



**PLANNING COMMISSION
STAFF REPORT- MAJOR USE**

**U_2017-0010
OCTOBER 19, 2017**

SUMMARY

OWNER & APPLICANT: ALEX & ERIS CUSHNER
349 N FERNDAL AVE
MILL VALLEY, CA 94941

REQUEST: Use permit for the use of an existing Single Family Residence as a vacation home rental.

DATE DEEMED COMPLETE: June 16, 2017

LOCATION: 1.5± mi. northwest of Philo center, on the northwest side of Whipple Ridge Road, 0.5± mi. north of its intersection with Hwy 128, located at 7349 Hwy 128 (APN: 014-160-12).

TOTAL ACREAGE: 44.5 acres

GENERAL PLAN: AG:40

ZONING: AG:40

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically Exempt; Class 1 (Existing Facilities)

RECOMMENDATION: APPROVE W/ CONDITIONS

STAFF PLANNER: Sam 'Vandy' Vandewater

BACKGROUND

PROJECT DESCRIPTION: The applicant is requesting a use permit to allow for the use of their single family residence as a vacation home rental, per Section 20.164.015(L) of the Mendocino County Code. The residence would be used for a short term rental when the applicants are not occupying it.

SITE CHARACTERISTICS: The project site is located just north of the Philo town center, on the east side of California Highway 128 and in the lower hills of Anderson Valley. The home is accessed from Whipple Ridge Road, a private road, which divides the property into a northwestern portion and a southeastern portion; the home is located on the former. The southeastern portion of the property is mostly oak trees and a small ravine that helps with drainage during seasonal rains. The opposing portion is scattered with oak woodlands and hilly terrain that could support some forms of agricultural activities. The only improvements to the property are on the northwest portion of the parcel and include the home, a pool, and accessory structures. Due to the lack of a water or sewage district, the residence relies on well and septic for their water-based utilities.

RELATED APPLICATIONS: There are no related applications on site, or on the neighboring properties that would affect, or be affected by, the proposed vacation home rental.

SURROUNDING LAND USE AND ZONING:

	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	RL160	TP	311 ±	Vacant
EAST	AG40, RL160	AG40, RL	42 ±	Vacant
SOUTH	AG40	AG40	30 ±	Vacant
WEST	RR:5, AG40, RL160	RR:5, AG40, RL	16 ±, 39 ±, 5 ±	Viticulture

PUBLIC SERVICES:

Access: Whipple Ridge Road
Fire District: Anderson Valley Community Service District
Water District: NONE
Sewer District: NONE
School District: NONE

AGENCY COMMENTS: On July 7, 2017 project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their required related permits, if any, are listed below. Their submitted recommended conditions of approval are contained in Exhibit A of the attached resolution. A summary of the submitted agency comments are listed below. Any comment that would trigger a project modification or denial are discussed in full as key issues in the following section.

TABLE 2 – SUMMARY OF AGENCY REFERRALS			
REFERRAL AGENCIES	RELATED PERMIT	COMMENT	DATE
Department of Transportation		NO RESPONSE	
Environmental Health		NO RESPONSE	
Building Inspection		NO RESPONSE	
Emergency Services		NO RESPONSE	
Assessor		NO RESPONSE	
Anderson Valley CSD		No Comment	July 31, 2017
Farm Advisor		No Comment	July 25, 2017
Agriculture Commissioner		No Comment	July 11, 2017
CalFire		NO RESPONSE	
Anderson Valley School District		NO RESPONSE	
Native Plant Society		NO RESPONSE	

KEY ISSUES

1. General Plan and Zoning Consistency: The subject parcel is located in a General Plan Land Use Designation of Agriculture (AG). The AG designation is defined by Chapter 3: Development Element of the Mendocino County General Plan and is intended *“to be applied to lands which are suited for and are appropriately retained for production of crops; The classification should include lands presently under Type I agricultural preserve contracts, land having present or future potential for significant agricultural production, and contiguous or intermixed smaller parcels on which non-compatible uses could jeopardize the agricultural use of agricultural lands. Permitted non-agricultural uses, to the greatest extent possible, should not occur on lands that might otherwise be devoted to crop production. **The policy of the County and the intent of this classification shall be to protect these lands from the pressures of development and preserve them for future use as designated.**”* While the proposed project does not entail any agricultural activities, it would utilize existing infrastructure thus preventing the development of lands suitable for crop production.

Furthermore, the General Plan outlines a number of uses applicable to the AG Land Use Designation: *“Residential uses, farmworker housing, agricultural uses, processing and sale of agricultural products, cottage industries, residential clustering, uses determined to be related to and compatible with agriculture, conservation, processing and development of natural resources, utility installations.”* Although the project is commercial in nature (provision of the home in exchange for payment), the use of the property remains somewhat residential, as people will be living in the house for short periods of time. The AG designation also supports cottage industries, which can have more intensive and damaging land uses than the simple habitation of an existing structure.

The Agricultural zoning district, as defined in Chapter 20, states the intent of the district is *“to create and preserve areas for the raising of crops and animals. Processing of products produced on the premises would be permitted as would certain commercial activities associated with crop and animal raising. Typically the A-G District would be applied to lands subject to Type I Agricultural Preserve contracts, land*

having present or future potential for significant agricultural production, and contiguous or intermixed smaller parcels on which noncompatible uses would jeopardize the agricultural use of surrounding lands." While the proposed project does not address or entail any agricultural activities, there is no loss of agricultural land as the guests to the parcel would be using an existing dwelling. This helps the project conform to the zoning district as the use does not jeopardize agricultural uses of the subject parcel or surrounding lands.

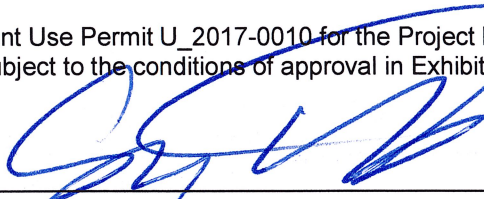
2. Nuisances: The proposed project would allow non-residents to inhabit the dwelling for a short term period. This can lead to nuisances to the neighboring properties such as noise problems. Considering the proposed project would allow up to twelve (12) guests to occupy the dwelling, an number of conditions have been included to help mitigate any nuisance issues. **Conditions 8 through 14** have been included to address issues regarding potentially excessive uses such as guest capacity and special events.

3. Environmental Protection: The applicant proposes the use of their home as a rental property during periods of non-occupancy by the property owners. The project is Categorically Exempt from the provisions of CEQA, pursuant to Class 1 of Article 19 of the California Environmental Quality Act Guidelines. The Class 1 exemption finds that "the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination." The proposed project meets the criteria of Section 15301 and has been determined to not have a significant effect on the environment and, therefore, be exempt from the provisions of CEQA. The project would not have any adverse impacts on the environment within the meaning of CEQA.

RECOMMENDATION

By resolution, adopt the Categorical Exemption and grant Use Permit U_2017-0010 for the Project based on the approved project description and findings and subject to the conditions of approval in Exhibit A.

10/4/17
DATE

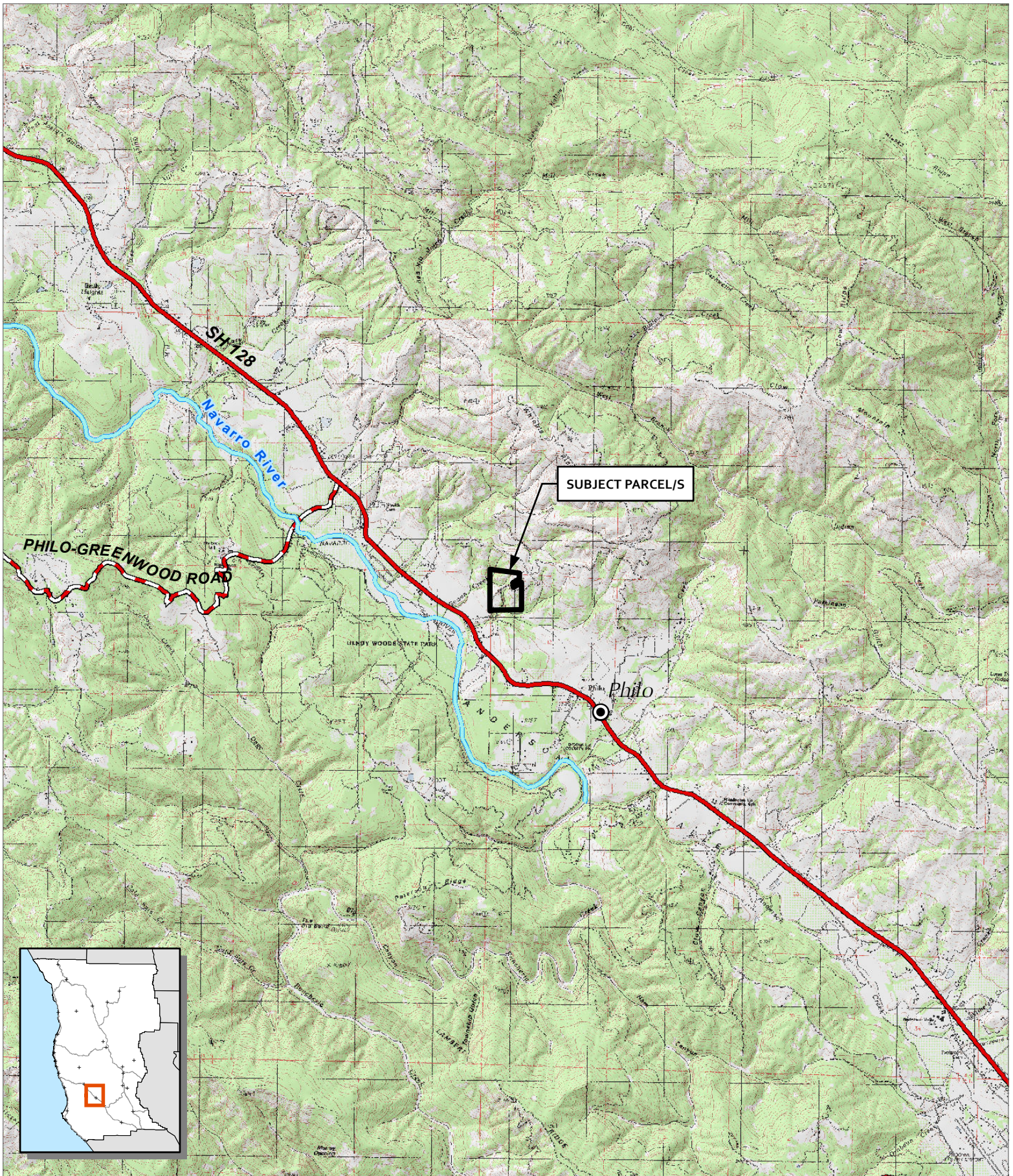

SAM VANDEWATER

Appeal Period: 10 Days
Appeal Fee: \$1,616.00





ATTACHMENTS:

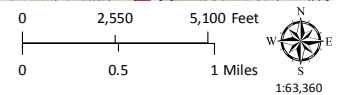
- A. Location Map
- B. Aerial Map
- C. Topographical Map
- D. Site Map
- E. Zoning Map
- F. General Plan Map
- G. Supervisorial District Map
- H. Adjacent Owner Map
- I. Fire Hazards Map
- J. Wildland-Urban Interface Map
- K. Soils Map
- L. Williamson Act Map
- M. Important Farmland
- N. Timber Production Map

RESOLUTION AND CONDITIONS OF APPROVAL (Exhibit A):



CASE: U 2017-0010
 OWNER: CUSHNER, Alex & Eris
 APN: 046-031-79
 APLCT: Alex & Eris Cushner
 AGENT:
 ADDRESS: 7349 Hwy. 128, Philo

 Major Towns & Places
  Major Roads
 Major Rivers
 Highways



ATTACHMENT A

LOCATION MAP

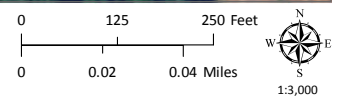
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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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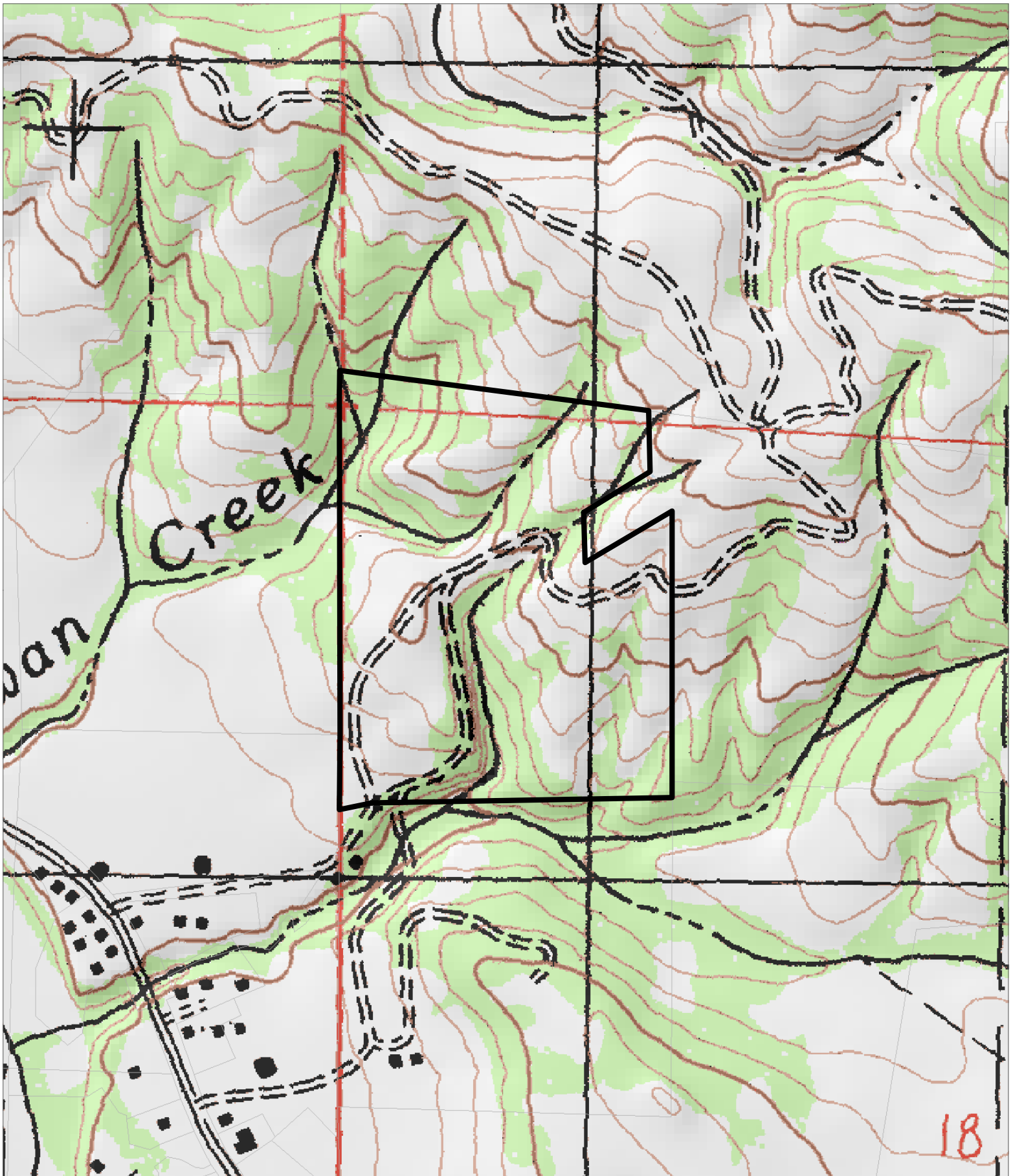
Named Rivers
Driveways/Unnamed Roads



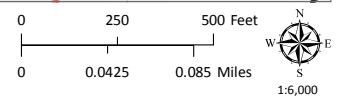
ATTACHMENT B

AERIAL IMAGERY

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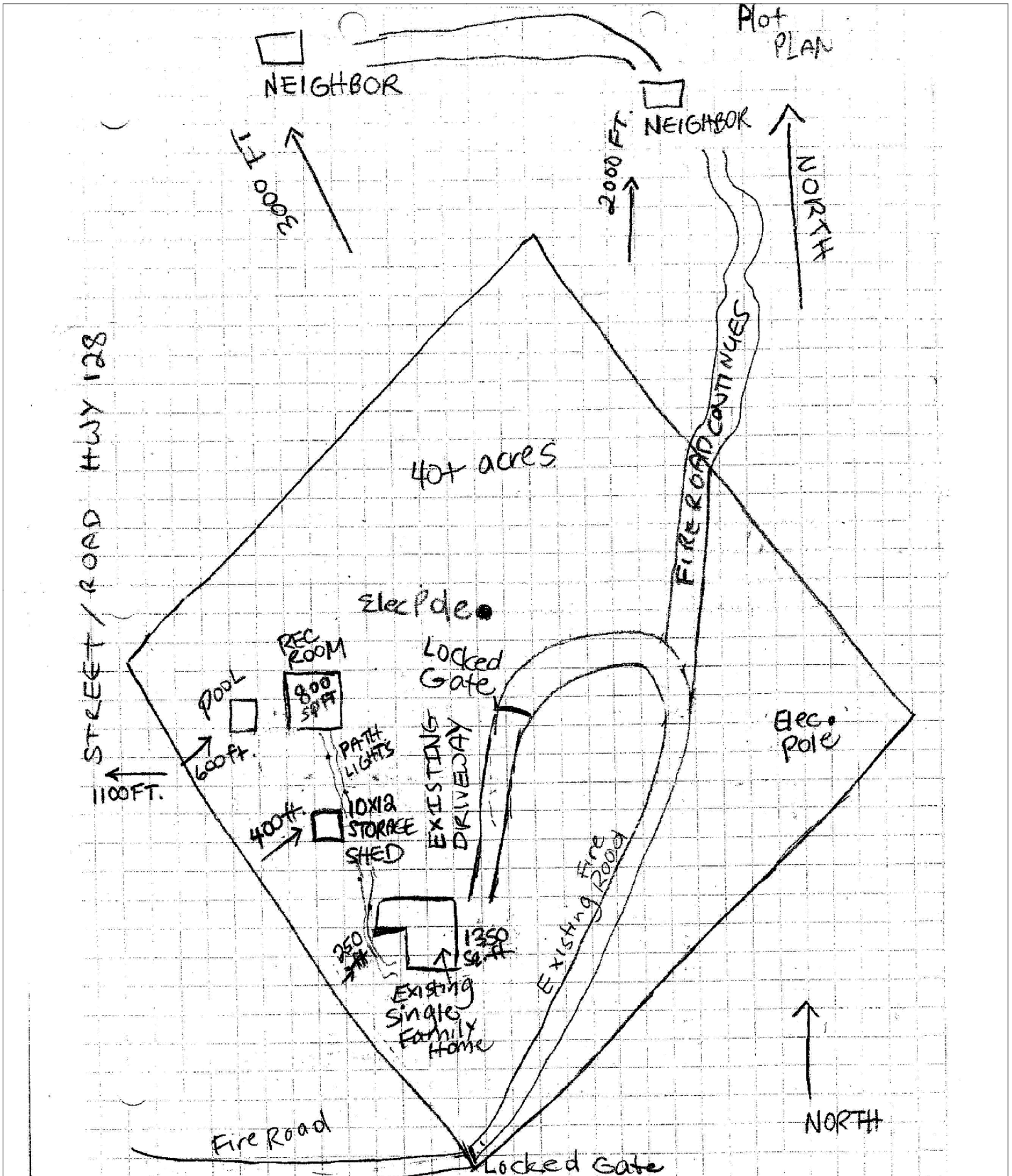
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ATTACHMENT C

TOPOGRAPHIC MAP
CONTOUR INTERVAL IS 40 FEET

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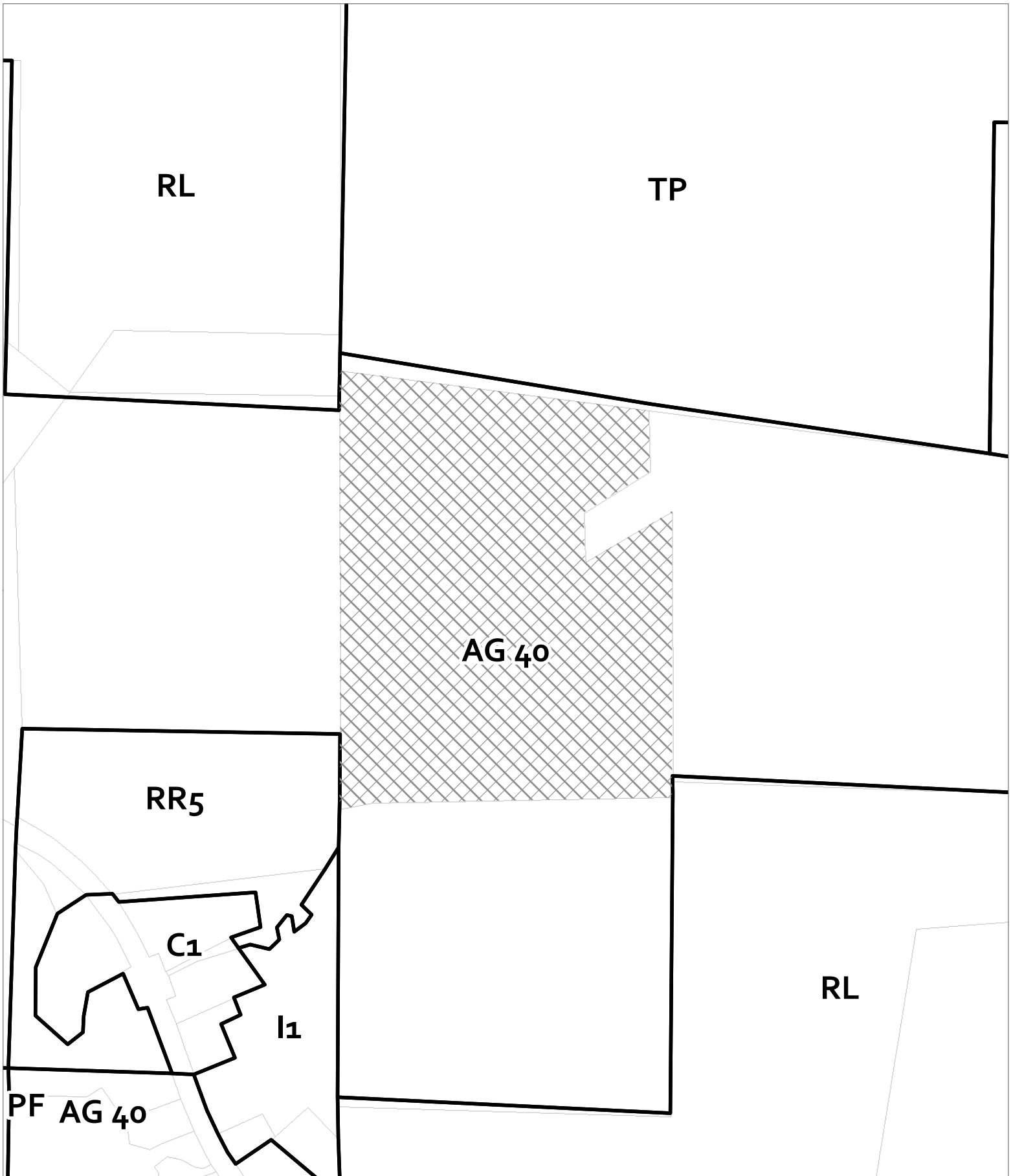
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NO SCALE


ATTACHMENT D

SITE PLAN

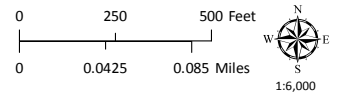
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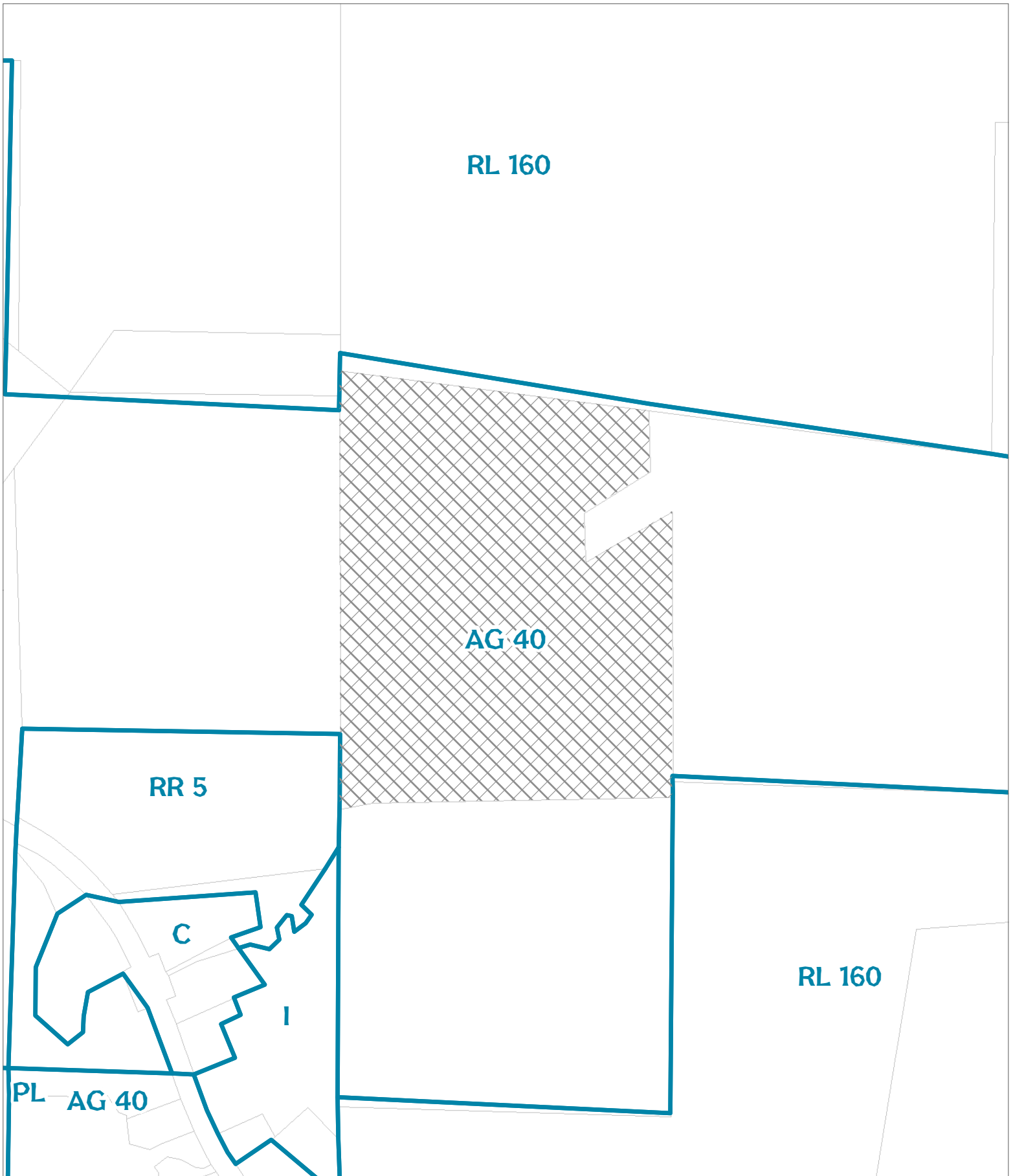
 Zoning Districts

ATTACHMENT E




ZONING DISPLAY MAP

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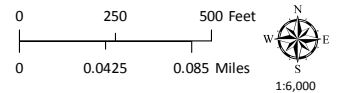


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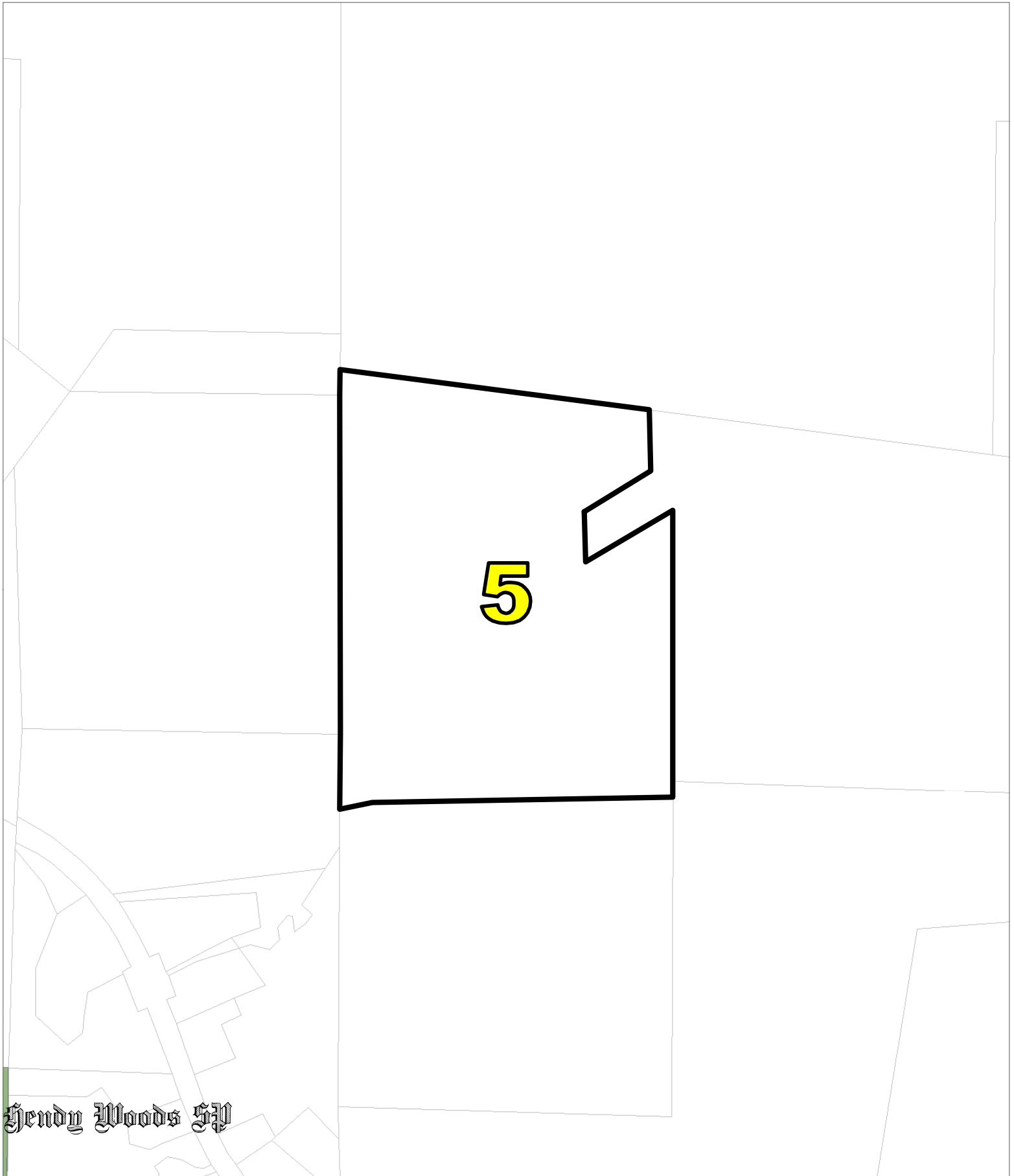
 General Plan Classes

ATTACHMENT F



GENERAL PLAN CLASSIFICATIONS

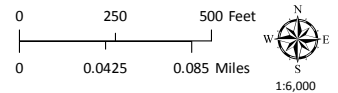


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 Supervisorial Districts 2010
 State Parks



ATTACHMENT G

MISC

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026-320-64
MARIE GAY
RL 160 144 A±

046-010-52
RANCH HAWKEYE
TP 160 311.55 A±

026-320-63
MARIE ADY
RL 160 6 A±

026-400-49
WINE HERITAGE
AG 40 39.68 A±

046-031-79
ALEX CUSHNER
AG 40 44.5 A±

046-031-80
PATRICK MILLER
AG 40 42 A±

026-540-17
WINE HERITAGE
RR 5 16.22 A±

046-031-03
THOMAS THOMAS
AG 40 0 A±

046-031-72
VERNON BOLTZ
RL 160 160 A±

026-540-16
VALLEY ANDERSON
RR 5 1.91 A±

026-540-05
JUDITH KOOYERS
C1 40K 2.32 A±

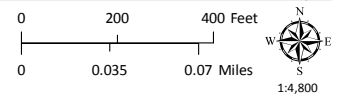
026-540-07
GABRIELA QUEZADA
C1 40K 1.66 A±

026-540-14
MICHELLE PHILLIPS
I1 40K 0 A±

026-540-12
DARIUS RICHMOND
RR 5 5 A±

046-031-73
GROVE REDWOOD
RL 160 340 A±

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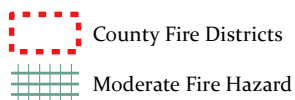
ATTACHMENT H

ADJACENT PARCELS

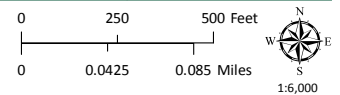
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ANDERSON VALLEY COMMUNITY SERVICES DISTRICT

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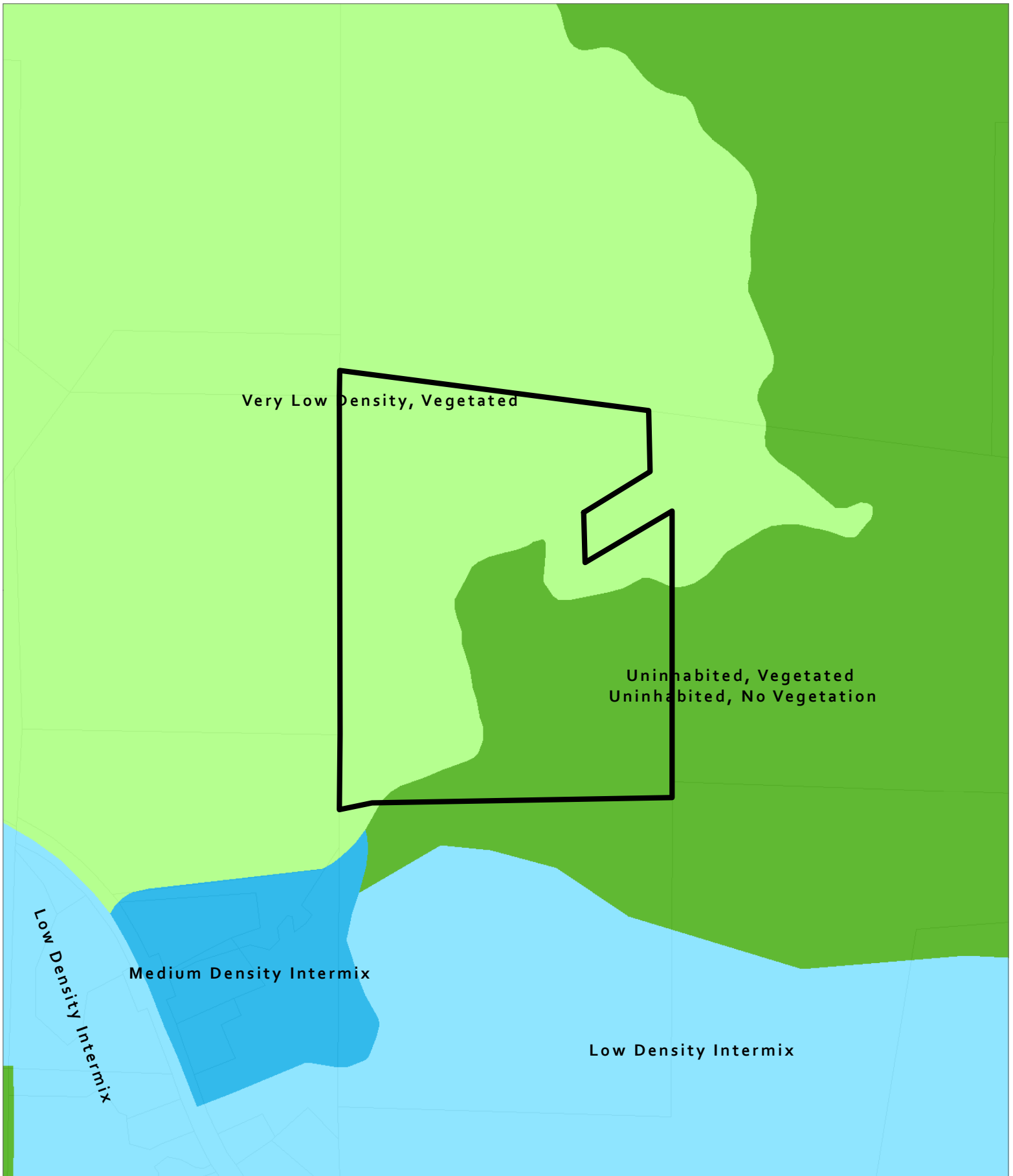


ATTACHMENT I



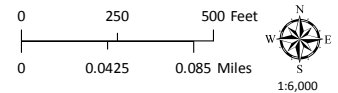
FIRE HAZARD ZONES & RESPONSIBILITY AREAS
STATE RESPONSIBILITY AREA

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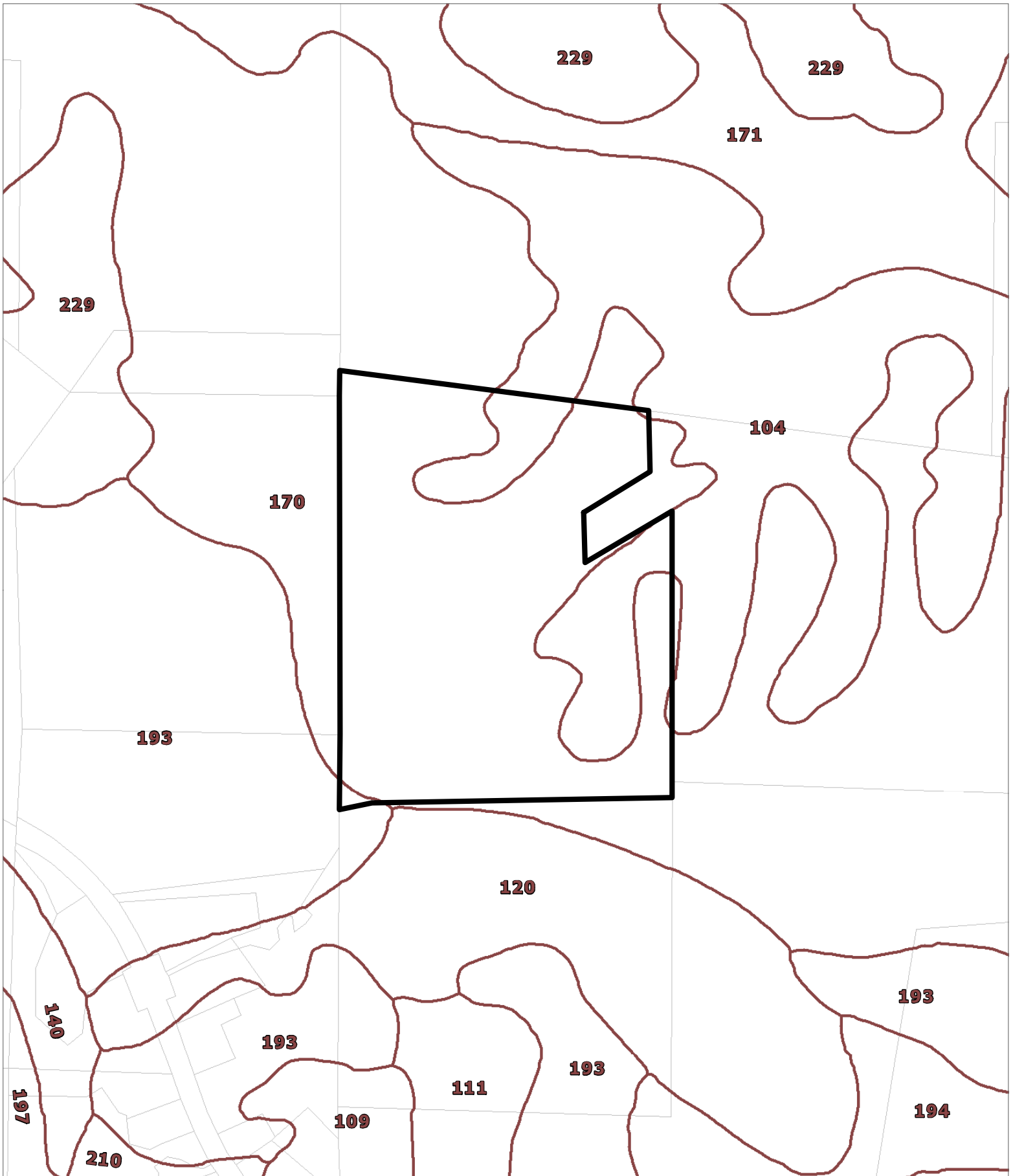
CASE: U 2017-0010
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ATTACHMENT J



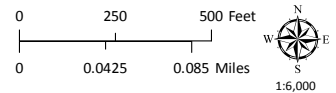
WILDLAND-URBAN INTERFACE ZONES

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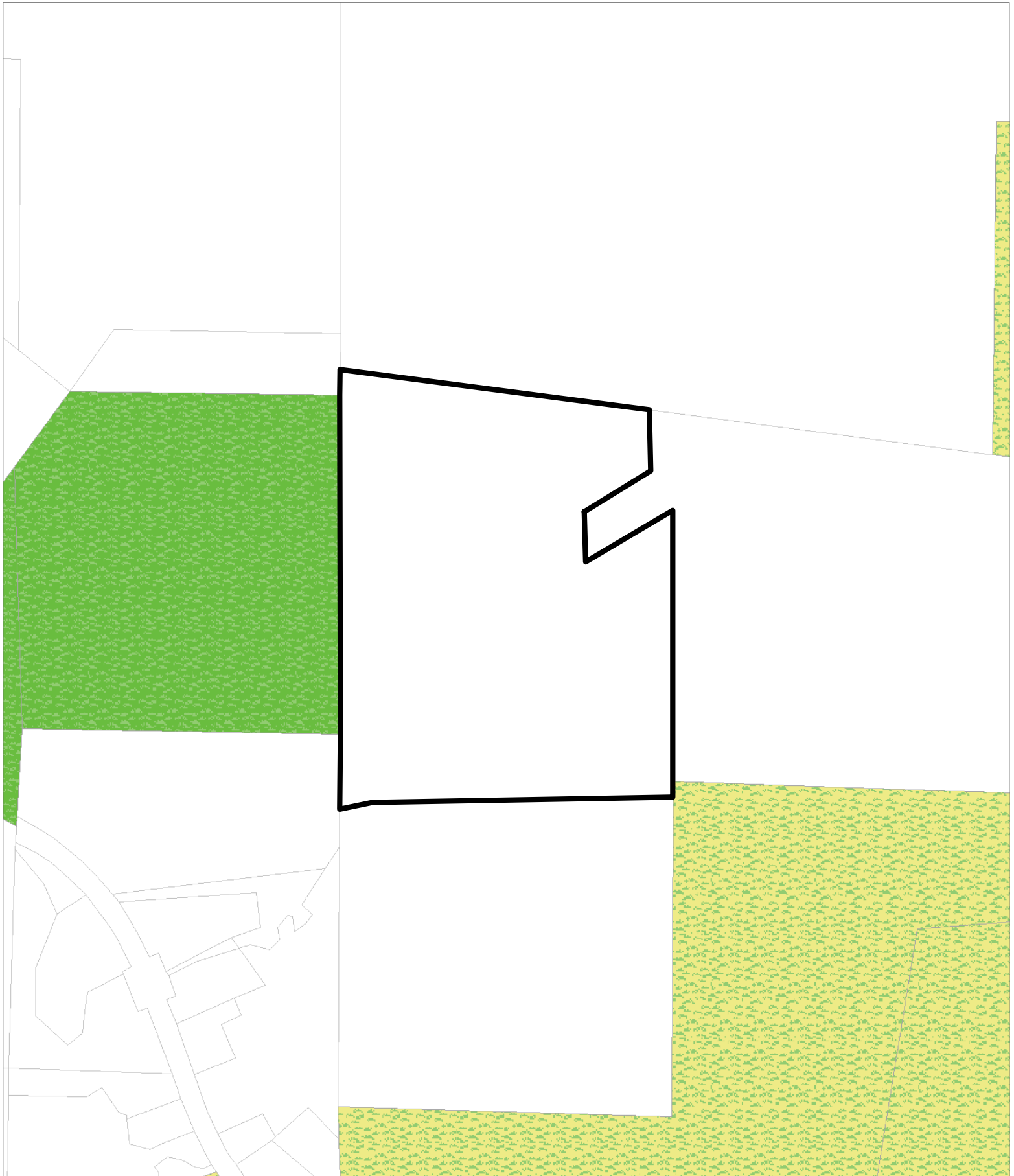
 Western Soil Classes




ATTACHMENT K

LOCAL SOILS

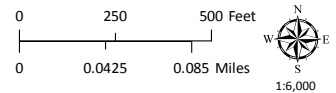
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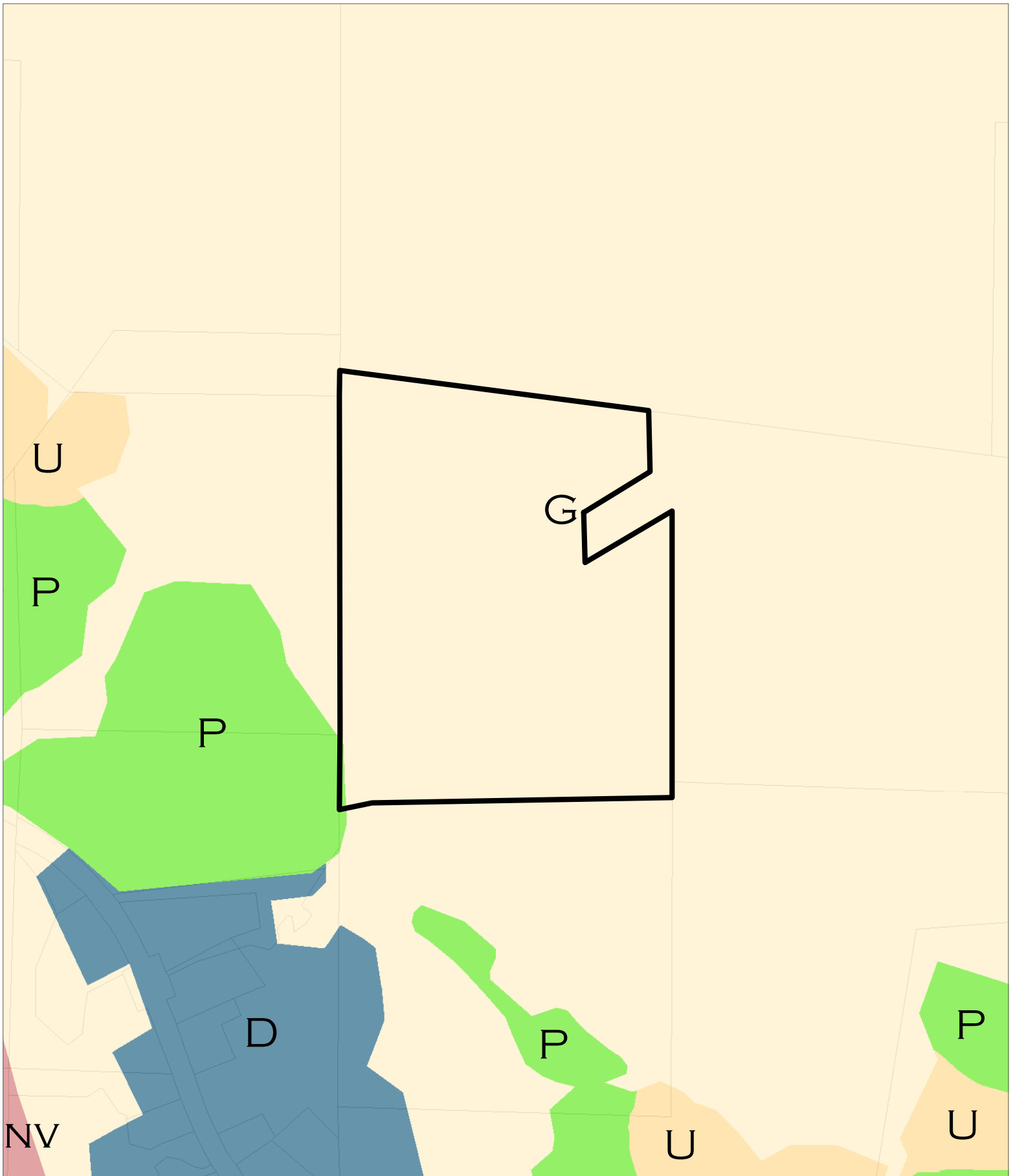
-  Williamson Act 2016
-  Prime Ag 2016
-  Non-Prime Ag 2016

ATTACHMENT L



PARCELS IN WILLIAMSON ACT CONTRACTS

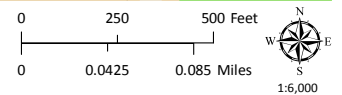
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Urban & Built-Up Land (D)
 Grazing Land (G)
 Non-Ag & Natural Vegetation (nv)

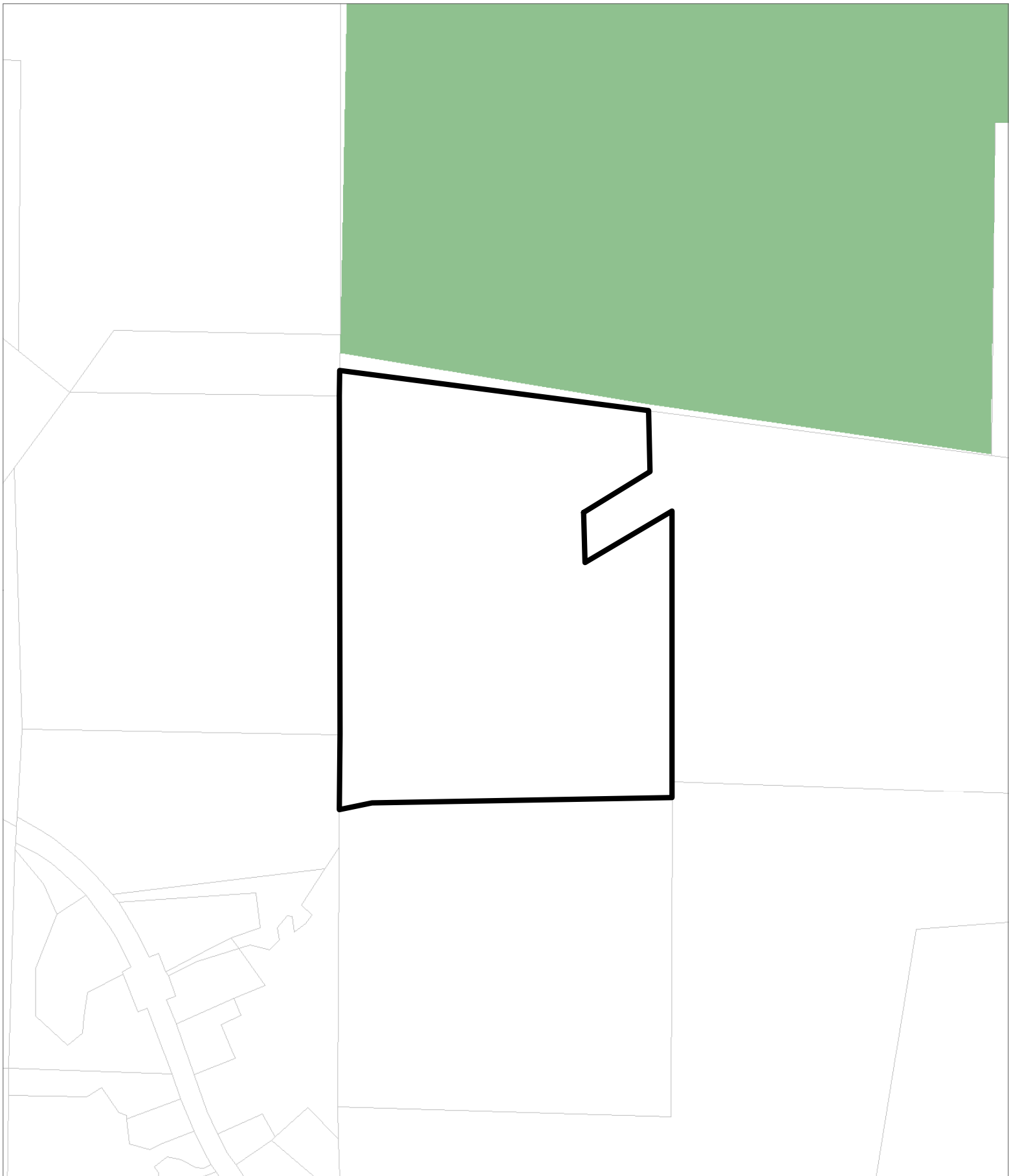
Prime Farmland (P)
 Unique Farmland (U)



ATTACHMENT M

IMPORTANT FARMLAND

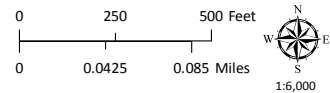
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 TPZ 2015

ATTACHMENT N



TIMBER PRODUCTION ZONES

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Resolution Number _____

County of Mendocino
Ukiah, California
October 19, 2017

U_2017-0010 ALEX & ERIS CUSHNER

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF
MENDOCINO, STATE OF CALIFORNIA, ADOPTING A CATEGORICAL
EXEMPTION AND GRANTING A USE PERMIT FOR A VACATION
HOME RENTAL

WHEREAS, the applicants, ALEX & ERIS CUSHNER, filed an application for a Use Permit with the Mendocino County Department of Planning and Building Services to , 1.5± mi. northwest of Philo center, on the northwest side of Whipple Ridge Road, 0.5± mi. north of its intersection with Hwy 128, located at 7349 Hwy 128, Philo (APN: 014-160-12); General Plan AG:40; Zoning AG:40; Supervisorial District 5; (the "Project"); and

WHEREAS, the Secretary for Resources has found that certain classes of projects have been determined not to have a significant effect on the environment and are therefore exempt from the requirement for the preparation of environmental documents, and the Project was determined to meet the criteria for a CATEGORICAL EXEMPTION from the California Environmental Quality Act (CEQA) under Class 1; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on, October 19, 2017, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the CATEGORICAL EXEMPTION and the Project. All interested persons were given an opportunity to hear and be heard regarding the CATEGORICAL EXEMPTION and the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets for the intentions of the Planning Commission regarding the CATEGORICAL EXEMPTION and the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission makes the following findings;

1. **General Plan and Zoning Consistency Findings:** The subject parcel has a General Plan Land Use Designation of Agricultural (A-G) and the Project is consistent with the General Plan definition. Additionally, the subject parcel lies within the Zoning District of Agricultural (A-G) and the Project is consistent with the Zoning District per MCC 20.052.
2. **Nuisance Findings:** The proposed project was determined to have some nuisances with regards to noise; however, the Conditions of Approval have been indented to address such concerns.
3. **Environmental Protection Findings:** The proposed project has been determined to be Categorically Exempt from a CEQA Initial Study under a Class I exemption.

BE IT FURTHER RESOLVED that the Planning Commission hereby adopts the Class I Categorical Exemption and Conditions of Approval. The Planning Commission certifies that the Categorical Exemption has been completed, reviewed, and considered, together with the comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Categorical Exemption reflects the independent judgment and analysis of the Planning Commission.

BE IT FURTHER RESOLVED that the Planning Commission hereby grants the requested Use Permit, subject to the Conditions of Approval in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: VICTORIA DAVIS
Commission Services Supervisor

By: _____

BY: IGNACIO GONZALEZ
Interim Director

MADELIN HOLTKAMP, Chair
Mendocino County Planning Commission

EXHIBIT A

CONDITIONS OF APPROVAL

**U_2017-0010 – ALEX & ERIS CUSHNER
OCTOBER 19, 2017**

Use Permit with the Mendocino County Department of Planning and Building Services to operate a vacation home rental in an existing single family residence, located 1.5± mi. northwest of Philo center, on the northwest side of Whipple Ridge Road, 0.5± mi. north of its intersection with Hwy 128, located at 7349 Hwy 128, Philo (APN: 014-160-12).

APPROVED PROJECT DESCRIPTION: Use permit for the use of an existing Single Family Residence as a vacation home rental.

CONDITIONS OF APPROVAL:

1. The permit shall become effective on the 11th day after Planning Commission approval and shall expire and become null and void at the expiration of two years after the effective date except where use of the property in reliance on such permit has been initiated prior to its expiration.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division I of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Planning Commission.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

8. The maximum overnight occupancy of the vacation home rental is limited to a maximum of twelve (12) guests. An increase to the set limit must be made through a modification to this use permit.
9. The use of the property as a vacation home rental shall not include camping and overnight occupancy for paying guests is limited to the residential structure.
10. The vacation home rental use is intended for paying transient guest accommodations and shall not be used for "special events" or other large gatherings.
11. No permanent off-site signs advertising the site are authorized by this permit. One on-site, non-illuminated sign no larger than two (2) square feet (per Section 20.156.015(C) of the Mendocino County Code) shall be permitted at the property driveway accessed from Whipple Ridge Road.
12. Parking shall be permitted only in designated parking areas accessed from the driveway. No parking shall occur on Whipple Ridge Road.
13. Loud noises shall be limited to the hours of 10:00 a.m. through 10:00 p.m. Air horns, and any similar noise creating devices, are prohibited.
14. No campfires other than in designated fire rings/pits. Fire rings/pits will have at least a 10 foot circumference of clearance, with bare mineral soil around them.
15. The access driveway off of Whipple Ridge Road must be clearly addressed and marked for the purposes of identification by clients and emergency service providers.
16. In the event that the use of the facility should cease operation for a period exceeding one year or more, the use shall be deemed invalid and a new use permit will be required for the operation.
17. In the event that archaeological resources are encountered on the property, work or any use in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
18. The use of the structure as a vacation home rental shall not be so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance. An action to revoke or modify this major use permit may be initiated by order of the Planning Commission or the Board of Supervisors.
19. The applicant shall apply for and receive a business license for operation of the vacation home rental in accordance with Chapter 6.04 of the Mendocino County Code. The business license shall not be transferable. Failure to maintain a valid business license shall result in the expiration of this permit. The applicant shall submit to Planning and Building Services, a copy of the business license and evidence of the annual renewal(s) within 30 days of issuance of the business license and renewal(s).
20. The applicant shall pay all required Uniform Transient Occupancy taxes in accordance with Chapter 520 of the Mendocino County Code.
21. Prior to the issuance of this use permit, the structure identified on the plot plan as the "Rec Room" must have a building permit issued. If said structure is already permitted, documentation must be submitted to the Department of Planning and Building Services. No occupancy of the structure shall be permitted for overnight guests.