from the outside edge of Environmentally Sensitive Habitat Areas and shall not be less than fifty

(50) feet in width.” The project is inconsistent with this LCP policy; however, no alternative exists on the parcel that could be found to be consistent with this LCP policy. Prohibiting development within fifty (50) feet of an ESHA would deprive the owner of all economic use of the property. Consequently, staff evaluated if denial of the project would result in an unconstitutional taking of private property for public use, which is addressed in further detail in the Staff Report and attachments.

In summary, the proposed project cannot be found consistent with LCP policies relating to ESHA; however, the proposed project is the least damaging alternative and the proposed mitigation measures required by **Condition 12** will address the impacts to ESHA. These measures will mitigate the impact of the proposed development to less than significant levels, and restore and enhance ESHA located on the parcel.

<u>V. CULTURAL RESOURCES.</u> Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The proposed project was referred to the California Historic Resource Information System (CHRIS), Northwest Information Center at Sonoma State University in September 2012. In response, CHRIS stated that the proposed project area has a low possibility of containing unrecorded archaeological sites and therefore no further study for archaeological resources is recommended. **Condition 8** advises the applicant of the County’s “discovery clause” which establishes procedures to follow in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

<u>VI. GEOLOGY AND SOILS.</u> Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Brunsing Associates, Inc. (BAI) performed a Geotechnical Investigation along with supplemental addendums to that report. The proposed structure is located on a gently-sloping to steep terrace on the bluff-top. BAI notes that the bluff faces primarily southwest on the parcel, with a small southwest projecting knoll and peninsula near the northwesterly end of the site. The bluff face is approximately 100 to 115 feet in vertical height along the property. A sea cave is located in the lower bluff face in the southeasterly portion of the property. Two significant landslides were also noted on the property. BAI observed several ancient faults within the bedrock on the bluff faces of the property and nearby vicinity. No evidence of recent (active) fault movement was observed during site visits performed by BAI and were determined to be "inactive".

No evidence of recent rock falls or areas of active erosion was present within the sea cave and the sea cave does not appear to impact the stability of the bluff as a whole; therefore, no setback was recommended. BAI revised their determined appropriate setback from the bluff edge after conducting the slope stability analysis included in the 2014 Geotechnical Investigation Report Addendum. The report from BAI recommends a revised setback of 38.7-feet for development from the bluff edge. Additional setbacks from the two landslides are described in the Landslides section of this document. The BAI recommendations for setbacks are recommended as **Condition 9**.

Condition 9: The recommendations in the Geotechnical Investigation dated August 3, 2011, as revised in the Geotechnical Investigation Report Addendum dated December 12, 2014, and letter dated June 18, 2015 prepared by Brunsing Associates, Inc. shall be incorporated into the design and construction of the proposed project. Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final building plans for consistency with the Geotechnical Investigation. No development shall be permitted within 38.7-feet of the blufftop edge or within 50-feet of the identified landslides except for the septic tank and pump tank improvements, which shall be located greater than 34-feet from the northwesterly landslide.

It is the policy of the Coastal Commission and Mendocino County to require recordation of a deed restriction as a condition of development on blufftop parcels, prohibiting the construction of seawalls and requiring that permitted improvements be removed from the property if threatened by bluff retreat. The restriction also requires that the landowner be responsible for any clean-up associated with portions of the development that might fall onto a beach or into the ocean. **Condition 10** is recommended to address this issue.

Condition 10: Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel, which shall provide that:

- a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
- b. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
- c. The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;

- d. The landowner shall not construct any bluff or shoreline protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
- e. The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach or ocean before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;

The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

Two significant landslides were observed at the property. One is northwest of the main building area and the second is southeast of the septic field area. The proposed project is able to avoid the documented landslide areas on the parcel. BAI recommends a fifty (50) foot setback from the landslide areas for proposed development. The proposed septic tank and pump tank for the residence are shown within the recommended fifty (50) foot landslide setback for the northwesterly slide. In response to County Staff concerns regarding the location of the septic tank and pump tank BAI provided a letter addressing recommendations for appropriate setbacks and construction methods for these improvements. BAI used a safety factor of three (3) for setback recommendations on the house and found it appropriate to reduce the safety factor to two (2) for the septic tank and pump tank providing for a landslide setback of thirty-four (34) feet from the northwesterly slide.

All proposed residential improvements are located outside the recommended fifty (50) foot landslide buffer. The septic tank and pump tank are located outside the recommended thirty-four (34) foot landslide buffer. Recommendations are provided by BAI in the various Geotechnical Investigations and associated addendums and are recommended as **Condition 9**.

VII. GREENHOUSE GAS EMISSIONS. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Assembly Bill 32 (AB32), the California Global Warming Solutions Act, 2006 recognized that California is a source of substantial amounts of greenhouse gas (GHG) emission which poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. AB32 established a state goal of reducing GHG emission to 1990 levels by the year 2020 with further reductions to follow. In order to address global climate change associated with air quality impacts, CEQA statutes were amended to require evaluation of GHG emission which includes criteria air pollutants (regional) and toxic air contaminants (local). As a result, Mendocino County Air Quality Management District (AQMD) adopted CEQA thresholds of significance for criteria air pollutants and GHGs, and issued updated CEQA guidelines to assist lead agencies in evaluating air quality impacts to determine if a project's individual emissions would be cumulatively considerable. According to the AQMD, these CEQA thresholds of significance are the same as those which have been adopted by the Bay Area Air Quality Management District (BAAQMD). Pursuant to the BAAQMD CEQA Guidelines, the threshold for project significance of GHG emissions is 1,100 metric tons CO₂e (CO₂ equivalent) of operation emission on an annual basis. This project as proposed, creating one additional single-family residence, will have no impact and be below the threshold for project significance of 1,100 metric tons CO₂e.

Additionally, Mendocino County's building code requires new construction to include energy efficient materials and fixtures. Given the limited scale of the new house, the GHG generated by the project will not have a significant impact on the environment.

VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The project will establish a residential use involving the routine transport, use and disposal of hazardous materials in small or limited quantities. These materials include construction materials, household cleaning supplies, and other materials including but not limited to fuel, cleaning solvents, lubricants associated with automobiles, small craft engines, and power tools. Storage of these materials in the open may result in contaminated stormwater runoff being discharged into nearby water bodies, including the Pacific Ocean.

This potential hazard is not significant if these materials, particularly construction debris, are properly stored on the project site and then disposed at an approved collection facility such as the nearby South Coast Transfer Station. Cleaning supplies and other household hazardous materials are less of a concern as they are routinely collected with the household waste and transported by waste haulers to approved disposal facilities. The nearest school is located approximately seven (7) miles from the project site, and will not be impacted by the limited quantities of hazardous materials present at or discarded from the project. Consequently, potential impacts involving the transport, use or disposal of hazardous materials is less than significant.

The project site is not subject to any airport land use plan.

The project will not result in any physical change to the existing roadway that would impair its use as an evacuation route. The parcel is located in an area characterized by a high fire hazard severity rating. The project

application was referred to the California Department of Forestry and Fire Protection (CALFIRE) for input. CALFIRE submitted recommended conditions of approval (CDF #105-12), requiring the applicant abide by typical conditions concerning address standards, driveway standards, and defensible space standards.

Due to the various constraints on the site, an exception to standard requirements was requested. CALFIRE reviewed the project in December 2014 regarding exceptions to the Fire Safety Regulations, pending South Coast Fire Protection District (SCFPD) concurrence. The SCFPD signed off on the project on March 20, 2015. Following the approval from SCFPD, CALFIRE approved the requested exceptions in a letter dated May 12, 2015. Certain conditions were required from both SCFPD and CALFIRE in order to provide adequate fire protection to the site, recommended as **Condition 11**.

Condition 11: The following are required as conditions of approval in order to provide for adequate fire protection at the site:

- a. The proposed project shall include non-combustible exterior siding, dual pane windows, Class A roofing, and the interior of the house shall be equipped with an automatic fire sprinkler system.
- b. A private pedestrian gate shall be constructed at the eastern property line, adjacent to Highway 1, where fire fighters can park fire trucks in the turnout on Highway 1, and utilize fire hose to defend the house. The residence shall be located within fifty (50) feet of the turnout on Highway 1. The gate shall be accessible via a lock for which the fire districts shall have universal access to.
- c. The hammerhead-T turnaround shall be located near the driveway encroachment onto Highway 1, south of the residence and the proposed bridge (as shown on the Site Plan).
- d. The driveway and bridge approach to the proposed residence shall be ten (10) feet wide, and may be used for staging in the event of a fire.
- e. The bridge shall be designed to meet AASHTO H20 wheel loading standards.
- f. Indicate parking areas for fire trucks with posted signs, stating the end of the driveway does not have a turnaround for large vehicles.
- g. A 2,500-gallon water storage tank with fire hose outlet shall be required.
- h. Any request for change to these requirements shall only be allowed with the express permission of the Coastal Permit Administrator, CALFIRE, and SCFPD.

The recommended conditions will reduce impacts of hazards and hazardous materials to a less than significant level.

<u>IX. HYDROLOGY AND WATER QUALITY. Would the project:</u>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The site is located within an area mapped as Critical Water Resources (CWR). MCC Section 20.516.015 (B)(1) states that “approval of the creation of new parcels or additional building sites shall be contingent upon an adequate water supply during dry summer months which will accommodate the proposed parcels, and will not adversely affect the groundwater table of contiguous or surrounding areas. Demonstration of proof of water supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982, as revised from time to time, and the Mendocino County Division of Environmental Health’s Land Division requirements as revised.” A test well was drilled on the parcel in 2000, permitted under CDP 36-2000, the test well produces approximately two (2) gallons per minute.

The proposed project is not anticipated to violate any water quality standard or waste discharge requirements. Best Management Practices shall be employed during all ground disturbing activities and both a Grading Plan and an Erosion Control Plan have been prepared for the project. If the recommendations of the Grading Plan and Erosion Control Plan are followed, the existing drainage pattern is not anticipated to be alter where it may cause substantial erosion and/or flooding either on or off site. **Conditions 13 and 14** are recommended requiring all elements of the Grading Plan and Erosion Control Plan be followed by the applicant during all ground disturbing activities.

The proposed density of the project maximizes the development potential of the existing approximately 2.44 acre parcel. The General Plan designation (Rural Residential – 5) and zoning district (Rural Residential – 5) of the subject site precludes any further subdividing. Additionally, the MCC does not allow second residences on the proposed parcels. The low-density nature of the project, and the lack of potential for future development will ensure that local groundwater supplies are not substantially depleted.

The site is designated with two combining districts- Floodplain (FP) and Development Limitations (DL). The Floodplain combining district (FP) is intended “to establish special requirements and regulations to be applied to those coastal areas of the County subject to inundation in order to prevent loss of life and property damage” (MCC Section 20.420.005). All proposed improvements are located outside of the FP designated portions of the parcel as shown on the FEMA Flood Zone Map.

Hydrology and water quality impacts will be less than significant, without mitigation.

X. LAND USE AND PLANNING.	Potentially	Less Than	Less Than	No
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Would the project:	Significant Impact	Significant with Mitigation Incorporated	Significant Impact	Impact
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project site is situated in a long established rural residential area, and proposed adjacent to existing residential development. The low-density development will be consistent with the established community.

The proposed project is consistent with all policies of the Local Coastal Program of the General Plan and the MCC, except Section 20.496.020(A)(1) relating to buffer widths from Environmentally Sensitive Habitat Areas; however, denial of the project based on this policy would constitute a regulatory taking, as described in the Staff Report. The Supplemental Findings included with the project Staff Report address the analysis of alternatives, the mitigation measures proposed to offset impacts, and evidence supporting the investment-backed expectation of the applicant to develop the parcel with a single-family residence.

The proposed development is not located in an area subject to a habitat conservation plan or natural community conservation plan.

<u>XI. MINERAL RESOURCES.</u> Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The project is not located in an area of known mineral resources. No impact is expected and no mitigation is required.

<u>XII. NOISE.</u> Would the project result in:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

With the exception of short-term construction related noise, the proposed development will not create a new source of noise that will impact the community. Noise created by the single-family residence is not anticipated to be significant, and no mitigation is required.

XIII. POPULATION AND HOUSING. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The project would permit a new single-family residence in a zoning district and General Plan land use designation intended for residential development. The project would not trigger the need for new public roads or other infrastructure that may indirectly trigger population growth. Consequently, the project would not generate unanticipated population growth in the local area. The project will not require the displacement of any person living or working the area. No impacts are expected, and no mitigation is required.

XIV. PUBLIC SERVICES.	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project site is served by CALFIRE and the South Coast Fire Protection District, both of which provided comments on the project included in the Hazards section of this document. The addition of a single-family residence in an existing community would not create additional significant service demands or result in adverse physical impacts associated with delivery of fire, police, parks or other public services.

XV. RECREATION.	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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		Incorporated		
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The project site is located west of Highway 1, but is not designated as a potential public access trail location on the Local Coastal Plan maps. There is no evidence of prescriptive access on the site, nor would the development generate enough recreation demand to require the construction of additional facilities. The project would have no impact on public access or recreation, and no mitigation is required.

XVI. TRANSPORTATION/TRAFFIC. Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The State Route 1 Corridor Study Update provides traffic volume data for State Highway 1. The subject property is located on Highway 1. The nearest data breakpoint in the study is located approximately one mile north of the property at the intersection of Fish Rock Road (CR 122) and Highway 1. The existing level of service at peak hour conditions at this location is Level of Service B. While the project would contribute incrementally to traffic volumes on local and regional roadways, such incremental increases were considered when the LCP land use designations were assigned to the site.

The applicants request installation of a private driveway encroachment onto Highway 1, a 5,600 square-foot permeable concrete driveway with approximately 350 linear feet of retaining wall with a maximum height of four (4) feet. Installation of the proposed driveway requires construction of a 500 square-foot free span bridge to prevent impacts to identified wetlands on the parcel. The project was referred to the Mendocino County

Department of Transportation who stated they had no comment on the proposed project. The project was similarly referred to Caltrans for comment, but no response was submitted. The installation of the private driveway will require an Encroachment Permit from Caltrans. The applicant is advised of **Condition 4**, which requires the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.

The parcel is located in an area characterized by a high fire hazard severity rating. The project application was referred to the California Department of Forestry and Fire Protection (CALFIRE) for input. CALFIRE submitted recommended conditions of approval (CDF #105-12), requiring the applicant abide by typical conditions concerning address standards, driveway standards, and defensible space standards.

Due to the various constraints on the site, an exception to standard requirements was requested. CALFIRE reviewed the project in December 2014 regarding exceptions to the Fire Safety Regulations, pending South Coast Fire Protection District (SCFPD) concurrence. The SCFPD signed off on the project on March 20, 2015. Following the approval from SCFPD, CALFIRE approved the requested exceptions in a letter dated May 12, 2015. Certain conditions were required from both SCFPD and CALFIRE in order to provide adequate fire protection to the site, recommended as **Condition 11**.

<u>XVII. UTILITIES AND SERVICE SYSTEMS.</u> Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project will generate domestic wastewater processed by a proposed on-site septic system, which will be required to meet local standards for septic design and location. The Mendocino County Division of Environmental Health reviewed the project application and recommended conditional approval.

The County's Stormwater Ordinance will ensure construction activities on the site will limit the project's stormwater impacts to a level that is not significant.

The site is located within an area mapped as Critical Water Resources (CWR). MCC Section 20.516.015 (B)(1) states that "approval of the creation of new parcels or additional building sites shall be contingent upon an adequate water supply during dry summer months which will accommodate the proposed parcels, and will not adversely affect the groundwater table of contiguous or surrounding areas. Demonstration of proof of water

supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982, as revised from time to time, and the Mendocino County Division of Environmental Health's Land Division requirements as revised." A test well was drilled on the parcel in 2000, permitted under CDP 36-2000, the test well produces approximately two (2) gallons per minute.

A septic system design has been reviewed and approved by the Mendocino County Division of Environmental Health (DEH), septic permit ST 24821. In a response from DEH they stated "the plot plan given shows the location of the septic, pump and treatment tanks have been moved. A site Evaluator must submit a revised map showing the change in location, as well as any revisions the location change may require." The revised map was received by DEH and they provided their clearance for the project in a letter dated December 30, 2015 with no further recommendations.

The South Coast Transfer Station is located approximately seven miles from the project site, providing for the disposal of solid waste resulting from the residential use. Additionally, curbside pickup is available, should the owner choose to purchase the service. Solid waste disposal is adequate to serve the proposed development.

Impacts related to utilities and service systems are less than significant.

<u>XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.</u>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The project's potential to degrade the quality of the environment, as described in the first Mandatory Finding of Significance, will be less than significant provided it incorporates the mitigation measures recommended in this Initial Study.

None of the of the project mitigated impacts are cumulatively considerable because the project's potential impacts are limited to the project site, and the approval and establishment of the project will not alter the existing setting nor amend an existing regulation that would create a circumstance where the incremental effect of a probable future project will generate a potentially significant environmental impact.

The project will not generate any potential direct or indirect environmental effect that will have a substantial adverse impact on human beings including, but not limited to, exposure to geologic hazards, air quality, water quality, traffic hazards, noise and fire hazards.

DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

DATE

JULIA ACKER
PLANNER II