



**COASTAL PERMIT ADMINISTRATOR
STAFF REPORT FOR MINOR USE PERMIT**

**APRIL 12, 2018
U_2017-0006**

SUMMARY

OWNER/AGENT: WILLIAM AND LYNETTE ZIMMER, TRUSTEES
PO BOX 263
MENDOCINO, CA 95460

APPLICANT: MICHAEL GORDON
PO BOX 575
MENDOCINO, CA 95460

REQUEST: A request for a Coastal Development Minor Use Permit to allow Food and Beverage Retail Sales in the Mendocino Commercial District. The applicant would add wine tasting and sales to an existing retail business.

LOCATION: Town of Mendocino Historic District (Zone A). Located at the southeast corner of the intersection of Ukiah Street (CR 407C) and Lansing Street (CR 500). 10481 Lansing Street, Mendocino (APN: 119-250-01).

APPEALABLE AREA: Yes. Conditional uses are appealable.

TOTAL ACREAGE: ± 0.21 acres

GENERAL PLAN: Mendocino County General Plan Coastal Element, Chapter 4.13 – Mendocino Town Plan Commercial (C)

ZONING: Division III, Title 20, Mendocino Town Zoning Code Mendocino Commercial (MC)

EXISTING USE: Residential, Commercial, Single Unit Rental, and Office

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA (Class 3(c)).

RECOMMENDATION: Approve with conditions

BACKGROUND

PROJECT DESCRIPTION: The request is for a Coastal Development Minor Use Permit to allow Food and Beverage Retail Sales in the Mendocino Commercial (MC) District. Wine tasting is incidental to the retail sale of wine. No exterior alterations are proposed in association with the project with the exception of the installation of a sign. Sign installation requires approval from the Mendocino Historical Review Board (MHRB); the Applicant has already submitted his application to the MHRB. The interior changes would convert residential space to retail space; however, it should be noted that as recently as June 2014, the space was in retail use.

APPLICANT'S STATEMENT: "Local wine tastings and local wine sales."

SITE CHARACTERISTICS: The proposed Food and Beverage Retail Sales use would be located on a busy intersection parcel that has four buildings and a number of existing commercial uses including a gift

store, pizza and ice cream restaurant, a women’s clothing store, a children’s clothing store, a specialty clothing store, an office, and a single unit rental.

LAND USE AND ZONING: The property is surrounded by parcels with the Commercial land use designation and zoning district classification. Uses on surrounding parcels are predominantly commercial although a fire station and inn are located south and east of the property, respectively.

Table 1: Land Use, Zoning, Existing Use and Acreages of Adjacent Properties

Location	General Plan	Zoning	Existing Use	Acreage
North	Commercial	Mendocino Commercial	Commercial	± 0.6 acres
East	Commercial	Mendocino Commercial	Residential / Hotel	± 0.2 acres
South	Commercial	Mendocino Commercial	Fire Department	± 0.1 acres
West	Commercial	Mendocino Commercial	Commercial	± 0.2 Acres

RELATED APPLICATIONS: There have been numerous permit applications for coastal development permits, coastal development use permits, and Mendocino Historical Review Board (MHRB) permits on the property. The only application directly related to this request is MHRB 2016-0025, a request for a sign for the proposed retail sales and sampling of wine. There have been previous use permit requests for an Eating and Drinking Establishment and for Food and Beverage Retail Sales for wine tasting.

On-Site:

- MHRB_2016-0025 (Sign for Mendo Vino – On hold pending this application)
- CDU_2015-0002 (Single Unit Rental)
- MHRB_2014-0018 (Sign for Mendocino Country Store)
- CDP_2013-0023 (Convert Retail to Residential)
- MHRB_2014-0003 (Sign for Bebe Lapin Children’s Shop)
- MHRB_2013-0024 (Directory sign and minor alterations)
- MHRB_2013-0020 (Sign for All Legs);
- MHRB_2012-0006 (Sign for Gallery)
- MHRB 2010-0002 (New Sign Copy Drew Wines);
- U_2009-0017 (Tasting Room)
- U_2000-0037 (Eating and Drinking Establishment)
- MHRB_2009-0011 (Miscellaneous improvements Frankie’s Piazza and Ice Cream)

PUBLIC SERVICES:

Access: Ukiah Street (CR 407C) and Lansing Street (CR 500)
 Fire District: Mendocino Fire Protection District
 Water District: Mendocino City Community Services District (MCCSD)
 Sewer District: Mendocino City Community Services District (MCCSD)
 School District: Mendocino Unified

LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION

The proposed project is consistent with the applicable goals and policies of the Local Coastal Program, which includes the Mendocino Town Plan, Mendocino Town Plan Map, Mendocino Town Zoning Code and Mendocino Town Zoning Map as described below.

Land Use. The intent of the Mendocino Town Plan (MTP) Commercial designation is “*To provide an area within the Town suitable for commercial development compatible with existing commercial uses and the scale of the Town* (MTP 2017).” The requested use is not specifically identified in the MTP, although retail stores of less than 1,000 are identified as a Principally Permitted Use in the Commercial designation (MTP Sec. 5.8). The proposed use would be consistent with the Commercial designation and compatible with existing commercial development and the scale of the Town.

Zoning. The request is for a tasting room which is defined as “an area, generally within a structure, (1) devoted to the sampling and sale of wine or beer produced on or off premises and (2) where incidental provision of food as part of the wine or beer tasting may be allowed (MTZC Sec. 20.608.039(A)).” A tasting room is considered a Food and Beverage Retail Sales use type which are “Establishments or place of business primarily engaged in the retail sale of food and beverage for private off-site consumption. Typical uses include grocery stores, liquor stores, tasting rooms, delicatessens or retail bakeries (MTZC Sec. 20.624.080).” These two definitions qualify the proposed use as retail space allowing incidental tasting of wine. Sale and on-site consumption of wine and food products, such as short-order eating places or bars, would be classified as an eating and drinking establishment, requiring a Major Use Permit in the Commercial zoning district.

As discussed above, a tasting room is considered a Food and Beverage Retail Sales use type and may be permitted in the MC District upon issuance of a Minor Use Permit (MTZC Sec. 20.664.015(B)). The proposed tasting room would be contained in an existing interior space and would not alter the existing building footprint and would meet all yard and setback regulations of the MC District.

The addition a 250 square foot tasting room necessitates an increase of one on-site parking space (MTZC Sec. 20.664.055(A)). It should be noted that in the past the property has had a variety of commercial uses that have relied on off-site street parking and that as recently as June 2014, the space was considered retail. The MTZC allows permitted development to meet parking requirements through project design, recorded off-site parking agreements with third parties, or participation in an in-lieu fee parking program (MTZC Sec. 20.714.015(A)). Since the applicant has limited potential to provide for an additional space on site due to lot coverage and has not offered a recorded off-site parking agreement with another party, Staff recommends Condition 11 that requires the applicant to provide for one parking space though an in-lieu fee at such time as the in-lieu fee is established.

Design Guidelines: The Mendocino Town Plan supports and continues the requirements of the Historical Preservation District Zoning Ordinance and the design review criteria used to maintain the historic appearance and character of the Town.

The project is located in Historic Zone A of the Mendocino Historical Preservation District. The project does not propose any exterior alterations to the building. However, MHRB approval would be required to erect a sign. The applicant has submitted a MHRB application (MHRB 2016-0025) for a business sign, which is on hold pending a determination on the Minor Use Permit request.

Natural Resources: The change in use will not have any effect on natural resources. The wine tasting and retail sales would take place in an existing structure and no exterior changes to the building or grounds are proposed

Hazards: There are no known geologic or other hazards on or in the vicinity of the project site.

Visual Resources: The change in use will not have any effect on visual resources other than exterior signage, which must receive MHRB approval. No exterior lighting or exterior alterations are proposed as part of this request.

Public Access: The project site is located west of Highway 1, but is not a bluff top site and is not designated as a potential public access trail location on the LUP maps. There is no evidence of prescriptive access on the site.

Archaeological/Cultural Resources: No ground disturbing development is proposed; therefore it is unlikely that any archaeological/cultural resources would be affected by the proposed project.

Groundwater Resources: The Town of Mendocino has a centralized sanitary sewer system but does not have a centralized water system. Businesses and residents, including those on the subject parcel, rely on individual wells for most water. Sustainability Policy S-2 and Sustainability Actions S-2.1 and S-2.2 of the Mendocino Town Plan (see below) address water use in the Town of Mendocino.

S-2 *The water supply in the Town of Mendocino shall be managed and augmented in a sustainable manner to (a) support the special community, (b) optimize available water supplies for all human and natural system uses through concerted groundwater replenishment, and (c) strictly avoid the waste of potable water in uses that do not require it, by utilization of reclaimed water or retained stormwater runoff, where feasible.*

Action S-2.1. *All development applications shall submit proof (a) of an adequate water supply throughout the year, including the dry season; and (b) that well production of groundwater will not (1) deplete groundwater table of contiguous or surrounding uses and (2) have a significant direct or cumulative adverse effect on coastal resources.*

Action S-2.2. *All new and existing development shall in addition, (a) comply with all applicable adopted Mendocino City Community Services District water conservation regulations and standards, and (b) incorporate all water conservation measures required by the State of California.*

The Mendocino Town Zoning Code Chapter 20.744 (Groundwater Water Evaluation) establishes requirements for evaluation of the adequacy of groundwater resources for development in the Town (MTZC 20.744.005). Hydrological studies are required for all development except where the MCCSD or Health Officer has determined that the development will not have any foreseeable impact on hydrologically contiguous wells (MTZC Sections 20.744.015(A), 20.744.020, and 20.744.025).

Sec. 20.744.005 – Declaration.

It is the intent of this Chapter to establish requirements for the evaluation of the adequacy of ground water resources for new developments in the Town of Mendocino. This Chapter is adopted specifically to implement water policies in the Mendocino Town Plan portion of the Mendocino County General Plan Coastal Element.

Sec. 20.744.015 - Uses Requiring a Hydrological Study.

(A) A hydrological study shall be required in the Town of Mendocino for all development as defined in Section 20.608.023(C) except as provided in Section 20.744.025.

Sec. 20.744.020 - Safe Yield.

New development or a new use shall not be approved if the water needs of such development, as determined by the District or Health Officer, cause any of the following to occur:

(A) The groundwater extraction would have an adverse effect on the ground water supply.

(B) The evidence shows that there is insufficient groundwater to support the change in use and/or new development.

Sec. 20.744.025 - No Increase in Water Extraction.

A hydrological study will not be required in cases where it has been determined by the District or Health Officer that the development will not have any foreseeable impact on hydrologically contiguous wells.

MTP Action S-2.1 requires development applications to show a proof of adequate water supply. “Adequate water supply” is defined in the MTZC Section 20.744.010(1) as “sufficient quantities of water to support proposed uses and to maintain contiguous and surrounding uses as determined by the District or as defined by the Division of Environmental Health in their publication “Land Development Requirements” as revised.” It has been the practice of PBS to rely on MCCSD for determinations of “adequate water supply” within the Town of Mendocino.

Mendocino City Community Services District (MCCSD) has groundwater management authority over the Mendocino Headlands Aquifer and limits groundwater extraction from privately owned and operated wells on individual lots through its groundwater withdrawal program. MCCSD permits ground water extraction for new development, changes in use, or expansion of an existing use (MCCSD 2007). A Groundwater Extraction Permit is required 1) prior to the issuance of a coastal development permit or coastal

development use permit, 2) prior to issuance of a Mendocino County Building Permit for other than minor repair and maintenance, 3) prior to the issuance of a Mendocino County Well Permit or 4) following the sale of real property within the boundaries of the District (MCCSD 2007). PBS requires all new development or changes to existing development to provide a letter from MCCSD that states that the development has adequate water.

MCCSD's Groundwater Extraction Permit Ordinance 07-1 allows for administrative approval of a Groundwater Extraction Permit without requiring the applicant to submit a hydrological study if the proposed change results in no increase in the water extraction. MCCSD considers the wine tasting to be a Retail Store/Gallery/Office use that, according to their records, is replacing a Retail Store/Gallery/Office use and therefore not increasing the water usage on the property. The total MCCSD allotment for the subject parcel is 1,966 gallons per day (gpd) and the highest recorded average daily use for a month over the past five years was reported for May of 2012 at 883 gpd or 45 percent of the allotment (Kelley 2017c). The average daily usage based on monthly readings recorded from November 2016 to October 2017 was 305 gpd. During this twelve month period, the highest monthly gpd average was 429 gpd and the lowest was 132 gpd. Based on these figures the highest average water usage over the twelve month period equates to approximately 0.3 gallons per minute or 0.22 percent of MCCSD's 1,966 gallon per day allotment for the property.

On February 28, 2017, MCCSD provided a letter to PBS stating that *"The District's Groundwater Extraction Permit Ordinance 07-01 allows for administrative approval of a Groundwater Extraction Permit, without requiring an applicant to submit a hydrological study if the proposed change results in no increase in the water extraction (Kelley 2017a)."* MCCSD's letter goes on to note that *"The ancillary wine tasting bar is not considered a Food and Beverage Establishment. No preparation or service of food and beverages for on-site consumption and no seating is allowed (Kelley 2017a)."*

On October 2, 2017, MCCSD reiterated to Mendocino County Division of Environmental Health that *"On February 28, 2017, an application for a Groundwater Extraction Permit was approved by the District to re-organize existing square footage to make a 608-sq. ft. Commercial Retail Shop, which includes a wine tasting bar. The wine tasting bar is considered incidental to the commercial retail sale of wine. No Onsite food preparation or service are permitted and no seating is allowed (Kelley 2017b)."*

On October 6, 2017, Mendocino County Division of Environmental Health approved the Applicant's plans for wine tasting facility and provided the following conditions of approval:

1. *Install FRP also on wall behind hand sink to prevent water damage from occurring to wall.*
2. *All refrigeration & freezer equipment shall be equipped with an evaporator to evaporate condensate or otherwise must drain to an approved floor sink.*
3. *The State Water Heater (80 gallons) is approved. The model number for it on list is ES6 80 DORT.*
4. *Provide an accessible toilet room for wine tasting patrons. (If the building complex, located at 10481 Lansing St., has another/existing available public toilet room and that wine tasting patrons can use, then it would satisfy the toilet room requirement for the store's wine tasting patrons.)*
5. *Provide location of toilet room(s) prior to pre-opening inspection. The plans did not show location of the toilet room in the building.*
7. *Prior to issuing a permit to operate food establishment, we will need to conduct a final, pre-opening inspections to verify compliance with the California Retail Food Code (Cal Code). Please call at least one week prior to the planned operation of the new construction and installations date to schedule this inspection (MCDEH, 2017).*

PBS staff recommends Conditions 9 and 10 as required by MCCSD and the Division of Environmental Health, respectively, and finds that the addition of the wine tasting room will not have an adverse effect on water supply and that there is sufficient water groundwater to support the change in use.

PROJECT FINDINGS AND CONDITIONS

RECOMMENDED MOTION: The Coastal Permit Administrator approves Coastal Development Minor Use Permit U_2017-0006, subject to the following conditions of approval, finding that the application and supporting documents and exhibits contain sufficient information and conditions to establish, as required by the Coastal Zoning Code, that:

Pursuant to the provisions of Chapter 20.720 and Chapter 20.724 of the Mendocino County Code, the Coastal Permit Administrator approves the proposed project, and adopts the following findings and conditions.

FINDINGS:

1. The proposed development is in conformity with the certified Mendocino Town Local Coastal; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of this Division, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other services, including but not limited to, solid waste, public roadway capacity and proof of an adequate water supply pursuant to Chapter 20.744 have been considered and are adequate to serve the proposed development; and
7. The proposed development is in conformance with the design standards of Section 20.760.050; and
8. The proposed development ensures the protection of public health, safety and welfare.

STANDARD CONDITIONS:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.728.015 of the Mendocino County Code. The permit shall become effective after the ten 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.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division III 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 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 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. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.
9. As required by MCCSD's approval of the request, there shall be no onsite food preparation or service and no seating is allowed.
10. Prior to final inspection by the Building Division, the Applicant shall furnish a letter to the Department of Planning and Building Services from the Division of Environmental Health that all the requirements and conditions have been met for the issuance of the permit to operate the wine tasting room.
11. The applicant shall provide for one parking space though an in-lieu fee such time as the in-lieu fee is established.

Staff Report Prepared By:

Date

Bill Kinser, Senior Planner

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

ATTACHMENTS:

- | | |
|-------------------------|---------------------|
| A. Location Map | E. Floor Plan |
| B. Vicinity Map | F. Zoning Map |
| C. Aerial Map | G. General Plan Map |
| D. 10481 Lansing Street | H. Adjacent Parcels |

Referral Agency Response

REFERRAL AGENCIES	COMMENT	DATE
Planning (Ukiah)	No Response	
Department of Transportation	No Comment	5-19-17
Environmental Health-FB/Ukiah	Comment	4-28-17; 6-7-17
Building Services-FBPBS	No Comment	5-5-17
Assessor	No Response	
Native Plant Society	No Response	
CalFire	No Response	
Coastal Commission	No Response	
MHRB	Comment	5-17-17
Mendocino School District	No Response	
Mendocino Fire Protection District	No Response	
MCCSD	Comment	2-28-17
Sherwood Valley Band of Pomo Indians	No Response	
Cloverdale Rancheria	No Response	
Redwood Valley Rancheria	Comment	4-12-17
Department of Alcoholic Beverage Control	Comment	4-14-17

REFERENCES:

(MTP, 2017). Mendocino County Board Of Supervisors, October 2017. Mendocino County General Plan, Chapter 4.13: Mendocino Town Plan. Mendocino County Department of Planning and Building Services.

(MTZC, 2017). Mendocino County Board of Supervisors. October, 2017. Mendocino Town Zoning Code, Division III of Title 20 of the Mendocino County Code. Mendocino County Department of Planning and Building Services.

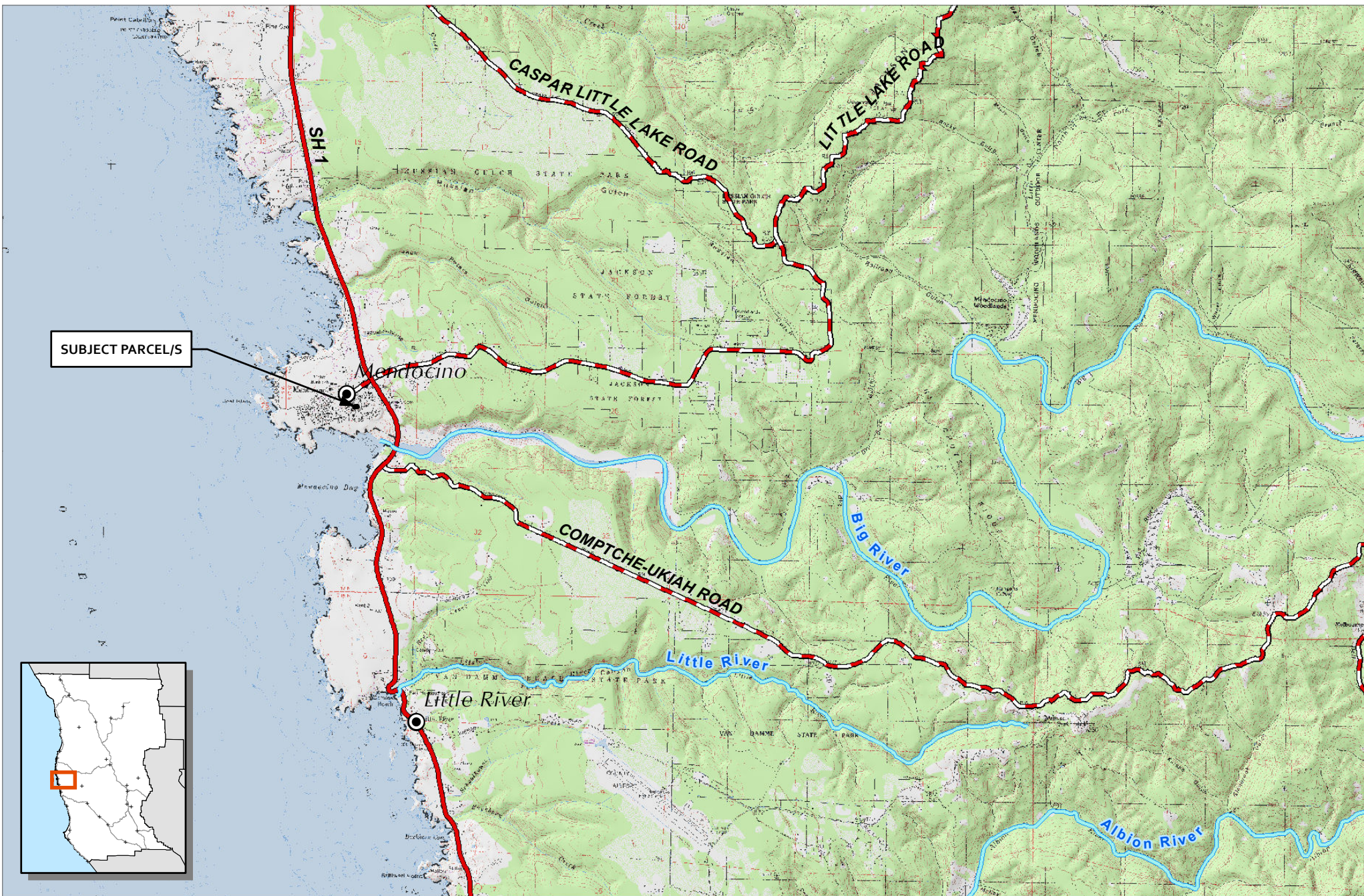
(MCCSD 2007). Mendocino City Community Services District, 2007. Mendocino City Community Services District Ordinance NO. 07-1 Groundwater Extraction Permit.

(Kelley 2017a). Mike Kelley, February 28, 2017. Letter from Mike Kelley, District Superintendent MCCSD to Bill Kinser, Mendocino County Department of Planning and Building Services.

(Kelley 2017b). Mike Kelley, October 2, 2017. Letter from Mike Kelley, District Superintendent MCCSD to Dave Jensen, Mendocino County Environmental Health.

(MCDEH, 2017). Mendocino County Division of Environmental Health, October 6, 2017. Letter to Michael Gordon from Brian Hoy, REHS, Consumer Protection Manager, Mendocino County Environmental Health.

(Kelley 2017c). Mike Kelley, November 3, 2017. Letter from Mike Kelley District Superintendent MCCSD to Michael Gordon, Applicant for Wine Tasting Room.

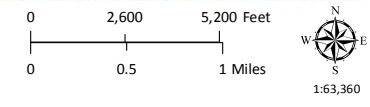


SUBJECT PARCEL/S



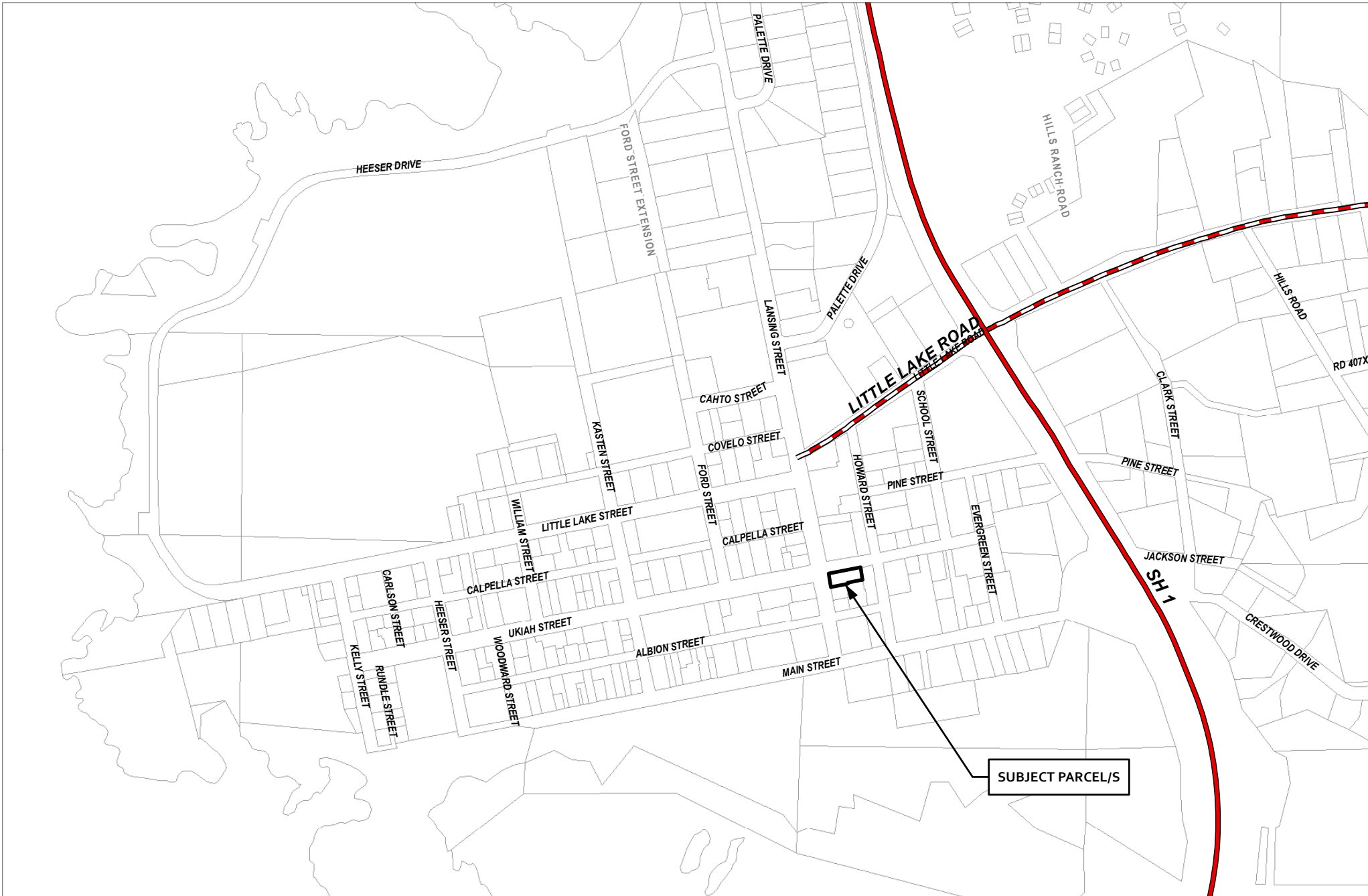
CASE: **CDUM 2017-0001**
 OWNER: **ZIMMER, William & Lynette**
 APN: **119-250-01**
 APLCT: **Michael Gordon**
 AGENT:
 ADDRESS: **10481 Lansing Street, Mendocino**

- Major Towns & Places
- Major Roads
- Major Rivers
- Highways





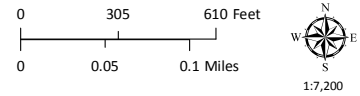
LOCATION MAP

Map produced by the Mendocino County Planning & Building Services, March, 2017
 All spatial data is approximate. Map provided without warranty of any kind.



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-  Highways
-  Major Roads



VICINITY MAP

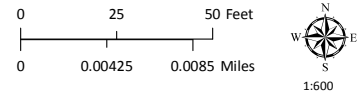
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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

CASE: CDUM 2017-0001
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APLCT: Michael Gordon
AGENT:
ADDRESS: 10481 Lansing Street, Mendocino

 Public Roads

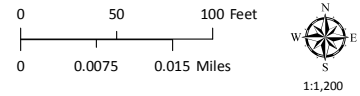


AERIAL IMAGERY

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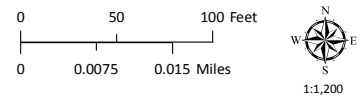
ZONING DISPLAY MAP

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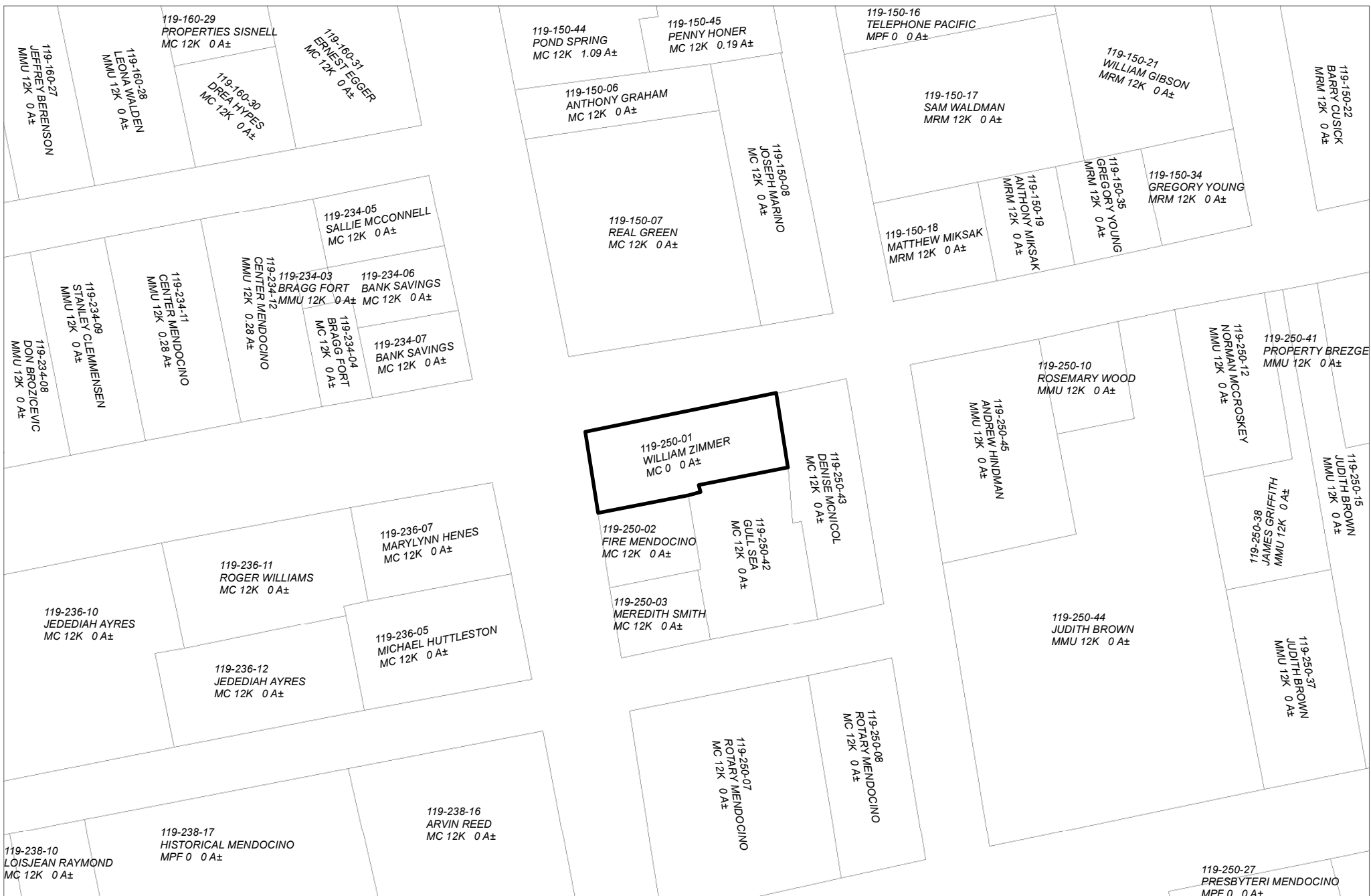
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 General Plan Classes

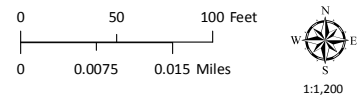


GENERAL PLAN CLASSIFICATIONS

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ADJACENT PARCELS

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