

Resolution Number _____

County of Mendocino
Ukiah, California
September 5, 2019

MS_2018-0001

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF
MENDOCINO, STATE OF CALIFORNIA, ADOPTING A MITIGATED
NEGATIVE DECLARATION AND GRANTING A MINOR SUBDIVISION

WHEREAS, the applicant, SCOTT BROWN, filed an application for a minor subdivision with the Mendocino County Department of Planning and Building Services to subdivide a 10.3± acre parcel into 3 parcels of 2±, 2±, and 6.3± acres, located 2.5± southeast of Fort Bragg center, on the north side of Thomas Lane (private), 0.3± mile east of its intersection with Benson Lane (CR 415E), at 31120 Thomas Lane, Fort Bragg (APN 019-333-18); General Plan RR; Zoning RR:2; Supervisorial District 4; (the "Project"); and

WHEREAS, a Mitigated Negative Declaration was prepared for the Project and noticed and made available for agency and public review on June 13, 2019 in accordance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on, July 18, 2019 and September 5, 2019, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Mitigated Negative Declaration and the Project. All interested persons were given an opportunity to hear and be heard regarding the Mitigated Negative Declaration and the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Mitigated Negative Declaration 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 Rural Residential (RR) and the Project is consistent with the General Plan definition. Additionally, the subject parcel lies within the Zoning District of Rural Residential with a 2-acre lot size minimum (RR:2) and the Project is consistent with the Zoning Code per MCC Sections 20.048; and
2. **Division of Land Findings:** The Project is consistent with Chapter 17 of the Mendocino County Code, Division of Land Regulations per the review by the Subdivision Committee; and
3. **Biological Resource Findings:** The Project could potentially impact biological resources, such as the rare plant species identified in the Preliminary Biological Scoping Letter, and has therefore been conditioned to mitigate these impacts; and
4. **Hydrology Findings:** The Project has the potential to impact wetland habitats as identified by a wetland delineation report, therefore conditions have been incorporated to mitigate such impacts; and
5. **Environmental Protection Findings:** The CEQA Initial Study completed by staff identified the Project to have less than significant on the environment, with mitigation incorporated, and any concerns are adequately addressed through the conditions of approval so that no adverse environmental impacts will result from the Project; therefore a Mitigated Negative Declaration is

recommended for adoption. Furthermore, the new and revised mitigation measures substituted for previous conditions are "equivalent or more effective" than the previous conditions, per California Code of Regulations (CCR) Section 15074.1. Per CCR Section 15073.5(c)(2), these new and revised mitigation measures are in response to a public comment on the Initial Study and thus the Mitigated Negative Declaration does not require recirculation.

BE IT FURTHER RESOLVED that the Planning Commission hereby adopts the Mitigated Negative Declaration. The Planning Commission certifies that the Mitigated Negative Declaration 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 Mitigated Negative Declaration reflects the independent judgment and analysis of the Planning Commission.

BE IT FURTHER RESOLVED that the Planning Commission hereby grants the requested Minor Subdivision, 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 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: James F. Feenan
Commission Services Supervisor

By: _____

BY: BRENT SCHULTZ
Director

MARILYN OGLE, Chair
Mendocino County Planning Commission

EXHIBIT A

CONDITIONS OF APPROVAL MS_2018-0001 – SCOTT BROWN September 5, 2019

APPROVED PROJECT DESCRIPTION: Subdivision of 10.3± acre parcel into 3 parcels of 2±, 2±, and 6.3± acres.

CONDITIONS OF APPROVAL: For a Minor Subdivision which has been approved according to the Mendocino County Code, the following "Conditions of Approval" shall be completed prior to filing a Parcel Map.

ALL CONDITIONS OF APPROVAL MUST BE MET PRIOR TO EXPIRATION OF TWENTY-FOUR (24) MONTHS FROM DATE OF APPROVAL, UNLESS RENEWED PURSUANT TO THE MENDOCINO COUNTY CODE.

CONDITIONS OF APPROVAL AND MITIGATION MEASURES (as indicated by "*")**

Aesthetics

1. The following note shall be placed on the Parcel Map stating:

All future external lighting, whether installed for security, safety or landscape design purposes, shall be shielded, downcast or shall be positioned in a manner that will not shine or allow light glare to exceed the boundaries of the parcel on which it is placed.

Air Quality

2. A notation shall appear on the Parcel Map stating:

Future development of building site(s), access roads or driveways may be subject to the grading requirements and drainage control measures identified in the Conditions of Approval

3. A note shall appear on the Parcel Map stating:

The access road, driveway and interior circulation routes shall be maintained in such a manner as to insure minimum dust generation subject to Air Quality Management District Regulation 1 Rule 430. All grading must comply with Air Quality Management District Regulations Rule 430. Any rock material, including natural rock from the property, used for surfacing must comply with Air quality Management District regulations regarding asbestos content.

Biological Resources

- **4. Subdivider shall submit to the Department of Planning and Building Services, an Exhibit Map defining building envelopes which will avoid rare plant communities in accordance with the Botanical Survey prepared by Wynn Coastal Planning, dated September 10, 2018, and subsequent buffer map, dated May 8, 2019. No uses, as defined by Title 20 of the Mendocino County Code, shall be permitted outside the building envelopes, except for the establishment of a driveway from Thomas Lane to the building envelopes, which shall take the least impactful route as determined by the California Department of Fish and Wildlife.

A note shall also be placed on Parcel Map stating:

Development and land uses shall be confined to the building envelopes as described on the Exhibit Map on file in the Department of Planning and Building Services.

- **5.** This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game 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 \$2,404.75 OR CURRENT FEE shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 23, 2019 (within 5 days of the end of any action taken). Any waiver of the fee shall be on a form issued by the Department of Fish and Game 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.**
- **6.** The removal of Mendocino Cypress – Bolander Pine Forest, Mendocino Cypress – Labrador Tea Forest, and Bishop Pine Forest from any of the parcels shall be prohibited. **The County and the California Department of Fish and Wildlife shall retain the right to visit any parcel, without prior notification, to investigate any report or complaint regarding sensitive species removal for the purpose of determining a violation of this condition.** Any violation of this condition, as determined by County staff, shall result in a 4-fold replanting of the same species for each removed plant. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such species if necessary to address safety or disease concerns. Removal of the species for safety or disease concerns shall be determined by a certified arborist or registered professional forester. The certified arborist or registered professional forester shall submit a final report of their findings to the Department of Planning and Building Services and California Department of Fish and Wildlife. The findings shall include the reason for removal, methods of removal and adherence to the conditions of this subdivision, and impacts to surrounding vegetation and habitats due to the removal and removal methods.
- **7.** The removal of vegetation outside the building envelopes shall be prohibited. **The County and the California Department of Fish and Wildlife shall retain the right to visit any parcel, without prior notification, to investigate any report or complaint regarding vegetation removal for the purpose of determining a violation of this condition.** Any violation of this condition, as determined by County staff, shall result in the replanting of the removed vegetation to pre-violation conditions. This prohibition shall not include the pruning of any such vegetation for maintenance, or the removal of such vegetation if necessary to address safety or disease concerns. Removal of the vegetation for safety or disease concerns shall be determined by a certified biologist. The certified biologist shall submit a final report of their findings to the Department of Planning and Building Services and California Department of Fish and Wildlife. The findings shall include the reason for removal, methods of removal and adherence to the conditions of this subdivision, and impacts to surrounding vegetation and habitats due to the removal and removal methods.
- **8.** The removal of any tree outside of the building envelope shall be prohibited. **The County and the California Department of Fish and Wildlife shall retain the right to visit any parcel, without prior notification, to investigate any report or complaint regarding vegetation removal for the purpose of determining a violation of this condition.** Any violation of this condition, as determined by County staff, shall result in a 4-fold replanting for each tree removed. This prohibition shall not include the pruning of any such trees for maintenance, or the removal of such trees if necessary to address safety or disease concerns. Removal of the tree(s) for safety or disease concerns shall be determined by a certified arborist or registered professional forester. The certified arborist or registered professional forester shall submit a final report of their findings to the Department of Planning and Building Services and California Department of Fish and Wildlife. The findings shall include the reason for removal, methods of removal and adherence to the conditions of this subdivision, and impacts to surrounding vegetation and habitats due to the removal and removal methods.

Planning

- **9. Native vegetation shall be reestablished in all areas of disturbed soil outside of the building envelopes. Native vegetation shall be defined as any plant species that naturally occurs on or within 500 feet of the subject parcel. A revegetation plan specifying methods, materials, plant species, and schedule shall be submitted to the Department of Planning and Building Services and the California Department of Fish and Wildlife within 60 days of approval by the Planning Commission or subsequent hearing body. The species that are to be revegetated shall include the species that had been removed during the 2017 clearing activities (i.e. Mendocino Cypress, Bolander Pine, California sedge, and haired leaved rush) and reflect similar species diversity to that of pre-clearing conditions. All disturbed areas outside the building envelopes shall be seeded, and mulched if necessary, to prevent erosion.

Cultural Resources

10. A note shall appear on the Parcel Map stating:

In the event that archaeological resources are encountered during development of the property, work 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.

Geology & Soils

11. The subdivider shall acknowledge in writing to the Department of Planning and Buildings Services that all grading activities and site preparation, at a minimum, shall adhere to the following "Best Management Practices". The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
- a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
 - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
 - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
 - d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.
 - e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1st.
 - f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year unless wet weather grading protocols are approved by the Department of Planning and Building Services or other agencies having jurisdiction.
 - g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
 - h. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1½ units horizontal (66.7% slope).

- i. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to
- 12. The subdivider shall comply with those recommendations in the *California Department of Forestry* letter (CalFire# 204-18) or other alternatives as acceptable to the *Department of Forestry*. Written verification shall be submitted from the *Department of Forestry* to the Department of Planning and Building Services that this condition has been met to the satisfaction of the *Department of Forestry*.
- 13. The subdivider shall comply with those recommendations of the *Fort Bragg Rural Fire District* or other alternatives as acceptable to the *Fire District*. Written verification shall be submitted from *Fire District* to the Department of Planning and Building Services that this condition has been met to the satisfaction of the *Fire District*.

Hydrology & Water Quality

- 14. The applicant shall provide the Division of Environmental Health adequate advance written notice (minimum of 15 days) of the date and time any field soil testing procedures for any proposed on-site sewage systems to allow the Division of Environmental Health staff to be present for soil testing.
- 15. The applicant shall submit to the Division of Environmental Health an acceptable site evaluation report (DEH FORM # 42.04) for all parcels completed by a qualified individual demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan Policy for On-site Waste Treatment and Disposal and Mendocino County Division of Environmental Health's Land Division Requirements (DEH FORM # 26.09).
- 16. The applicant shall submit to the Division of Environmental Health an acceptable site development plan at a scale of not more than 1 inch = 50 feet showing all adjacent parcels on one sheet completed by a qualified individual showing the location and dimensions of the initial sewage disposal system(s), 100% replacement area(s), acceptable setback distances to water wells and other pertinent setback distances which may impact project site development. The applicant shall submit to the Division of Environmental Health acceptable water quantity evaluation(s):

- ☐ 1200 gallon Proof of Water Test Form 26.05 per current requirements. Inland Areas
- ☒ 17 Hour Proof of Water Test. Coastal Areas
- ☐ Hydrological Study including a Proof of Water Test. Coastal Areas

(DEH FORM # 26.05) completed by a qualified individual of a water source located on parcel 2 of the subdivision demonstrating an adequate water supply in compliance with the Division of Environmental Health's Land Division Requirements (DEH FORM # 26.09).

- 17. The applicant shall submit to the Division of Environmental Health an acceptable standard mineral analysis performed by a certified public health laboratory from an identified source on the subdivision. Compounds to be tested for, at a minimum are: Calcium, Iron (total), Magnesium, Manganese (total), Potassium, Sodium, Bicarbonate, Carbonate, Corrosively (pH), Alkalinity (total), Total dissolved solids, Turbidity, Chloride, Fluoride, Nitrate, Sulfate, Calcium hardness, Magnesium hardness and Total hardness.
- **18. The applicant shall obtain all authorizations required by and comply with all regulations established by the California Department of Fish and Wildlife prior to any wetland alteration.
- **19. No material shall be placed into or where it may pass into any wetland in quantities which would be deleterious to fish, wildlife, or other beneficial uses.

20. The applicant shall work with the California Department of Fish and Wildlife, and any other jurisdictional agency, to contour the parcel back to a condition conducive to maintaining poor drainage for the benefit of Mendocino cypress woodlands.

Transportation

21. There shall be provided an access easement of 60 feet in width from a publicly maintained road to each parcel being created. Documentation of access easement(s) shall be provided to the Mendocino County Department of Transportation for their review prior to final approval.
22. If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown as easements with widths as shown of record or a minimum of ten (10) feet, whichever is greater.
23. Subdivider shall improve Thomas Lane, from Hanson Road (CR 415H) to the terminus of Parcel 2, with a single layer chip seal surfacing. Prior to applying the chip seal, cracks shall be sealed and potholes shall be patched with hot mix asphalt.
24. If approval of the tentative map is conditioned upon certain improvements being made by the subdivider, the subdivider shall notify the Mendocino County Department of Transportation when such improvements have been completed. Prior to the filing of the parcel map, required road improvements must be inspected and approved by the Department of Transportation. Current inspection fees apply.
25. Any proposed work within County rights-of-way requires obtaining an encroachment permit from the Mendocino County Department of Transportation..

Subdivision Conditions

26. The subdivider shall pay into the County Affordable Housing Trust Fund (per County Code Section 20.238.035) an amount equaling 5% of the County-wide median sales price of a single family residence as determined by the County Assessor. Said fee shall be collected prior to the recording of the Parcel Map.
- ☒ 2% (3 pcl division)
☐ 5% (4-5 pcl division)
☐ 20% (6 pcls and over)
27. Building/Development Setbacks indicating Front/Rear/Side to all property boundary's (existing and proposed) and roadway/easements shall be designated on the Parcel Map.
28. Pursuant to Government Code Section 66492 & 66493, prior to recordation of the Parcel Map, the subdivider must: (1) Obtain a Certificate from the Mendocino County Tax Collector stating that all current taxes and any delinquent taxes have been paid and; (2) Pay a security deposit (or bond) for taxes that are a lien, but not yet due and payable.
29. The existing cul-de-sac on the proposed remainder parcel shall remain accessible for the purpose of a turnaround for fire protection agencies. If gated, the applicant shall provide access information to the California Department of Transportation and the Fort Bragg Rural Fire Protection District.
30. Prior to filing of the final map, all travel trailers shall be removed from the subject and proposed parcels except the single travel trailer permitted for temporary occupancy during construction as approved by Administrative Permit AP 2018-0087. One single travel trailer in dead storage shall remain a permitted use pursuant to MCC Section 20164.015(M).

30. 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.
31. 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.
32. 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.
33. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
34. The applicant shall secure all required permits from the Building Inspection Division of the Department of Planning and Building Services for all construction, structural modifications, establishment of signs and compliance with handicapped accessibility for the facility if required.
35. 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, or the operation of one or more such conditions.

THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE APPROVED PARCEL MAP IS RECORDED BY THE COUNTY RECORDER.

****Deletion of any of these conditions may affect the issuance of a Mitigated Negative Declaration.**