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**COASTAL PERMIT ADMINISTRATOR  
STAFF REPORT – CDP STANDARD**

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**CDP\_2014-0023  
SEPTEMBER 28, 2017**

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**SUMMARY**

**OWNER/APPLICANT:** THEODORE E BURKE  
PO BOX 65  
CAPITOLA, CA 95010

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

**REQUEST:** Standard Coastal Development Permit to (1) demolish an existing single family residence, garage and workshop, greenhouse, and sheds; (2) construct a new single family residence, garage and workshop, greenhouse, bocce court, water tower, wind turbine, and associated utilities; (3) renovate an existing shed to create a guest cottage; (4) reconfigure the existing driveway and parking, including new entrance gates for cars and pedestrians; and (5) relocate an existing water tank into the proposed water tower. Associated utilities include installation of a new septic system, propane tank, drilling a new well, and trenching for utilities.

**DATE DEEMED COMPLETE:** May 2, 2016

**LOCATION:** The site is located 2± miles south of the City of Fort Bragg, on the northwest side of Jefferson Way, 1,000± ft. west of its intersection with Highway 1, located at 33200 Jefferson Way, Fort Bragg (APN: 017-370-05).

**TOTAL ACREAGE:** 2.11 acres

**GENERAL PLAN:** Coastal Element, Mendocino County General Plan  
Rural Residential, 5 acre minimum parcel size (alternative density: 1 acre minimum) (RR5(RR1))

**ZONING:** Division II, Title 20, Mendocino County Code  
Rural Residential, 5 acre minimum parcel size (alternative density: 1-acre minimum) (RR5(RR1))

**SUPERVISORIAL DISTRICT:** 4

**ENVIRONMENTAL DETERMINATION:** Pursuant to Section 15303, Class 3 of the California Environmental Quality Act, the proposed project, involving replacement of an existing single family residence and appurtenant structures and conversion of an existing accessory structure, is categorically exempt from environmental review.

**APPEALABLE:** Yes, bluff top parcel

**RECOMMENDATION:** Approve with Conditions

**STAFF PLANNER:** Julia Acker

### BACKGROUND

**PROJECT DESCRIPTION:** A Standard Coastal Development Permit request for (1) demolition of an existing single family residence, garage and workshop, greenhouse, and sheds; (2) construction of a new single-family residence, garage and workshop, greenhouse, bocce court, water tower, wind turbine, and associated utilities; (3) renovation of an existing shed to create a guest cottage; (4) reconfiguration of the existing driveway and parking, including new entrance gates for cars and pedestrians; and (5) relocation of an existing water tank into the proposed water tower. Associated development includes installation of a new septic system, propane tank, drilling a new well, and trenching for utilities.

The proposed guest cottage is an existing pre-Coastal Act shed and would continue to be located less than 50 feet from the environmentally sensitive habitat area located on the riparian side of the shed. The shed will be repaired and converted to a guest cottage under this permit. The proposed addition to the guest cottage structure would be located a minimum of 50 feet from the ESHA.

**APPLICANTS' STATEMENT:** "The proposed project consists of demolishing a single-family residence, detached two story garage, green house and outbuildings, followed by the construction of a new 3857 square foot Single Family Residence, a new 2410 square foot detached two story garage and workshop/studio, rebuild of an existing greenhouse. Additionally a water tower (well, water storage tank, pump) and wind turbine will be added to the developed area. One shed will be renovated to create 640 square foot guest cottage with new entrance on the southern elevation. The existing driveway will be reconfigured for better access and parking, including new entrance gates for cars and pedestrians. Maximum building height of SFR and garage will be 28' above natural grade.

Project will include installation of new septic system (including installation of primary and secondary septic fields), propane tanks, bocce court, drilling new well, trenching for utilities; dismantle existing sheds, pump house, relocate one water tank to tower."

### **RELATED APPLICATIONS:**

- Subject parcel is Parcel 5 of the Jefferson Subdivision as shown on the recorded map filed March 20, 1955 in Map Case 1, Drawer 10, Page 21 of Mendocino County Records.

Other applications that included a windmill in approval include:

- CDP\_2008-0036 (Housel), 43050 Lyndon Lane, Fort Bragg (APN: 069-161-38), authorized construction of an 80 foot wind turbine.
- CDP\_2007-0060 (Wood), 44694 Crestwood Drive, Mendocino (APN: 119-370-09), authorized construction of a 40 foot wind turbine.

**SITE CHARACTERISTICS:** The 2.11 acre site is located on the west side of Jefferson Way, 1,000± feet west of the intersection of Jefferson Way and Highway 1, 2 ± miles south of the City of Fort Bragg. The property is located in the Jefferson Subdivision, at 33200 Jefferson Way (APN 017-370-05) and is situated on a coastal terrace. The parcel is currently developed with an existing single-family residence, located in the eastern portion of the property and a garage with living space above, both of which are proposed to be replaced with a new single family residence and garage. The proposed structures would remain situated against the easterly, vegetated portion of the property, away from the open coastal terrace.

Elevations at the site range from 38± feet, to 50± feet above mean sea level (amsl). The site is located adjacent to Jug Handle State Reserve and is not located within a mapped Highly Scenic Area.<sup>1</sup> The entire site is located within a mapped tree removal area.<sup>2</sup> Several Environmentally Sensitive Habitat Areas (ESHA) have been identified on the site, including a population of Mendocino Coast paintbrush (*Castilleja*

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<sup>1</sup> Mendocino County Department of Planning & Building Services. May 2016. *Highly Scenic & Tree Removal Areas* [map].

<sup>2</sup> Mendocino County Department of Planning & Building Services. May 2016. *Highly Scenic & Tree Removal Areas* [map].

*mendocinensis*), a stand of tufted hairgrass (*Deschampsia caespitosa*) herbaceous alliance, and riparian and wetland habitats associated with Bromley Creek.

The site consists of barren and developed land and the northern portion of the site is characterized by riparian vegetation.<sup>3</sup> The entirety of the site is underlain by beach deposits and stream alluvium and terraces (Zone 3), is subject to intermediate shaking, and is in close vicinity to non-prime agricultural land.<sup>4</sup> The site is located within a "Marginal Water Resources" area and a very high fire hazard area.<sup>5, 6</sup> The northwest portion of the site is located in the flood zone, with a small area of the northern portion located in the tsunami inundation zone.<sup>7</sup>

**SURROUNDING LAND USE AND ZONING:** As listed on Table 1 below, the site and surrounding property to the east are designated Rural Residential (RR5(RR1)). Surrounding properties to the north and south are designated Open Space (OS), and immediately west of the site is the Pacific Ocean. The existing and proposed land use is a principally permitted land use in the RR District.

Table 1. Surrounding Land Use and Zoning				
	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	OS-DPR	OS	24.83 acres	State Park
EAST	RR5(1)	RR5(1)	1.74 acres	Residential
SOUTH	OS	OS	0.9 acres	State Park
WEST	Pacific Ocean	Pacific Ocean	Pacific Ocean	Pacific Ocean

The parcel immediately to the east is currently developed with a single-family residence and appurtenant structures. Immediately north and south of the site are State Parks lands, while immediately west of the site is the Pacific Ocean.

**LOCAL COASTAL PROGRAM CONSISTENCY:** The proposed project is consistent with the goals and policies of the Local Coastal Program as detailed below.

**Land Use:** The parcel is classified as Rural Residential with a 5 acre minimum parcel size that may be reduced to 1 acre (RR5(RR1)) by the Mendocino County General Plan. The Rural Residential classification is intended to encourage local small scale food production (farming) in areas which are not well suited for large scale commercial agriculture, defined by present or potential use, location, microclimate, slope, exposure, etc. The Rural Residential classification is not intended to be a growth area and residences should be located as to create minimal impact on agricultural viability.<sup>8</sup> The proposed project, which involves construction of a single-family residence and appurtenant structures and utilities, is consistent with the Rural Residential Land Use classification.

**Zoning:** The project site is located within a Rural Residential District, which is intended 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.<sup>9</sup> The proposed project, which involves construction of a single-family residence, appurtenant structures, and utilities, is a principally permitted use within the Rural Residential District, pursuant to Mendocino County Code (MCC) Chapter 20.376 RR -- *Rural Residential District*.

The project would comply with the minimum front, rear, and side yard requirements for the RR District for a parcel of this size, which are 20 feet each. The maximum building height allowed in the RR District is 28 feet above the natural grade for non-Highly Scenic Areas. The maximum height of the proposed project

<sup>3</sup> Mendocino County Department of Planning & Building Services. May 2016. *LCP Land Use Map 14: Beaver* [map].

<sup>4</sup> Mendocino County Department of Planning & Building Services. May 2016. *LCP Land Capabilities & Natural Hazards* [map].

<sup>5</sup> Mendocino County Department of Planning & Building Services. May 2016. *Ground Water Resources* [map].

<sup>6</sup> Mendocino County Department of Planning & Building Services. May 2016. *Fire Hazard Zones & Responsibility Areas* [map].

<sup>7</sup> Mendocino County Department of Planning & Building Services. May 2016. *FEMA Flood Zones* [map].

<sup>8</sup> Mendocino County General Plan. Chapter 2.2 of the Coastal Element. 1991.

<sup>9</sup> Mendocino County Coastal Zoning Code, § II-20.376.005 (1991). Print.

components would be 28 feet in height except for the water tower and wind turbine. The water tower would be 35 feet in height, which is consistent with the building height allowed for uninhabited accessory structures within the RR District that are not within an area designated as a Highly Scenic Area. The wind turbine is proposed to be 40-feet in height and would be permitted per MCC Section 20.444.025 (*Height Exceptions*), which allows wind generators and their associated towers to be a maximum of 100 feet measured from the ground to the highest point on the system. The project, as proposed, would result in lot coverage of 14.5 percent, which would not exceed the maximum allowed lot coverage of 15 percent for parcels of this size located with a RR District.

The proposed project would comply with the accessory use requirements, which specify that accessory uses, such as the proposed private garage, greenhouse, and additional appurtenant structures and utilities are appropriate, incidental, and subordinate to the principal permitted single-family residential use.

Habitats and Natural Resources: The site is primarily characterized by scrub, with riparian habitat and a perennial stream (Bromley Creek) in the northern portion of the site.<sup>10</sup> The site is located adjacent to Jug Handle State Reserve to the north and south and a publicly accessible pocket beach and the Pacific Ocean to the west.<sup>11</sup> A Botanical Survey (2013), a Wetland Delineation (2013), and a Wildlife Assessment/Survey (2014), were prepared by Halleh Paymard, and a Coastal Act Compliance Report (2015) was prepared by WRA Environmental Consultants. Several Environmentally Sensitive Habitat Areas (ESHA) communities have been identified on the site, including 0.14-acres of Northern Coastal Bluff Scrub, 0.38-acres of Coastal Terrace Prairie, 0.11-acres of North Coast Riparian Scrub, and 0.06-acres of Riparian Stream. Additionally, numerous Mendocino Coast paintbrush (*Castilleja mendocinensis*) plants, a special-status plant species, were observed within the western portion of the site.<sup>12</sup> The northern portion of the site is defined by a Riverine and a Freshwater Forested/Shrub Wetland, while the southwestern portion of the site is defined by an Estuarine and Marine Wetland.<sup>13</sup>

Only 1 special-status plant species was observed at the site (Mendocino Coast paintbrush) and a total of 5 special-status species were determined to have potential to occur within the project area, including: northern red-legged frog (*Rana aurora*), white-tailed kite (*Elanus leucurus*), Brewster's yellow warbler (*Setophaga petechia brewsteri*), grasshopper sparrow (*Ammodramus savannarum*), and Bryant's savannah sparrow (*Passerculus sandwichensis alaudinus*). While no special-status species were observed at the site, there is the potential for these special-status wildlife species to occur at the site and thus protective measures were recommended by the project biologist.<sup>14</sup>

Based on the site constraints, the least damaging project location was determined to be in the eastern portion of the site due to the presence of existing development on the site and the location of the documented ESHAs. The majority of the site is located within 100 feet of documented ESHAs and at least half of the site is located within 50 feet of an ESHA. The majority of the proposed project would be developed in the already disturbed area, minimizing impacts to potential sensitive habitats and species within the vicinity. The project has been designed to ensure that at minimum a 50-foot buffer would be established between all new proposed development and the North Coast Riparian Scrub ESHA, which is the only ESHA concern within 100 feet of the proposed shed conversion to a guest cottage. The proposed reduced buffer has been agreed upon with California Department of Fish and Wildlife (CDFW) in correspondence dated July 20, 2016. The existing pre-Coastal Act shed would continue to be located less than 50 feet from the rare plant ESHA located on the riparian side of the shed, which will be repaired and converted to a guest cottage under this permit. The proposed addition to the proposed guest cottage structure would be located a minimum of 50 feet from the ESHA and would be largely separated from the riparian-side ESHA by the existing structure. To protect the documented ESHAs, several conditions are recommended by CDFW and the project biologists to ensure that development within the buffer shall not expand the existing footprint or remove existing native vegetation, that any new landscaping shall use only native plant species from locally-sourced seed or propagules, and that appropriate Best Management Practices (BMPs) are implemented.

<sup>10</sup> Mendocino County Department of Planning & Building Services. May 2016. *LCP Habitats and Resources* [map]

<sup>11</sup> Mendocino County Department of Planning & Building Services. May 2016. *LCP Land Capabilities & Natural Hazards* [map]

<sup>12</sup> WRA Environmental Consultants. December 2015. *Coastal Act Compliance Report*.

<sup>13</sup> Mendocino County Department of Planning & Building Services. May 2016. *Classified Wetlands* [map].

<sup>14</sup> WRA Environmental Consultants. December 2015. *Coastal Act Compliance Report*.



According to the Wetland Delineation, no direct impacts are proposed or anticipated to jurisdictional wetlands or waters within the project area. Both the Botanical Survey and the Coastal Act Compliance Report recommend conditions to compensate for development within the 100- and 50-foot ESHA buffers. Additionally, the U.S. Army Corps of Engineers (USACE) has provided conditional clearance regarding the proposed activity as it may involve grading, excavation, discharge of fill, and construction of new structures, within on-site aquatic resources and, therefore, impact a water of the U.S. A condition is recommended to ensure compliance with the guidelines of the USACE.

Additional findings are applicable to the project as contained in MCC Section 20.532.100 (A)(1). The conversion of the shed to guest cottage is proposed within the 50-foot buffer. The shed has been in place for several years, maintaining a 10- to 15-foot buffer from the adjacent riparian ESHA. The shed is proposed to be upgraded, yet will maintain the existing building footprint along the northern edge of the structure, adjacent to the riparian ESHA. The addition of the deck would be on the southern side of the shed (shadow side), as such, the existing structure would act as a buffer from the proposed development and the nearest ESHA. Impacts to the riparian ESHA buffer would not have a long-term negative effect on the riparian ESHA. Structures currently exist within the buffer area and an approximately 10-to 15-foot buffer from the edge of the nearest ESHA will be maintained. As conditioned, the proposed development would not significantly degrade the resource as identified.

Visual Resource and Special Treatment Areas: The site is not designated as a Highly Scenic Area; however, it is designated as a Tree Removal Area. Due to the fact that the site contains a minimal amount of tree cover at present and the existing vegetation and proposed landscaping provides screening of the proposed development from public view areas, staff finds that the Tree Removal Area policies contained in MCC Section 20.504.015(C)(9) are not appropriate for this site.

Existing development at the site is currently visible from Jug Handle State Reserve, but the proposed structures would be developed in accordance with the recommendations of the California Department of Parks and Recreation (DPR). A Visual Impact Analysis was prepared, at the request of DPR, by Wynn Coastal Planning, dated April 11, 2017, which noted that the site's existing development is more sprawling than what is proposed under this project, it was therefore determined that the project would reduce the existing visual impacts and would be more consistent with surrounding development than the existing development on the site. After reviewing the Visual Impact Analysis, DPR recommends that to soften the visual impacts of the views from Jug Handle State Reserve from the north proposed standard conditions should be met, including the use of a vegetative buffer and specific types of fencing. The tallest structures proposed under the project are the 35 foot water tower and the 40 foot wind turbine. Both proposed structures are historical in intent and design, have been sited on the eastern portion of the parcel, would be concentrated within the proposed development, and would not sit out in the open coastal prairie or interfere with the visual landscape of the open bluff and coastal terrace. As conditioned, Staff finds the proposed project would not have significant visual impacts.

Hazards Management: The parcel is located in an area classified with a "Very High Fire Hazard" severity rating.<sup>15</sup> Fire protection services are provided by the California Department of Forestry and Fire Protection (CalFire) and the Fort Bragg Rural Fire Protection Department (FPD). The project application was referred to CalFire and the FPD for input; FPD responded with no comments, whereas CalFire responded with a recommended condition to comply with the minimum fires safety standards for Hazardous Fire Areas, per the Public Resources Code. CalFire has submitted recommended conditions of approval (CDF# 268-15) for address standards, driveway standards, and defensible space standards. The applicant requested a reduction in yard setback requirements from CalFire, allowing a 20-foot yard setback, consistent with the zoning district for the property. The reduction in yard setbacks was granted under the condition that 10,000 gallons of emergency water supply be provided on the parcel. Standard Condition #4 is recommended to achieve compliance with CDF fire safe standards. With the inclusion of the standard and recommended conditions, Staff finds the project to be consistent with Mendocino County policies for fire protection.

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<sup>15</sup> Mendocino County Department of Planning & Building Services. No Date. *Fire Hazard Zones & Responsibility Areas* [map]

Grading, Erosion, and Run-Off: The project would require minimal grading with no disruption to existing drainage or vegetation. As the majority of the proposed project would be concentrated within the footprint of existing developed and/or landscaped portions of the site, the impacts to potentially sensitive habitats and species within the vicinity would be minimized. The current development occupies a footprint of 9,306 square-feet scattered throughout the property, while the proposed development would occupy 9,773 square-feet, but with a more concentrated clustered footprint.

Archaeological/Cultural Resources: At the June 8, 2016, hearing, the Mendocino County Archaeological Commission accepted an archaeological survey for the project prepared by T. Van Bueren and found that no cultural, historical or archaeological sites were observed. Staff notes that a Standard Condition advises the applicant of the "Discovery Clause," which prescribes the procedures subsequent to the discovery of any cultural resources during construction of the project. With the inclusion of the standard condition of approval advising the Applicant about discovery of archaeological resources, Staff finds the project to be consistent with Mendocino County policies for protection of paleontological and archaeological resource.

The project was referred to three local tribes for review and comment, including the Cloverdale Rancheria, Sherwood Valley Band of Pomo Indians, and the Redwood Valley Little River Band of Pomo Indians. As of this date, no responses have been received from any of the three local tribes.

Groundwater Resources: The project site is located within a mapped Marginal Water Resources Area.<sup>16</sup> Existing development at the site currently utilizes an existing well, water tanks and a 90 square-foot pump house. Under the proposed project, the site's existing water system would be reconstructed and an existing water tank would be relocated into the enclosed water tower, a new well drilled, and pump facilities placed in the water tower. Staff finds the proposed project would not adversely affect groundwater resources.

Transportation/Circulation: The project would not contribute new sources of traffic on local and regional roadways. The cumulative effects of traffic resulting from development on this site were considered when the Coastal Element land use designations were assigned. Additionally, the site is already developed with a single-family residence and replacement of the residence is not anticipated to generate additional traffic beyond what presently exists.

CalFire has recommended address standards and driveway standards for the proposed project. Condition 4 requires compliance with these requirements.

A minimum of two parking spaces are required for the project per MCC Section 20.472.015. A total of five spaces would be provided, including two uncovered spaces and three covered spaces in the proposed garage. Staff finds the proposed project to be consistent with transportation and circulation requirements.

Public Access: The project site is located near Jug Handle State Reserve, west of Highway 1 and is not designated as a potential public access trail location. As shown on LCP Map 14 *Beaver*, existing public access to the shore is located northwest of the site.<sup>17</sup>

**ENVIRONMENTAL DETERMINATION:** The Secretary for Resources has found that certain classes or projects have been determined not to have a significant effect on the environment and are therefore exempt from the requirement for the preparation of environmental documents, and the Project meets the criteria for a Categorical Exemption from the California Environmental Quality Act (CEQA) under Class 3(a and e), Section 15303.

**PROJECT 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, and adopts the following findings and conditions.

<sup>16</sup> Mendocino County Department of Planning & Building Services. July 2016. *Ground Water Resources* [map].

<sup>17</sup> Mendocino County Department of Planning & Building Services. No Date. *LCP Land Use Map 14: Beaver* [map].

**FINDINGS:**

1. Pursuant with MCC Section 20.532.095(A)(1), the proposed development is in conformity with the certified Local Coastal Program. A single-family residence is a principally permitted use and a garage, greenhouse, and additional appurtenant structures are permitted accessory buildings within the Rural Residential land use classification and are consistent with the intent of the Rural Residential classification and all associated development criteria; and
2. Pursuant with MCC Section 20.532.095(A)(2), the proposed development would be provided with adequate utilities, access roads, drainage, and other necessary facilities. The site has been served for many years by an on-site well and septic system, and improvements to and restructuring of the existing water and septic systems are proposed under the project; and
3. Pursuant with MCC Section 20.532.095(A)(3), the proposed development is consistent with the purpose and intent of the Rural Residential zoning district, as well as all other provisions of Division II of Title 20 of the Mendocino County Code, and preserves the integrity of the Rural Residential zoning district. With compliance with the conditions of approval, the proposed single-family residence, appurtenant structures, and associated utilities would satisfy all development requirements for the district; and
4. Pursuant with MCC Section 20.532.095(A)(4), the proposed single-family residence, if constructed in compliance with the conditions of approval, would not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. A single-family residence and appurtenant structures are categorically exempt pursuant to Sections 15303(a) and 15303(e); and
5. Pursuant with MCC Section 20.532.095(A)(5), the proposed development would not have any adverse impact on any known archaeological or paleontological resources, as there are no known resources within the vicinity of the site and Standard Condition 8 is in place when archaeological sites or artifacts are discovered; and
6. Pursuant with MCC Section 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, as development of a single-family residence and appurtenant structures to replace an existing residence and accessory structures, and reconstructing associated utilities would not generate a significant amount of solid waste or significantly increase public roadway use beyond that existing today; and
7. Pursuant with MCC Section 20.532.095(B), the proposed development would not diminish public access to Mendocino County coastal areas and conforms to the goals and policies of the Coastal Element of the General Plan. The project site is located between the first public road and the sea; and is not designated as a potential public access point.
8. Pursuant to MCC Section 20.532.100(A)(1) No development shall be allowed in an ESHA unless the resource as identified will not be significantly degraded by the proposed development, there is no feasible less environmentally damaging alternative, and all feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted. The updated shed will be on the existing footprint, maintaining the northern edge of development adjacent to the riparian ESHA. The wooden deck is a minimal addition and the existing building will act as a physical buffer between the deck and the riparian ESHA. Structures currently exist within the buffer area and maintain an approximately 10- to 15-foot buffer from the edge of the nearest ESHA. As conditioned, the proposed development will not significantly degrade the resource as identified.

**CONDITIONS OF APPROVAL:**

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired

and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

2. To remain valid, progress towards completion of the project must be continuous. The Applicants have sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The Applicants shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - a. The permit was obtained or extended by fraud.
  - b. One or more of the conditions upon which the permit was granted have been violated.
  - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the property owner shall cease and desist from all further excavation and disturbances within 100 feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.
9. The project shall adhere to all Public Resources Code (PRC) 4290 regulations, as required by CalFire and as provide in CDF#268-15, including the installation of a 10,000 gallon water storage tank for fire suppression. A revised site plan shall be submitted prior to issuance of any building permits on the site designating the proposed location of the 10,000 gallon water storage tank, outside of ESHA buffers and yard setback areas. 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.
10. The applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation and construct, to the satisfaction of the Department of Transportation, a private driveway approach on Jefferson Way (CR 441). The approach shall have a minimum width of ten (10) feet, and length of fifteen (15) feet measured perpendicularly from the edge of the County road, and be paved with asphalt concrete. The private driveway approach shall not interfere with access to the easement for the 8 foot wide pathway to the recreation area that lies along the south line of the subject parcel.

11. All proposed work and/or structures extending bayward or seaward of the line on shore reached by: mean high water (MHW) in tidal waters, or ordinary high water in non-tidal waters designated as navigable waters of the United States, must be authorized by the Corps of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403). Additionally, all work and structures proposed in unfilled portions of the interior of diked areas below former MHW must be authorized under Section 10 of the same statute. Additionally, all proposed discharges of dredged or fill materials into waters of the United States must be authorized by the Corps of Engineers pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. Section 1344). Waters of the United States generally include tidal waters, lakes, ponds, rivers, streams (including intermittent streams), and wetlands.
12. The lengths and types of fences are a condition of the permit so that the solid fence affords privacy to the residence for approximately 200 feet and the split rail type of fence maintains the appearance of an open bluff, while delineating the private property.
13. A vegetation buffer containing shore pine (*Pinus contorta* subsp. *contorta*) or other similar species such as wax myrtle (*Morella californica*) shall be included to soften the visual impacts of the views from Jug Handle State Reserve from the north. A Landscaping Plan has been submitted for the project and compliance with the submitted plan is mandatory. Minor modifications to the submitted plan may be approved administratively by the Coastal Permit Administrator for the life of the project. Major modifications may require an amendment to this Coastal Development Permit.
14. To comply with MCC Section 20.496.020, a buffer area shall be established adjacent to all environmentally sensitive habitat areas of no less than 50 feet, with the exception of the proposed guest cottage location. No additional encroachment into the ESHA associated with Bromley Creek shall be permitted. Encroachment would include removal of native vegetation, development, or other activities with the potential to impact the ESHA. Removal of invasive plant species, and/or landscaping with appropriate native plants from locally sourced seed or propagules, is exempted from this condition.
15. Removal of invasive species shall continue on the entire parcel, in order to maintain or improve the habitat quality of natural communities on site, consistent with all other recommendations of the submitted biological reports.
16. Vegetation removal shall be limited to the footprint of the proposed residence and associated structures. High-visibility construction fencing shall be erected and maintained delineating the boundary between selected vegetation removal/ground disturbance and non-removal areas throughout the construction period. Removal of vegetation at the site shall be avoided and minimized to the maximum extent feasible.
17. Construction areas shall not extend beyond the area necessary to complete the project and shall not encroach into ESHA buffer beyond that approved under this permit. During construction, materials, including but not limited to lumber, concrete, finishwares, hand tools, power tools, generators, vehicles, heavy equipment, etc. shall be stored in non-ESHA areas, such as the existing driveway, and shall be clearly designated by high-visibility construction fencing or other signage. The existing landscaped/developed areas shall be utilized as staging and laydown areas. Spill prevention devices shall be utilized for all toxic liquids, including but not limited to gasoline, diesel, motor oil, solvents, paints, and herbicides. All spills of toxic liquids shall be immediately cleaned up.
18. A native plant landscaping plan shall be developed, which shall include invasive species removal, to enhance the 100- and 50-foot ESHA buffers, and shall be reviewed and approved by the Coastal Permit Administrator. The plan shall include selected sites for planting native trees, shrubs, and herbs that will enhance the riparian area and Coastal Terrace Prairie ESHA, as well as provide soil stability to mitigation natural erosion of the slope above Bromley Creek. Site preparation, plant spacing, irrigation, and maintenance shall be addressed under a separate management plan document.

19. Temporarily impacted areas shall be restored to pre-construction contours and shall be revegetated upon completion of the project. In order to stabilize areas of loosened soil and establish temporary erosion controls, impacted areas shall be reseeded and/or replanted with fast-growing, locally native herbaceous species.
20. Standard erosion control Best Management Practices (BMPs) shall be implemented to prevent erosion, such as straw wattles, silt fencing, coir mats, etc. Silt fencing and/or other suitable erosion control measures shall be placed along the edge of the riparian ESHA. No monofilament netting, which may entrap sensitive herpetoflora, shall be utilized. Where feasible, work, including ground-disturbing activities, shall be conducted during the dry season.
21. The clearing of vegetation and the initiation of construction shall occur during the bird non-breeding season between September 1 and January 31. If these activities cannot be conducted during the nonbreeding 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, type of habitat, and level of disturbance and shall be determined by a qualified biologist. The exclusion zone(s) shall remain in place around active nest(s) until all young are no longer dependent upon the nest(s). A qualified biologist shall monitor the nest(s) weekly while it is in use to ensure the buffer(s) are sufficient to protect the nest site(s) from potential disturbances.
22. The wind turbine shall be located as far as possible from the riparian area and forest edges. An 80 foot diameter area centered on the wind turbine tower shall be maintained by regular mowing to reduce the quality of foraging habitat for birds and other species in the immediate vicinity of the tower.
23. Prior to initiation of ground disturbance in riparian or wet habitat, a pre-construction survey shall be performed by a qualified biologist to determine the presence of sensitive herpetofauna. If these species are found, they shall be located at least 100 feet from the proposed project footprint.
24. All activities that require substantial (2-cubic-feet or more as per County grading code) ground disturbance shall take place during the dry season (generally April 15 through October 31) to reduce the likelihood of impacts to sensitive herpetofauna and the Northern red-legged frog.
25. Prior to any construction activities, all construction personnel shall be instructed in the sensitivity of the natural resources found within the project site, the importance of the mitigation measures, and the penalties for impacting protected resources. All construction personnel shall be trained in the correct implementation of BMPs and avoidance and mitigation measures.
26. Prior to the issuance of any building permits (including demolition permits) in reliance of this 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.

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Date

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Julia Acker  
Senior Planner

**ATTACHMENTS:**

- A. Location Map
- B. Vicinity Map
- C. Aerial Imagery
- D. Site Plan Existing
- E. Site Plan Proposed
- F. Main Residence Elevation Section and Topo Map with Floor Plan
- G. Main Residence Elevations (N/W)
- H. Main Residence Elevations (S/E)
- I. Main Residence First Floor Plan
- J. Main Residence Second Floor Plan
- K. Garage Elevations
- L. Garage Floor Plans
- M. Guest Cottage Elevations
- N. Guest Cottage Floor Plan
- O. Water Tower and Windmill Elevations and Floor Plan
- P. Landscaping Plan
- Q. Zoning Display Map
- R. General Plan Classifications Map
- S. LCP Land Use Map 14: Beaver
- T. LCP Land Capabilities & Natural Hazards Map
- U. Appealable Areas Map
- V. Adjacent Parcels Map
- W. Fire Hazard Zones & Responsibility Areas
- X. FEMA Flood Zone Map
- Y. Ground Water Resources Map
- Z. Highly Scenic/Tree Removal Areas Map
- AA. Soils Map
- BB. Classified Wetlands Map

**SUMMARY OF REFERRAL AGENCY COMMENTS:**

Planning (Ukiah)	No Comment
Department of Transportation	Comments
Environmental Health (FB)	No Comment
Building Inspection (FB)	No Comment
Cloverdale Rancheria	No Response
CalFire	Comments
Coastal Commission	Verbal Comment
Department of Parks & Recreation	Comments
Sherwood Valley Band of Pomo Indians	No Response
Redwood Valley Rancheria	No Response
Fort Bragg Fire District	No Comment
Department of Fish and Wildlife	Comments
Army Corps of Engineers	Comments
Air Quality Management District	No Comment

**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.

Paymard, H. 2013a. Delineation of Jurisdictional Wetlands and Waters: 33200 Jefferson Way, Fort Bragg, CA; APN 017-370-05. September 2013.

Paymard, H. 2013b. Botanical Survey for 33200 Jefferson Way, Fort Bragg, CA; APN 017-370- 05. July 10, 2013.

Paymard, H. 2014. Wildlife Survey for 33200 Jefferson Way, Fort Bragg, CA; APN 017-370-05. October 13, 2014.

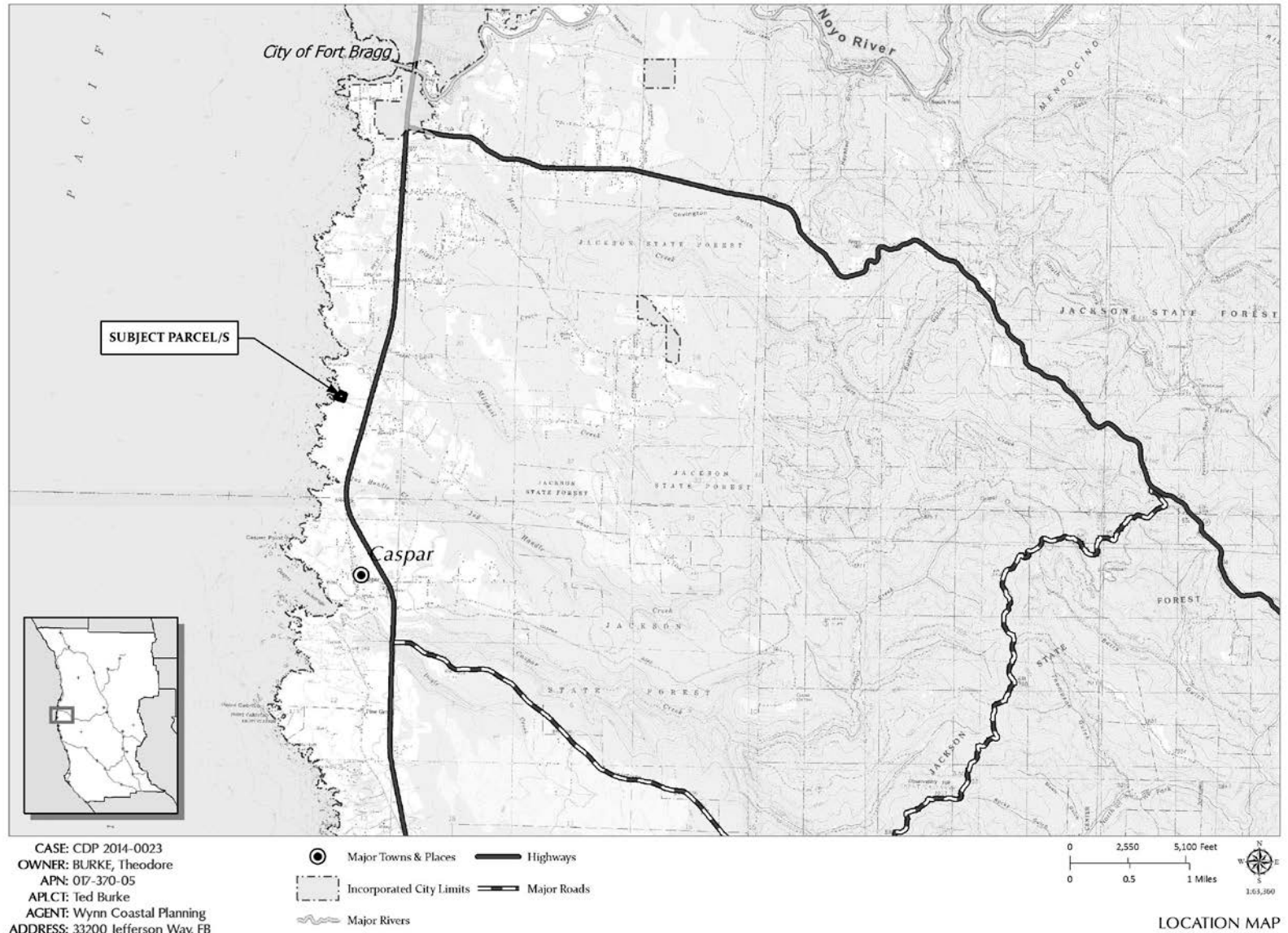
Van Bueren, T. 2013. Archaeological Survey of the Theodore Burke Property at 33200 Jefferson Way near Fort Bragg, California. June 14, 2013.

WRA, Inc. 2015. Coastal Act Compliance Report for 33200 Jefferson Way, Fort Bragg, Mendocino County, California. December 2015.

Wynn Coastal Planning 2017. Visual Impact Analysis. April 11, 2017.



# Attachment A



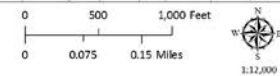
Map produced by the Mendocino County Planning & Building Services, May, 2006  
 All spatial data is approximate. Map provided without warranty of any kind.

## Attachment B



CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

Map produced by the Mendocino County Planning & Building Services, May, 2016  
All spatial data is approximate. Map provided without warranty of any kind.



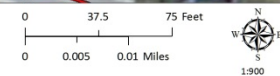
VICINITY MAP

Attachment C



CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

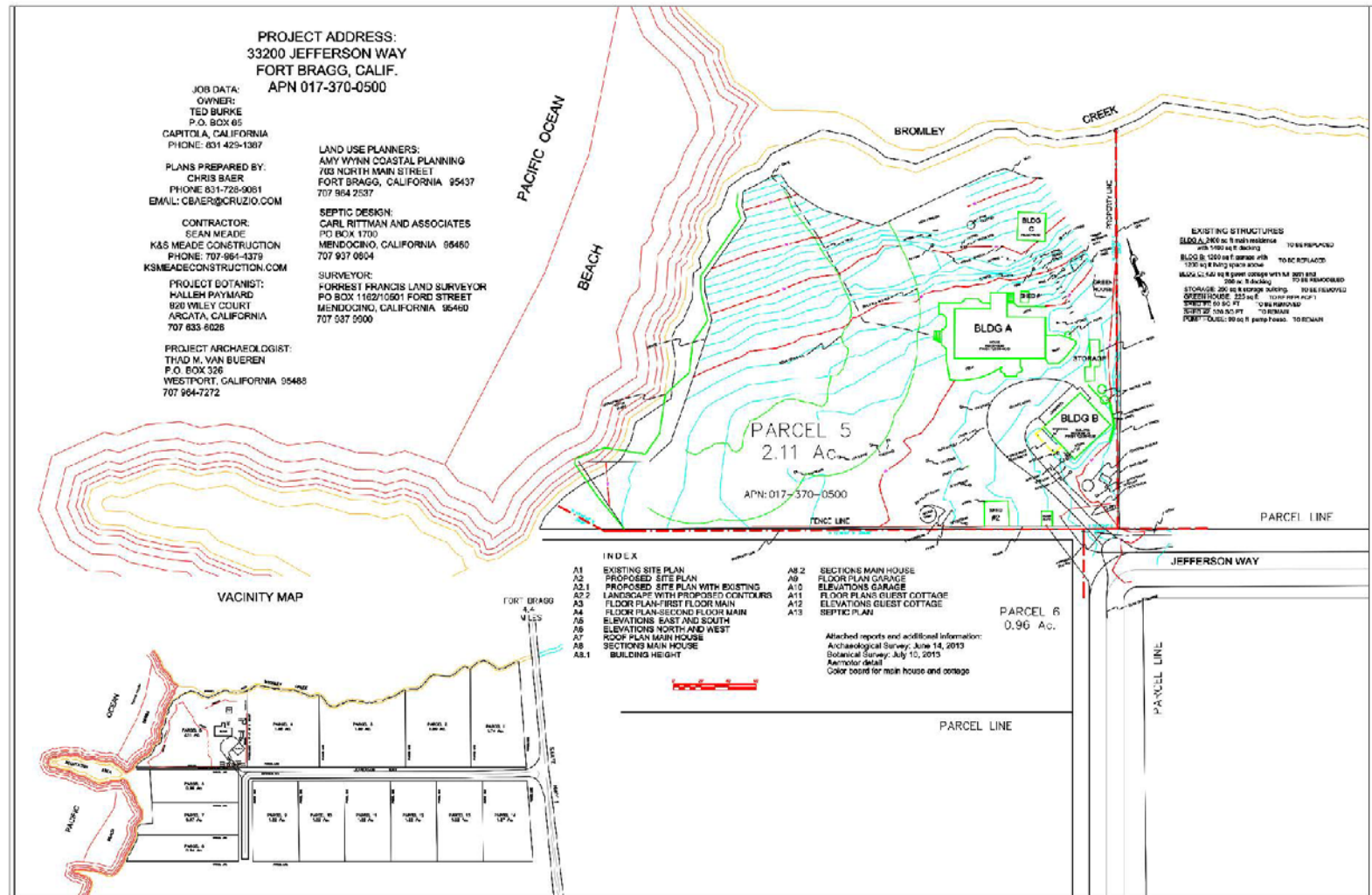
Public Roads



ESRI IMAGERY

Map produced by the Mendocino County Planning & Building Services, May, 2016  
All spatial data is approximate. Map provided without warranty of any kind.





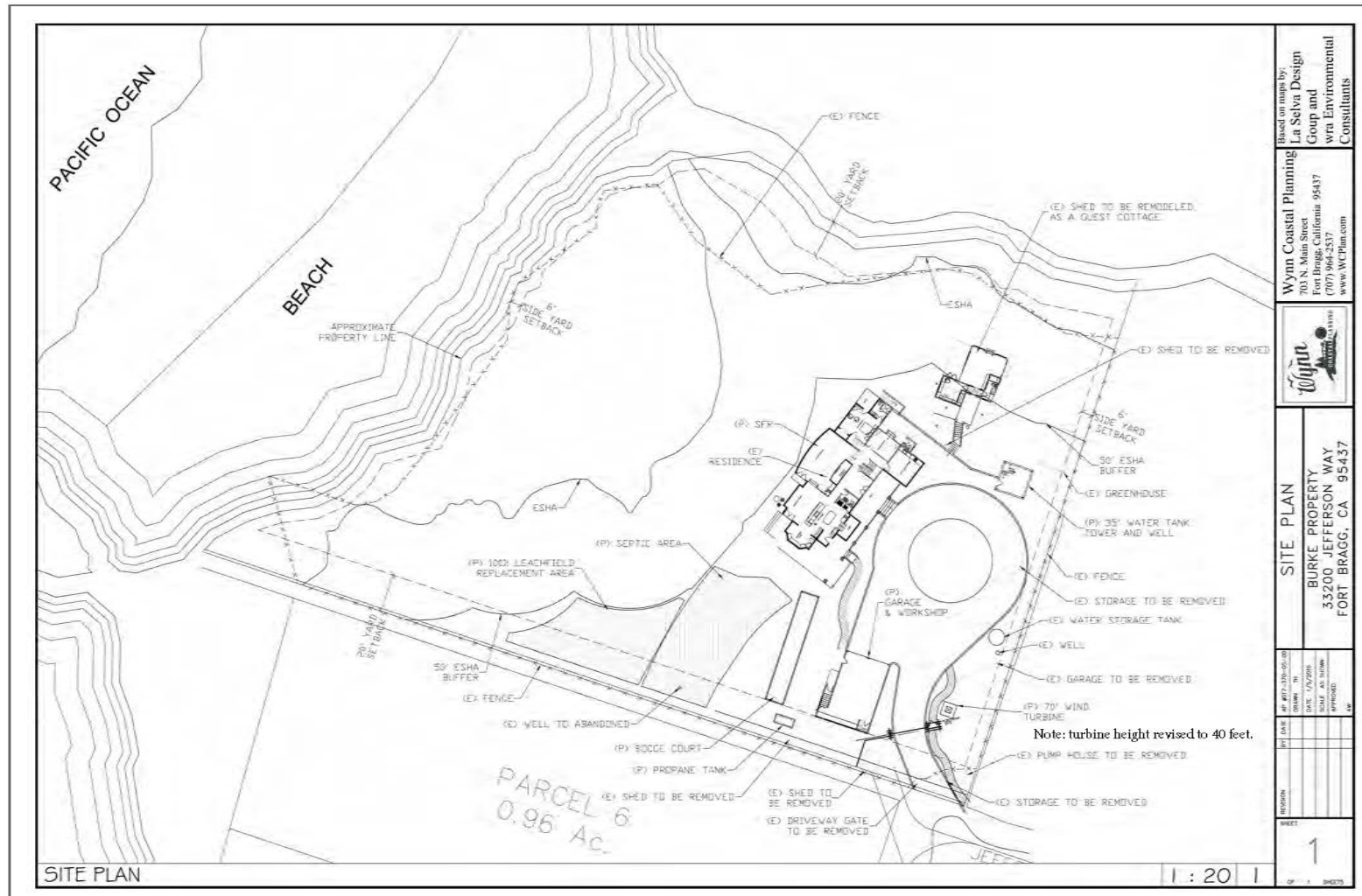
CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

**THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.**

NO SCALE

### SITE PLAN (EXISTING)

## Attachment E

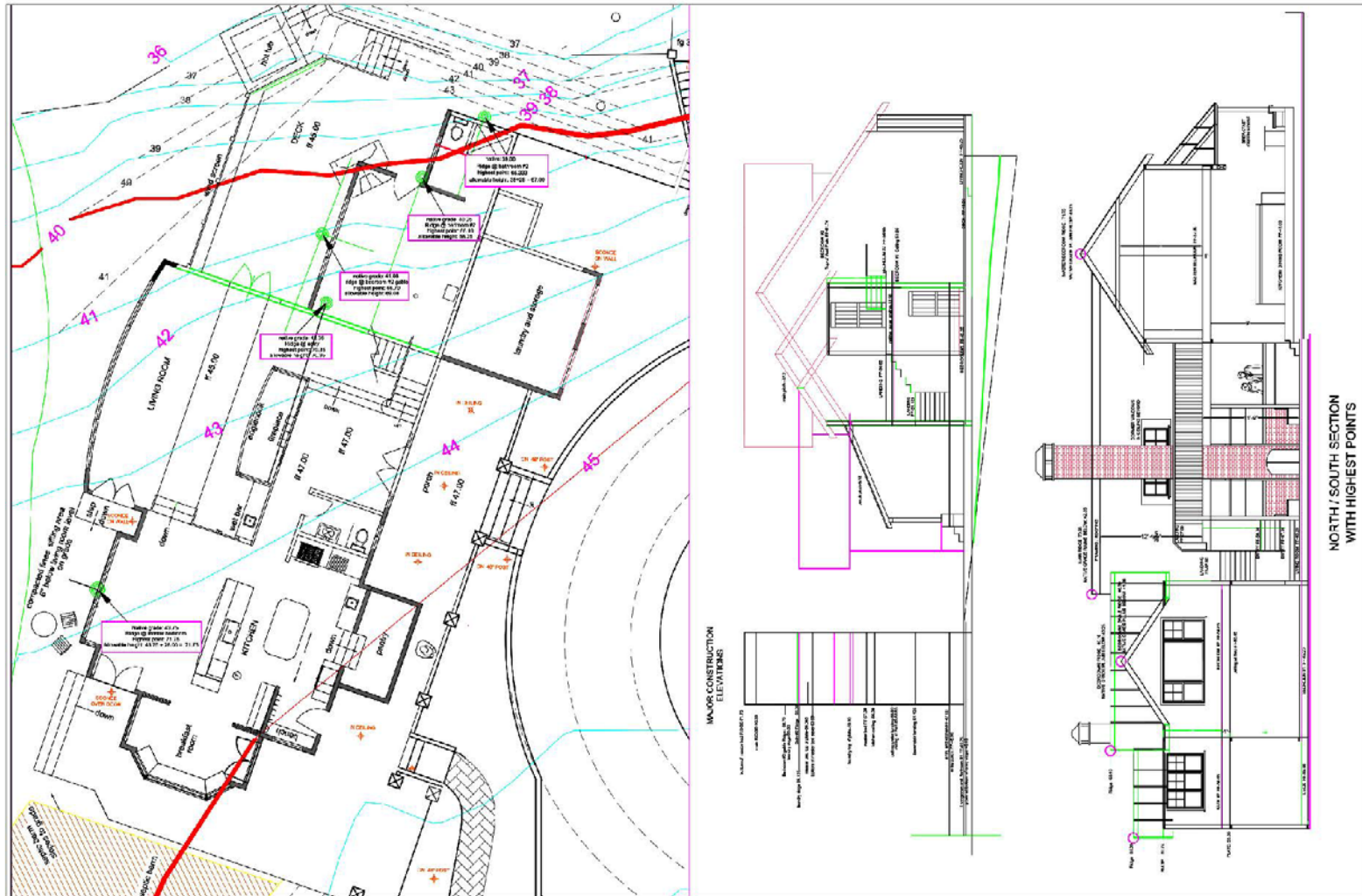


CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

NO SCALE

SITE PLAN (PROPOSED)



CASE: CDP 2014-0023  
 OWNER: BURKE, Theodore  
 APN: 017-370-05  
 APLCT: Ted Burke  
 AGENT: Wynn Coastal Planning  
 ADDRESS: 33200 Jefferson Way, FB

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

NO SCALE

MAIN HOUSE ELEVATIONS



Attachment G



CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

NO SCALE

MAIN HOUSE ELEVATIONS

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

## Attachment H



CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

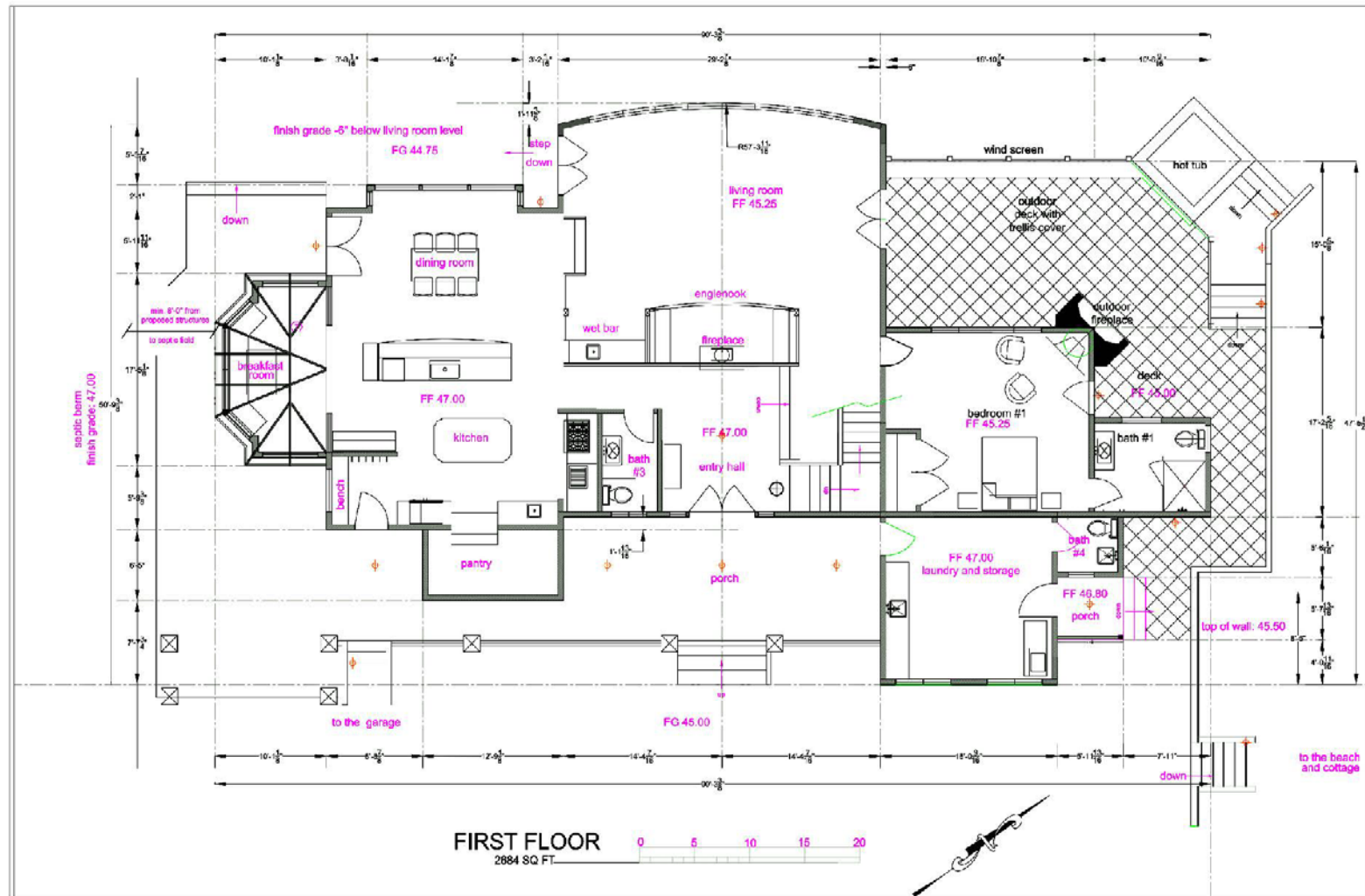
NO SCALE

MAIN HOUSE ELEVATIONS

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.



## Attachment I



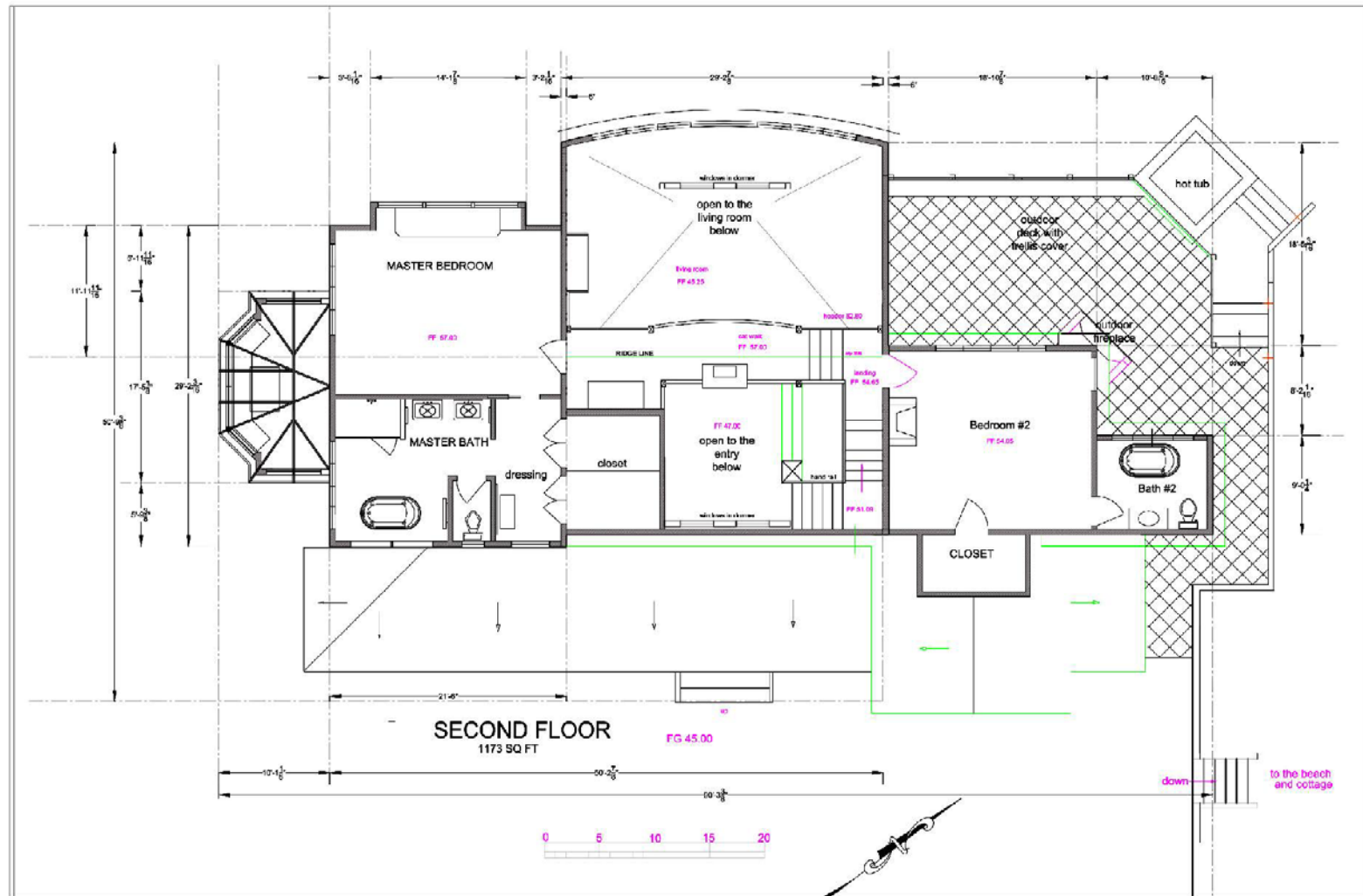
CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

*NO SCALE*

MAIN FIRST FLOOR

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

## Attachment J



CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

*NO SCALE*

MAIN SECOND FLOOR

Attachment K



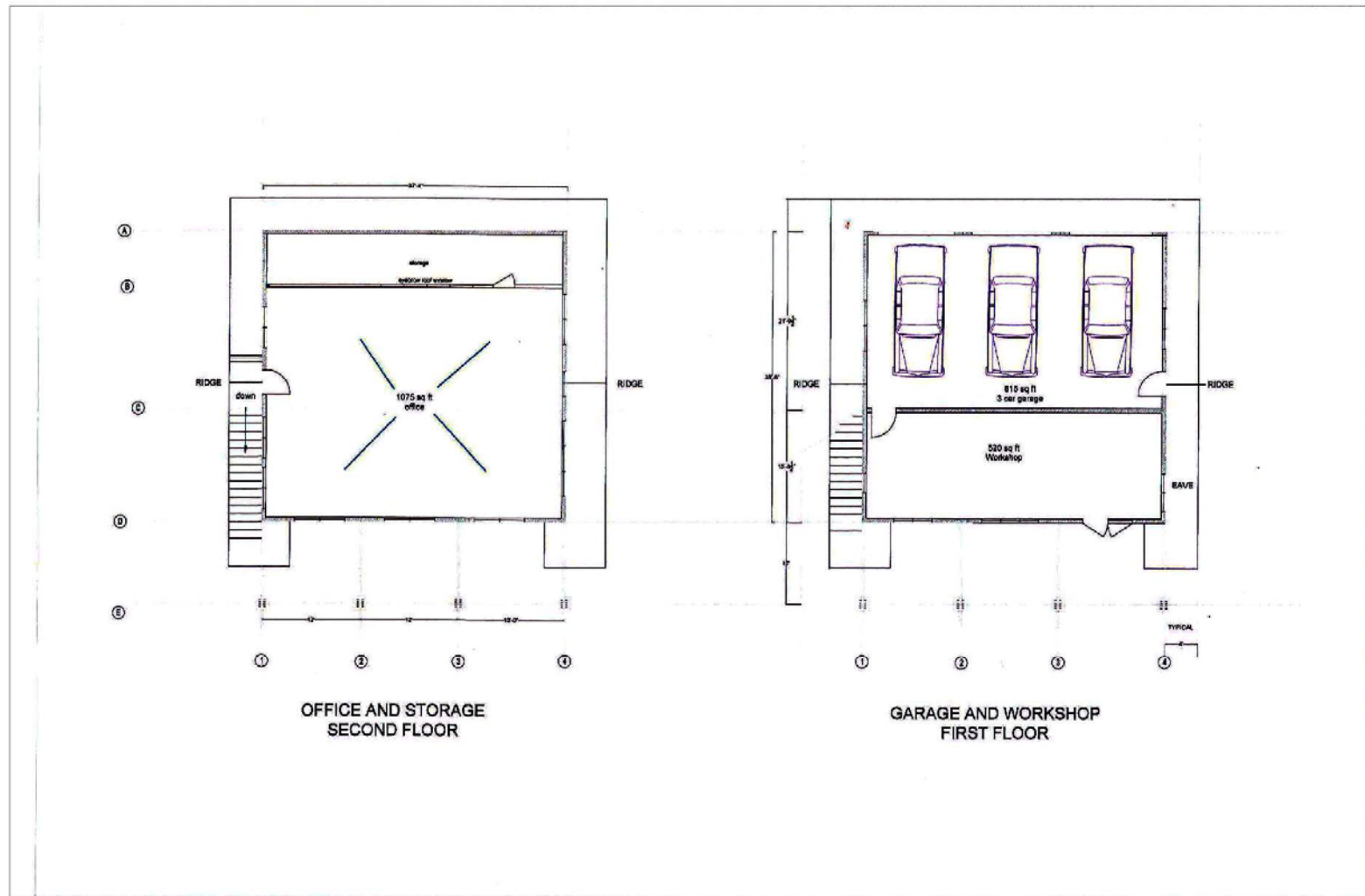
CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

NO SCALE

GARAGE ELEVATIONS

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

Attachment L



CASE: CDP 2014-0023  
 OWNER: BURKE, Theodore  
 APN: 017-370-05  
 APCT: Ted Burke  
 AGENT: Wynn Coastal Planning  
 ADDRESS: 33200 Jefferson Way, FB

NO SCALE

GARAGE FLOOR PLAN

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

# Attachment M



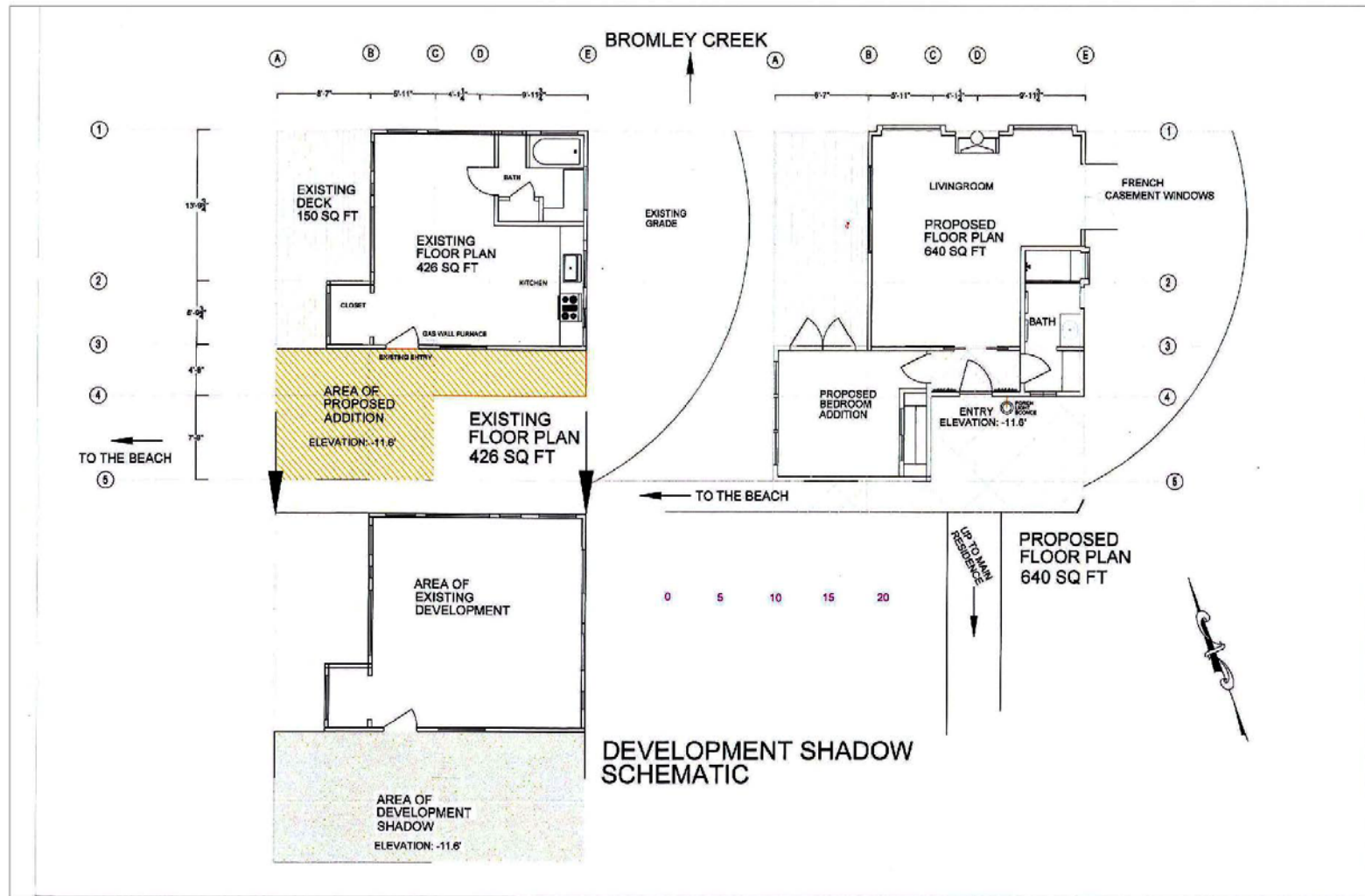
CASE: CDP 2014-0023  
 OWNER: BURKE, Theodore  
 APN: 017-370-05  
 APLCT: Ted Burke  
 AGENT: Wynn Coastal Planning  
 ADDRESS: 33200 Jefferson Way, FB

NO SCALE

GUEST COTTAGE ELEVATIONS

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.

Attachment N



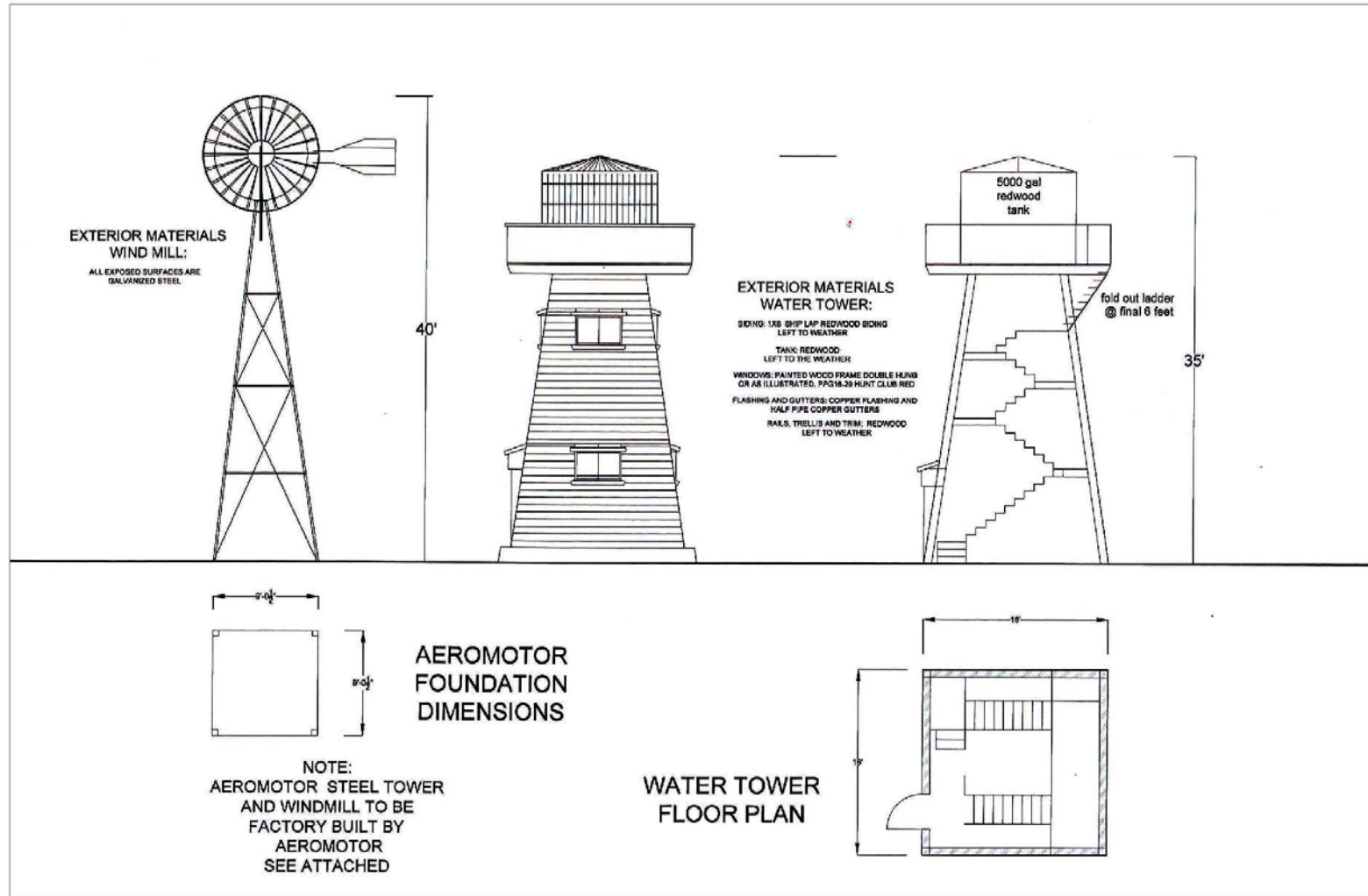
CASE: CDP 2014-0023  
 OWNER: BURKE, Theodore  
 APN: 017-370-05  
 APLCT: Ted Burke  
 AGENT: Wynn Coastal Planning  
 ADDRESS: 33200 Jefferson Way, FB

NO SCALE

GUEST COTTAGE FLOOR PLAN

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.



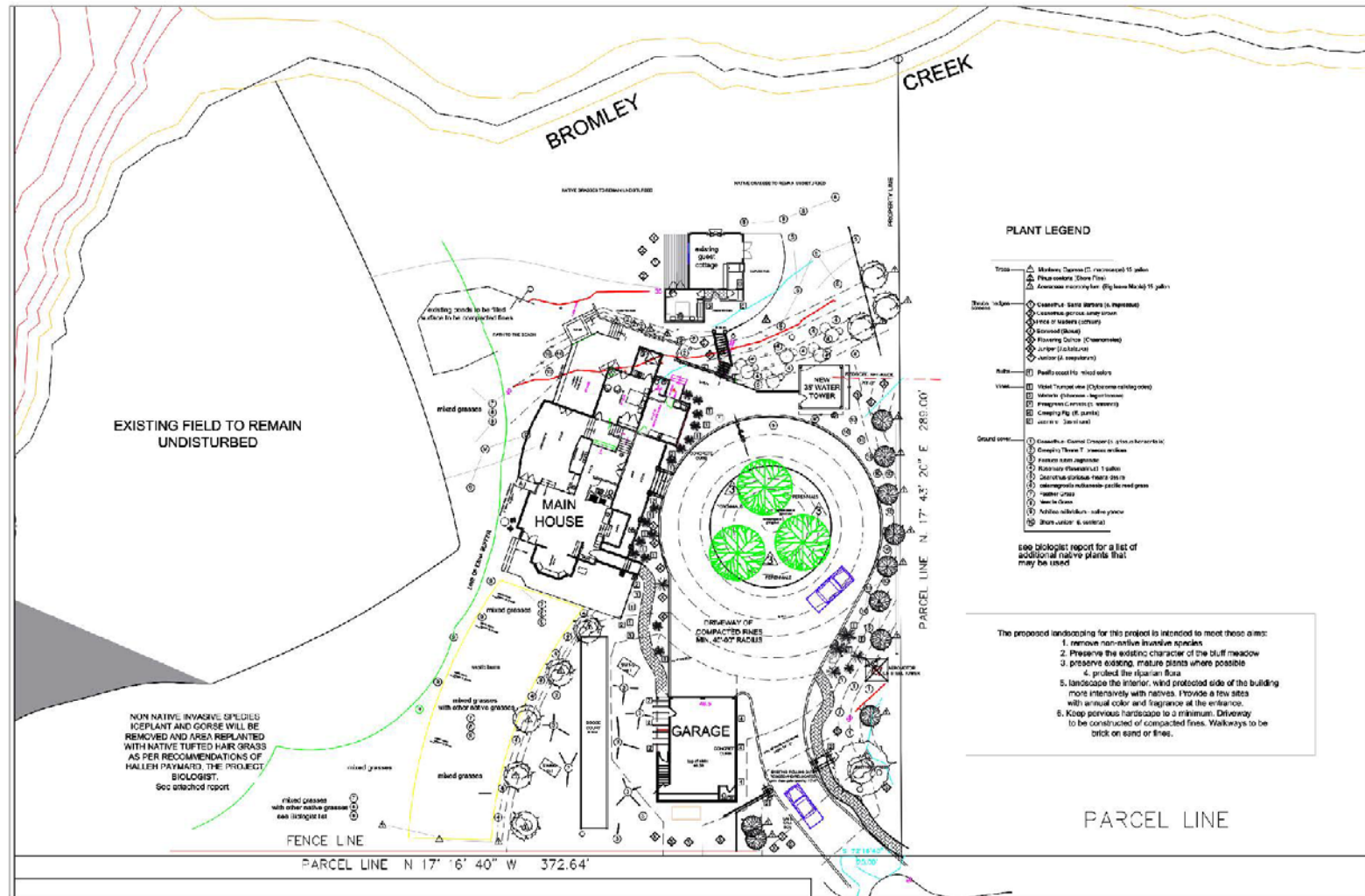


CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

NO SCALE

WATER TOWER & WINDMILL PLAN

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.



CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

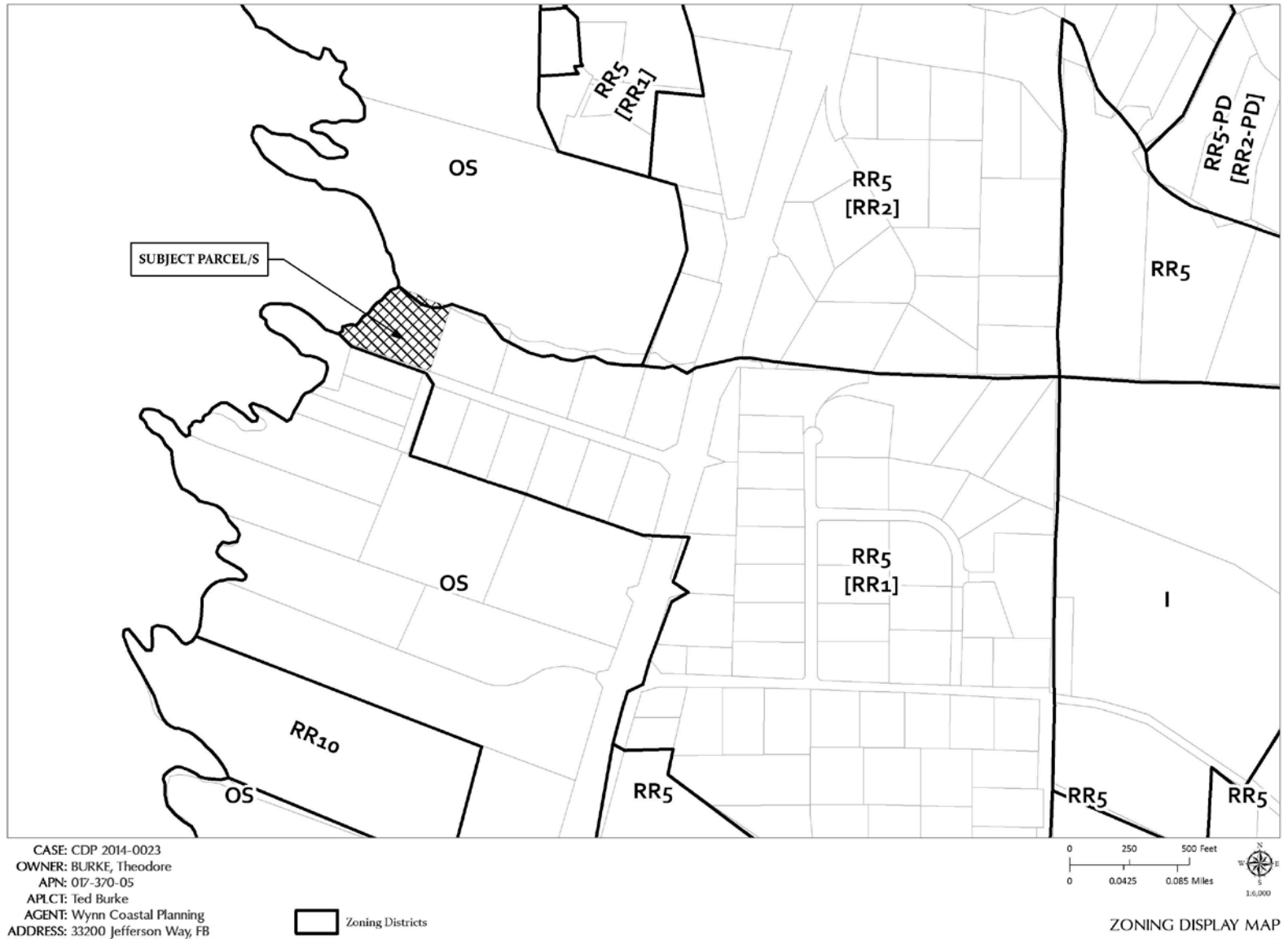
**THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.**

*NO SCALE*

LANDSCAPING PLAN

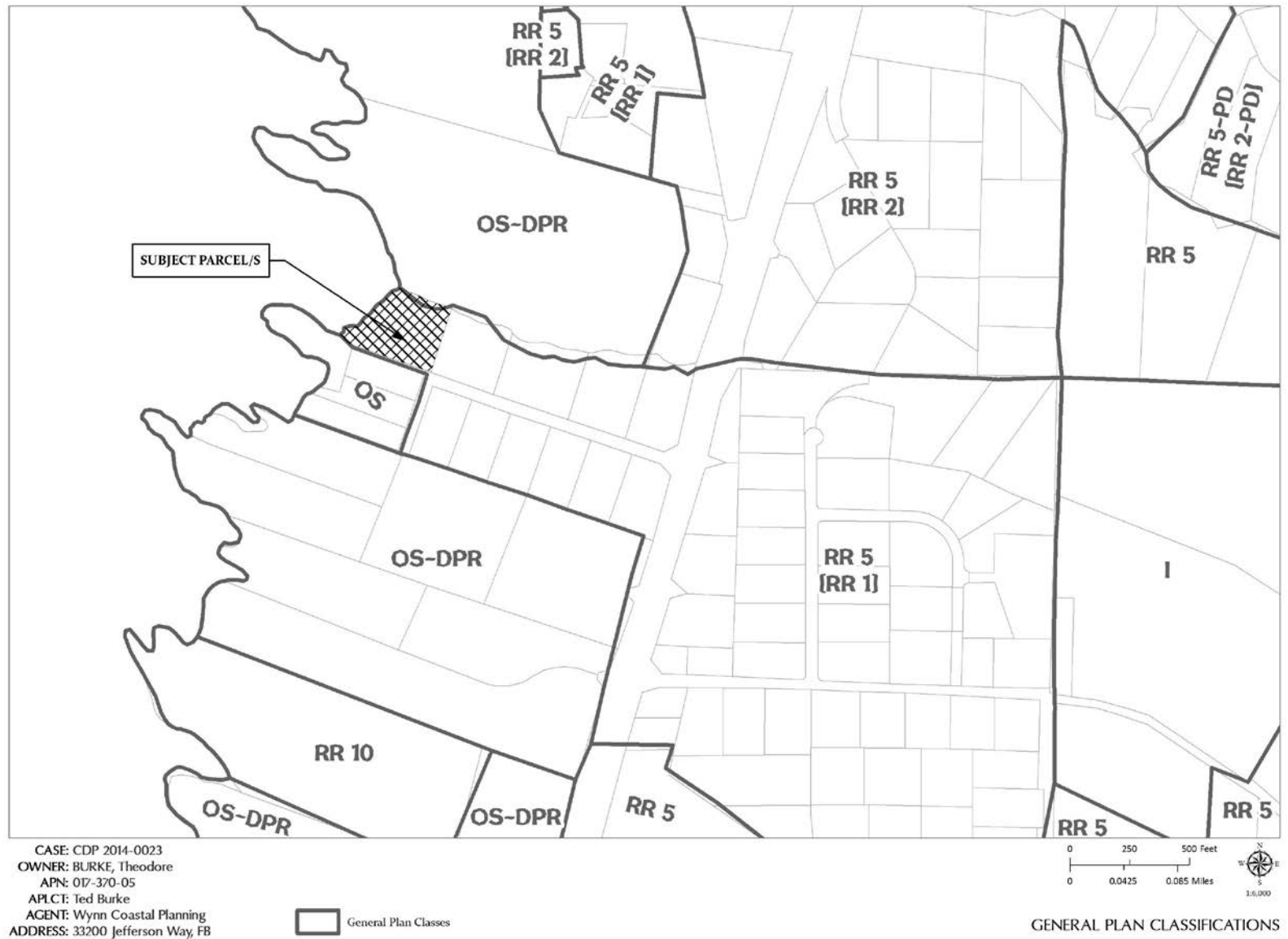


Attachment Q

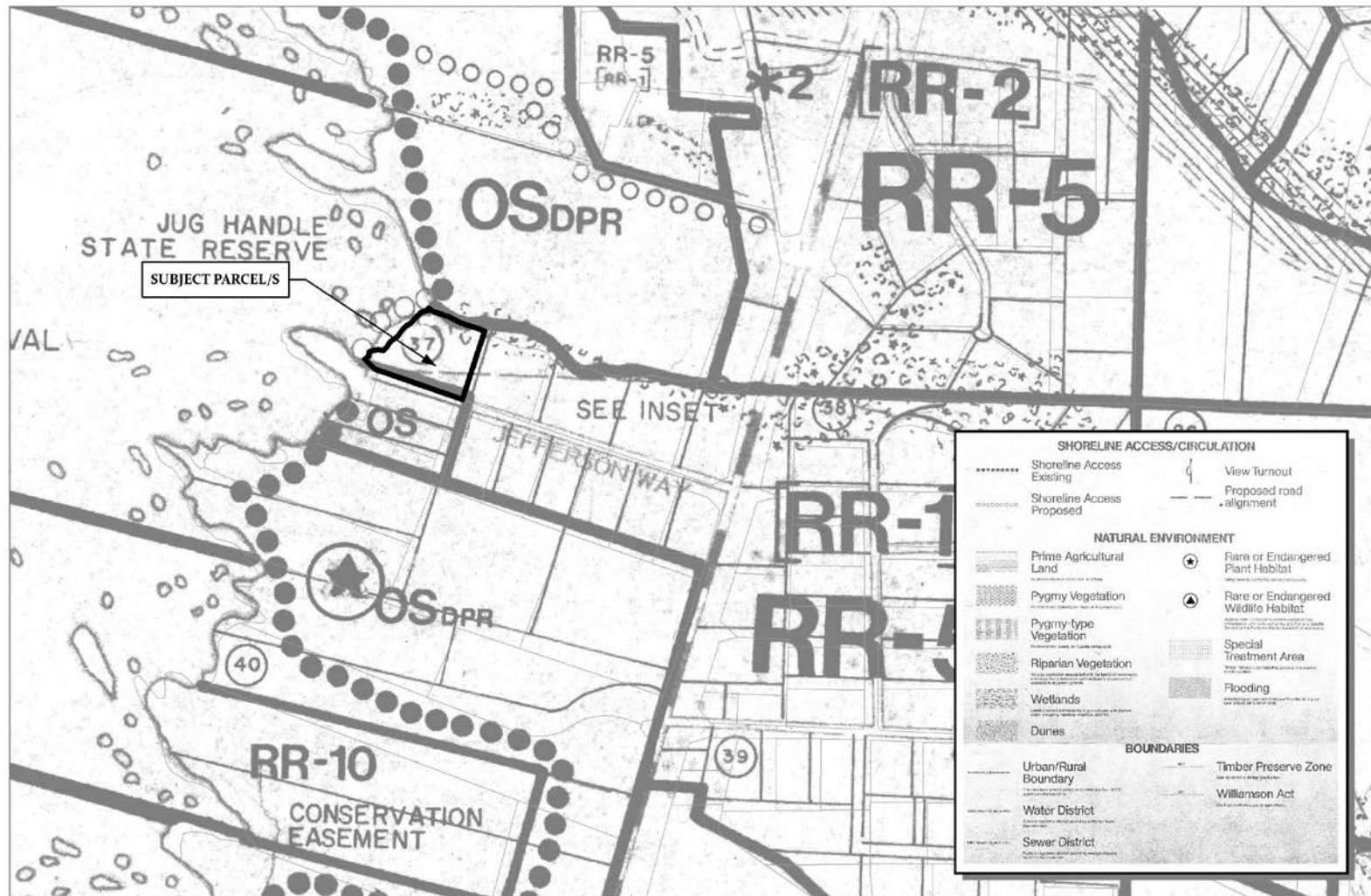


Map produced by the Mendocino County Planning & Building Services, May, 2016  
All spatial data is approximate. Map provided without warranty of any kind.

Attachment R



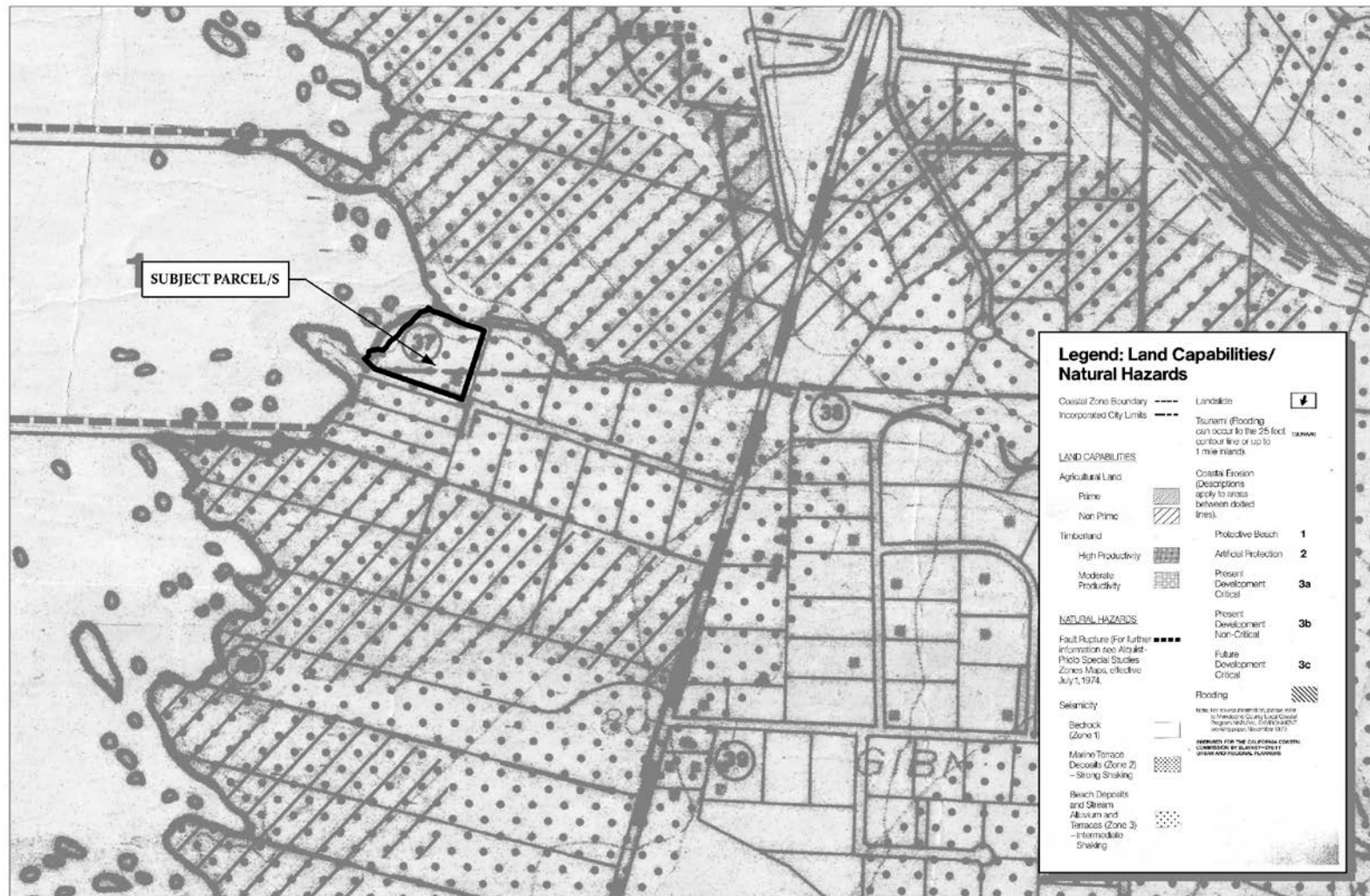
Attachment S



CASE: CDP 2014-0023  
 OWNER: BURKE, Theodore  
 APN: 017-370-05  
 AP/CT: Ted Burke  
 AGENT: Wynn Coastal Planning  
 ADDRESS: 33200 Jefferson Way, FB

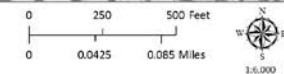
Map produced by the Mendocino County Planning & Building Services, May, 2016  
 All spatial data is approximate. Map provided without warranty of any kind.

LCP LAND USE MAP 14: BEAVER

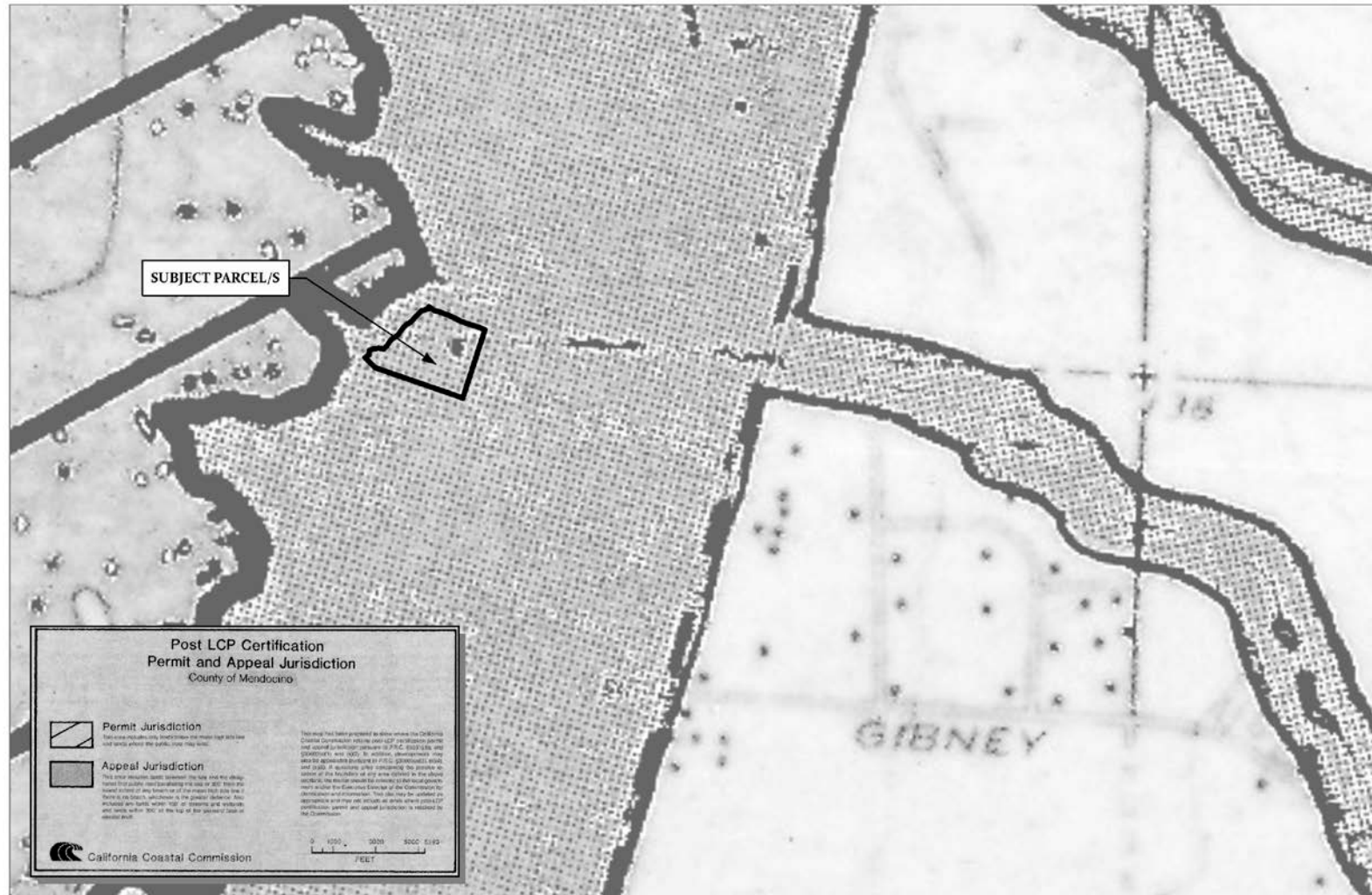


CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

Map produced by the Mendocino County Planning & Building Services, May, 2006  
All spatial data is approximate. Map provided without warranty of any kind.



LAND CAPABILITIES & NATURAL HAZARDS



CASE: CDP 2014-0023  
OWNER: BURKE, Theodore  
APN: 017-370-05  
APLCT: Ted Burke  
AGENT: Wynn Coastal Planning  
ADDRESS: 33200 Jefferson Way, FB

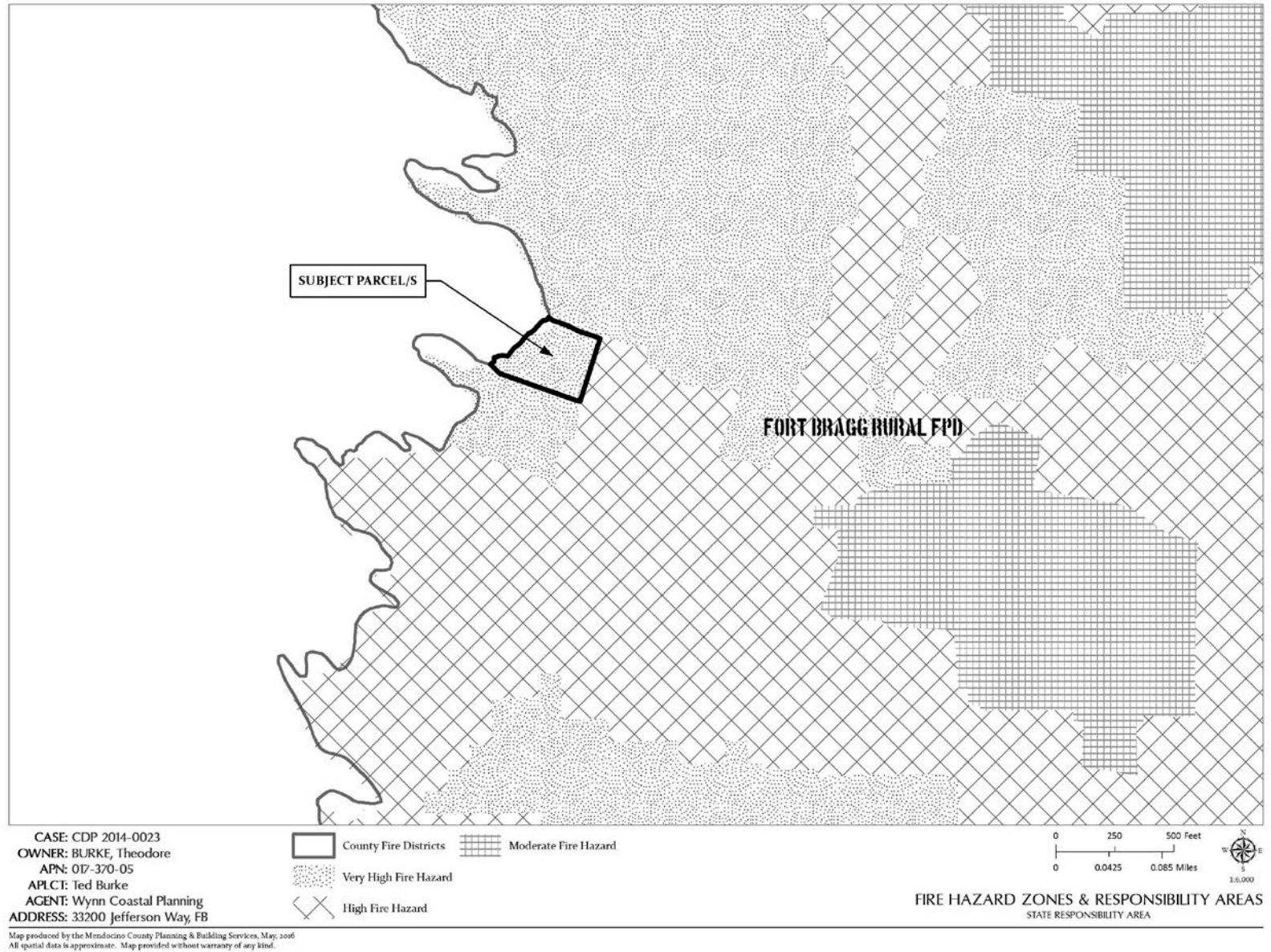
APPEALABLE AREAS

Map produced by the Mendocino County Planning & Building Services, May, 2006  
All spatial data is approximate. Map provided without warranty of any kind.

# Attachment V



# Attachment W





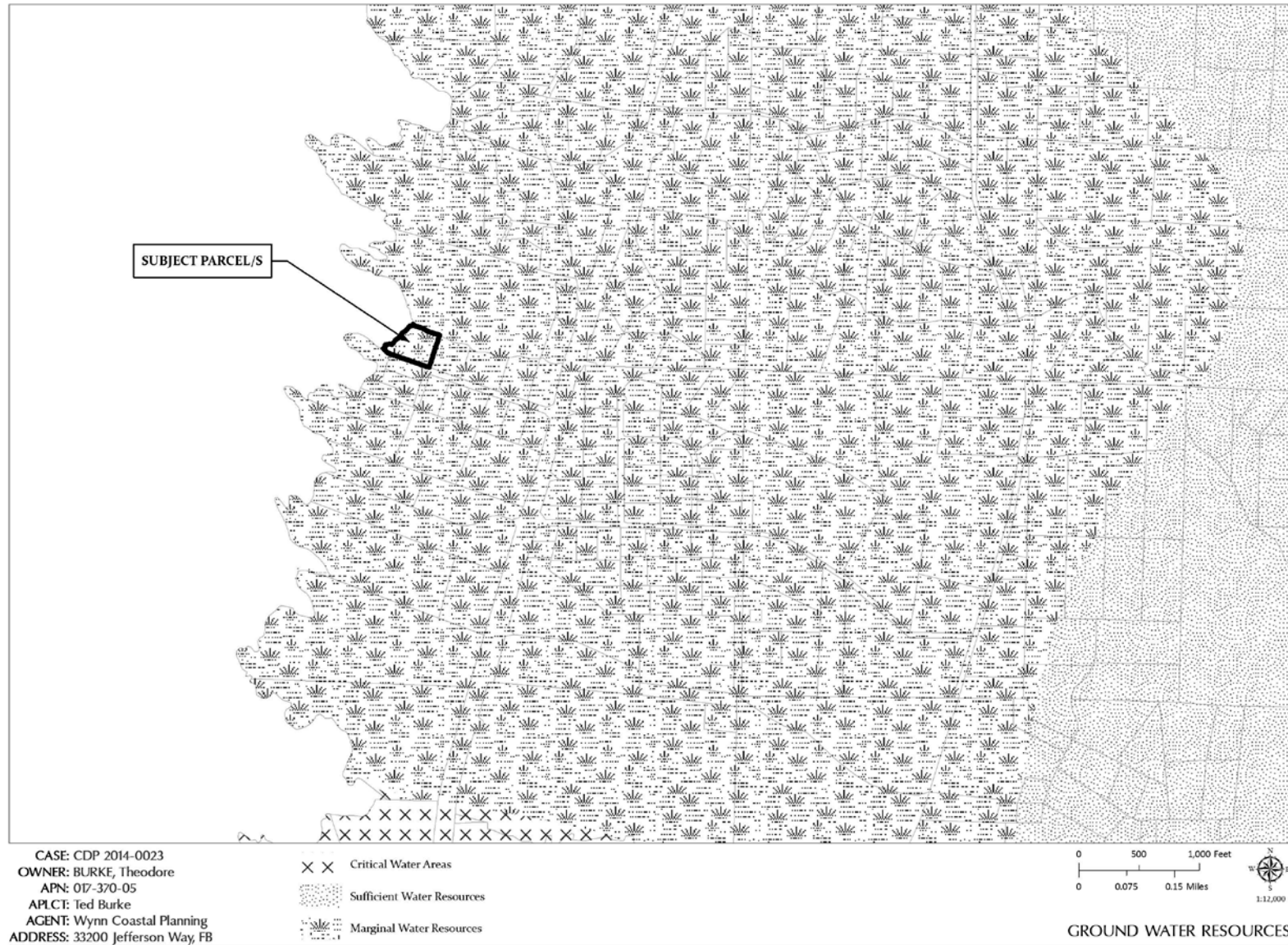
# Attachment X



Map produced by the Mendocino County Planning & Building Services, May, 2006  
All spatial data is approximate. Map provided without warranty of any kind.



# Attachment Y



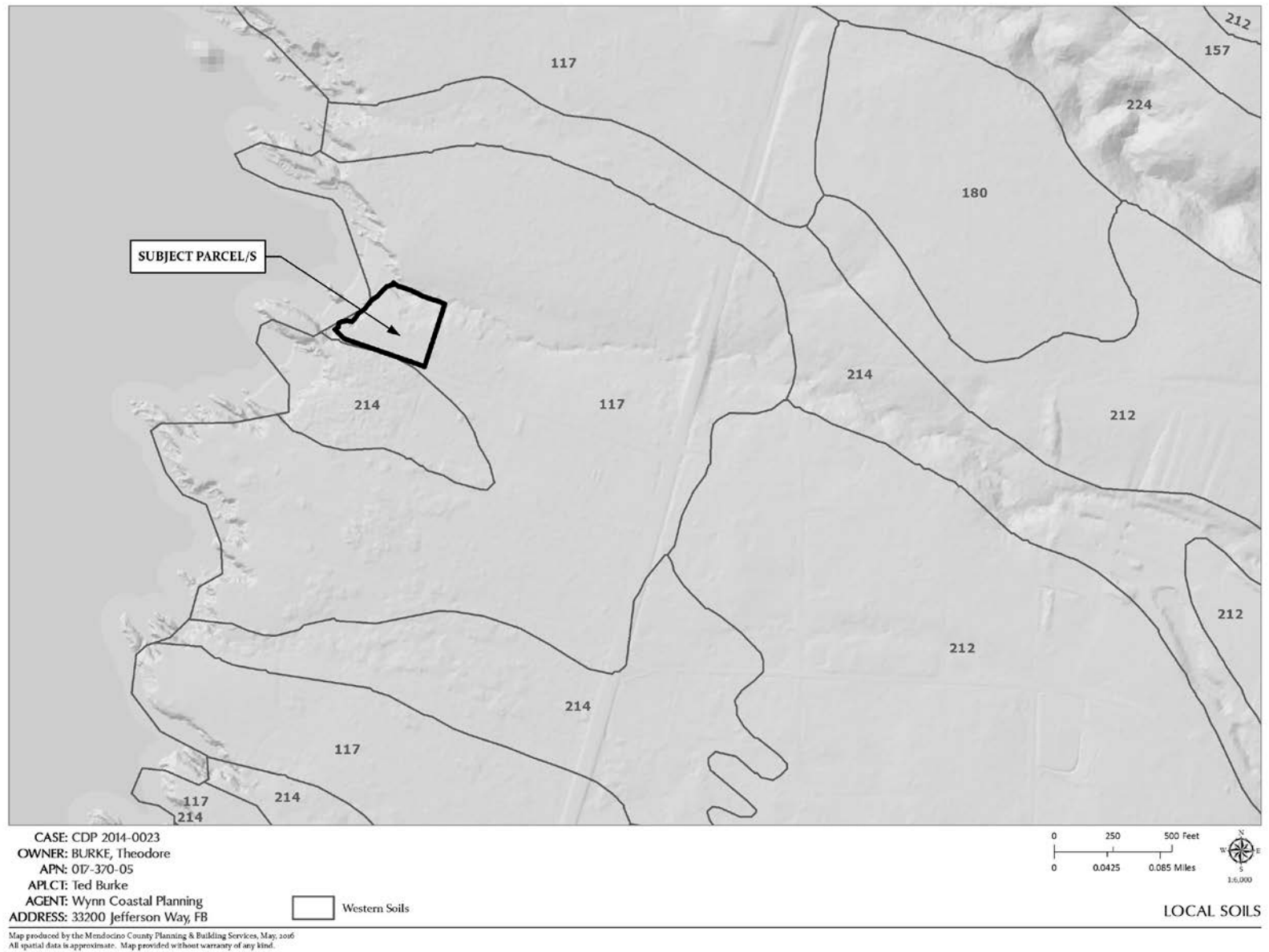
GROUND WATER RESOURCES

Map produced by the Mendocino County Planning & Building Services, May, 2006  
All spatial data is approximate. Map provided without warranty of any kind.

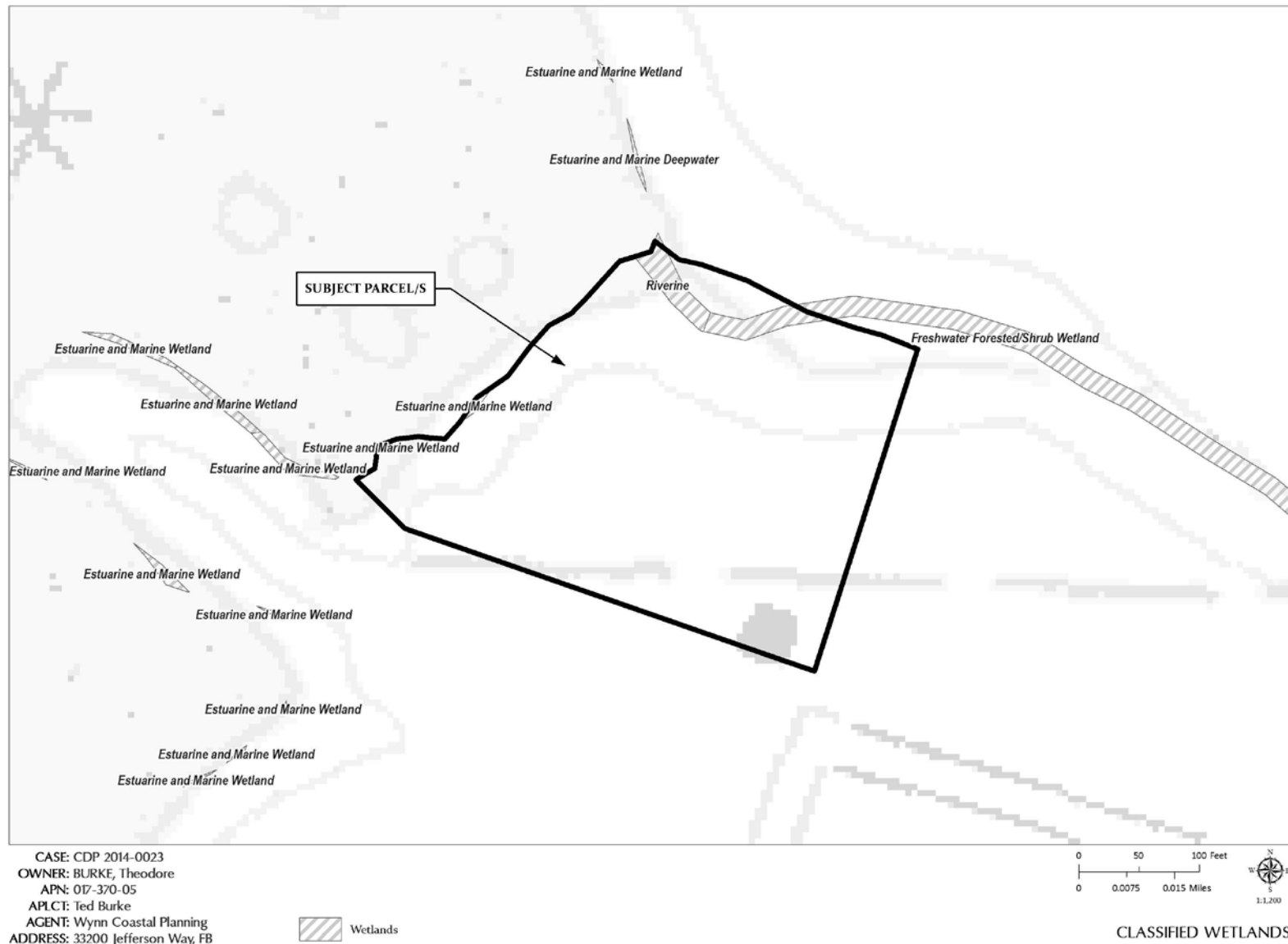
## Attachment Z



Attachment AA



# Attachment BB



Map produced by the Mendocino County Planning & Building Services, May, 2006  
All spatial data is approximate. Map provided without warranty of any kind.