

ATTACHMENT A: COASTAL PERMIT APPROVAL CHECKLIST
CDP_2014-0024
JUNE 25, 2015

PROJECT TITLE: CDP_2014-0024

PROJECT LOCATION: 5720 North Highway 1
Little River, California 95456

**LEAD AGENCY NAME,
ADDRESS AND CONTACT PERSON:** Scott Perkins
Mendocino County Planning and Building Services
120 West Fir Street
Fort Bragg, California 95437
707-964-5379

GENERAL PLAN DESIGNATION: Mendocino County General Plan – Coastal Element
RR-5 (Rural Residential, 5 acre min. lot sizes)

ZONING DISTRICT Mendocino County Code – Division II
RR-5 (Rural Residential, 5 acre min. lot sizes)

DESCRIPTION OF PROJECT: The applicant requests a Standard Coastal Development Permit for the (1) partial demolition of an existing $\pm 1,882$ square foot two-story single-family residence and demolition of two existing sheds; (2) construction of a $\pm 2,638$ square foot single story single-family residence on a bridge-type foundation with a ± 410 square foot covered porch, ± 638 square feet of wood decking, two sheds (within a proposed $\pm 1,130$ square foot gravel courtyard utilizing ± 730 square feet of existing asphalt), and ± 46 linear feet of fencing; and (3) site work including removal of asphalt surfacing, decommissioning an existing septic system with installation of a new septic system and sewage line, a gravel courtyard, and storm drainage improvements. The existing two-car garage will remain in its present location and configuration.

SITE DESCRIPTION AND SETTING: The approximately two acre blufftop parcel is located two miles south of Little River at the western terminus of Frog Pond Road (private), approximately 0.5 miles northwest of its intersection with Highway 1, at 5720 North Highway 1. The site is surrounded by a mixture of rural residential development and vacant forest land. Beyond adjacent properties, visitor accommodation, commercial and residential uses are intermixed among vacant parcels throughout Little River. The subject parcel is currently developed with an existing single-family residence, with attached garage, two sheds, and associated utilities.

The vegetative communities on the parcel include non-native perennial grasses, closed-cone coniferous forest, and coastal bluff scrub. Development of the parcel is heavily constrained by Environmentally Sensitive Habitat Areas.

The ocean bluff is located thirty-six feet west of the proposed development. The parcel contains a sea cave that extends approximately 188 feet north from a mouth located on the parcel's south bluff face. The sea cave terminates at a major underground rock fall, but not before the cave tracks to the west and exits at the bluff face on the west of the parcel.

DETERMINATION: The proposed project **cannot satisfy** all required findings for approval of a Coastal Development Permit, pursuant to Sections 20.532.095 and 20.532.100 of the Mendocino County Code, as individually enumerated in this Coastal Permit Approval Checklist. The proposed project is inconsistent with Local Coastal Program policies relating to Environmentally Sensitive Habitat Areas, specifically Section 20.496.020(A)(1), which requires a minimum buffer of fifty feet from Environmentally Sensitive Habitat Areas.

20.532.095 Required Findings for All Coastal Development Permits	Inconsistent	Consistent (With Conditions of Approval)	Consistent (Without Conditions of Approval)	Not Applicable
(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish the following:				
(1) The proposed development is in conformity with the certified local coastal program.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(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.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:				
(1) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

➤ **20.532.095(A)(1) The proposed development is in conformity with the certified local coastal program.**

Inconsistent (see discussion of Section 20.532.100(A) in this document)

The Local Coastal Program (LCP) 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 LCP 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 LCP serves as an element of the General Plan and includes the Mendocino County Code (MCC), and its policies must be consistent with the goals of the California Coastal Act.

Various aspects of the LCP are specifically addressed by separate Required and Supplemental Findings for Coastal Development Permits, including utilities, transportation, zoning, California Environmental Quality Act (CEQA) consistency, archaeological resources, public services, coastal access, and resource protection. The following is a discussion of elements of the LCP not specifically addressed elsewhere in this checklist.

General Plan Land Use – Rural Residential (5)

The subject parcel is classified as Rural Residential (RR) 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...[and] is not intended to be a growth area and residences should be located as to create minimal impact on agricultural viability.” The principally permitted use designated for the RR land use classification is “residential and associated utilities, light agriculture, [and] home occupation.” The minimum parcel size for the RR land use classification is variable, as designated on the Land Use Map.¹ LCP Map 18 (*Albion*) designates the minimum parcel size requirement as five acres.²

The existing parcel density is legally non-conforming. A permitted single-family residence is currently present on the approximately two acre parcel, with this application seeking to partially demolish the existing structure and replace it with a new single-family residence. The existing and proposed parcel density is one dwelling unit per two acres, where five acres are required. Since no change to dwelling density is proposed, the density will maintain its existing non-conforming status. The proposed use is consistent with the RR classification of the Coastal Element of the Mendocino County General Plan.

Hazards

Mendocino County Coastal Element Chapter 3.4, titled Hazards Management, addresses seismic, geologic and natural forces within the Coastal Zone.

Seismic Activity. The property neither lies within, nor does it adjoin a mapped Alquist-Priolo Earthquake Fault Zone.³ The San Andreas fault is located approximately five (5) miles to the west of the project site and is the nearest active fault. This project does not conflict with any state or local seismic hazard policy or plan.

Bluffs and Bluff Erosion. The proposed structure is located on a relatively flat coastal terrace with a steep coastal bluff approximately seventy-five to eighty feet in vertical height. 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.

A Geotechnical Investigation was performed by Brunsing Associates, Inc. (BAI) to determine the appropriate setback from the bluff edge for the proposed residence⁴ (**ATTACHMENT C: GEOTECHNICAL INVESTIGATION**). The report from BAI recommends a thirty-six foot setback for development from the bluff edge. The report additionally found that a fifteen foot setback from the walls of the underlying sea cave would be sufficient to safely site development. The existing residence is approximately forty-five feet from the bluff edge and meets the recommended bluff setback; however, the existing residence is within the recommended fifteen foot setback from the walls of the underlying sea cave.

As a result of these recommended setbacks, the applicant has designed the residence to rest on a bridge-type foundation spanning the sea cave and anchored over fifteen feet from its walls. The bridge supporting the residence spans from abutment to abutment, gaining no support from the underlying soil or rock within the cave roof. The bridge is also at least thirty-six feet from the bluff edge, meeting the recommendations of the Geotechnical Investigation. The BAI recommendations for setbacks are included as **Condition 8**.

¹ Chapter 2.2. Mendocino County, Planning and Building Services, Planning Division. *The County of Mendocino-General Plan*. 1991. Ukiah, CA.

² *Albion* [map]. 1985. County of Mendocino Coastal Zone, Number 17 of 31. County of Mendocino Planning and Building.

³ State of California Special Studies Zones, Department of Conservation, Division of Mines and Geology.

⁴ Brunsing Associates, Inc. *Geotechnical Investigation*. Rep. 11 Jun. 2014.

Condition 8: The recommendations in the Geotechnical Investigation prepared by Brunsing Associates, Inc. dated June 11, 2014 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 36 feet of the blufftop edge or within 15 feet of the cave walls.

BAI further recommended that “prior to construction, BAI should review the final grading and foundation plans, and soil related specifications for conformance with our recommendations.” **Condition 9** is in place to require this inspection.

Condition 9: Prior to issuance of a building permit in reliance on this Coastal Development Permit, Brunsing Associates, Inc. shall review the final grading and foundation plans, and soil related specifications for conformance with the recommendations in their Geotechnical Investigation report dated June, 11, 2014.

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.

Flooding. There are no mapped 100-year flood zones on the subject parcel, and no conditions are necessary to ensure consistency with flood policy.⁵

Fire. The parcel is located in an area characterized by a high fire hazard severity rating.⁶ The project application was referred to the California Department of Forestry and Fire Protection (CALFIRE) for input. CALFIRE submitted recommended conditions of approval (CDF #47-14) on February 20, 2014, requiring the applicant abide by typical conditions concerning address standards, driveway standards, and defensible space standards.

In a letter to CALFIRE, the applicant requested an exemption from the recommended driveway standards condition, offering that the existing house and driveway were constructed in 1948, and that driveway standards do not apply to existing roads and driveways.⁷ CALFIRE replied to the request, approving the exemption.⁸

CALFIRE granted the exemption to the driveway standards; however, the remaining standards are recommended as **Condition 11**.

Condition 11: The applicant shall comply with the recommendations in the California Department of Forestry letter dated February 20, 2014 (CDF #17-14), excluding recommended driveway improvement standards, or other alternatives as acceptable to the Department of Forestry. Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.

The project application was likewise referred to Albion Little River Fire Protection District (ALRFPD) for review and comment. ALRFPD did not return comment.

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 Chapter 20.504 of the MCC. The subject parcel is located within a mapped Highly Scenic Area (HSA), as depicted on the *Albion* LCP map, requiring that new structures not exceed "eighteen feet above natural grade...unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures."⁹ The proposed residence is depicted with a maximum height of eighteen feet on the elevation drawings provided with the application materials, consistent with the height limitations of HSA.

The LCP and MCC contain additional development criteria for projects in HSA to protect views to and along the ocean and scenic coastal areas. The proposed project would replace an existing single-family residence with a new single-family residence and associated development approximately 1,000 feet west of Highway 1, where it will stand on the western edge of existing vegetation near the location of the existing single-family residence. The proposed location of the development is buffered by existing woodland vegetation, and is almost completely shielded from the view of motorists.

The proposed development will be visible from the sea, appearing before a forested backdrop. The development is at the toe of the slope, and will 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 site and in the nearby community.

⁵ *Mendocino County and Incorporated Areas* [map]. 2011. Flood Insurance Rate Map, Panel 1200F, Number 06045C1200F. Federal Emergency Management Agency.

⁶ *Fire Hazard Severity Zones in SRA* [map]. 2007. 1:150,000. Fire and Resource Assessment Program, California Department of Forestry and Fire Protection.

⁷ Taber, Bret. "CALFIRE 47-14 / 5720 North Highway 1 Little River." Letter. 25 Nov. 2014.

⁸ Zimmermaker, Shawn. "RE: CALFIRE 47-14 / 5720 North Highway 1 Little River." Letter. 1 Dec. 2014.

⁹ *Mendocino County Coastal Zoning Code*, § II-20.376.045 (1991). Print.

The existing residence to be partially demolished is two stories tall. The removal of the second story, and replacing the residence with a one story structure will lessen the project's impacts and bring the development into compliance with visual resource policies of the LCP.

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. Staff questioned how the metal roofing could be consistent with these requirements, and in email correspondence on March 30, 2015, the applicant revised the proposed roofing materials from metal to composition shingles, and revised the proposed roofing colors from copper to gray. The final proposed project materials and colors are as follows:

Table 1: Proposed Project Materials and Colors		
Element	Materials	Color
Siding	Hardie cement board lap siding	Kelly Moore – Stagecoach (brown)
Trim	Wood (cedar)	Kelly Moore – Swiss Coffee (white)
Chimney	Stone Veneer – Beaver Creek by Telluride Stone Company	Brown / Earth tones
Roofing	Composition shingles	Gray / Charcoal
Window Frame	Fiberglass – Millguard	Brown
Door	Fiberglass – Millguard	Brown
Fencing	Hardie cement board lap siding	Kelly Moore – Stagecoach (brown)
Deck	Wood	Brown

Staff recommends **Condition 12** requiring the project be constructed with the proposed materials and colors.

Condition 12: 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 1**.

The MCC provides exterior lighting regulations intended to protect coastal visual resources. Exterior lighting is required to be within the zoning district's height limit regulations, and also must be shielded and positioned in a manner that light and glare does not extend beyond the boundaries of the parcel.¹⁰

No lighting is shown on the proposed elevations. **Condition 13** is recommended to ensure that any exterior lighting will comply with lighting policies.

Condition 13: Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit an exterior lighting plan and design details or manufacturer's specifications for all exterior lighting fixtures. Exterior lighting shall be kept to the minimum necessary for safety and security purposes and shall be downcast and shielded, and shall be positioned in a manner that will not shine light or allow light glare to extend beyond the boundaries of the parcel in compliance with Section 20.504.035 of the Mendocino County Code.

The recommended conditions of approval will ensure the project is consistent with visual resource policies of the LCP.

- **20.532.095(A)(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities.**

Consistent (with conditions of approval)

¹⁰ Mendocino County Code. § 20.504.35 (1991). Print.

Utilities

A septic system and well currently serve the existing development. The existing septic system is approximately sixty-six years old and located directly above the sea cave with a single leach line that discharges over the bluff face. The applicant proposes to install a new septic system and sewage line to replace the existing dated septic system, pursuant to a submitted Site Evaluation Report prepared by Carl Rittiman and Associates, Inc.

The application and Site Evaluation Report was referred to Mendocino County Division of Environmental Health to address water supply and wastewater disposal for the project. In their response dated July 28, 2014, Environmental Health indicated that "DEH can clear this CDP." No conditions are required associated with the proposed septic system.

The existing well service is adequate to serve the proposed new residence, and no conditions are necessary.

Access Roads

The parcel is currently provided with an existing private driveway (Frog Pond Road) that intersects Highway 1. The subject parcel is located at the terminus of this private driveway. The applicant proposes to remove existing asphalt surfacing and utilize the existing underlying pervious base materials as the finished surface. Approximately 2,400 square feet of asphalt surfacing will be removed

Mendocino County Department of Transportation (DOT) was invited to provide comment on the application. A letter to Planning and Building Services from DOT dated October 23, 2014, provided no comment on the project. Caltrans did not respond to a request for comments. The proposed development will be provided with adequate access roads.

Drainage

Drainage is subject to Section 20.492.025 of the MCC, which requires that water flows in excess of natural flows resulting from the project development be mitigated. The applicant submitted a *Stormwater Management Report* dated May 20, 2014 (revised December 22, 2014) prepared by Doble Thomas & Associates addressing the project impacts on stormwater runoff. The report concludes that "there is no change in the runoff CN as a result of the increased building footprint for the new house and the addition of a court yard area versus what exists today. This is a result of the removal of 0.11ac of existing pavement and replacing with gravel driveway." The *Storm Water Management Report* recommends **Condition 14**, directing roof drains to planters as stormwater treatment control measures. This volume based approach will detain the increased runoff from the roofs, and slowly release it at a rate that mimics the existing runoff rate of the site. This volume-based treatment is used to minimize erosion in addition to providing filtration and should be sufficient to mitigate an increase in runoff.

Condition 14: Prior to final inspection of a building permit in reliance on this Coastal Development permit, the applicant shall install "flow-thru" planters providing a volume based treatment of all of the roof areas. This shall be achieved by routing the roof down drains to the planters prior to discharging to the downstream area. The planters shall be designed to capture the first one inch of runoff, filter it slowly through the planting medium and soils before discharging to the downstream area.

The following condition is recommended to reduce stormwater runoff impacts, and to provide the development with drainage consistent with MCC Section 20.492.025:

Condition 15: Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit for approval by Planning and Building staff a drainage and erosion control plan. The plan shall detail erosion and sediment control Best Management Practices, including concrete wash out area, staging, stockpile locations, and tree protection areas, as necessary.

- **20.532.095(A)(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district.**

Consistent (without conditions of approval)

Intent: The subject parcel is zoned Rural Residential (RR).¹¹ The intent of the RR 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.”

This application proposes the development of a single-family residence to replace an existing single-family residence, with accessory development that is normally associated with residential development. The proposed development is consistent with low density residential development, and the replacement of an existing residence does not increase development density for the area, preserving agricultural opportunities where they presently exist. The project is consistent with the intent of the RR zoning district.

Use: The existing parcel is developed with a single-family residence and associated development. The applicant proposes to replace the existing development with a new single-family residence, accessory and associated development. Single-family residential uses are principally permitted in the RR zoning district.

Yards: The minimum required front, rear and side yards in the RR-5 zoning district are thirty feet; however, when parcels designated RR-5 are less than five acres in size, setbacks are reduced to twenty feet to all property lines.¹² All proposed development is sited at least thirty feet from property lines. Required yard minimums for proposed development will be further verified during review of the building permit application.

Height: The maximum permitted building height in the RR zoning district is eighteen feet above natural grade for structures in HSA west of Highway 1. The parcel is located in a HSA west of Highway 1. The maximum permitted building height is eighteen feet.

The proposed single-family residence is a maximum eighteen feet above natural grade. The proposed sheds at the proposed courtyard are similarly eighteen feet or less above natural grade. The proposed development will not exceed the RR zoning district maximum building height limit.

Lot Coverage: The maximum permitted lot coverage in the RR zoning district for parcels two to five acres in size is fifteen percent. The parcel is two acres, permitting a maximum lot coverage of approximately 13,068 square feet. The sum of the proposed and existing development on the parcel is approximately 7,600 square feet. The proposed development will not exceed the permitted lot coverage maximum for the RR zoning district.

- **20.532.095(A)(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.**

Consistent (with conditions of approval)

A draft Initial Study and Proposed Mitigated Negative Declaration has been prepared for the project drawing off of supporting materials provided by the applicant and consulting agents. The said materials were used in part to identify potentially significant impacts pursuant to CEQA Guidelines Section 15063. The draft environmental document is attached as **ATTACHMENT B: MITIGATED NEGATIVE DECLARATION**. All application materials are available for review at the Fort Bragg office of the Department of Planning and Building Services.

With the implementation of mitigation measures recommended in the Proposed Mitigated Negative Declaration, the proposed development will not have any significant adverse impacts on the environment within the meaning of CEQA.

¹¹ *Mendocino County Code*, § II-20.376.005-20.380.065 (1991). Print.

¹² *Mendocino County Code*, § II-20.376.040 (1991). Print.

- **20.532.095(A)(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.**

Consistent (with conditions of approval)

On September 10, 2014, the project was referred to the Mendocino County Archaeological Commission to review an archaeological survey prepared for the parcel by John W. Parker dated March 25, 2014. The archaeological survey discovered one historic site within the project area, and recommended that the project be approved as planned with a provision that future construction and development take place at least thirty feet away from the boundary of the historic resource. All development is proposed over thirty feet from the resource as identified in the archaeological survey. The Archaeological Commission accepted the survey and found that the recommendations of the report are acceptable.

The Commissioned also advised the applicant of the Mendocino County Archaeological Resources Ordinance, and specifically Section 22.12, commonly referred to as the "Discovery Clause." Recommended **Condition 16** similarly advises the applicant of the Discovery Clause, which prescribes the procedures governing the discovery of any cultural resources during construction of the project.

Condition 16: In the event that archaeological resources are encountered during development of the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

- **20.532.095(A)(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.**

Consistent (without conditions of approval)

Solid Waste: The Albion 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.

Roadway Capacity: The State Route 1 Corridor Study Update provides traffic volume data for State Highway 1. The subject property is located on Frog Pond Road (private), which intersects with Highway 1. The nearest data breakpoint in the study is located approximately one mile north of the property at the intersection of Little River-Airport Road (CR 404) and Highway 1 at milepost 47.5. The existing level of service at peak hour conditions at this location is considered Level of Service B.¹³

Per Traffic Census data provided by Caltrans, the traffic volume at peak hour has decreased slightly between 2002 and 2013 at Highway 1's intersection with Little River-Airport Road (the nearest data collection point to the parcel subject to this application), and has maintained a Level of Service of B or better over the same time frame.¹⁴ The replacement of an existing single-family residence with a new single-family residence will have no impact on existing traffic volumes.

- **20.532.095(B)(1) If the proposed Development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made: The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.**

Consistent (without conditions of approval)

¹³ *State Route 1 Corridor Study Update for the County of Mendocino*. Rep. Santa Rosa: Whitlock & Weinberger Transportation, 2008. Print.

¹⁴ *2013 Traffic Volumes on California State Highways*. Rep. Sacramento: Department of Transportation – Division of Traffic Operations, 2013. Print.

Coastal Element Chapter 4.8 designates access rights, trails and recreation areas for the Coastal Zone between Van Damme State Park and Dark Gulch, which includes the subject parcel. Chapter 4.8 identifies no access rights, trails or recreation areas associated with the subject property.

Additionally, while the project site is located west of Highway 1, the area is not designated as a potential public access trail location on the certified *Albion* LCP Map. There is no evidence of prescriptive access on the developed site, and during review of the project, no individual, group or agency expressed otherwise. Access to the parcel is provided via Frog Pong Road, which is a private roadway west of Highway 1. The entrance to Frog Pond Road from Highway One is gated with posted no trespassing signs. The nearest coastal access is provided at Heritage House Shoreline, approximately 1,500 feet from the project site, and will not be affected by the project. The project would have no effect on public access to the coast.

20.532.100 (A) Resource Protection Impact Findings	Inconsistent	Consistent (With Conditions of Approval)	Consistent (Without Conditions of Approval)	Not Applicable
(1) Development in Environmentally Sensitive Habitat Areas. No development shall be allowed in an ESHA unless the following findings are made:				
(a) The resource as identified will not be significantly degraded by the proposed development.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) There is no feasible less environmentally damaging alternative.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) Impact Finding For Resource Lands Designated AG, RL and FL. No permit shall be granted in these zoning districts until the following finding is made:				
(a) The proposed use is compatible with the long-term protection of resource lands.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

➤ **20.532.100(A)(1), et. seq. No development shall be allowed in an ESHA unless the following findings are made...**

The certified Mendocino County LCP includes sections of both the MCC and the Coastal Element of the General Plan addressing Environmentally Sensitive Habitat Areas (ESHA). The MCC states that development having the potential to impact an ESHA shall be subject to a biological survey, prepared by a qualified biologist, to determine the extent of sensitive resources, to document potential negative impacts, and to recommend appropriate mitigation measures.

In 2007, while the parcel was under separate ownership, Planning and Building Services opened a zoning code violation case (BC_2007-0014) on the subject parcel. Earthmoving and vegetation removal activities resulted in disturbed earth within and near a riparian woodland, wetland and seasonal creek that outlets to the ocean. A Coastal Development Permit Authorization for Emergency Work (EM_2007-0003) was issued for the removal of berm piles and stabilization of disturbed earth areas prior to seasonal rains to prevent erosion and sedimentation into the creek and discharging to the ocean.

A Coastal Development Permit (CDP_2007-0071) was later issued following the Emergency Permit. CDP_2007-0071 permitted removal of stockpiles of dirt and logs, and restoration activities including construction of replacement wetlands and establishment of native plant habitats. Special Condition 1 of the approved permit states (in part) the following monitoring mechanism for the restoration plan:

...Allow staff to conduct a site view in two years (September 2014). If for some reason the site becomes significantly degraded, additional restoration activities shall be necessary. Significantly degraded for the purposes of review in two years shall mean that greater than 50% of the planted native species shall have perished or invasive plants have increased cover of the restored areas by more than 30%.

On October 17, 2014, California Department of Fish and Wildlife (CDFW) visited the parcel to assist in verifying whether these criteria for success had been met. Staff and CDFW concluded that Condition 1 of CDP_2007-0071 has been satisfied. CDFW summarizes the visit as follows:

Vegetative cover in the created wetland areas appears to meet the success criteria. Only a small amount of rain has fallen this water year, so it is not surprising that wetland areas were not inundated during our visit. However, hydrophytic vegetation in these areas appeared to be alive and likely to revive with additional precipitation.

In general, success criteria appear to have been reached, and the site appears to be recovering well—especially considering the challenge of the continuing drought.

The applicant submitted biological analysis prepared by WRA Environmental Consultants titled *Coastal Act Compliance Report*¹⁵ in concert with the application for the replacement single-family residence (**ATTACHMENT D: BIOLOGICAL REPORTS**). Special status species and communities identified in the report include blue blossom scrub (0.29 acres), common rush meadow (0.02 acres), pacific reed grass meadow (0.13 acres), and shore pine forest (0.51 acres). A wetland delineation mapped 0.15 acres of wetlands, featuring hydrophytic vegetation alliances common rush meadow and pacific reed grass meadow.

MCC Section 20.496.020(A) requires that buffer areas “be established adjacent to all environmentally sensitive habitat areas....” The ordinance goes on to describe the ramifications of multiple buffer distances:

The width of the buffer area shall be a minimum of one hundred (100) feet, unless the applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width.

There is no area on the parcel greater than one hundred feet from any ESHA, and very little area beyond fifty feet from any ESHA. The proposed development has been sited to avoid the literal extent of all on-site ESHA; however, development is proposed within fifty feet of identified ESHA, conflicting with Section 20.496.020(A)(1), which states that buffer areas shall not be less than fifty feet in width.

Section 20.496.020 requires that development less than one hundred feet from ESHA demonstrate that one hundred feet is not necessary for the protection of the ESHA from the proposed development. Section 20.496.020(A)(4) prescribes minimum standards for development within an ESHA buffer. In the *Coastal Act Compliance Report*, and in subsequent addendum letters dated December 29, 2014, and February 23, 2015, WRA Environmental Consultants address these minimum development standards and offer Mitigation Measures to achieve consistency with the LCP ESHA policies.

The Mitigation Measures are recommended by the project biologist to ensure that the project does not have an adverse impact on the sensitive resources at the site, and have been incorporated into recommended **Condition 17** requiring that the recommendations are implemented.

¹⁵ WRA Environmental Consultants, *Coastal Act Compliance Report*. Rep. June. 2014. Print

Condition 17: The Environmentally Sensitive Habitat Area recognized by this report and shown in the *Coastal Act Compliance Report* prepared by WRA Environmental Consultants, dated June, 2014, and amended by letters dated December 29, 2014, and February 23, 2015, shall be protected from development and disturbances other than those expressly authorized by this permit in perpetuity. The following mitigation measures represent those presented in the *Coastal Act Compliance Report*.

Mitigation Measure 1-1: Vegetation removal shall be targeted to include only those species that are within the footprint of the proposed updated residence, and shall be identified on a site plan associated with any building permit application in reliance on this Coastal Development Permit to be reviewed by Planning and Building staff. The applicant shall erect and maintain high-visibility construction fencing delineating the boundary between selected vegetation removal/ground-disturbance and non-removal areas throughout the construction period.

Mitigation Measure 1-2: All construction materials and staging shall utilize existing landscaped or developed areas.

Mitigation Measure 1-3: The applicant shall reseed and/or replant with fast-growing native herbaceous species to reinforce areas of loosened soil.

Mitigation Measure 1-4: Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall develop a native plant landscaping plan to address compensation for impacts to the 100 and 50 foot ESHA buffer, to be submitted for approval to Planning and Building Services. The plan should include selected sites for planting native trees, shrubs, and herbs that will enhance the shore pine forest and coastal terrace prairie (wetland) ESHA on site as well as provide visual screening from neighboring properties. Locally sourced beach pine and Pacific reed grass shall be procured to be planted in areas depicted in Figure 5 of the *Coastal Act Compliance Report* prepared by WRA Environmental Consultants dated June 2014, as amended. Planting areas shall total a minimum of 0.32 acres. Plant spacing, irrigation, maintenance, site preparation, and other landscape features will be addressed under a separate landscape plan document.

Mitigation Measure 1-5: A split rail fence shall be erected that extends from the northwestern and southwestern corner of the replacement residence to prevent access into the on site ESHA as depicted in Figure 5 of the *Coastal Act Compliance Report* prepared by WRA Environmental Consultants dated June 2014, as amended.

Mitigation Measure 2-1: Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit a Stormwater and Erosion Control Plan implementing standard erosion best management practices such as straw wattles, silt fencing, etc. to prevent sediment migration, to be reviewed and approved by Planning and Building Services. Where feasible, work shall commence during the dry season to reduce sediment migration.

Mitigation Measure 2-2: The applicant shall reseed and/or replant with fast-growing, native herbaceous species atop the septic and leach lines.

Mitigation Measure 2-3: During construction, materials, including but not limited to lumber, concrete, finishwares, hand tools, power tools, generators, vehicles, heavy equipment, shall be lain down in non-ESHA areas such as the existing driveway which are clearly designated by high visibility construction fencing or other signage. Spill prevention devices should be utilized for all toxic liquids including but not limited to gasoline, diesel, motor oil, solvents, paints, and herbicides.

Mitigation Measure 2-4: The septic pressure line shall be sited to the eastern side of the driveway and the driveway shall act as a buffer. The leach lines shall be hand dug to avoid impacts to tree roots.

Mitigation Measure 3-1: If feasible, clearing of vegetation and the initiation of construction should be done in the non-breeding season between September 1 and January 31. If these activities cannot be done in the non-breeding season, a qualified biologist shall perform pre-construction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. If active breeding bird nests are observed, no ground disturbance activities shall occur within a minimum 100-foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active nest until all young are no longer dependent upon the nest. A biologist shall monitor the nest site weekly during the breeding season to ensure the buffer is sufficient to protect the nest site from potential disturbances.

The minimum development standards listed in Section 20.496.020(A)(4) require that structures are allowed within buffer areas only if there is no other feasible site available on the parcel, and the proposed development is the least environmentally damaging alternative. In the *Coastal Act Compliance Report* addendum letter dated February 23, 2015, WRA Environmental Consultants supplied an analysis of development alternatives to the proposed project (**ATTACHMENT E: ALTERNATIVES ANALYSIS**). The alternatives analysis considers the initially proposed location, three different development locations, and a two-story alternative.

Several competing constraints limit the viability of alternative development proposals, as explained in the Alternatives Analysis. The table below is included within the Alternatives Analysis, and evaluates the various development scenarios against the environmental, geological and policy constraints of the parcel.

CONSTRAINTS	Proposed Residence, 1-story	Proposed Residence Location, 2-story	Alternative A	Alternative B	Alternative C	No Project
Avoids Literal Extent of ESHA?	Yes	Yes	Yes (No)	Yes (No)	Yes	Yes
Avoids 50- and 100-foot ESHA Buffer?	No	No	No	No	No	No
Avoids Previous Restoration Area?	Yes	Yes	Yes (No)	Yes (No)	Yes	Yes
Meets Sea Bluff Setback?	Yes	Yes	No	Yes	Yes	Yes
Meets Sea Cave Setback?	Yes	Yes	No	No	Yes	No
Meets Property Line Setback?	Yes	Yes	Yes	No	No	Yes
Meets PG&E Setback?	Yes	Yes	Yes	Yes	No	Yes
Meets Setback from Proposed Septic Area?	Yes	Yes	Yes	Yes	No	Yes
Off-haul Volume (cubic yards)	158	600	200	560	455	N/A
Driveway Extension Necessary?	No	No	Yes	No	Yes	No
Tree Removal Necessary?	No	No (Yes)	Yes	No	Yes	No
Calfire Turnaround Required	No	No	Yes	Yes	Yes	No
Calfire Fire-safe Vegetation Management Required	No	No	Yes	Yes	Yes	No
Calfire Driveway Upgrade Required	No	No	Yes	Yes	Yes	No

Following analysis of all considered alternatives, the report concludes:

It is the professional opinion of WRA that working within these constraints the Proposed Residence is the least environmentally damaging alternative for a replacement residence. This alternative takes full advantage of areas that have been developed for several decades, essentially repurposing the area. The expansion of the footprint is necessary to ensure the safety and stability of the updated residence, and prevent contamination

should the sea cave fail and collapse the existing residence....Siting the residence in Alternatives A through C present violations of several required setbacks, and will result in increased grading, trenching, and soil cutting over the Proposed Residence to provide for grade leveling, utility lines, and CalFire mandated updates. Likewise, these Alternatives would require the removal of the existing residence resulting in the exposure of compacted and denatured soils that would be labor intensive and expensive to remediate and rehabilitate to native habitat. Rather, mitigation for the Proposed Residence would be preferentially sited within one or more of the footprints of Alternatives A through C. These areas have a much higher likelihood of success for habitat restoration than that of the existing residence.

Alternatives to the proposed development, including different projects and alternative locations, have been 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 development is the least damaging, feasible alternative development scenario on the parcel.

In addition to identifying the least damaging feasible development scenario, the standards for development within a buffer area also require that mitigation measures shall replace the protective values of the buffer area on the parcel, at a minimum ratio of one-to-one, which are lost as a result of the development (Section 20.496.020(A)(4)(e)). WRA recommends a vegetation planting plan to provide enhanced habitat and visual screening, and notes that "immediate vegetation impacts are overwhelmingly to non-native species." Figure 1, titled *Proposed Footprint, Restoration and Enhancement Areas* found in the *Coastal Act Compliance Report Addendum* dated December 29, 2014, depicts a combined 0.32 acres of shore pine forest restoration, coastal bluff scrub restoration, and coastal terrace prairie restoration. Additionally, Figure 1 identifies 0.54 acres of shore pine forest enhancement. These areas are identified for future vegetation planting to replace the protective values of the buffer area affected by the proposed development.

Furthermore, development within ESHA buffers must also minimize impervious surfaces and minimize removal of vegetation (Section 20.496.020(A)(4)(f)). The proposed residence location relies heavily on the existing development footprint. This development location utilizes the existing access and does not require driveway expansion, and places development in existing unvegetated areas to limit the removal or existing vegetation.

The proposed project is not consistent with all LCP policies relating to ESHA, despite the identification of the least environmentally damaging alternative, the lack of feasible alternatives on site, the proposed mitigation measures to offset project impacts, and siting development to minimize impervious surfaces and minimize vegetation removal. 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 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 **ATTACHMENT F: TAKING ANALYSIS**.

In summary, the proposed project cannot be found consistent with LCP policies relating to ESHA; however, the proposed project is the least damaging alternative, no alternative proposal could be approved, and the proposed mitigation measures required by **Condition 17** 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.

- **20.532.100(A)(2)(a) Impact Finding for Resource Lands Designated AG, RL, and FL. No permit shall be granted in these zoning districts until the following finding is made: The proposed use is compatible with the long-term protection of resource lands.**

Not Applicable

The project is proposed on land designated by the General Plan and the MCC as RR (Rural Residential). Findings relating to impacts on resource lands are not applicable to this application.