

STAFF REPORT FOR STANDARD COASTAL DEVELOPMENT PERMIT

**CDP_2015-0006
SEPTEMBER 24, 2015
CPA - 1**

OWNER/APPLICANT: KATHRYN PENCE & DENNIS ROBBINS
42450 ROSEMAN CREEK ROAD
GUALALA, CA 95445

REQUEST: Standard Coastal Development Permit for the after-the-fact authorization of construction of a Family Care Unit and septic system, and construction of a Guest Cottage, with associated improvements.

LOCATION: In the Coastal Zone, 6± miles north of the town of Gualala, on the north side of Roseman Creek Road (private) 3,000± feet east of its intersection with Highway 1, located at 42450 Roseman Creek Road, Gualala; APN 143-010-08.

APPEALABLE: No

PERMIT TYPE: Standard Coastal Development Permit

TOTAL ACREAGE: 40 Acres

GENERAL PLAN/COASTAL PLAN: Remote Residential (RMR)

ZONING: Remote Residential (RMR)

EXISTING USES: Single Family Residential

ADJACENT ZONING: North: Remote Residential (RMR)
East: Rural Residential (RR)
South: Remote Residential (RMR)
West: Rural Residential (RR)

SURROUNDING LAND USES: North: Single Family Residential
East: Single Family Residential
South: Single Family Residential
West: Single Family Residential

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically Exempt from CEQA – Class 3 (e)
Accessory Structure

PROJECT DETERMINATION: Approve with Conditions

PROJECT DESCRIPTION: The project is for the after-the-fact authorization for construction of a Family Care Unit and septic system, and request the 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 (private), 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.

OTHER RELATED APPLICATIONS:

- BC_2014-0012 Violation for construction of a residence, family care unit, septic, well and accessory structures without permits.
- CE_2015-0003 Authorization for single family residence.
- BF_2015-0164 Building permit for construction of single family residence.

SUMMARY OF REFERRAL AGENCY COMMENTS:

Planning – Ukiah	No comment
Mendocino Department of Transportation	No comment
Environmental Health – Fort Bragg	DEH can clear this CDP. Septic permit has been applied for.
Building Inspection – Fort Bragg	No comment
Assessor	No response
Caltrans	No response
CalFire	Owner will be expected to adhere to CalFire 4290 Regulations.
Sonoma State University	No record of previous cultural resource studies. The proposed project area has the possibility of containing unrecorded archaeological sites. A study is recommended prior to commencement of project activities.
Coastal Commission	Phone conversations where subject was mentioned, but no comments formally submitted.
Gualala Municipal Advisory Council	GMAC voted at their June 4, 2015 meeting to unanimously approve the CDP with no contingencies or recommendations.
South Coast Fire Protection District	Recommended installation of a fire tank for fire suppression purposes only.

KEY ISSUES: Coastal Development Permit applications are subject to the findings enumerated in Section 20.532.095 and Section 20.532.100 of the Mendocino County Code (MCC). Attachment A of this report individually addresses each of the Required Findings for all Coastal Development Permits and any Supplemental Findings applicable to this project. The issues listed below are drawn from Attachment A and have been determined to be “key issues” because they either require special conditions for the findings to be made, or they address matters of particular concern by referral agencies.

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.

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).

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 wiped out. 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 mis-placed 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.

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

REQUIRED FINDINGS FOR THIS COASTAL DEVELOPMENT PERMIT:

1. The proposed development is in conformity with the certified Local Coastal Program. The intent of the RMR Land Use designation is to promote small scale farming and residential land uses. The site has existing residence and agricultural use and the proposed improvements will improve the residential use of the parcel by providing necessary appurtenant structures to allow the owners to maintain the existing use of the parcel.
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities. The structure is served by existing utilities consisting of a solar system

and generator. There is an existing well serving the parcel and the existing septic system is authorized under this permit. There is existing access to the parcel, which is adequate to serve the proposed improvements.

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 Family Care Unit and Guest Cottage are consistent with the existing residential and agricultural use on the parcel. Similarly, the authorization for the septic system will enhance the existing improvements. The Family Care Unit is a temporary use, permitted through the issuance of a Standard Coastal Development Permit, and the Guest Cottage is an accessory use, both are consistent with the intent of the RMR district.
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment, within the meaning of the California Environmental Quality Act and is found categorically exempt pursuant to Section 15303, Title 14, Chapter 3 of the California Code of Regulations.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource. The Mendocino County Archaeological Commission made findings that no survey would be required for the property, unstanding that future development may be subject to obtainment of an archaeological survey. The standard discovery clause is recommended as a condition of approval directing the applicant to cease work and contact the Director of Planning and Building Services if archaeological sites or artifacts are discovered during construction.
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. The proposed improvements will not increase the amount of travel on the public roadway, as the proposed improvements solely enhance the continuance of the existing residential and agricultural uses on the site. The site is provided with adequate solid waste facilities, as curbside pick-up is available as well as there is a transfer station nearby.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan. The subject parcel is located east of the first public road and therefore findings related to public access and public recreation are not applicable to this project.

CONDITIONS OF APPROVAL:

1. This action shall become final and effective 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 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 Planning Commission.

4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. 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.
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.
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.
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.
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.

Staff Report Prepared By:

DATE

JULIA ACKER
PLANNER I

JA/at

August 5, 2015

Categorically Exempt

Appeal Period: Ten (10) calendar days for the Mendocino County Board of Supervisors, followed by ten (10) working days for the California Coastal Commission following the Commission's receipt of the Notice of Final Action from the County.

Appeal Fee: \$945 - For an appeal to the Mendocino County Board of Supervisors.

Attachments:

- A- Coastal Permit Approval Checklist
- B- Location Map
- C- Topographic Map
- D- 2014 NAIP Aerial Orthophoto
- E- Site Plan
- F- Enlarged Site Plan
- G- First Floor Plan
- H- Second Floor Plan
- I- North Face
- J- North Face Addition
- K- South Face
- L- South Face Addition
- M- East Face
- N- West Face
- O- Zoning Display Map
- P- General Plan Classifications
- Q- LCP Map 30: Anchor Bay
- R- CDP Exclusion Zones
- S- Adjacent Parcels
- T- Fire Hazard Zones & Responsibility Areas
- U- Ground Water Resources
- V- Estimated Slope
- W- Local Soils
- X- Timber Production Zones
- Y- Earthquake Hazard Zones