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

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**CDP\_2017-0007  
NOVEMBER 15, 2017**

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**SUMMARY**

**OWNER:** ROD & REBECCA FALLOW  
885 LOS ALTOS AVE  
LOS ALTOS, CA 94022

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

**REQUEST:** Standard Coastal Development Permit for construction of a single family residence with attached garage/workshop and overhead guest cottage. Associated development includes patios, walkways, a septic system, solar roof panels, pump house, and a 2,500 gallon water storage tank. Existing on the site is a driveway, well, and developed spring.

**DATE DEEMED COMPLETE:** May 17, 2017

**LOCATION:** 2± miles north of the town of Anchor Bay, on the west side of Highway 1, 500± ft. south of its intersection with Roseman Creek Road (Private), located at 32900 S Highway 1, Gualala (APN: 142-180-07).

**TOTAL ACREAGE:** 2.57 acres

**GENERAL PLAN:** Coastal Element, Mendocino County General Plan  
Rural Residential, 5 acre minimum parcel size (RR5) and  
Rural Residential, 5 acre minimum parcel size with a  
development limitations combining district (RR5-DL)

**ZONING:** Division II, Title 20, Mendocino County Code  
Rural Residential, 5 acre minimum parcel size (RR5) and  
Rural Residential, 5 acre minimum parcel size with a  
development limitations combining district (RR5-DL)

**SUPERVISORIAL DISTRICT:** 5

**ENVIRONMENTAL DETERMINATION:** Mitigated Negative Declaration

**APPEALABLE:** Yes, blufftop parcel

**RECOMMENDATION:** Approve with Conditions

**STAFF PLANNER:** Julia Acker

**BACKGROUND**

**PROJECT DESCRIPTION:** Standard Coastal Development Permit for construction of an approximately 2,906 square foot single family residence with 885 square foot attached garage/workshop and overhead 601 square foot guest cottage, with a maximum height of 28 feet. Associated development includes approximately 2,638 square feet of patios and walkways, a septic system, solar roof panels, a 96 square foot pump house, and a 2,500 gallon water storage tank. Existing on the site is a driveway (to be upgraded under the proposed project), well, and developed spring.

The project also includes removal of the crumbled remains of an incomplete structure, which includes a partial stone chimney, rotted wood floor platform, old metal windmill tower, and rusted propane tank.

**APPLICANTS' STATEMENT:** "A new single family residence (2906 sf) w/attached two car garage/workshop (885 sf) & overhead guest room (601 sf) w/patios and walkways, a new septic system, existing well & new pumphouse (96 sf), existing spring & waterpipes, new solar roof panels, and 2500 gal. of holding tank water."

**RELATED APPLICATIONS ON-SITE:**

- Subject parcel is Parcel 4 of the Cliff Dwellers Subdivision recorded on May 20, 1966 in Map Case 2, Drawer 5, Page 33 of Mendocino County Official Records.
- CDP 5-2000 approved, on April 27, 2000, the drilling of a test well on the subject blufftop parcel.
- PA 78-183 was preliminary approval issued by Mendocino County for construction of a single family residence on the parcel. Preliminary approvals were required from Mendocino County for development in the Coastal Zone prior to adoption of a certified Local Coastal Program giving local authority to process Coastal Development Permits.

**VICINITY:**

- CDP\_2012-0017 (Schwager) approved, on April 28, 2016, development of a single family residence on a similarly constrained parcel. Building permits have been issued for the residence and bridge associated with this project. CDP\_2012-0017 is located two parcels to the south of the subject project site.

**SITE CHARACTERISTICS:** The 2.57 acre site is located on the west side of Highway 1, approximately 2 miles north of the town of Anchor Bay, approximately 500 feet south of its intersection with Roseman Creek Road (Private Road). The site is located at 32900 S Highway 1 on a blufftop parcel. The site currently has the old crumbled remains of a previous residential structure. Building permit history demonstrates that the site was previously used as a residential property and building permits for a single-family home were obtained from Mendocino County in both 1979 and 1983. In 2000, a previous owner obtained a Coastal Development Permit for a test well on the subject parcel. Properties north and south of the project site are residentially developed.

The property is located on a coastal bluff terrace and slopes in elevation from approximately 135 feet above sea level at the highway, to a flat area with an elevations ranging from 100 feet to 80 feet above sea level. The site is heavily constrained by the presence of environmentally sensitive habitat areas (ESHAs) and their associated buffers. Vegetation cover on the parcel consists primarily of Bishop Pine Forest and non-native grassland. Northern Coastal Scrub, Northern Coastal Bluff Scrub, Coastal Bluff Morning Glory, Point Reyes ceanothus and short-leaved evax were also documented on the project site. The northern property boundary of the parcel is Roseman Creek and there is a wetland swale located south of the existing graveled driveway.

Mapping associates the following with the project site: a High Fire Hazard severity rating, Critical Water Resources, and a riverine wetland (Roseman Creek). The site is designated as a tree removal area.

**SURROUNDING LAND USE AND ZONING:** As listed on Table 1 below, the site and surrounding property to the north and south are designated Rural Residential (RR5). Surrounding properties to the east are designated Remote Residential (RMR40), 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	RR5	RR5	1.62 acres	Residential
EAST	RMR40	RMR40	38.63 acres	Residential
SOUTH	RR5-DL & RR5	RR5-DL & RR5	2.12 acres	Residential
WEST	Pacific Ocean	Pacific Ocean	Pacific Ocean	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 and a portion of the parcel also contains a Development Limitations (DL) combining district (RR5 and RR5-DL) 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, mini-climate, slope, exposure, etc. The Rural Residential classification is not intended to be a growth area and residences should be located as to create minimal impact on agricultural viability.<sup>1</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>2</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 components would be 28 feet in height. The project, as proposed, would result in lot coverage of approximately 3.1 percent (building footprints only, excluding permeable surfaces) or approximately 7 percent (including permeable surfaces), which would not exceed the maximum allowed lot coverage of 15 percent for parcels of this size located with a RR District.

The project, as proposed, would comply with the accessory use requirements, which specify that accessory uses, such as the proposed private garage, guest cottage, pump house, and utilities are appropriate, incidental, and subordinate to the principal permitted single family residential use. **Condition 14** is recommended to insure that the guest cottage is utilized in a manner consistent with Mendocino County Code.

Habitats and Natural Resources: Several studies were prepared for the proposed project in order to identify sensitive resources on the parcel and also to provide recommendations to prevent potential impacts to documented sensitive resources as a result of the project. Spade Natural Resources Consulting (SNRC) prepared a Botanical and Biological Scoping Survey Report (November 17, 2016), which includes as Appendix E a Report of Compliance.

SNRC determined that the site has several vegetation communities present. It is primarily characterized by Bishop Pine Forest (*Pinus muricata* Forest Alliance) and non-native grassland but also contains Northern Coastal Scrub/Coyote Brush Scrub (*Baccharis pilularis* Shrubland Alliance) and Northern Coastal Bluff Scrub (Holland community). The site also contains occurrences of short-leaved evax (*Hesperervax sparsiflora* var. *brevifolia*), Coastal bluff morning glory (*Calystegia purpurata* spp. *saxicola*), and Point Reyes ceanothus (*Ceanothus gloriosus* var. *gloriosus*). Two drainages and associated riparian areas are present on the parcel. Roseman Creek is a perennial stream that is located along the northern property line. Due to the steep, rocky stream bed, there is no riparian vegetation associated with this stream in the area adjacent to the subject property. The second drainage on the parcel was observed by SNRC to be within the Bishop Pine Forest, starting near the southeast corner of the parcel nearest Highway 1 and traveling south of and parallel to the existing gravel driveway. SNRC noted that the drainage is primarily dominated by invasive non-native calla lily (*Zantedeschia aethiopica*).

Of the resources identified on the site not all are considered Environmentally Sensitive Habitat Areas (ESHA), as defined in MCC Section 20.308.040(G). Identified ESHA include the special status plant community Bishop pine forest; two areas of wetlands (Roseman Creek and a wetland swale); and several occurrences of two species of rare plants, coastal bluff morning glory and short-leaved evax. SNRC did not observe any special status wildlife while on the property but still provided recommendations for the

<sup>1</sup> Mendocino County General Plan. Chapter 2.2 of the Coastal Element. 1991.

<sup>2</sup> Mendocino County Coastal Zoning Code, Division II-20.376.005 (1991). Print.

protection of wildlife species with potential to occur in the area. Wildlife species of concern for this parcel include California red-legged frog, Sonoma tree vole, special status birds and bats, and nesting birds protected by the Migratory Bird Treaty Act.

Mendocino County Code requires that a sufficient buffer be established around all identified ESHA. A Reduced Buffer Analysis was included as Appendix D to the report from SNRC and recommends a minimum 100 foot buffer area between Roseman Creek and Northern Coastal Bluff Scrub/short-leaved evax habitat and a minimum 50-foot buffer between the southern drainage and coastal bluff morning glory plants and the proposed development. There is no location on the parcel where development would not occur within 50 feet of the identified Bishop pine forest. Additionally, the existing gravel driveway is located less than 50 feet from the southern drainage. Due to the presence of ESHA on the site, a Report of Compliance (Appendix E of the Botanical and Biological Scoping Survey Report) was prepared for the project describing the sensitivity of the resources present and showing the least impacting location for the proposed development.

Alternative projects to the proposed development were considered including agricultural and passive recreational opportunities and conditional uses in the district such as day care facilities and religious facilities. SNRC determined these various options to be infeasible either due to their potential for greater impact to identified resources and/or the economic feasibility of the alternatives. The subject parcel was purchased with the understanding that residential use is a principally permitted use for this parcel and expectations were set due to nearby development being residential in nature.

Alternative locations for the proposed residence were also considered. One building envelope has been identified that meets a 100-foot buffer to Roseman Creek and the special status Northern Coastal Bluff Scrub plant community (where the special status short-leaved evax is present), meets a 50-foot buffer to special status coastal bluff morning glory individuals and the southern drainage, is outside geotechnical setbacks, and is a relatively flat area. The identified building envelope is located within the special status Bishop pine forest plant community. An exhibit was submitted by SNRC on June 5, 2017 demonstrating that the footprint for the proposed residence will be located within the identified least environmentally damage building envelope.

The existing driveway is located within 50 feet of identified ESHA. Relocation of the existing driveway would result in significant impacts to the special status Bishop Pine Forest plant community. There is no less impacting alternative for the driveway placement. Improvements proposed to the driveway include trenching and placement of underground utilities within the existing driveway corridor. Since the gravel driveway is already in an area impacted by grading, this is the best location for the proposed utility line extension. The proposed septic system out of necessity is located closest to the bluff edge and was determined to be the only feasible location for the proposed septic system that meets health code requirements.

Mitigation measures have been identified by the project biologist to prevent and/or minimize potential impacts from the proposed development to identified ESHA. Mitigation measures, including restoration measures and proposed buffer areas were suggested in the Report of Compliance and a recommended as **Condition 11**.

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

In summary, the proposed project cannot be found consistent with LCP policies relating to ESHA; however, the proposed project is the least damaging alternative and the proposed mitigation measures required by **Condition 11** will address the impacts to ESHA. These measures will mitigate the impact of the proposed development, and restore and enhance ESHA located on the parcel.



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 tree cover at the site consists of Northern Bishop Pine Forest and the existing vegetation 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. The location of the residence will not be visible from public vantage points. Staff finds the proposed project would not have significant visual impacts.

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

Hazards Management: The parcel is located in an area classified with a "High Fire Hazard" severity rating.<sup>3</sup> Fire protection services are provided by the California Department of Forestry and Fire Protection (CalFire) and the South Coast Fire Protection Department (SCFPD). The project application was referred to CalFire and the SCFPD for input; SCFPD did not respond, 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# 269-16) for address standards, driveway standards, and defensible space standards. 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.

Since the proposed project is located on a blufftop parcel, Brunsing Associates, Inc (BAI) prepared a Geotechnical Investigation (November 16, 2016) to evaluate the geologic conditions at the property, primarily bluff stability, retreat (erosion) rate, and subsurface soil and rock conditions to determine bluff setback criteria and provide recommendations for the foundation of the planned development. Based upon review of various resources and on-site investigation, BAI concluded that a bluff setback of 25 feet for future improvements, including leachfield areas, will guarantee a structural life of 75 years and includes a safety factor of 1.5 consistent with MCC Section 20.500.020 (B)(1). BAI also provided recommendations for site grading, foundation support, seismic design criteria, concrete slab-on-grade, retaining walls and site drainage. **Condition 9** is recommended to require the projects consistency with the recommendations of the BAI Geotechnical Investigation.

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

Grading, Erosion, and Run-Off: The project would require minimal grading as the site is relatively level in the building area and will only require approximately 10 cubic yards of cut and 10 cubic yards of fill. The only cut is required for the entrance to the garage and for the flat parking area by the trash cans and propane tank enclosure. The maximum height of both the cut and fill slope will be 2 feet. Best Management Practices will be implemented at the time of construction and protection measures recommended for the adjacent ESHA. With the inclusion of **Condition 11** the project is found consistent with policies related to grading, erosion and run-off.

Archaeological/Cultural Resources: At the June 14, 2017 hearing, the Mendocino County Archaeological Commission accepted an Archaeological Survey (May 18, 2002) for the project prepared by Thad Van Bueren and found that site(s) were identified and the recommendations of the report shall be strictly adhered to. **Condition 12** requires compliance with the recommendations of the submitted Archaeological Survey. In addition, **Condition 8** 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

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<sup>3</sup> Mendocino County Department of Planning & Building Services. No Date. *Fire Hazard Zones & Responsibility Areas* [map]

the inclusion of the recommended conditions, 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 Critical Water Resources Area.<sup>4</sup> CDP#5-2000 approved construction of a test well on the subject parcel. Under the proposed project the test well would be converted to a production well and an approximately 96 square-foot pump house and 2,500-gallon water storage tank would be constructed. The project was referred to the Division of Environmental Health who responded providing clearance for the coastal development permit, noting an approved septic system design exists for the parcel (ST#23060). 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.

Access to the site would be provided from Highway 1. Caltrans provided comments on the proposed project and as a result of concerns expressed about site distance, the project driveway orientation was revised to provide for a better site distance. Caltrans also noted that any work within their right-of-way will require issuance of an encroachment permit from their office. Condition 4 requires compliance with these recommendations. In addition, CalFire has recommended address standards and driveway standards for the proposed project. Condition 4 requires compliance with these recommendations.

A minimum of two parking spaces are required for the project per MCC Section 20.472.015 and are shown on the site plan. Staff finds the proposed project to be consistent with transportation and circulation requirements.

Public Access: The project site is not designated as a potential public access point on the certified LCP maps. Public access would not be feasible on this site due to the extensive sensitive habitats and high bluff faces associated with the site. The owner does have access to a private easement over Lot 3 of the Cliff Dwellers Subdivision (adjacent parcel to the south) for access to the beach. During the site visit, it did not appear that there was any evidence of prescriptive access at this site. Staff finds the proposed project to be in conformance with public access policies contained in Mendocino County Code.

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

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

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

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

Some factors courts examine to determine if a regulatory taking has occurred involve the presence of reasonable investment-backed expectations, the degree to which a regulation may interfere with those reasonable investment-backed expectations, and whether or not a regulation deprives an owner of all

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<sup>4</sup> Mendocino County Department of Planning & Building Services. July 2016. *Ground Water Resources* [map].

economic use of the property. Staff believes there was a reasonable investment backed expectation that that the scale of the residential development proposed is consistent with similar properties in the vicinity. Attachment C to this staff report includes an outline of the cost the applicant has incurred since purchasing the site in 2015, in an effort to develop the property. The purchase price of \$869,000 for approximately two and one half (2.57) acres of vacant land is a substantial investment. Considering the property is zoned for residential development as a principally permitted use, and residential development exists on adjacent properties, a reasonable person would have believed that the property could have been developed with a single family residence. A test well was drilled on the property under CDP 5-2000, which stated that the intent of drilling the test well was to determine if there was water for future development of a single-family residence. CDP 5-2000 as well as building permit history for the property note that previous residential development was permitted on the site.

The applicant has spent approximately \$990,510 to purchase the property, design the residence, prepare surveys and studies, and complete permits necessary for future development of the site. The largest expenditures were related to land costs (e.g. purchase of land).

In order to assess if the applicant's expectation to build an approximately 2,906 square foot single family residence with 885 square foot attached garage/workshop and overhead 601 square foot guest room on approximately two and one half (2.57) acres was similar to comparable single family homes in the area, sixty-two (62) single family residences located in the vicinity were examined. The proposed development is roughly equal to the square footage of development in the area over all years reviewed and approximately 450 square feet larger than development approved since 1992. However, it should be noted that the actual footprint of the proposed development is 2,065 square feet, and would be smaller than the average development approved since 1992. The analysis of the comparable development is included in the **Takings Analysis**, attached to this document.

MCC Section 20.368.010 states the principally permitted use types in the RR district, which include: single-family residential, vacation home rental, light agriculture, row and field crops, tree crops and passive recreation. Due to the prevalence of ESHA on the parcel, all principally permitted uses except for passive recreation would require encroachment into a fifty foot ESHA buffer. The allowed agricultural uses would require substantial site disturbance and clearing and are not a viable way to use the property. Passive recreation use would be the only option that would be less impactful than the construction of a single family residence and possibly not require any activities meeting the definition of development under the Coastal Act. Passive recreation uses do not afford the property owner an economically viable use.

The property was purchased with an investment-backed expectation that construction of a single-family residence would be permitted. The obtainment of a previous CDP for construction of a test well is evidence that the owner intended to pursue future development of a single family home after purchase of the parcel. This intent is noted in the Staff Report for CDP 5-2000.

Alternatives to the proposed development, including different development projects and alternative locations, were considered and analyzed by a qualified professional, as required by MCC Sections 20.496.020(A)(4)(b) and 20.532.060(E). The proposed project is considered the most feasible, least environmentally damaging alternative that avoids sensitive plant ESHA and related ESHA buffer requirements that satisfies the investment backed expectation of the owner. Mitigation Measures were recommended in the Report of Compliance and are recommended as **Condition 11** to ensure the project does not have an adverse impact on the sensitive resources at the site.

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

**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.

**FINDINGS:**

1. Pursuant with MCC Section 20.532.095(A)(1), the proposed development is in conformity with the

certified Local Coastal Program, except Section 20.496.020(A)(1) relating to buffer widths from Environmentally Sensitive Habitat Areas, which is specifically addressed by the Supplemental Findings below, 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 will be provided with adequate utilities, access roads, drainage and other necessary facilities. The proposed project will be served by an existing test well, to be converted to a production well under this permit and an on-site sewage disposal system. The existing driveway off Highway 1 will be improved to Caltrans and CalFire standards and is adequate to service the proposed development. Drainage and other necessary facilities have been considered in project design; 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 development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. An Initial Study and adoption of a Mitigated Negative Declaration is recommended. Condition 13 is recommended to insure compliance with the California Environmental Quality Act requirements for a Mitigated Negative Declaration; 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 if constructed in compliance with the conditions of approval, as there are known resources within the vicinity of the site. Both Condition 12 and Condition 8 are recommended to insure protection if 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. Solid waste service is available either as curbside pick-up or at the South Coast Transfer Station (seven miles away). The existing level of service at peak hour conditions at this location is considered Level of Service B. While the project would contribute incrementally to traffic volumes on local and regional roadways, such incremental increases were considered when the LCP land use designations were assigned to the site; and
7. 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. Alternatives to the proposed development were considered. Adjacent properties in the vicinity were reviewed to determine that the size and scale of development is in conformance with adjacent properties. Mitigation measures have been recommended to reduce any potential impacts from the proposed project. 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 recommendations in the Geotechnical Investigation dated November 16, 2016 prepared by Brunsing Associates, Inc. shall be incorporated into the design and construction of the proposed project. Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final building plans for consistency with the Geotechnical Investigation. No development shall be permitted within 25 feet of the blufftop edge.
10. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel, which shall provide that:
  - a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
  - b. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims,

demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;

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

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

- 11. All recommended Mitigation Measures proposed in the Botanical and Biological Scoping Survey Report (including Appendix E, Report of Compliance) dated November 17, 2016 prepared by Spade Natural Resources Consulting are required to provide for the protection of identified environmentally sensitive habitat areas. Mitigations are as follows:
  - a. A minimum buffer distance of 100 feet shall be observed to Roseman Creek and the Northern Coastal Bluff Scrub habitat area containing special status short-leaved evax. A minimum buffer distance of 50 feet shall be observed to special status coastal bluff morning glory and the southern drainage, except for the proposed improvements located along and within the existing driveway footprint. Development within the Bishop pine forest shall be limited to the areas shown on the exhibit submitted by SNRC dated June 5, 2017.
  - b. Prior to issuance of any building permits in reliance of this Coastal Development Permit, an active management plan shall be developed for the Bishop pine forest in order to provide for the long term health of the forest habitat. The active management plan shall be prepared by a qualified ecologist and approved by the California Department of Fish and Wildlife, and shall include: invasive species removal; a regular understory management regimen to facilitate the growth of new recruits; and identification, removal, and prevention of pathogens killing Bishop pine trees and other native flora.
  - c. The clearing of vegetation and initiation of construction shall be done during the bird non-breeding season between September and January. If this cannot be accomplished then a qualified biologist shall perform preconstruction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. The survey shall be submitted for review and approval by California Department of Fish and Wildlife staff. If breeding birds are identified then the measures prescribed in the Botanical and Biological Scoping Survey Report dated November 17, 2016 shall be adhered to.
  - d. The clearing of vegetation and initiation of construction shall be done between September 1 and October 31. If this cannot be accomplished then preconstruction surveys for potential bat roost sites shall be conducted and submitted for review and approval by the California Department of Fish and Wildlife.

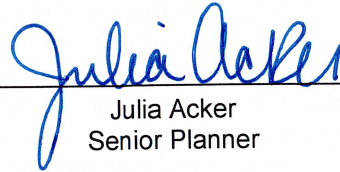
- e. Within two weeks prior to construction, project contractors shall be trained by a qualified biologist in the identification of the California red-legged frog. Evidence that such training has been provided, such as a letter from the qualified biologist, shall be submitted to the Mendocino County Planning Division prior to commencement of construction activities. Construction crews shall begin each day with a visual search around all stacked or stored materials, as well as along any silt fences to detect the presence of frogs. If a California red-legged frog is detected, construction crews shall contact US Fish and Wildlife Service or a qualified biologist, and gain clearance prior to re-initiating work. If a rain event occurs during the construction period, all construction related activities shall cease for a period of 48 hours after the rain stops. Prior to resuming construction activities, trained construction crew members shall examine the site for the presence of frogs. If no special status frogs are found, construction activities may resume.
  - f. A Sonoma tree vole survey shall occur within two weeks of tree removal activities. If tree vole nests are found in trees to be removed, the California Department of Fish and Wildlife shall be immediately notified and steps shall be taken to protect identified tree vole nests per California Department of Fish and Wildlife requirements. Project commencement shall not occur until California Department of Fish and Wildlife gives clearance.
  - g. Standard Best Management Practices shall be employed to assure minimization of erosion resulting from construction. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. Silt fencing and orange construction fencing shall be placed and maintained for all areas where construction will occur upslope of and within 100 feet of the southern drainage and occurrences of coastal bluff morning glory. Any soil stockpiles shall be covered or otherwise stabilized to prevent dust impacts. Any bare soil created by the construction phase of the project shall be re-vegetated with native vegetation and/or native seed mixes for soil stabilization. Low Impact Development techniques shall be utilized to reduce stormwater runoff from new impervious surfaces.
  - h. Landscaping on the parcel shall not include any invasive plants and shall consist of native plants compatible with the present plant communities.
  - i. Heavy equipment undercarriages and tires shall be washed prior to entering the site in order to remove any invasive plant seed.
12. The recommendations contained in the Archaeological Survey dated May 18, 2002 prepared by Thad Van Bueren shall be strictly adhered to.
13. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2266.25 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within 5 days of the end of any appeal period. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**
14. Prior to issuance of the Coastal Development Permit, the applicants shall execute and record a deed restriction stating that the barn and office 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:

10/31/2017

Date

  
Julia Acker  
Senior Planner

Appeal Period: 10 Days  
Appeal Fee: \$1616.00

**ATTACHMENTS:**

- A. Location Map
- B. Aerial Imagery
- C. Revised Site Plan
- D. Elevations (NE/NW)
- E. Elevations (SE/SW)
- F. Lower Floor Plan
- G. Upper Floor Plan
- H. Biological Study Area & Proposed Buffers
- I. Geotechnical Study
- J. Zoning Display Map
- K. General Plan Classifications
- L. LCP Land Use Map 30: Anchor Bay
- M. LCP Land Capabilities & Natural Hazards
- N. Appealable Areas
- O. Adjacent Parcels Map
- P. Fire Hazard Zones & Responsibility Areas
- Q. Ground Water Resources Map
- R. Highly Scenic/Tree Removal Areas Map
- S. Estimated Slope
- T. Local Soils
- U. Classified Wetlands Map

**SUMMARY OF REFERRAL AGENCY COMMENTS:**

Planning (Ukiah)	Comments
Department of Transportation	No Response
Environmental Health (FB)	Comments
Building Inspection (FB)	No Comment
Assessor	No Response
US Fish and Wildlife Service	No Response
Cloverdale Rancheria	No Response
CalFire	No Comment
Coastal Commission	No Response
Coast Life Support District	No Comment
Sherwood Valley Band of Pomo Indians	No Response
Redwood Valley Rancheria	No Response



South Coast Fire District	No Response
Department of Fish and Wildlife	No Response
Army Corps of Engineers	No Response
Caltrans	Comments
Air Quality Management District	Comments
Gualala Municipal Advisory Council	Comments
Archaeological Commission	Comments

**REFERENCES:**

Brunsing Associates, Inc. 2016. Geotechnical Investigation, Proposed Fallow Residence, 32900 South Highway 1, Gualala, California. November 16, 2016.

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.

Spade Natural Resources Consulting. 2016. Botanical Survey and Biological Scoping Survey, for 32900 South Highway One (APN 142-180-07), Anchor Bay, CA, Mendocino County. November 17, 2016.

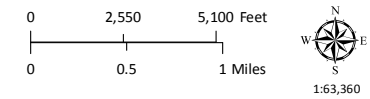
Van Bueren, Thad. 2002. Archaeological Survey of the Wallach Property at 32900 South Highway 1 near Anchor Bay, Mendocino County, California. May 18, 2002.





CASE: CDP 2017-0007  
OWNER: FALLOW, Rebecca & Rod  
APN: 142-180-07  
APLCT: Michael Barron-Wike  
AGENT: Michael Barron-Wike  
ADDRESS: 32900 S. Highway 1, Gualala

- Major Towns & Places
- Major Roads
- California Counties
- Highways



ATTACHMENT A

LOCATION MAP

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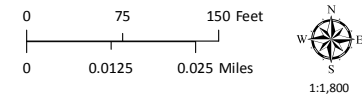




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ADDRESS: 32900 S. Highway 1, Gualala

Named Rivers  
Public Roads  
Driveways/Unnamed Roads

## ATTACHMENT B



AERIAL IMAGERY

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RECEIVED  
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LANNING & BUILDING SERV  
FORT BRAGG CA

California Wildfire Exposure Zone Materials

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

1. ALL ROOFING SURFACES ARE METAL, STANDING SEAM PANELS.
2. ALL BUILDING SIDING IS HIGH-DENSITY FIBER PANELS.
3. ALL EXT. WINDOWS & DOORS ARE ANOD. ALUM. FRAMES W/TEMPERED DUAL PANE GLASS BY FLEETWOOD OR EQUIVALENT. COLOR: DEEP BRONZE ANODIZED.
4. ALL PATIOS AND WALKWAYS ARE STAINED, PERMEABLE, TOTALLY POROUS CONCRETE.
5. ENTRY PORCH WALKWAYS ARE STAINED CONCRETE.
6. STAIR RAILINGS ARE POWDER-COATED, STAINLESS STEEL & FENCES ARE COPPER METAL TUBING & PANELS.
7. ROOF GUTTERS SHALL HAVE LEAF & DEBRIS SCREENING/CODE.
8. NO ROOFS WILL HAVE VENTILATION OPENINGS. SOLID, RIGID INSULATION PANELS (TYP.).
9. ROOF EAVES ARE COVERED WITH CEMENT/PIBEX SURFACES ON THE UNDERSIDES.
10. ROOF PADDINGS SHALL BE MADE OF PAINTED, FIRE-RETARDANT TREATED WOOD.
11. NO FLOOR VENTS WILL BE REQUIRED. ALL FLOORS ARE SLAB-ON-GRADE CONSTRUCTION.

AREA TABULATION		
GROSS SITE AREA:		(2.87 ACRES) 111, 944 SF
1. GROSS BUILDING AREA (BULK):		
LOWER FLOOR - HOUSE:	2048 SF	
UPPER FLOOR - RESIDENCE:	841 SF	
SUBTOTAL RESIDENCE LIVING AREA:	2909 SF	
2. GUEST ROOM (ABOVE GARAGE):	401 SF	
3. GARAGE/LAUNDRY:	888 SF	
4. COVERED PORCHES (1 RUMPHOUSE SHED):	852 SF	
TOTAL BUILDING BULK AREA:	4589 SF	
LOT COVERAGE FOOTPRINT:		
FOOTPRINT - RESIDENCE:	2048 SF	
FOOTPRINT - GARAGE:	888 SF	
FOOTPRINT - COVERED PORCHES:	446 SF	
FOOTPRINT - RUMPHOUSE:	46 SF	
TOTAL BUILDING FOOTPRINT:	3542 SF	
EXISTING GRAVEL DRIVEWAY:	4042 SF	0 SF
NEW PATIO/WALKWAYS (PERMEABLE CONC.):	2650 SF	0 SF
EXISTING GRAVEL DRIVEWAY TO BE REMOVED:	1004 SF	0 SF
TOTAL FINAL GRAVEL DRIVEWAY SIZE:	4991 SF	0 SF

- GENERAL NOTES
1. ALL WORK SHALL CONFORM TO CURRENT EDITIONS OF THE COUNTY-APPROVED BUILDING, PLUMBING, ELECTRICAL AND MECHANICAL CODES.
  2. ALL WORK SHALL CONFORM TO THE STATE ENERGY EFFICIENCY REGULATIONS OF TITLE 24 & CALGREEN RES.
  3. ALL COASTAL DEVELOPMENT ZONES PROJECTS SHALL COMPLY WITH CURRENT RULES AND REGULATIONS OF MENDOCINO COUNTY.
  4. TOPOGRAPHICAL SURVEY IS BY A LICENSED LAND SURVEYOR. REFER TO NOTES BELOW.
  5. REFER TO SEPARATE ENGINEERING PLANS FOR SEPTIC SYSTEM DESIGN AND DIMENSIONS.
  6. PROTECT AND PROVIDE BOUNDARY BARRIERS FOR EXISTING PLANTING SHOWN ON THE DRAWINGS.

LEGEND

wood fence (existing)

chain link fence

centerline drainage

Utility Lines: elec., water, gas

power pole

power pole anchor

Fd. 4x4 highway monument

1" Iron pipe, L.S. 3117

5/8"x16" galv. bolt

all trees unless otherwise noted are Bishop Pine

trees to be removed for construction

coastal bluff morning glory plants

rare ceanothus plants

ceanothus

elevations are assumed

SITE PLAN

Of Lot 4 of Cliff Dwellers Subdivision being a portion of Sections 2 and 11, township 11 north, Range 16 West, Mount Diablo Base and Meridian.

Mendocino County California

Scale 1" = 20' January, 2001  
Revised March, 2016

Map prepared by Richard A. Seale & edited by MBW AIA

Michael Barron-Wike Architect AIA

32900 South Highway One, Anchor Bay, California 94944

PHONE (415) 329-1000 EMAIL: info@barron-wike.com

A NEW RESIDENCE & GUEST ROOM FOR:  
Rod & Rebecca Follow

32900 South Highway One, Anchor Bay, California 94944  
PHONE (415) 329-1000 EMAIL: info@barron-wike.com

A1

or 7

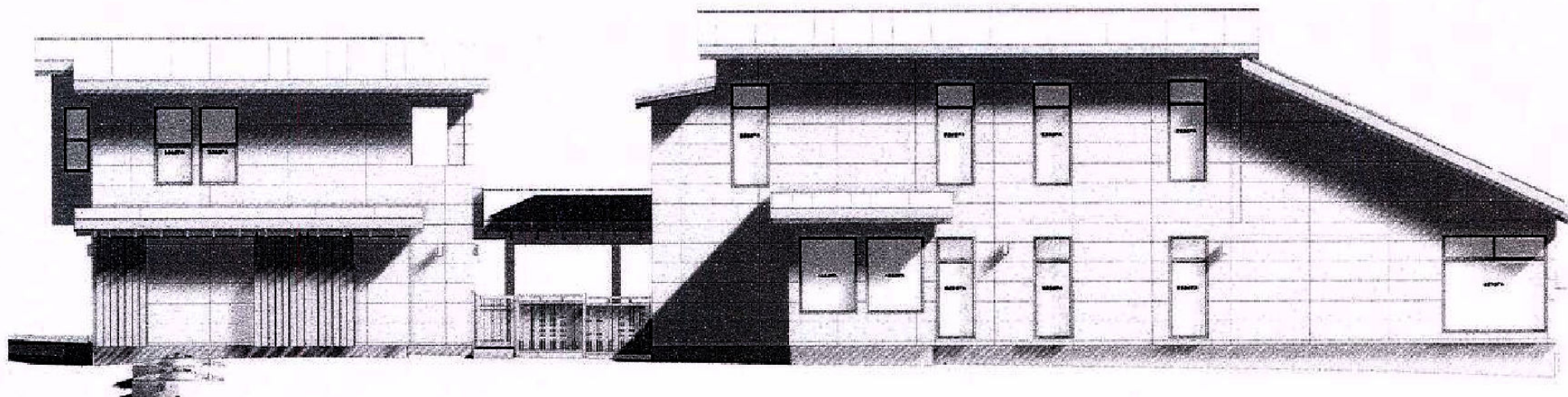
CASE: CDP 2017-0007  
OWNER: FALLOW, Rebecca & Rod  
APN: 142-180-07  
APLCT: Michael Barron-Wike  
AGENT: Michael Barron-Wike  
ADDRESS: 32900 S. Highway 1, Gualala  
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NO SCALE

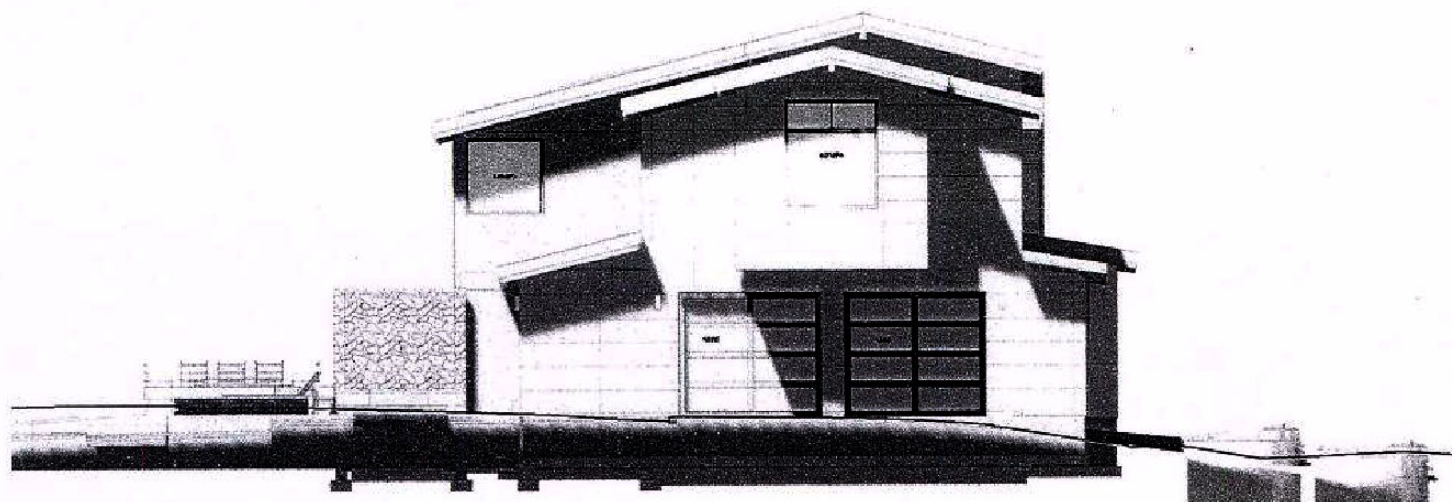
ATTACHMENT C

REVISED SITE PLAN





NORTHWEST



NORTHEAST

**ELEVATIONS 2**  
scale: 1/4 inch = 1 foot

NO SCALE

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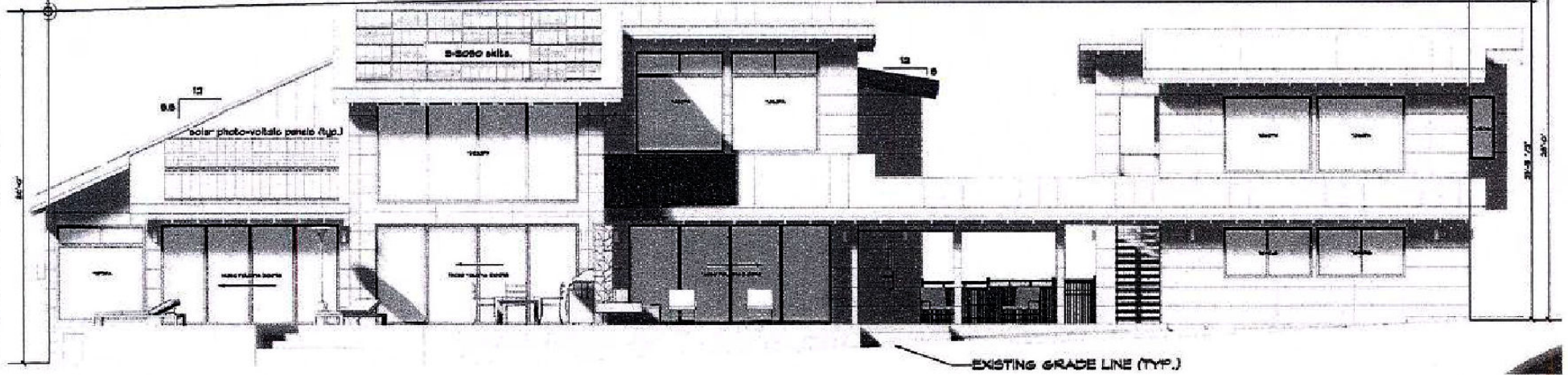
ATTACHMENT D

ELEVATIONS

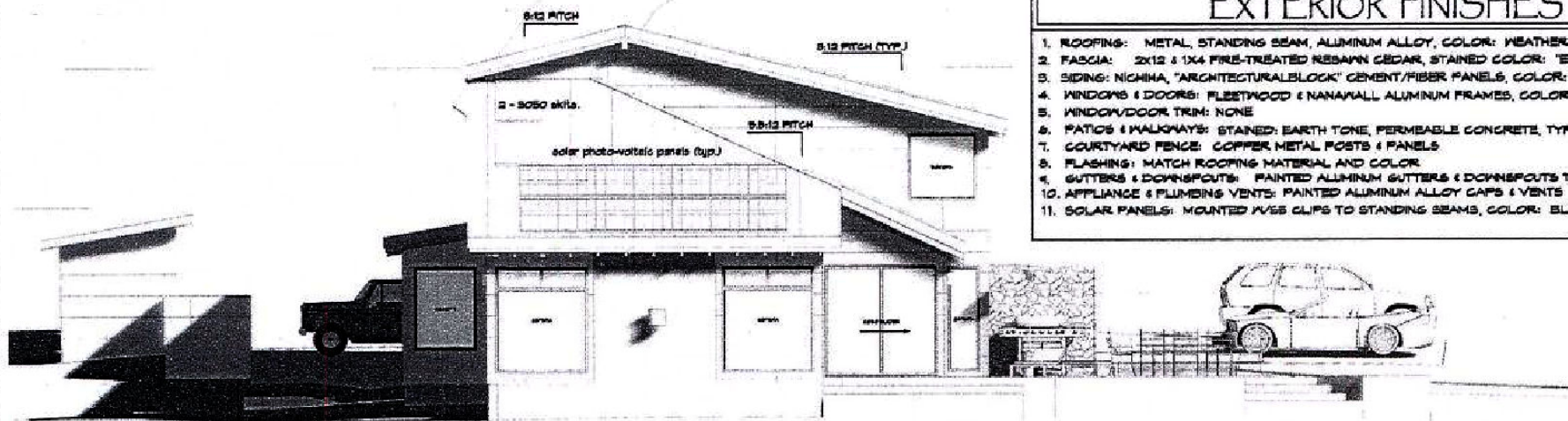
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MAXIMUM ALLOWABLE HGT.: 28'-0"



SOUTHEAST



SOUTHWEST

### EXTERIOR FINISHES

1. ROOFING: METAL, STANDING SEAM, ALUMINUM ALLOY, COLOR: HEATHERED COPPER
2. FASCIA: 2X12 & 1X4 FIRE-TREATED REDBARN CEDAR, STAINED COLOR: "EARTH TONE"
3. SIDING: NICHINA, "ARCHITECTURALBLOCK" CEMENT/FIBER PANELS, COLOR: GREY, 18"X12"
4. WINDOWS & DOORS: FLEETWOOD & NANAKALL ALUMINUM FRAMES, COLOR: BLACK
5. WINDOW/DOOR TRIM: NONE
6. PATIOS & WALKWAYS: STAINED: EARTH TONE, PERMEABLE CONCRETE, TYPICAL
7. COURTYARD FENCE: COPPER METAL POSTS & PANELS
8. FLASHING: MATCH ROOFING MATERIAL AND COLOR
9. GUTTERS & DOWNSPOUTS: PAINTED ALUMINUM GUTTERS & DOWNSPOUTS TO MATCH ROOF
10. APPLIANCE & PLUMBING VENTS: PAINTED ALUMINUM ALLOY CAPS & VENTS
11. SOLAR PANELS: MOUNTED VSS CLIPS TO STANDING SEAMS, COLOR: BLACK ANODIZED, ALUM.

**ELEVATIONS 1**  
scale: 1/4 inch = 1 foot

NO SCALE

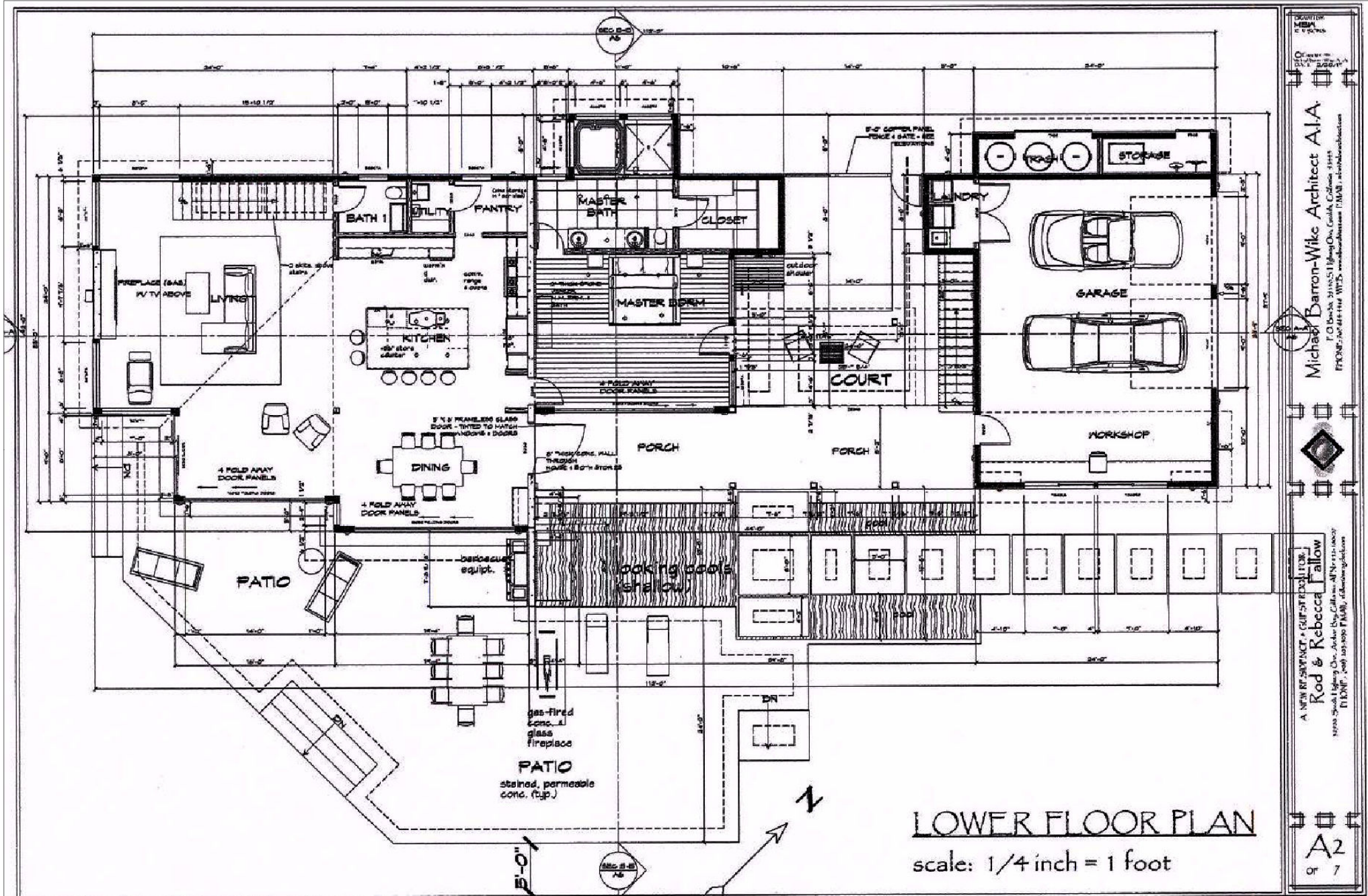
ATTACHMENT F

ELEVATIONS

CASE: CDP 2017-0007  
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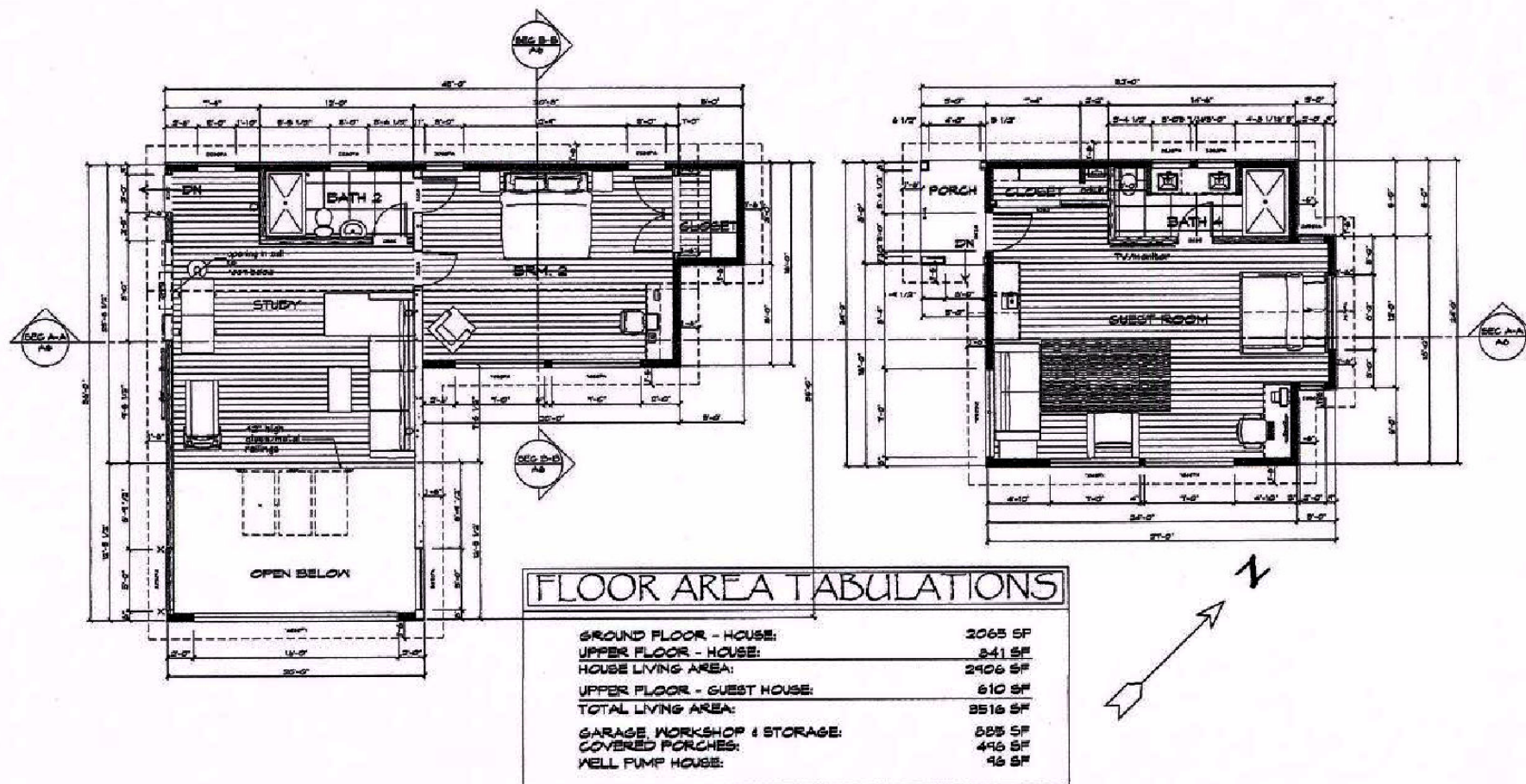
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ATTACHMENT F

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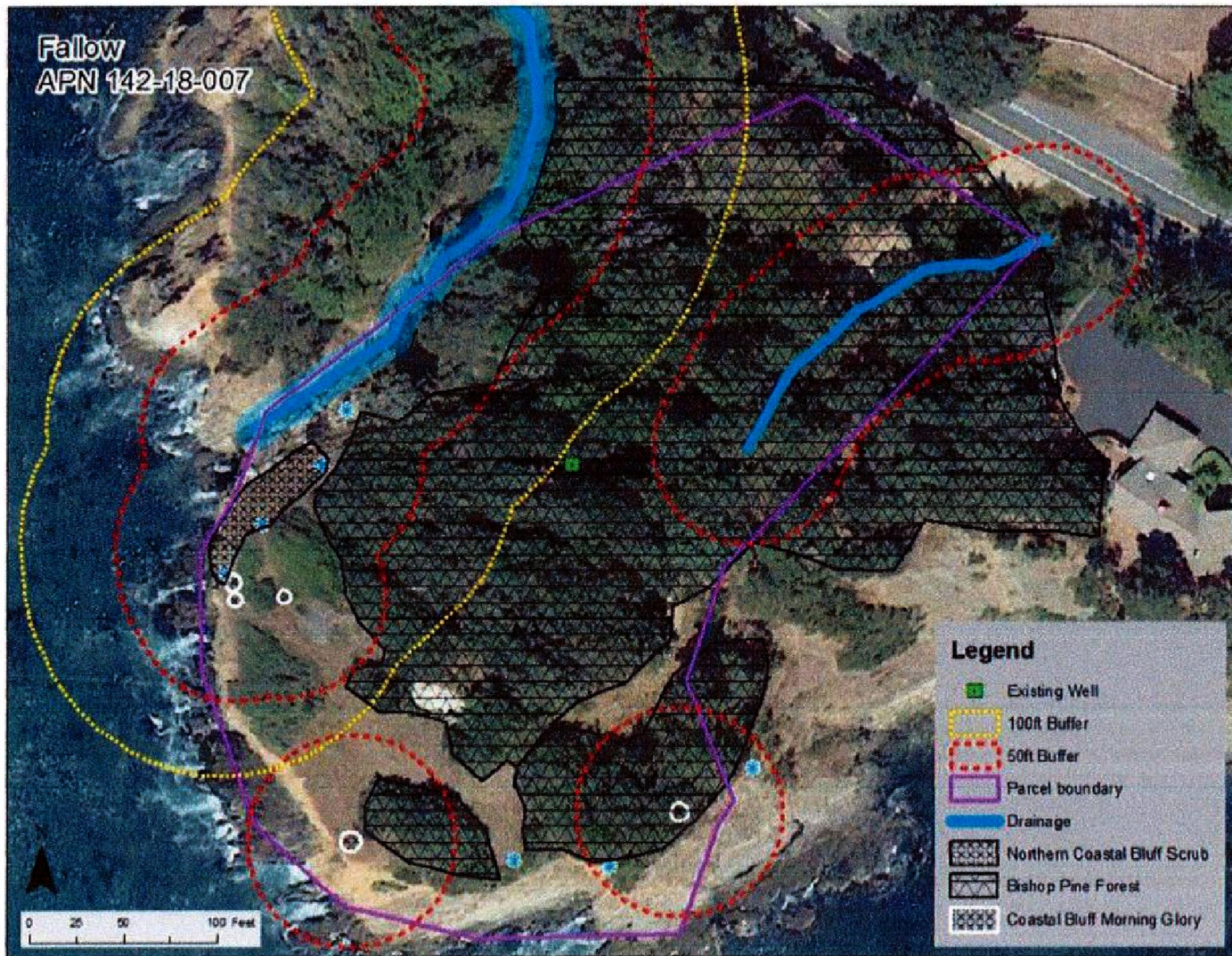
LOWER FLOOR PLAN





UPPER FLOOR PLANS  
scale: 1/4 inch = 1 foot





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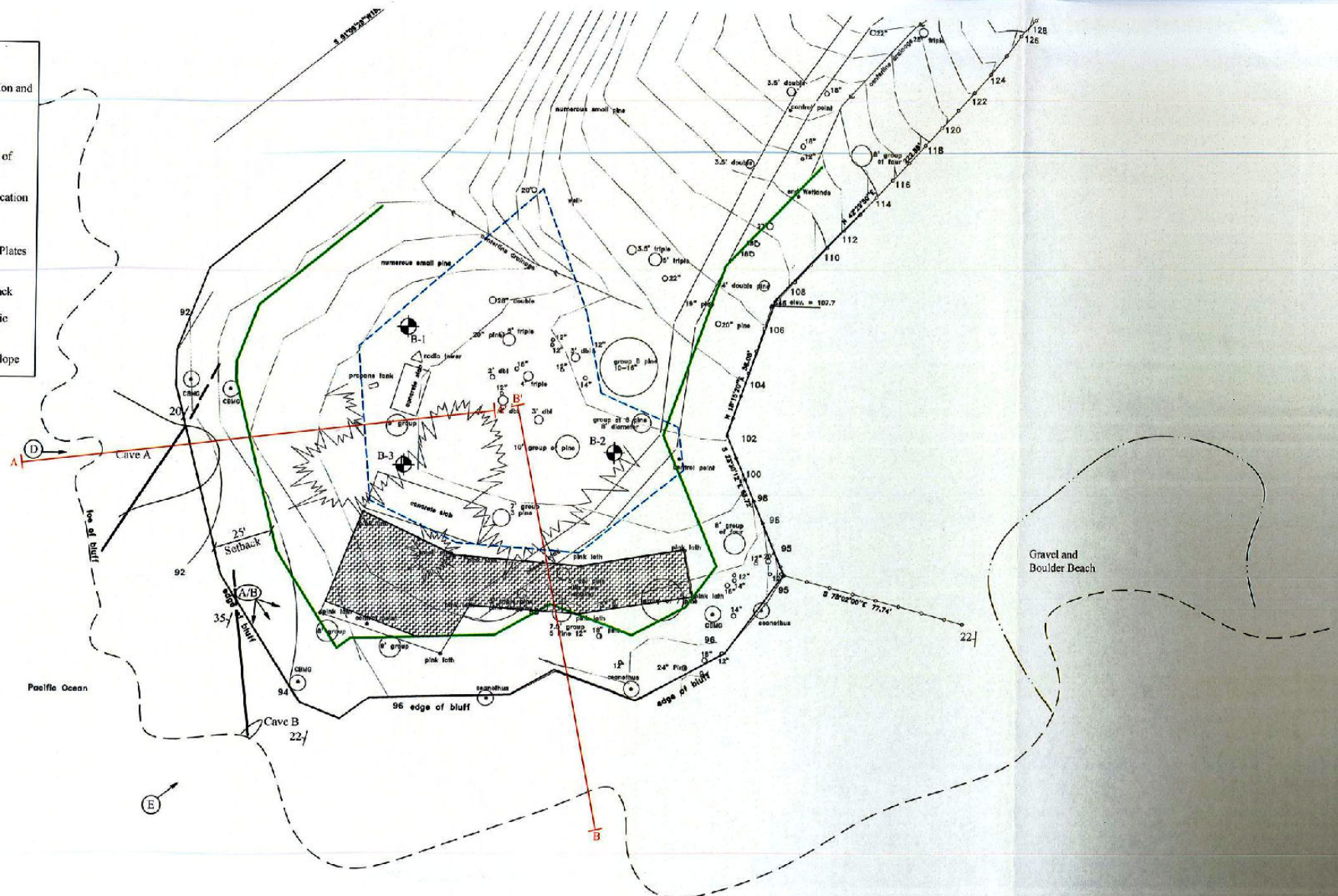
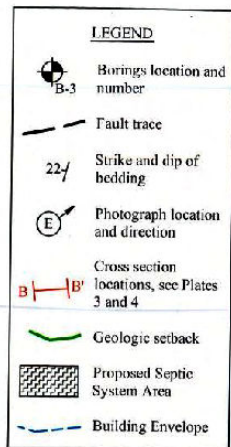
NO SCALE

## ATTACHMENT H

BIOLOGICAL STUDY AREA & PROPOSED BUFFERS

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**REFERENCE:**  
Base Topographic Map prepared by Richard Seale, dated March 2016



<p><b>Brunsing Associates, Inc.</b> 5468 Skylane Blvd., Suite 201 Santa Rosa, California 95403 Tel: (707) 528-6108</p>	Job No.: 12533.02	<p><b>SITE GEOLOGIC MAP</b> PROPOSED FALLOW RESIDENCE 32900 South Highway 1 Gualala, California</p>	<p><b>PLATE</b> <b>2</b></p>
	Appr: EEO		
	Date: 11/15/16		

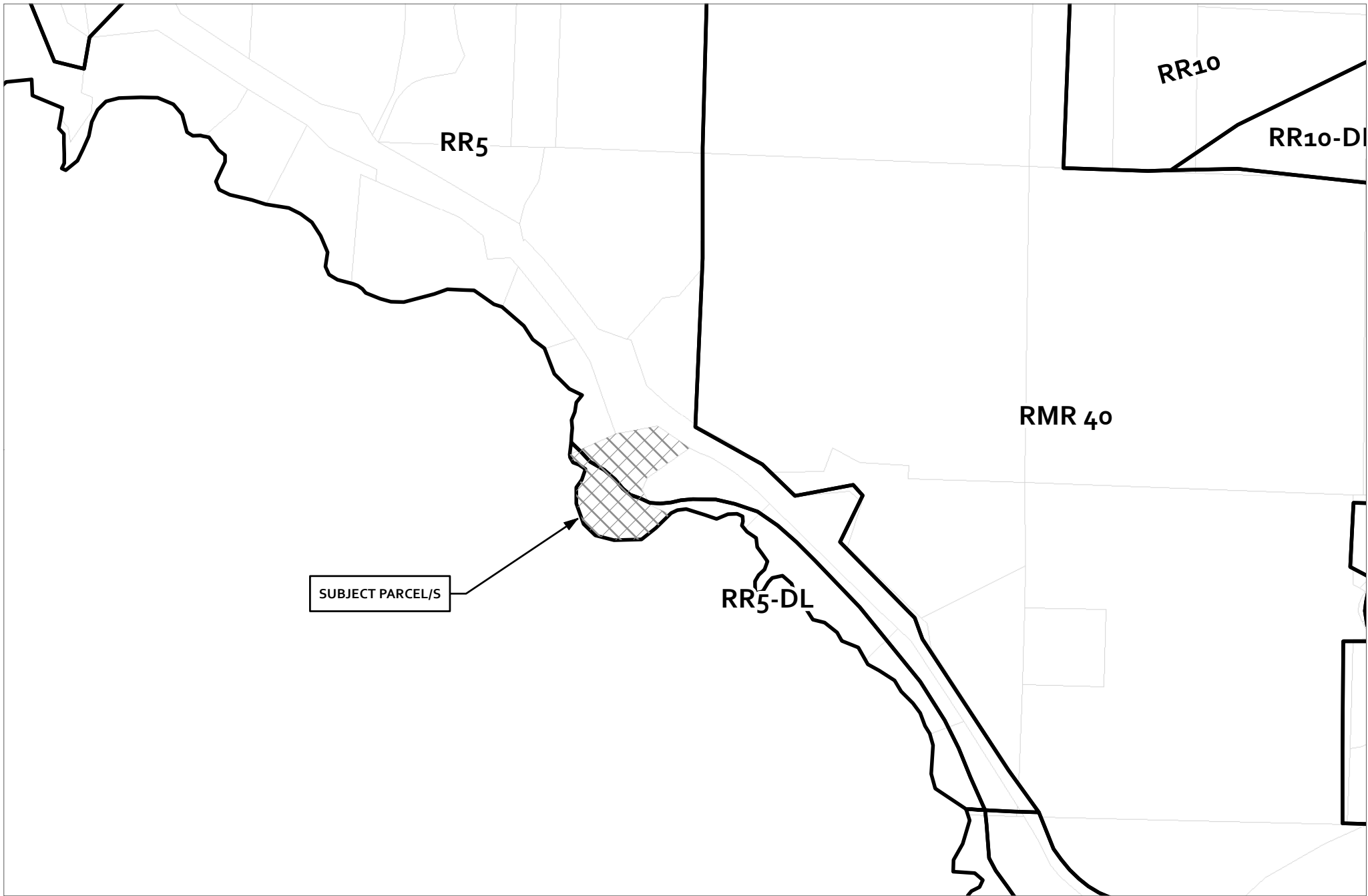
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NO SCALE

ATTACHMENT I

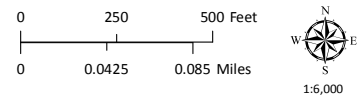
GEOTECHNICAL STUDY



CASE: CDP 2017-0007  
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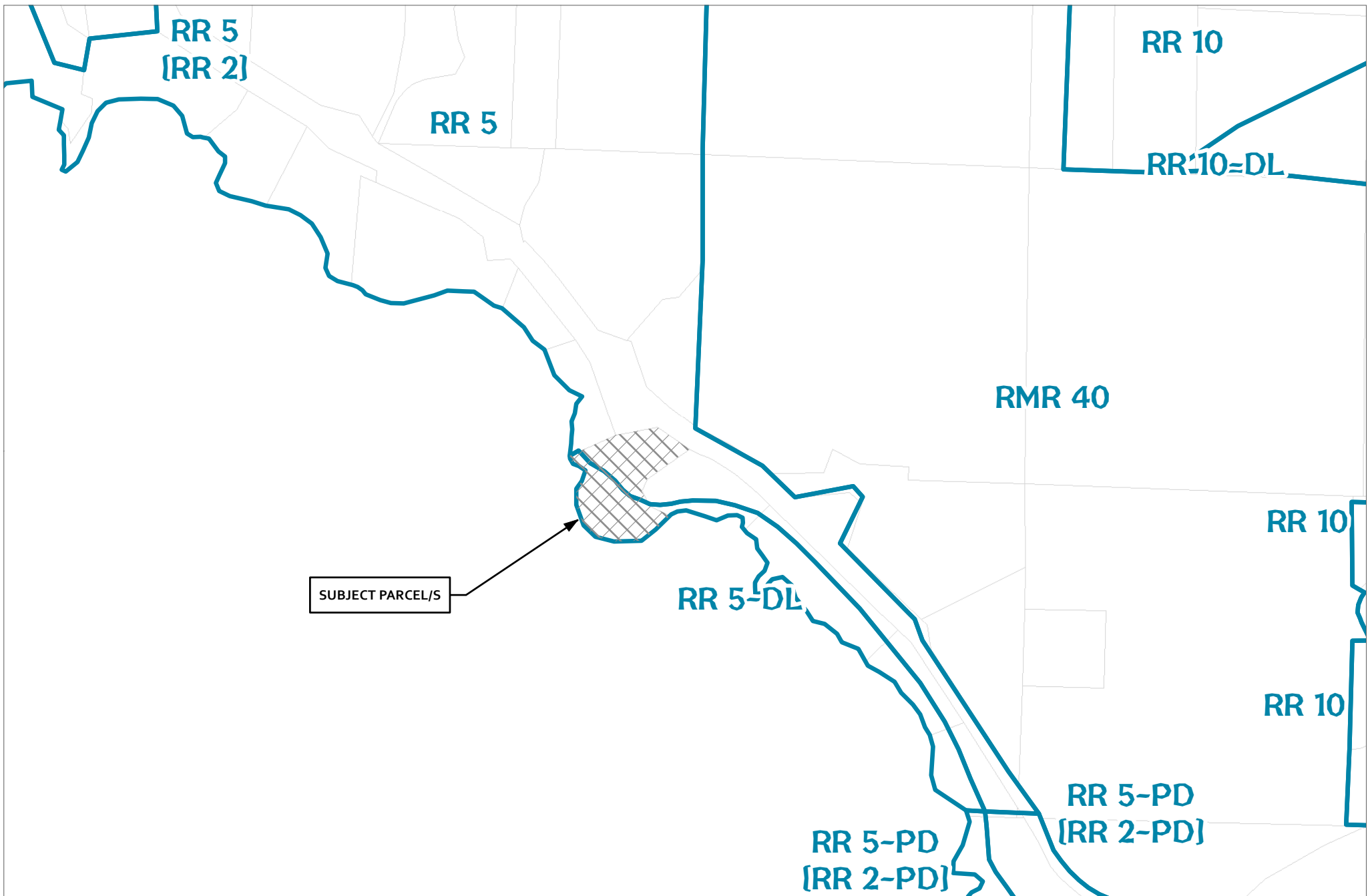
 Zoning Districts

ATTACHMENT J



ZONING DISPLAY MAP

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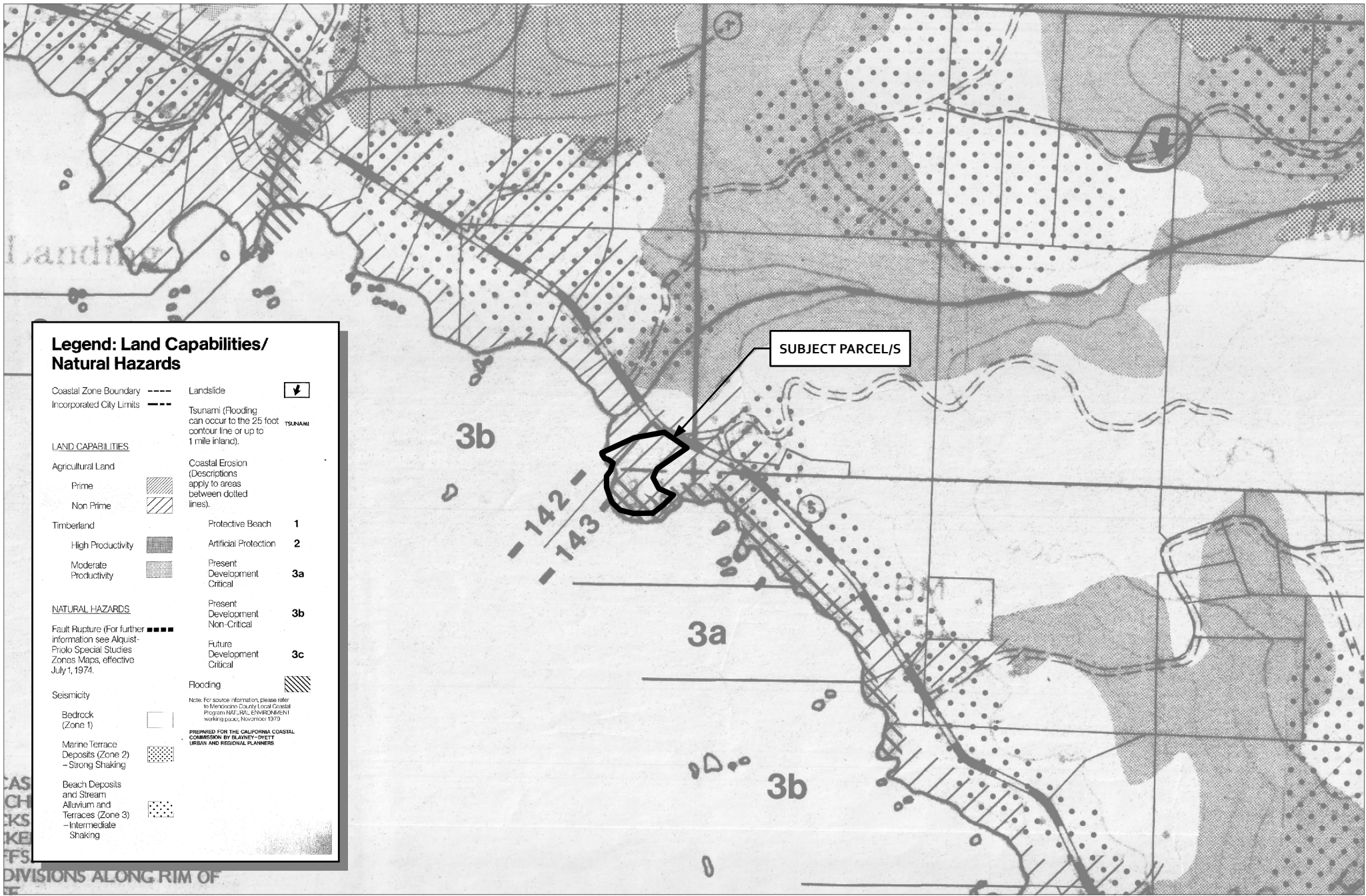




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LCP LAND USE MAP 30: ANCHOR BAY





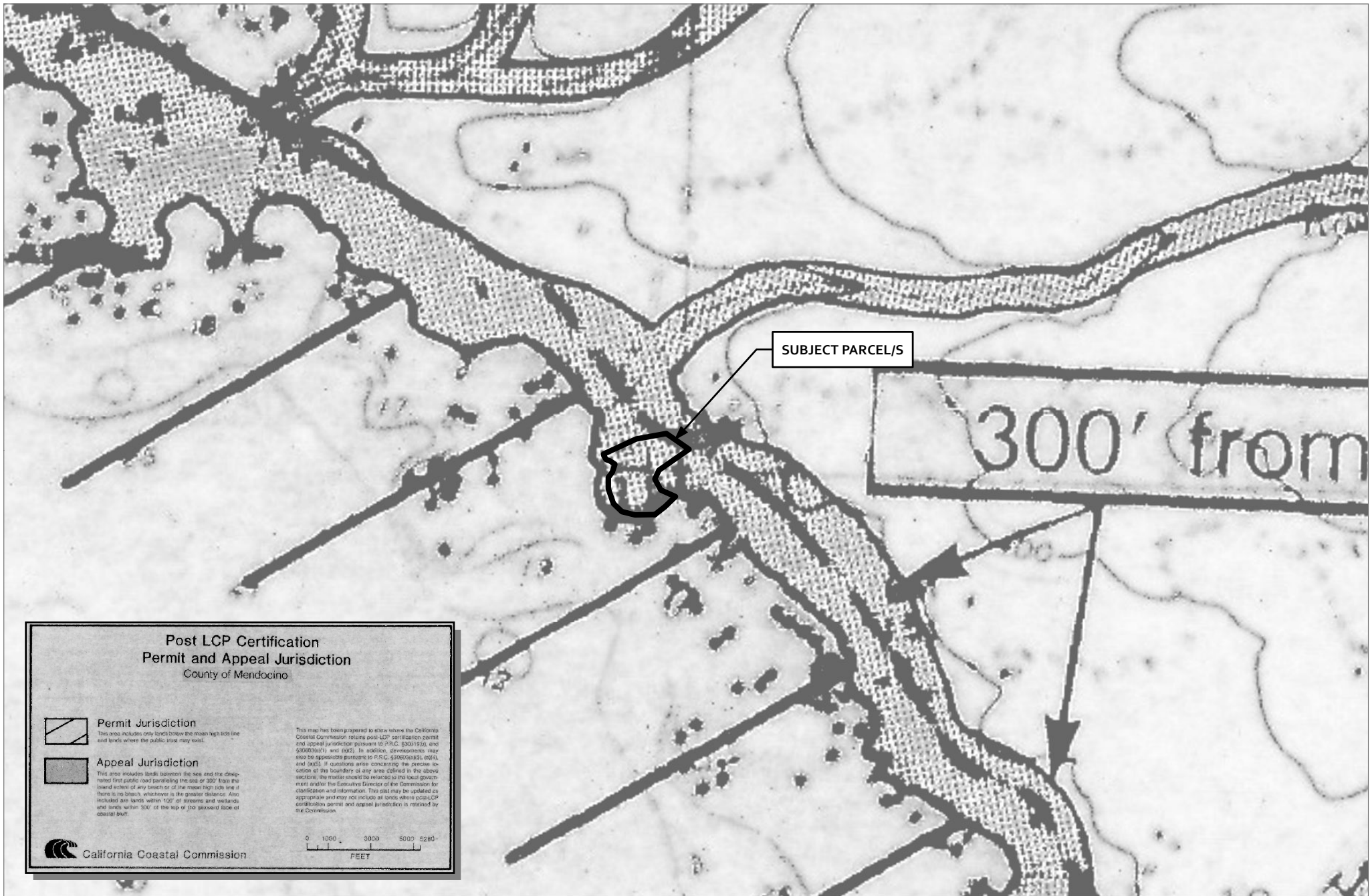
CASE: CDP 2017-0007  
OWNER: FALLOW, Rebecca & Rod  
APN: 142-180-07  
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AGENT: Michael Barron-Wike  
ADDRESS: 32900 S. Highway 1, Gualala

## ATTACHMENT M

LCP LAND CAPABILITIES & NATURAL HAZARDS

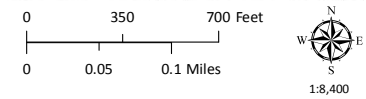
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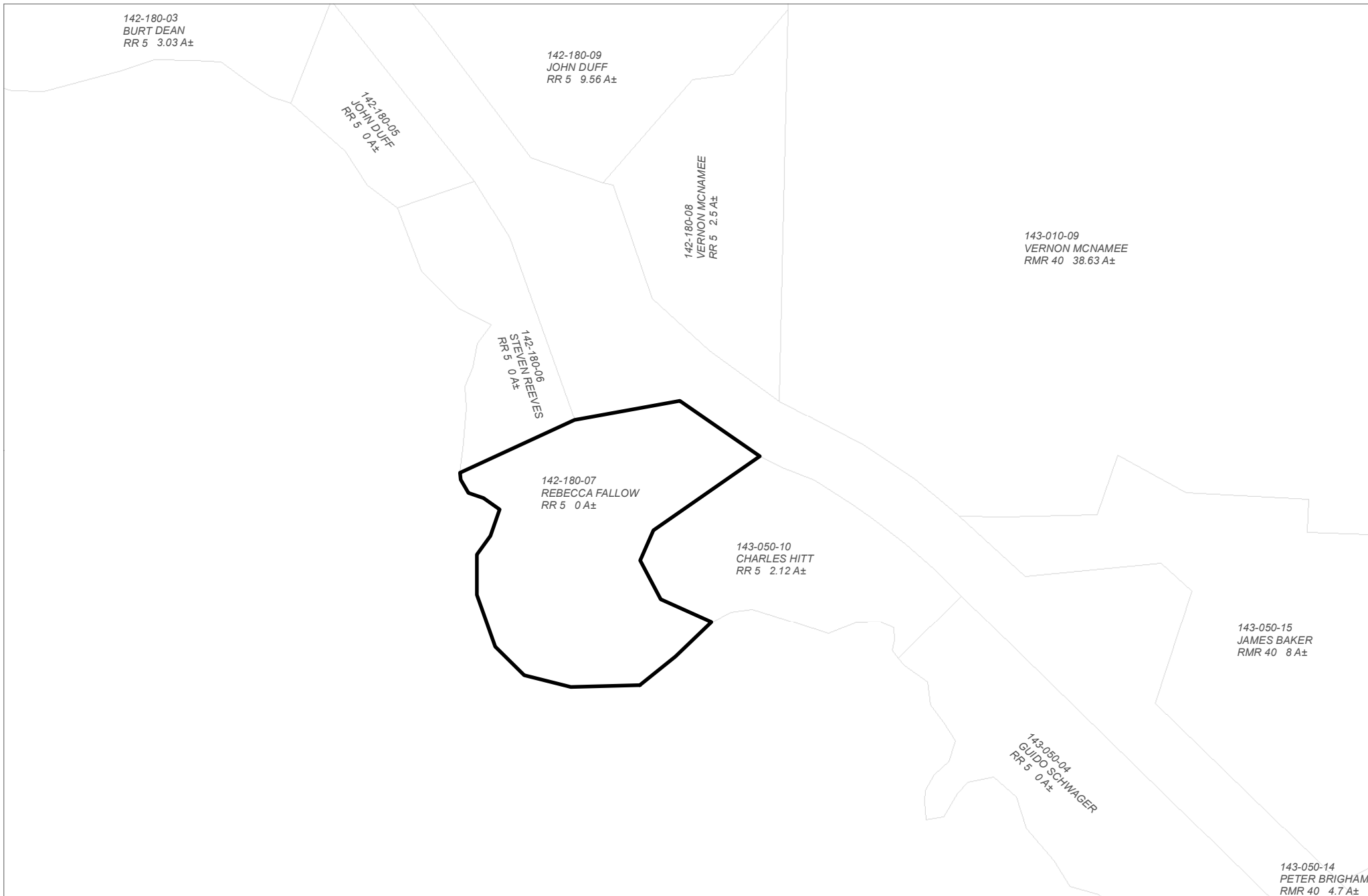
CASE: CDP 2017-0007  
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**ATTACHMENT N**



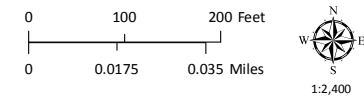
**APPEALABLE AREAS**

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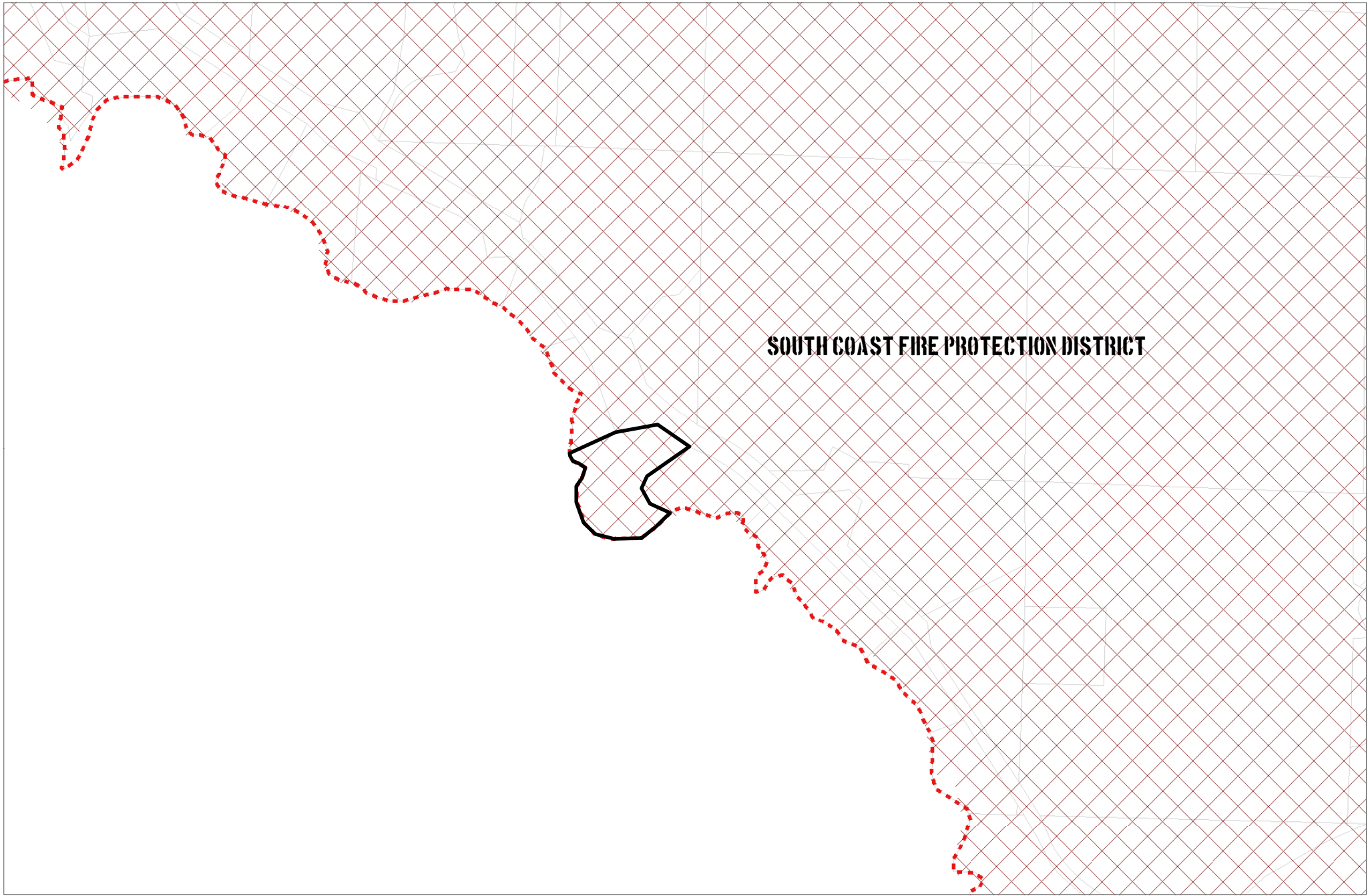
ATTACHMENT O





ADJACENT PARCELS

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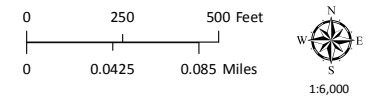




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-  County Fire Districts
-  High Fire Hazard

**ATTACHMENT P**



**FIRE HAZARD ZONES & RESPONSIBILITY AREAS**  
STATE RESPONSIBILITY AREA

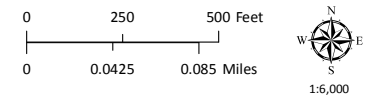
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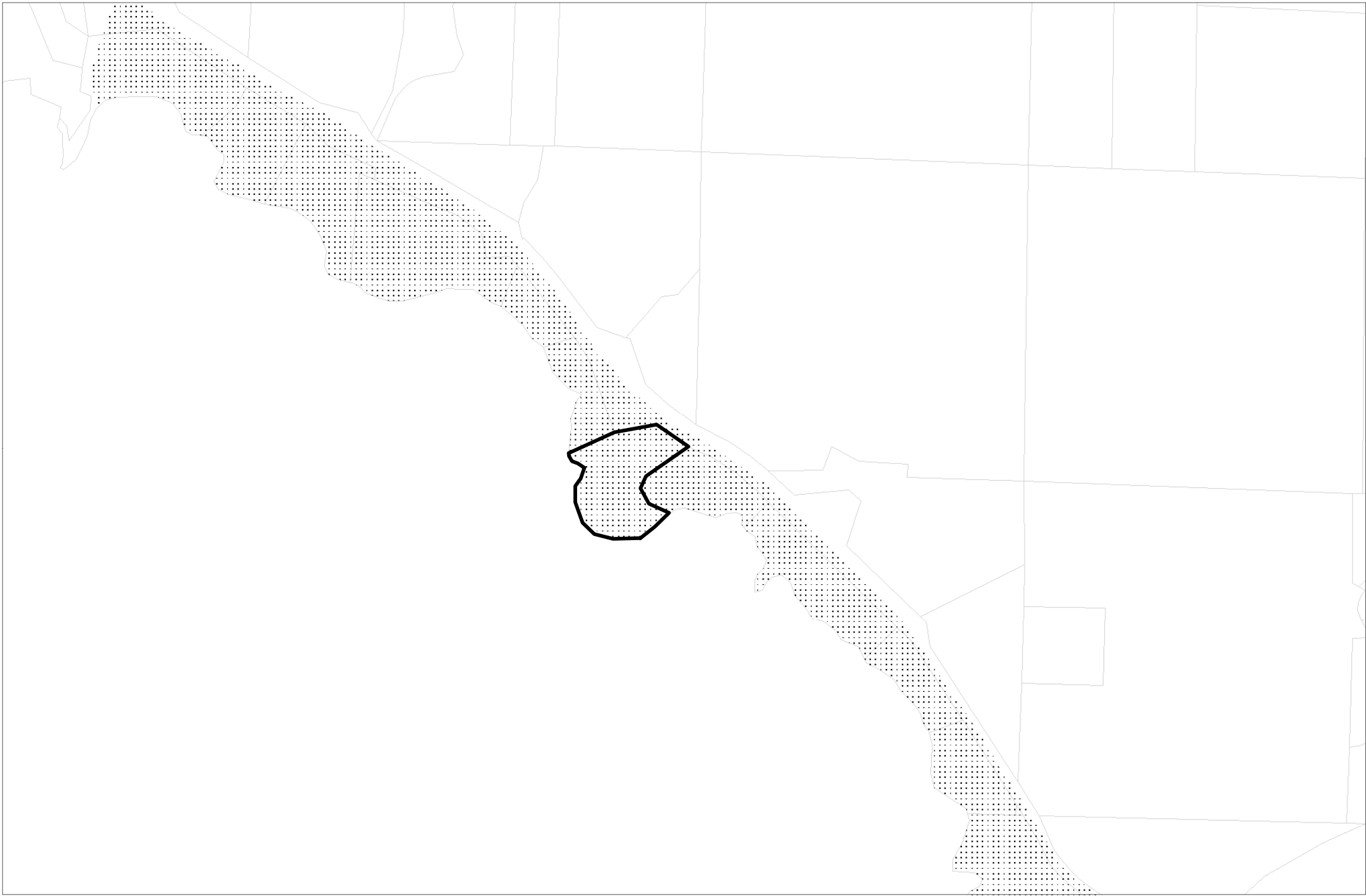
x x > Critical Water Areas

## ATTACHMENT Q



GROUND WATER RESOURCES

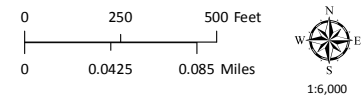
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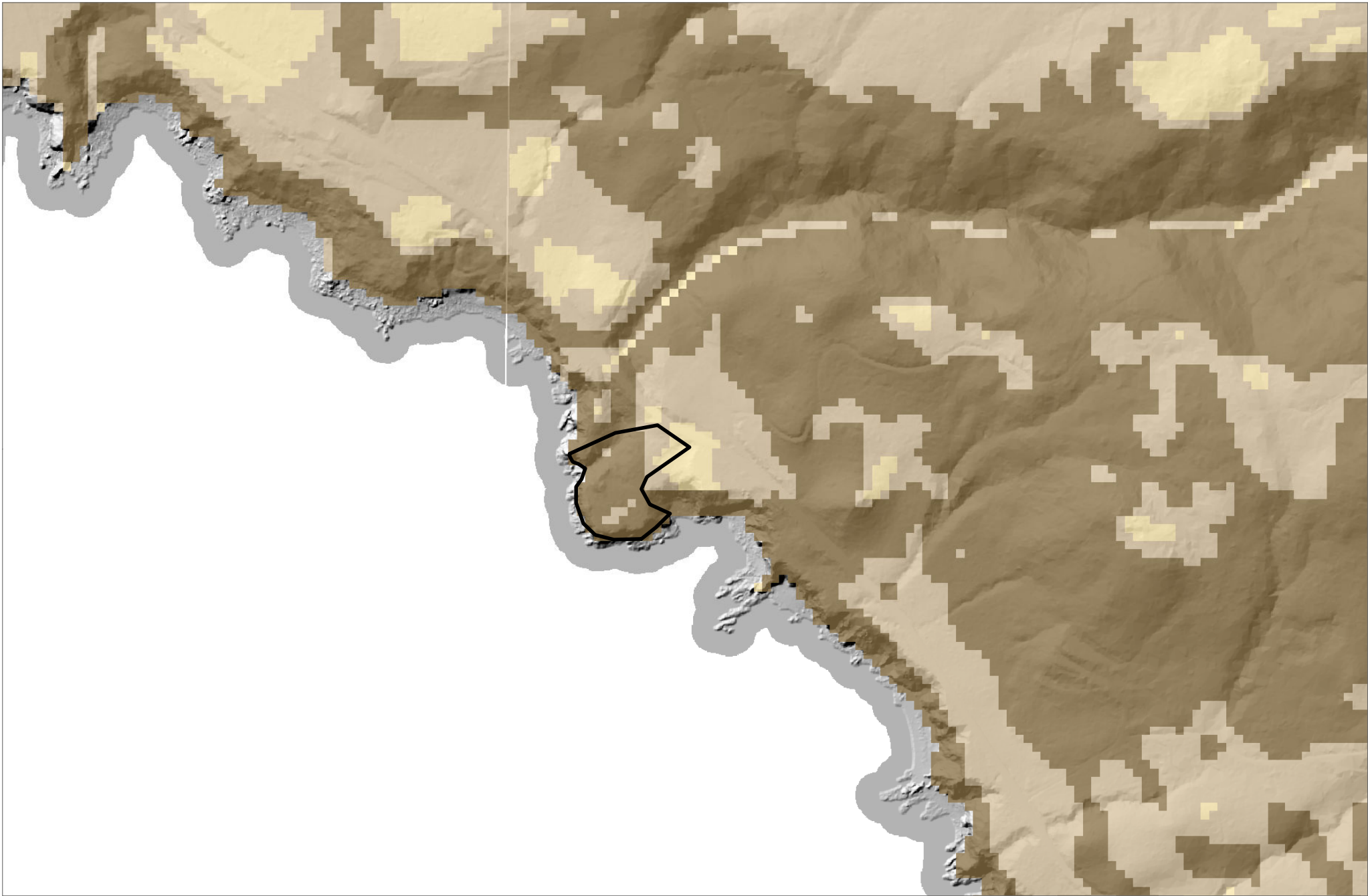
 Tree Removal Area

**ATTACHMENT R**

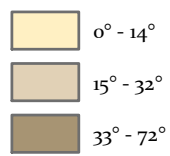


**HIGHLY SCENIC & TREE REMOVAL AREAS**

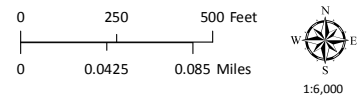
**THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.**



CASE: CDP 2017-0007  
OWNER: FALLOW, Rebecca & Rod  
APN: 142-180-07  
APLCT: Michael Barron-Wike  
AGENT: Michael Barron-Wike  
ADDRESS: 32900 S. Highway 1, Gualala



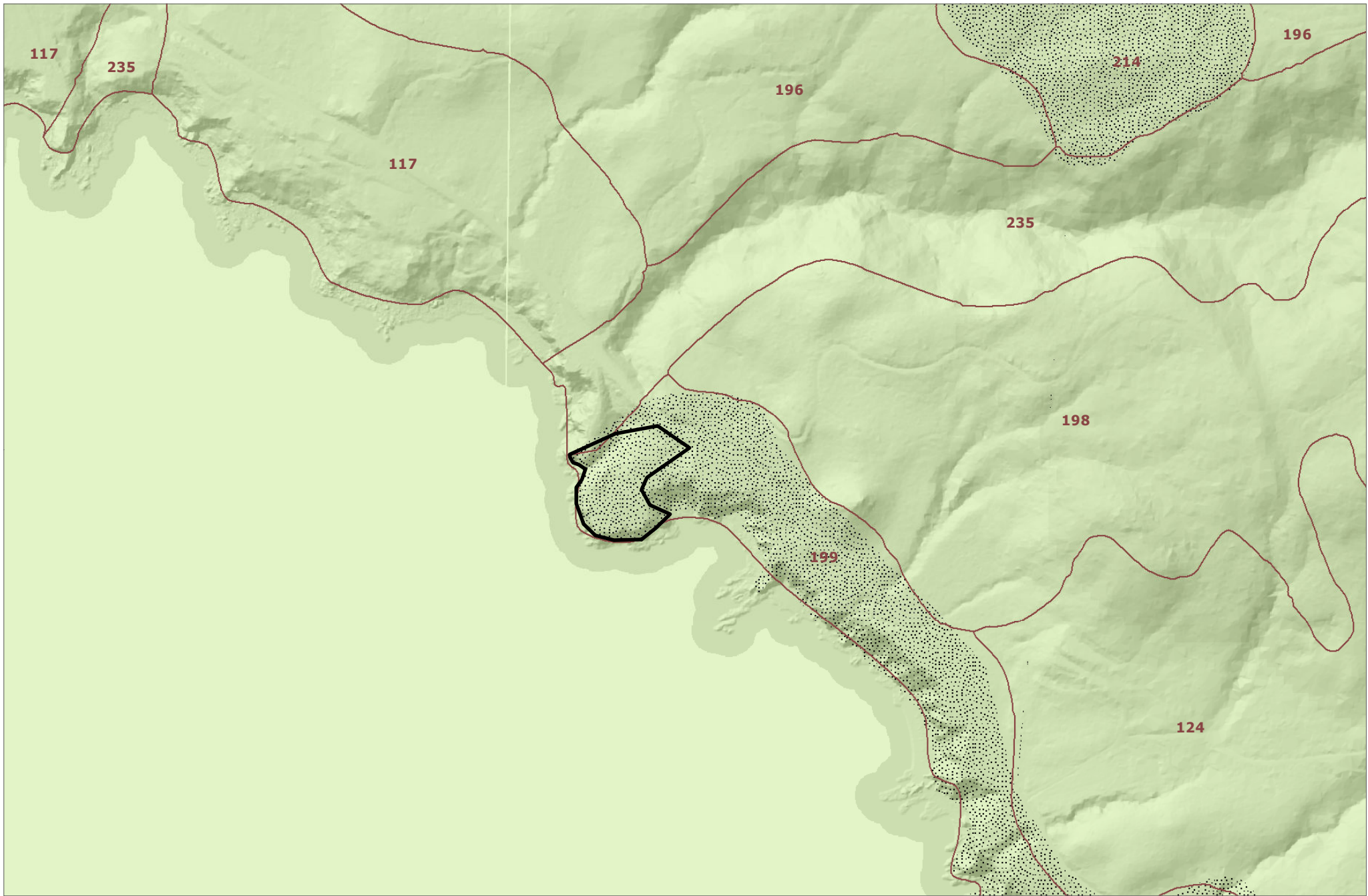
**ATTACHMENT S**





ESTIMATED SLOPE

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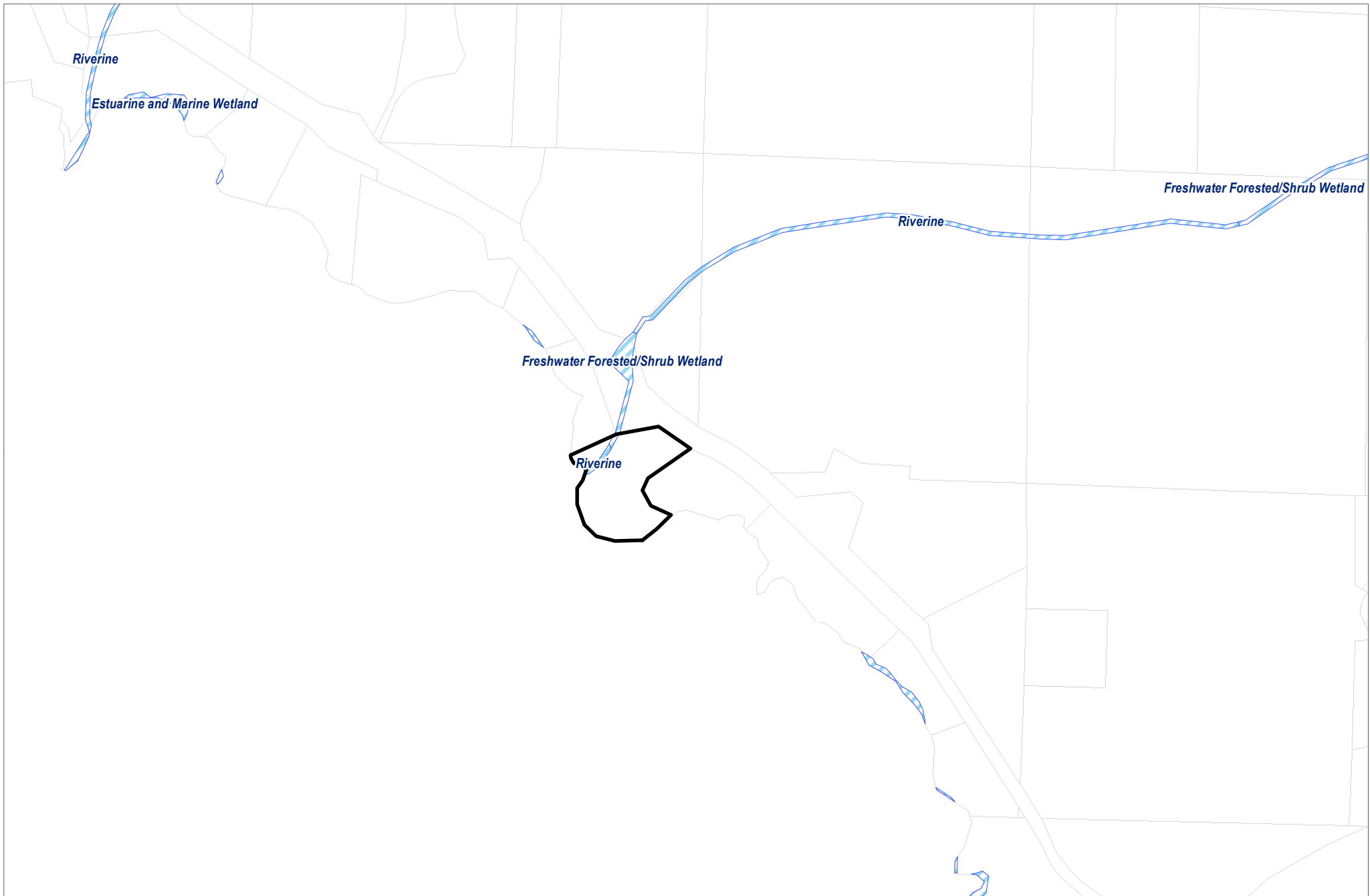
CASE: CDP 2017-0007  
OWNER: FALLOW, Rebecca & Rod  
APN: 142-180-07  
APLCT: Michael Barron-Wike  
AGENT: Michael Barron-Wike  
ADDRESS: 32900 S. Highway 1, Gualala

 Western Soils  
 Shinglemill-Gibney Complex

**ATTACHMENT T**

LOCAL SOILS

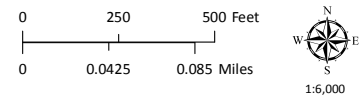
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CASE: CDP 2017-0007  
OWNER: FALLOW, Rebecca & Rod  
APN: 142-180-07  
APLCT: Michael Barron-Wike  
AGENT: Michael Barron-Wike  
ADDRESS: 32900 S. Highway 1, Gualala

 Wetlands

**ATTACHMENT U**



**CLASSIFIED WETLANDS**

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

**DATE: OCTOBER 14, 2017****CASE NUMBER:** CDP\_2017-0007**OWNER:** ROD & REBECCA FALLOW**APPLICANT/AGENT:** MICHAEL BARRON-WIKE

**PROJECT DESCRIPTION:** Standard Coastal Development Permit for construction of a single family residence with attached garage/workshop and overhead guest cottage. Associated development includes patios, walkways, a septic system, solar roof panels, pump house, and a 2,500 gallon water storage tank. Existing on the site is a driveway, well, and developed spring. The project will require removal of an existing incomplete structure (partially demolished structure) and related improvements.

**LOCATION:** The site is located approximately 2 miles north of the town of Anchor Bay, on the west side of Highway 1, approximately 500 feet south of its intersection with Roseman Creek Road (Private), located at 32900 S Highway 1, Gualala (APN: 142-180-07).

**Environmental Checklist.**

*Environmental Checklist. This includes explanations of "no" responses.*

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

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

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

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

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

The subject parcel lies west of Highway 1. The public view west of the highway is dominated by dense woodland vegetation with glimpses of residential structures, visitor accommodation services and the ocean. There are no

other public places or scenic vistas in the vicinity of the project site. State Highway 1 is not a designated state scenic highway.

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

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

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

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

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

<b>III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.</b> <b>Would the project:</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Conflict with or obstruct implementation of any applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

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

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

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

Air Quality Management District permitting may be required for this project. The applicant is advised of **Condition 4** that this permit is subject to the securing of all other necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.

**Condition 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.

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

<b>IV. BIOLOGICAL RESOURCES:</b> <b>Would the project:</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Several studies were prepared for the proposed project in order to identify sensitive resources on the parcel and also to provide recommendations to prevent potential impacts to documented sensitive resources as a result of the project. Spade Natural Resources Consulting (SNRC) prepared a Botanical and Biological Scoping Survey Report (November 17, 2016) , which includes as Appendix E a Report of Compliance.

SNRC determined that the site has several vegetation communities present. It is primarily characterized by Bishop Pine Forest (*Pinus muricata* Forest Alliance) and non-native grassland but also contains Northern Coastal Scrub/Coyote Brush Scrub (*Baccharis pilularis* Shrubland Alliance) and Northern Coastal Bluff Scrub (Holland community). The site also contains occurrences of short-leaved evax (*Hesper-evax sparsiflora* var. *brevifolia*), Coastal bluff morning glory (*Calystegia purpurata* spp. *saxicola*), and Point Reyes ceanothus (*Ceanothus gloriosus* var. *gloriosus*). Two drainages and associated riparian areas are present on the parcel. Roseman Creek is a perennial stream that is located along the northern property line. Due to the steep, rocky stream bed, there is no riparian vegetation associated with this stream in the area adjacent to the subject property. The second drainage on the parcel was observed by SNRC to be within the Bishop Pine Forest, starting near the southeast corner of the parcel nearest Highway 1 and traveling south of and parallel to the existing gravel driveway. SNRC noted that the drainage is primarily dominated by invasive non-native calla lily (*Zantedeschia aethiopica*).

Of the resources identified on the site not all are considered Environmentally Sensitive Habitat Areas (ESHA), as defined in MCC Section 20.308.040(G). Identified ESHA include the special status plant community Bishop pine forest; two areas of wetlands, Roseman Creek and a wetland swale; and several occurrences of two species of rare plants, coastal bluff morning glory and short-leaved evax. SNRC did not observe any special status wildlife while on the property but still provided recommendations for the protection of wildlife species with potential to occur in the area. Wildlife species of concern for this parcel include California red-legged frog, Sonoma tree vole, special status birds and bats, and nesting birds protected by the Migratory Bird Treaty Act.

Mendocino County Code requires that a sufficient buffer be established around all identified ESHA. A Reduced Buffer Analysis was included as Appendix D to the report from SNRC and recommends a minimum 100-foot buffer area between Roseman Creek and Northern Coastal Bluff Scrub/short-leaved evax habitat and a minimum 50-foot buffer between the southern drainage and coastal bluff morning glory plants and the proposed development. There is no location on the parcel where development would not occur within 50 feet of the identified Bishop pine forest. Additionally, the existing gravel driveway is located less than 50 feet from the southern drainage. Due to the presence of ESHA on the site, a Report of Compliance (Appendix E of the Botanical and Biological Scoping Survey Report) was prepared for the project describing the sensitivity of the resources present and showing the least impacting location for the proposed development.

Alternative projects to the proposed development were considered including agricultural and passive recreational opportunities and conditional uses in the district such as day care facilities and religious facilities. SNRC determined these various options to be infeasible either due to their potential for greater impact to identified resources and/or the economic feasibility of the alternatives. The subject parcel was purchased with the understanding that residential use is a principally permitted use for this parcel and expectations were set due to nearby development being residential in nature.

Alternative locations for the proposed residence were also considered. One building envelope has been identified that meets a 100-foot buffer to Roseman Creek and the special status Northern Coastal Bluff Scrub plant community (where the special status short-leaved evax is present), meets a 50-foot buffer to special status coastal bluff morning glory individuals and the southern drainage, is outside geotechnical setbacks, and is a relatively flat area. The identified building envelope is located within the special status Bishop pine forest plant community. An exhibit was submitted by SNRC on June 5, 2017 demonstrating that the footprint for the proposed residence will be located within the identified least environmentally damage building envelope.

The existing driveway is located within 50 feet of identified ESHA. Relocation of the existing driveway would result in significant impacts to the special status Bishop Pine Forest plant community. There is no less impacting alternative for the driveway placement. Improvements proposed to the driveway include trenching and placement of underground utilities within the existing driveway corridor. Since the gravel driveway is already in an area impacted by grading, this is the best location for the proposed utility line extension. The proposed septic system out of necessity is located closest to the bluff edge and was determined to be the only feasible location for the proposed septic system that meets health code requirements.

Mitigation measures have been identified by the project biologist to prevent and/or minimize potential impacts from the proposed development to identified ESHA. Mitigation measures, including restoration measures and proposed buffer areas were suggested in the Report of Compliance and a recommended as **Condition 11**.

**Condition 11:** All recommended Mitigation Measures proposed in the Botanical and Biological Scoping Survey Report (including Appendix E, Report of Compliance) dated November 17, 2016 prepared by Spade Natural Resources Consulting are required to provide for the protection of identified environmentally sensitive habitat areas. Mitigations are as follows:

- a. A minimum buffer distance of 100 feet shall be observed to Roseman Creek and the Northern Coastal Bluff Scrub habitat area containing special status short-leaved evax. A minimum buffer distance of 50 feet shall be observed to special status coastal bluff morning glory and the southern drainage, except for the proposed improvements located along and within the existing driveway footprint. Development within the Bishop pine forest shall be limited to the areas shown on the exhibit submitted by SNRC dated June 5, 2017.
- b. Prior to issuance of any building permits in reliance of this Coastal Development Permit, an active management plan shall be developed for the Bishop pine forest in order to provide for the long term health of the forest habitat. The active management plan shall be prepared by a qualified ecologist and approved by the California Department of Fish and Wildlife, and shall include: invasive species removal; a regular understory management regimen to facilitate the growth of new recruits; and identification, removal, and prevention of pathogens killing Bishop pine trees and other native flora.
- c. The clearing of vegetation and initiation of construction shall be done during the bird non-breeding season between September and January. If this cannot be accomplished then a qualified biologist shall perform preconstruction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. The survey shall be submitted for review and approval by California Department of Fish and Wildlife staff. If breeding birds are identified then the measures prescribed in the Botanical and Biological Scoping Survey Report dated November 17, 2016 shall be adhered to.
- d. The clearing of vegetation and initiation of construction shall be done between September 1 and October 31. If this cannot be accomplished then preconstruction surveys for potential bat roost sites shall be conducted and submitted for review and approval by the California Department of Fish and Wildlife.
- e. Within two weeks prior to construction, project contractors shall be trained by a qualified biologist in

the identification of the California red-legged frog. Evidence that such training has been provided, such as a letter from the qualified biologist, shall be submitted to the Mendocino County Planning Division prior to commencement of construction activities. Construction crews shall begin each day with a visual search around all stacked or stored materials, as well as along any silt fences to detect the presence of frogs. If a California red-legged frog is detected, construction crews shall contact US Fish and Wildlife Service or a qualified biologist, and gain clearance prior to re-initiating work. If a rain event occurs during the construction period, all construction related activities shall cease for a period of 48 hours after the rain stops. Prior to resuming construction activities, trained construction crew members shall examine the site for the presence of frogs. If no special status frogs are found, construction activities may resume.

- f. A Sonoma tree vole survey shall occur within two weeks of tree removal activities. If tree vole nests are found in trees to be removed, the California Department of Fish and Wildlife shall be immediately notified and steps shall be taken to protect identified tree vole nests per California Department of Fish and Wildlife requirements. Project commencement shall not occur until California Department of Fish and Wildlife gives clearance.
- g. Standard Best Management Practices shall be employed to assure minimization of erosion resulting from construction. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. Silt fencing and orange construction fencing shall be placed and maintained for all areas where construction will occur upslope of and within 100 feet of the southern drainage and occurrences of coastal bluff morning glory. Any soil stockpiles shall be covered or otherwise stabilized to prevent dust impacts. Any bare soil created by the construction phase of the project shall be re-vegetated with native vegetation and/or native seed mixes for soil stabilization. Low Impact Development techniques shall be utilized to reduce stormwater runoff from new impervious surfaces.
- h. Landscaping on the parcel shall not include any invasive plants and shall consist of native plants compatible with the present plant communities.
- i. Heavy equipment undercarriages and tires shall be washed prior to entering the site in order to remove any invasive plant seed.

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

In summary, the proposed project cannot be found consistent with LCP policies relating to ESHA; however, the proposed project is the least damaging alternative and the proposed mitigation measures required by **Condition 11** will address the impacts to ESHA. These measures will mitigate the impact of the proposed development, and restore and enhance ESHA located on the parcel.

<b><u>V. CULTURAL RESOURCES.</u></b> <b>Would the project:</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

At the June 14, 2017 hearing, the Mendocino County Archaeological Commission accepted an Archaeological Survey (May 18, 2002) for the project prepared by Thad Van Bueren and found that site(s) were identified and the recommendations of the report shall be strictly adhered to. **Condition 12** requires compliance with the recommendations of the submitted Archaeological Survey. In addition, **Condition 8** 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 recommended conditions, Staff finds the project to be consistent with Mendocino County policies for protection of paleontological and archaeological resource.

**Condition 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.

**Condition 12:** The recommendations contained in the Archaeological Survey dated May 18, 2002 prepared by Thad Van Bueren shall be strictly adhered to.

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.

<b><u>VI. GEOLOGY AND SOILS.</u></b> <b>Would the project:</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Brunsing Associates, Inc (BAI) prepared a Geotechnical Investigation (November 16, 2016) to evaluate the geologic conditions at the property, primarily bluff stability, retreat (erosion) rate, and subsurface soil and rock

conditions to determine bluff setback criteria and provide recommendations for the foundation of the planned development. Based upon review of various resources and on-site investigation, BAI concluded that a bluff setback of 25 feet for future improvements, including leachfield areas, will guarantee a structural life of 75 years and includes a safety factor of 1.5 consistent with MCC Section 20.500.020 (B)(1). BAI also provided recommendations for site grading, foundation support, seismic design criteria, concrete slab-on-grade, retaining walls and site drainage. **Condition 9** is recommended to require the projects consistency with the recommendations of the BAI Geotechnical Investigation.

**Condition 9:** The recommendations in the Geotechnical Investigation dated November 16, 2016 prepared by Brunsing Associates, Inc. shall be incorporated into the design and construction of the proposed project. Prior to issuance of a building permit in reliance on this Coastal Development Permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final building plans for consistency with the Geotechnical Investigation. No development shall be permitted within 25 feet of the blufftop edge.

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

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

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

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

The project would require minimal grading as the site is relatively level in the building area and will only require approximately 10 cubic yards of cut and 10 cubic yards of fill. The only cut is required for the entrance to the garage and for the flat parking area by the trash cans and propane tank enclosure. The maximum height of both the cut and fill slope will be 2 feet. Best Management Practices will be implemented at the time of construction and protection measures recommended for the adjacent ESHA. With the inclusion of **Condition 11** the project is found consistent with policies related to grading, erosion and run-off.

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

Assembly Bill 32 (AB32), the California Global Warming Solutions Act, 2006 recognized that California is a source of substantial amounts of greenhouse gas (GHG) emission which poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. AB32 established a state goal of reducing GHG emission to 1990 levels by the year 2020 with further reductions to follow. In order to address global climate change associated with air quality impacts, CEQA statutes were amended to require evaluation of GHG emission which includes criteria air pollutants (regional) and toxic air contaminants (local). As a result, Mendocino County Air Quality Management District (AQMD) adopted CEQA thresholds of significance for criteria air pollutants and GHGs, and issued updated CEQA guidelines to assist lead agencies in evaluating air quality impacts to determine if a project's individual emissions would be cumulatively considerable. According to the AQMD, these CEQA thresholds of significance are the same as those which have been adopted by the Bay Area Air Quality Management District (BAAQMD). Pursuant to the BAAQMD CEQA Guidelines, the threshold for project significance of GHG emissions is 1,100 metric tons CO<sub>2</sub>e (CO<sub>2</sub> equivalent) of operation emission on an annual basis. This project as proposed, creating one additional single-family residence, will have no impact and be below the threshold for project significance of 1,100 metric tons CO<sub>2</sub>e.

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

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

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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The project will establish a residential use involving the routine transport, use and disposal of hazardous materials in small or limited quantities. These materials include construction materials, household cleaning supplies, and other materials including but not limited to fuel, cleaning solvents, lubricants associated with automobiles, small craft engines, and power tools. Storage of these materials in the open may result in contaminated stormwater runoff being discharged into nearby water bodies, including the Pacific Ocean.

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

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

The project will not result in any physical change to the existing roadway that would impair its use as an evacuation route. The parcel is located in an area classified with a "High Fire Hazard" severity rating.<sup>1</sup> Fire protection services are provided by the California Department of Forestry and Fire Protection (CalFire) and the South Coast Fire Protection Department (SCFPD). The project application was referred to CalFire and the SCFPD for input; SCFPD did not respond, 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 269-16) for address standards, driveway standards, and defensible space standards. **Condition 4** is recommended to achieve compliance with CDF fire safe standards. The recommended conditions will reduce impacts of hazards and hazardous materials to a less than significant level.

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

<sup>1</sup> Mendocino County Department of Planning & Building Services. No Date. *Fire Hazard Zones & Responsibility Areas* [map]



additional sources of polluted runoff?				
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The site is located within an area mapped as Critical Water Resources (CWR). MCC Section 20.516.015 (B)(1) states that "approval of the creation of new parcels or additional building sites shall be contingent upon an adequate water supply during dry summer months which will accommodate the proposed parcels, and will not adversely affect the groundwater table of contiguous or surrounding areas. Demonstration of proof of water supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982, as revised from time to time, and the Mendocino County Division of Environmental Health's Land Division requirements as revised." A test well was drilled on the parcel in 2000, permitted under CDP 5-2000, the test well produces adequate supply for a single-family residence. The test well will be converted to a production well under this permit.

The proposed project is not anticipated to violate any water quality standard or waste discharge requirements. The project would require minimal grading as the site is relatively level in the building area and will only require approximately 10 cubic yards of cut and 10 cubic yards of fill. The only cut is required for the entrance to the garage and for the flat parking area by the trash cans and propane tank enclosure. The maximum height of both the cut and fill slope will be 2 feet. Best Management Practices will be implemented at the time of construction and protection measures recommended for the adjacent ESHA. With the inclusion of **Condition 11** the existing drainage pattern is not anticipated to be altered where it may cause substantial erosion and/or flooding either on or off site.

The proposed density of the project maximizes the development potential of the existing approximately 2.57 acre parcel. The General Plan designation (Rural Residential – 5) and zoning district (Rural Residential – 5) of the subject site precludes any further subdividing. Additionally, the MCC does not allow second residences on the proposed parcels at this time. The low-density nature of the project, and the lack of potential for future development will ensure that local groundwater supplies are not substantially depleted.

The site is designated with a Development Limitations (DL) combining district. The DL combining district is typically applied to parcels with constraints such as slopes over thirty (30) percent, erosion or landslide potential or other geophysical hazards. All development proposed in an area designated DL is required to comply with the applicable provisions of MCC Chapter 20.420 (Floodplain Combining District) and Chapter 20.488 through Chapter 20.500. The proposed project is in conformance with all policies related to location within a DL combining district. **Condition 9** requires compliance with the BAI Geotechnical Investigation that was prepared for the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Access to the site would be provided from Highway 1. Caltrans provided comments on the proposed project and as a result of concerns expressed about site distance, the project driveway orientation was revised to provide for a better site distance. Caltrans also noted that any work within their right-of-way will require issuance of an encroachment permit from their office. **Condition 4** requires compliance with these recommendations.

The parcel is located in an area classified with a "High Fire Hazard" severity rating.<sup>2</sup> Fire protection services are provided by the California Department of Forestry and Fire Protection (CalFire) and the South Coast Fire Protection Department (SCFPD). The project application was referred to CalFire and the SCFPD for input; SCFPD did not respond, 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# 269-16) for address standards, driveway standards, and defensible space standards. **Condition 4** is recommended to achieve compliance with CDF fire safe standards.

<b><u>XVII. UTILITIES AND SERVICE SYSTEMS.</u></b> <b>Would the project:</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<sup>2</sup> Mendocino County Department of Planning & Building Services. No Date. *Fire Hazard Zones & Responsibility Areas* [map]

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

The site is located within an area mapped as Critical Water Resources (CWR). MCC Section 20.516.015 (B)(1) states that "approval of the creation of new parcels or additional building sites shall be contingent upon an adequate water supply during dry summer months which will accommodate the proposed parcels, and will not adversely affect the groundwater table of contiguous or surrounding areas. Demonstration of proof of water supply shall be made in accordance with policies found in the Mendocino Coastal Groundwater Study dated June 1982, as revised from time to time, and the Mendocino County Division of Environmental Health's Land Division requirements as revised." A test well was drilled on the parcel in 2000, permitted under CDP 5-2000, the test well produces adequate water to support a single family residence. The existing test well will be converted to a production well under this permit.

A septic system design has been reviewed and approved by the Mendocino County Division of Environmental Health (DEH), septic permit ST 23060. In a response from DEH they provided their clearance for the project with no further recommendations.

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

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

<b><u>XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.</u></b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

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

#### DETERMINATION:

On the basis of this initial evaluation:

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

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DATE

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JULIA ACKER  
SENIOR PLANNER

TAKINGS ANALYSIS

CDP\_2017-0007

NOVEMBER 15, 2017





MICHAEL BARRON-WIKE ARCHITECT AIA  
39140 S. Hwy. One, P. O. Box 30  
Gualala, CA 95445  
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10 March 2017

Julia Acker, Planner  
County of Mendocino Planning & Building Services  
120 West Fir Street  
Fort Bragg, CA 95437

RE: Fallow Residence Takings Analysis  
Applicant: Rod & Rebecca Fallow  
Site: 32900 South Highway One  
Anchor Bay, CA 95445  
APN: 142-180-07-00

Dear Julia,

Enclosed is a "Takings Analysis Report" for the proposed Fallow Residence, along with the plans and application for a Coastal Development Permit. I have also included "Surroundings Development Data" taken from research information gathered by Wynn Coastal Planning for the immediate neighboring property owned by Guido & Jeannie Schwager. Their residence was recently reviewed and approved by you, as the County Staff Planner of Record, for Coastal Development Permit (CDP\_2012\_0017) on June 9, 2016. I was also the project architect for that residence.

The Takings Analysis Report is being submitted based on the botanical evaluation by Spade Resources (submitted separately). This report indicates that most, if not all, of the parcel is forested by Bishop Pines, which would place the parcel in the "complete ESHA category." While this project is slightly larger overall in square footage than the recently approved Schwager Residence, it has a lower lot coverage percentage, with both developments covering approximately 3.1% lot coverage.

Also, please note that unlike Schwager, the proposed Fallow Residence will not be visible from Highway One and should not impact any neighboring homes. It is located at a much lower elevation, below and much farther away from the highway and neighbors.

Feel free to call me with any other questions. Thank you.

Sincerely,

Michael Barron-Wike  
Project Architect

Enc: Exhibit 1 & 2

CC: Rod & Rebecca Fallow, Tom Roth

## TAKINGS ANALYSIS

In this case, the Fallows Residence qualifies for a permit under the “takings” avoidance exception.

Public Resources Code § 30010, as applied by the County and the Coastal Commission previously, requires the County and the Coastal Commission to allow at least a single-family home on the Fallow site similar to previously approved homes.

The Fallows qualify for the takings exception under the *Lucas* analysis (since the entire site is ESHA), and also the *Penn Central* analysis since the Fallows had a reasonable investment-backed expectation for developing the property with a single-family residence.

The Fallows purchased the Property with the reasonable expectation of residential use (for building their home for retirement), their investment in the Property was substantial (\$869,000), and the proposed development is commensurate with the reasonable investment-backed expectations for the site (*Penn Central* analysis). The Fallows purchased the site in part because it was at least 2.5 acres (the real estate agent located no other bluff top parcels that were at least 2.5 acres) and thus would allow for a slightly larger home.

The home size and footprint also is reasonable given the parcel size and given prior approval of homes in the area, including the nearby Schwager Residence approved in 2016 (CDP 2012-0017). For instance, both the Fallow Residence and the Schwager Residence have a footprint of about 3.1 percent of the total parcel.

An average of all post MCZ (1992) approvals is a total footprint of nearly 3.1 percent, thus indicating that it was reasonable for the Fallows to assume a residence footprint of the size proposed.

When the Fallows purchased the property in 2015, the property was zoned for residential use [RR-5 (Rural Residential 5-acre minimum)] and there were numerous existing homes on bluff top parcels in the area, including homes partially or fully located in ESHA. The Fallows were made aware of these other homes by their real estate agent and as a result of their own research of housing in the area.

Consequently, the Fallows had a reasonable investment-backed expectation that they were purchasing a lot that could be developed consistent with the ESHA policies of the Commission-certified LCP, and their investment reflected that the future development of a residential use could be accommodated. Given that: (1) numerous homes were in existence in the immediate area, at the time of the property purchase, including homes in the immediate proximity; (2) the property was planned and zoned for residential use; (3) other homes in the area had been approved even though located in ESHA, including Bishop Pines forest land, and (4) the Fallows planned a home footprint (in terms of percentage of site coverage) similar to other homes that had been approved, a reasonable person would have had a reasonable expectation that the parcel could be developed as a single-family home of the sized proposed.

The Fallow proposal is similar to the recently approved Schwager Residence, located nearby. The Fallow parcel is slightly larger (2.57 acres v. 2.40 acres), and thus the proposed development is larger, although the overall footprint is very similar in size (3,500 sf vs. 3,300 sf). As mentioned, both residences have a footprint that covers 3.1 percent of the site. The larger house size also is warranted since the Fallow parcel does not contain the same geographic limitations that the Schwager parcel encountered, i.e., the slope of terrain at the Schwager parcel forced that home to be stacked into three levels that would step down with the steeply sloped terrain. The Fallow Residence does not need to address any such limitation because the proposed site is mostly level and therefore more amenable to a single-family home development than the Schwager parcel.



Another advantage that the Fallow Residence has compared to other approved homes in the area is that there will be little grading except along the driveway. No soil will be taken from the site and displaced soil will be spread around the property. Also, unlike the Schwager Residence, there are no impacts to wetland buffer areas (cf., Schwager balconies will be built as cantilevered structures over the wetlands buffer area and most of the Schwager site appears to be ESHA). Fallow fits the house on the site without digging away existing topography, other than rooted topsoil, for the house and garage/guest room.

As such, the topography and geography, along with the Fallows' reasonable investment-backed expectations when purchasing the parcel in late 2015, require the approval of the proposed home, as located and configured on the site to minimize impacts to sensitive resources. Significant changes to the design and location cannot be achieved without adversely impacting the Fallow's reasonable investment-backed expectations.

The Fallows were made aware, or became aware, when they were purchasing the property that the Commission and/or County had previously approved other Mendocino County homes located in or impacting ESHA in order to avoid a taking and to comply with Public Resources Code § 30010 and the Constitution. For example, in 2012, the Commission approved Appeal No. A-1-MEN-09-034 (Marr and Marlin) which consisted of a residence with a total surface coverage of 4,759 feet and an 870-foot long driveway. The project impacted wetland ESHA, including the direct filling of 500 square feet of Coastal Act wetlands. However, the project was approved because according to Coastal staff, "To preclude a claim of takings and to assure conformance with California and United States Constitutional requirements, as provided by Coastal Act § 30010, this permit approval allows for the construction of a residential development to provide a reasonable economic use of the subject property." ". . . [S]ince any economic use of the subject property would necessitate a driveway through and adjacent to the wetland, staff recommends approval of the driveway in order to provide for a reasonable use of the property that will avoid an unconstitutional taking of private property for public use." "In view of the evidence that: (1) permanently restricting use of the property to resource dependent uses could potentially eliminate the economic value of the property; (2) residential use of a small portion of the property would provide an economic use; and (3) an applicant would have had a reasonable investment-backed expectation that a fully mitigated residential use would be allowed on the property, there is a reasonable possibility that a court might determine that the final denial of a residential use, based on the inconsistency of this use with LCP Policies and LCP Zoning would constitute a taking. Therefore, the Commission determines that the County LCP in this case does not preclude developing the proposed driveway within the wetland ESHA."

Similarly, in 2010, the Commission approved Appeal No. A-1-MEN-09-023 for a single-family home built entirely in ESHA in order to avoid a taking and to comply with Public Resources Code § 30010.

It was thus reasonable for the Fallows to expect that they would be treated similarly by the County and the Commission.

For these reasons, the Fallow Residence as proposed qualifies for the takings exception.

In further support of this analysis, we submit the following information typically requested by the County in a takings exception analysis:



**INFORMATION NEEDED TO EVALUATE PROPERTY CONSISTENCY WITH COASTAL ACT SECTION 30010**

1. When the property was acquired, and from whom: 09-30-2015 from Michael and Sigrid Wallach, as Trustees of the 2004 Wallach Family Trust.
2. The purchase price paid for the property: \$869,000
3. The fair market value of the property at the time it was acquired and the basis upon which fair market value was derived: \$869,000. Local Real Estate Comparisons by Kennedy Associates, Realtors. The Fallows also performed their own market analysis based on their review of the parcels available in the area.
4. Whether a general plan, zoning, or similar land use designations applicable to the property changed since the time the property was purchased. If so, identify the particular designation(s) and applicable change(s): NO
5. At the time the property was purchased, or at any subsequent time, whether the project has been subject to any development restriction(s) (e.g., restrictive covenants, open space easements, etc.), other than the land use designations referred to in the preceding question: NO
6. Whether the size or use of the property changed in any way since it was purchased. If so, identify the nature of the change, the circumstances, and the relative date(s): NO
7. Whether a portion of, or interest in, the property was sold or leased since the time the applicants purchased it, and the relevant date(s), sales price(s), rent assessed, and the nature of the portion or interest sold or leased: NO
8. A copy of any title report, litigation guarantee or similar document that might have been prepared in connection with all or a portion of the property, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc.): SEE ENCLOSED INFORMATION
9. The *approximate* date and *offered* price of any offers to buy all or a portion of the property since the time the applicants purchased the property: NONE
10. The costs associated with ownership of the property on an annualized basis for the last five calendar years. These costs should include, but not necessarily be limited to, the following:
  - a. property taxes: (9/30/15 to date) \$13,889.11 (11/15, 2/16, 7/16, 11/16)
  - b. property assessments: 0
  - c. debt service, including mortgage and interest costs: 0
  - d. operation and management costs:
    - i. Septic Design: \$3331.00
    - ii. Botanical Report: \$5574.00
    - iii. Surveyor: \$2200.00
    - iv. Geotechnical: \$13,320.75
    - v. Architectural Design & CDP Permit Analysis & Submittal: \$83,200 to date

**SUBMITTAL OF COUNTY PARCEL AND HOUSE SIZE DATA FOR  
SURROUNDING DEVELOPMENTS, Stories (Exhibits 1-2, Table 1):**

- a. Assessor's Parcel Number: 142-180-07-00
- b. Parcel Physical Address: 32900 S. Highway One
- c. Parcel Owner Name: Rod and Rebecca Fallow
- d. Whether the development is single-story or 2-story: 2 story
- e. Total house size, in square feet (including square footage of a second story, if applicable): 2906 sf
- f. Total garage size, in square feet (including square footage of second story, if applicable): 885 sf plus a 601sf guest room above.
- g. Total ground cover square footage (i.e., size of development footprints, excluding lofts and/or second stories) for house, garage, and related developments (e.g., decks, driveway, etc.) and: 2065 sf
- h. Coastal Development and building permit numbers for each parcel: TBD

**Table 1: Summary of Surrounding Development, updated and Comparison to Fallow Parcel**

qty parcels	PARCELS	YEAR	LOT SIZE	SFR	FOOTPRINT	STORIES	GARAGE	PORCHES & SHEDS	TOTAL STRUCTURE	FOOTPRINT
47 all years	all		2.45	2,125	1,504	1.41	691	689	3,505	2,884
13 post MCZ	1992+		1.83	1,930	1,255	1.54	845	356	3,131	2,456
FALLOW SUBMITTAL:			2.57	2,906	2,065	2.00	885	592	4,383	3,542
SCHWAGER APPROVAL 6/16:			2.40	2,792	2,291	2.00	572	465	3,829	3,328

Driveway Comparisons between Fallow and the recently approved Schwager Residence is as follows:

1. Schwager New Driveway area approved: No driveways presently exist on this parcel. The proposed area for the new driveway is 5911 sf.
2. Fallow Existing Driveway and proposed: There is an existing 10-foot wide driveway with a compacted shale and gravel base. It appears that the property was used for many years for access to the bluff. Some have suggested that this point was used to "high line" (cable loading) lumber down to "dog hole schooner" ships for delivery to San Francisco prior to the construction of Hwy. One. This residential project includes the following modifications to the existing driveway to reduce the existing driveway area and ensure adequate parking and access for CDF/fire department vehicles in case of emergency:
  - a. Existing Gravel Driveway: 4092 sf
  - b. Existing Gravel Driveway to be removed: 1804 sf
  - c. New Gravel driveway to add: 2268 with midway pullout
  - d. Total Final Driveway SF: 4551 sf







SURROUNDING DEVELOPMENT - all parcels with a zoning designation of RR-5, bluff-top																													
2016.01.18																													
ASSESSOR'S	SHEET	Record #	year approved	APN	STREET #	STREET	NAME	LOT SIZE	orig SFR	ADDITION	TOTAL SFR	FOOTPRINT	BR	STORIES	HT	GAR	STORIES	ATTACHED	CARPORT	SFR+GAR	ADDITIONAL BLDG	BRIDGE	DECK/PATIO	LANDSCAPE	DRIVEWAY	(as provided in Staff Report)		COMMENTS	
																										TOTAL STRUCTUR	ECC	CDP	
		2	1	2001	142-151-01	31550	S Hwy 1		13	SFR	960			1	1.00						960	Cabin							no plot plan
										electrical											2001 bldg permit								



## Exhibit 2: Surrounding Development