

**COASTAL PERMIT APPROVAL CHECKLIST
CDP_2015-0006 (Pence-Robbins)
SEPTEMBER 24, 2015**

PROJECT TITLE: CDP_2015-0006 (PENCE-ROBBINS)

PROJECT LOCATION: 42450 ROSEMAN CREEK ROAD
GUALALA, CA 95445

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

GENERAL PLAN DESIGNATION: RMR40

ZONING DISTRICT RMR:L-40

DESCRIPTION OF PROJECT: The project is for the after-the-fact authorization for construction of a Family Care Unit and septic system, and construction of a Guest Cottage with associated improvements. The accessory building is served by an existing unpermitted septic system and existing wells.

In 2014, County Staff was contacted regarding the unpermitted construction of a residence, septic improvements and accessory structures on the subject parcel. Subsequently, Mendocino County Code Enforcement opened a violation case for the unpermitted construction (BC_2014-0012). Staff has been working with the owner/applicant to resolve the numerous violations on the parcel. The subject permit seeks to legalize the unpermitted Family Care Unit, Guest Cottage and septic system currently present on the parcel.

SITE DESCRIPTION AND SETTING: The 40 acre subject parcel is situated approximately six (6) miles north of the town of Gualala, on the north side of Roseman Creek Road (a private road), 3,000± feet east of its intersection with Highway 1. The site is surrounded by residential development. The subject parcel is currently developed with a single family residence and has existing agricultural operations.

DETERMINATION: The proposed project **conditionally satisfies all required findings for approval of a Coastal Development Permit**, pursuant to Section 20.532.095 and 20.532.100 of the Mendocino County Code, as individually enumerated in this Coastal Permit Approval Checklist.

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 type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

20.532.095 Required Findings for All Coastal Development Permits	Inconsistent	Consistent (With Conditions of Approval)	Consistent (Without Conditions of Approval)	Not Applicable
(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 type="checkbox"/>	<input checked="" 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.**

Consistent (with conditions of approval)

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.

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

General Plan Land Use – Remote Residential

The subject parcel is classified as Remote Residential by the Coastal Element of the Mendocino County General Plan, which is intended “to be applied to lands having constraints for commercial agriculture, timber production or grazing, which are well suited for small scale farming and low density agricultural/residential uses” (Chapter 2 of the County of Mendocino Coastal Element). The principally permitted use designated for the Remote Residential land use classification is “one dwelling unit per existing parcel and associated utilities, light agriculture and home occupation” (Chapter 2 of the County of Mendocino Coastal Element).

The parcel is currently developed with a single family residence (permitted under CE #2015-0003) and existing agricultural operations. The proposed family care unit is a temporary use, permitted through the issuance of a Standard Coastal Development Permit (MCC Section 20.460.040). The proposed guest cottage is considered an accessory use to the principally permitted use of the parcel, single-family residential.

Hazards

Chapter 3.4 of the Mendocino County Coastal Element addresses Hazards Management within the Coastal Zone.

Seismic Activity: The property neither lies within, nor does it adjoin a mapped Alquist-Priolo Earthquake fault zone (Department of Conservation, Division of Mines and Geology 2015). The San Andreas fault is located approximately two miles to the northeast of the project site and is the nearest active fault. The site, like the rest of Mendocino County, is subject to strong ground shaking. Figure 3-12 of the Mendocino County General Plan indicates that the subject parcel is not located in a known area of soil liquefaction.

Landslides: There are no translational/rotational or debris slides mapped on the subject parcel (Department of Conservation, Division of Mines and Geology 1984). Landslides are shown on a parcel located over a mile from the subject parcel.

Erosion: The proposed structure is located in a relatively flat area with Signal Port Creek located on the lower northwest corner of the parcel, approximately 2,000 feet from the proposed developments.

Flooding: There are no mapped 100-year flood zones on the subject parcel, and no conditions are necessary to ensure consistency with flood policy (Federal Emergency Management Agency 2011).

Fire: The project is located in an area that has a high fire hazard severity rating, as shown on the Fire Hazard Zones and Responsibility Areas map. A wildfire occurred on the subject parcel on September 14, 2006, which resulted in the majority of the vegetation on the north side of the property being destroyed. The site is currently regenerating, but consists mostly of barren soil. The project application was referred to the South Coast Fire Protection District and California Department of Forestry and Fire Protection (CalFire) for comment. CalFire submitted recommended conditions of approval (CDF #285-06), for address standards, driveway standards, and defensible space standards. Condition 8 is recommended to achieve compliance with CalFire safety standards, which states:

Condition 8: The applicant shall comply with those recommendations in the California Department of Forestry Conditions of Approval (CDF #285-06) or other alternatives acceptable to the Department of Forestry. Prior to the final inspection of the building permit, 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 South Coast Fire Protection District provided comments for the proposed project. Comments were misplaced but are being sent to County staff a second time and shall be presented at the public hearing. The South Coast Fire Protection District recommended installation of a fire tank for fire suppression purposes only.

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 Program. Consequently, the project is not subject to Local Coastal Program Visual Resource policies relating to Highly Scenic Areas.

MCC Section 20.504.035 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 requires exterior lighting to be shielded and positioned in a manner that light and glare does not extend beyond the boundaries of the parcel. Since the structure that will contain the Family Care Unit and Guest Cottage is existing, no new exterior lighting is proposed for the property beyond the existing three (3) craftsman style lights, which have been determined to be consistent with the exterior lighting regulations set forth in MCC Section 20.504.025.

Natural Resources

In 2005, a Biological Scoping Survey was prepared for the parcel by Kjeldsen Biological Consulting. The report determined that no rare plants were present, beyond an occurrence of Mendocino Pygmy Cypress on the southeast area of the property. The occurrence documented in 2005 is located across the access road (roughly

600 feet away) from all existing and proposed improvements. The California Natural Diversity Database (CNDDDB) does not show any other potential occurrences within the general vicinity of the proposed improvements. Therefore, no additional studies were required for the purposes of this permit. Based upon this information, the proposed project is in conformance with MCC Section 20.496.

- **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)

Utilities: The site has existing utilities consisting of a solar system and generator, which provide service to the structures and will continue to provide service to the proposed Family Care Unit and Guest Cottage.

The project was referred to the Mendocino County Division of Environmental Health (DEH) to review impacts to water and septic. A septic permit has been applied for to permit the existing unpermitted system.

No additional conditions are necessary to provide for adequate utilities to the proposed improvements. The project is therefore provided with adequate utilities.

Access Roads: The parcel is currently accessed by a private driveway from Roseman Creek Road, and no additional access is proposed. Mendocino Department of Transportation reviewed the application and did not state concerns relating to access. Condition 8 is recommended to achieve compliance with CalFire driveway and safety standards, which state:

Condition 8: The applicant shall comply with those recommendations in the California Department of Forestry Conditions of Approval (CDF #285-06) or other alternatives acceptable to the Department of Forestry. Prior to the final inspection of the building permit, 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.

Drainage: Drainage is subject to MCC Section 20.492.025, and provides regulations mitigating the impact of stormwater runoff and erosion. No changes will occur to the existing structure. Therefore, no conditions are required for compliance with drainage requirements contained in the code.

- **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 Remote Residential as shown on the Zoning Display Map. The intent of the Remote Residential zoning district is "to be applied to lands within the Coastal Zone which have constraints for commercial agriculture, timber production or grazing, but which are well-suited for small scale farming, light agriculture and low density residential uses, or where land has already been divided and substantial development has occurred" (MCC Section 20.380.005). The property is currently developed with a single family home, other unpermitted structures, and an existing agricultural use.

Use: The subject parcel is zoned Remote Residential as shown on the Zoning Display Map. The applicant proposes after-the-fact authorization for the construction of a Family Care Unit and Guest Cottage.

The Family Care Unit is permissible as a temporary use under MCC Section 20.460.040, with the issuance of a Standard Coastal Development Permit, provided the applicant meets the provisions of the section for eligibility. Currently, the applicant requires a Family Care Unit to care for one of the owners and has adequately demonstrated the need for the use to Planning and Building Services Staff. Conditions 10 and 11 are recommended to ensure that the Family Care Unit is used in a manner consistent with Mendocino County code.

Condition 10: The applicant shall have the sole responsibility of renewing the Family Care Unit permit each year, prior to the expiration date. Prior to the granting of the permit and yearly renewal, a statement must be submitted by the owner of the property and signed under penalty of perjury that the use of the Family Care Unit is to provide housing for either: (a) not more than two (2) adult persons who are sixty (60) years of age or older, or (b) an immediate family member or members who require daily supervision or care, or (c) a person or persons providing necessary daily supervision and care for the person or persons residing in the main residence.

Condition 11: Should the use or necessity of the temporary Family Care Unit cease, it shall be either removed from the premises or converted to an accessory structure as provided in Chapter 20.456. Should the occupants of the Family Care Unit or the main residence move to another off-site residence, the permits for the Family Care Unit shall become null and void.

The Guest Cottage is defined as an accessory living unit, which is allowable as an accessory use to a single-family residence per MCC Section 20.456.015 (G). To ensure that the Guest Cottage is used in an appropriate manner Condition 12 is recommended.

Condition 12: Prior to issuance of the Coastal Development Permit, the applicants shall execute and record a deed restriction stating that the Guest Cottage shall not contain facilities, either permanent or temporary and portable, for the cooking or preparation of food, and shall not be used as an independent dwelling unit until such a time as appropriate permits are obtained.

Density: The maximum dwelling density in the Remote Residential zoning district is one single family dwelling per forty (40) acres except as provided pursuant to Section 20.456.015 (Accessory Uses), Section 20.460.035 (Use of a Trailer Coach), and Section 20.460.040 (Family Care Unit) (MCC Section 20.380.025 (A)). The existing and proposed development does not conflict with the dwelling density standards of the Remote Residential zoning district.

Yards: The minimum required front, side, and rear yards in the Remote Residential zoning district for a parcel of this size are fifty (50) feet from all property boundaries (MCC Section 20.380.030 and MCC Section 20.380.035). The accessory building containing both the Family Care Unit and Guest Cottage is located 100 feet from the western property boundary, 500 feet from the northern property boundary, 600 feet from the southern property boundary and 1,000 feet from the eastern property boundary. The proposed development is consistent with the yard setback requirements of the Remote Residential zoning district.

Height: The maximum permitted building height for accessory structures in the Remote Residential zoning district is twenty-eight (28) feet (MCC Section 20.380.045). The structure is twenty-one (21) feet above grade, less than the permitted maximum height in the Remote Residential zoning district.

Lot Coverage: The maximum permitted lot coverage in the Remote Residential zoning district is ten (10) percent for a parcel of this size (MCC Section 20.380.050). The parcel is approximately 1,742,400 square feet, allowing for a maximum permitted lot coverage of approximately 174,240 square feet. Including the existing development and proposed improvements, the lot coverage on the parcel would be less than 9,000 square feet for a lot coverage percentage of approximately five (5) percent of the allowable lot coverage. The proposed development is consistent with the lot coverage requirements of the Remote Residential 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 (without conditions of approval)

The proposed project is Categorical Exempt from the provisions of CEQA, pursuant to Class 3 of Article 19 of the California Environmental Quality Act Guidelines. The Class 3 (e) exemption finds that "construction and location of limited numbers of new, small facilities or structures", meeting the criteria of Section 15303, has "been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA."

The proposed development meets the criteria of Section 15303, and therefore will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

- **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)

The project was referred to the California Historic Resource Information System (CHRIS) to review for impacts on cultural resources, including archaeological or paleontological resources. CHRIS replied that the site has the potential to contain unrecorded archaeological sites, and recommended completion of a study prior to commencement of project activities. The project was heard by the Mendocino County Archaeological Commission hearing August 12, 2015, where they determined that no archaeological survey would be required.

The applicant is still advised of the Mendocino County Archaeological Resources Ordinance, and specifically Section 22.12, commonly referred to as the "Discovery Clause." Recommended Condition 9 similarly advises the applicant of the Discovery Clause, which prescribes the procedures subsequent to the discovery of any cultural resources during construction of the project, and states:

Condition 9: If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resource(s) in accordance with Section 22.12.090 of the Mendocino County Code.

- **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 South Coast Transfer Station is located approximately four (4) miles from the project site, providing for the disposal of solid waste resulting from the existing residential uses on the parcel. Additionally, curbside pickup is available, should the owner choose to purchase the service. The development of a Family Care Unit and Guest Cottage is not anticipated to generate a significant amount of solid waste beyond what is currently created by the single-family home. Solid waste disposal is adequate to serve the proposed development.

Roadway Capacity: The increase in traffic volume associated with the development proposed in the application will be negligible. Additionally, Mendocino Department of Transportation reviewed the application and did not state concerns relating to roadway capacity. The existing roadways and private access are adequate to serve the proposed development.

- **20.532.095(B)(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.**

Not Applicable

The proposed development is located east of the first public road and is not designated as a potential public access trail on the certified Local Coastal Program map (Map# 30-Anchor Bay), making the subject finding not applicable to this project.

References:

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

Chapter 2 Mendocino County, Planning and Building Services, Planning Division. *The County of Mendocino-Coastal Element*. 1985. Ukiah, CA.

Geology and Geomorphic Features Related to Landsliding [map]. 1984. Gualala 7.5' Quadrangle, Department of Conservation, Division of Mines and Geology.

Mendocino County and Incorporated Areas [map]. 2011. Flood Insurance Rate Map, Panel 1425F, Number 06045C1425F. Federal Emergency Management Agency.

Kjeldsen Biological Consulting (March, 2005). *Biological Scoping Survey*

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