



**ZONING ADMINISTRATOR
STAFF REPORT- MINOR USE PERMIT**

**JUNE 14, 2018
UM_2017-0003**

SUMMARY

OWNER/APPLICANT: MARTIN MILECK
74540 HILL RD
COVELO, CA 95428

AGENT: SEAN O'ROURKE
PO BOX 671
MENDOCINO, CA 95460

REQUEST: Modification to Use Permit 22-88/90 to allow for agricultural sales and services on the west side of Hill Road and modification to the previously adopted Conditions of Approval.

LOCATION: 3.5± mi. east of Covelo center, on the east side of Hill Road (CR 327B), 1± mi. south of eastern terminus of East Lane (CR 327C). Located at 74540 Hill Road, Covelo (APN: 034-020-68).

TOTAL ACREAGE: 9.64± Acres

GENERAL PLAN: Agriculture (AG)

ZONING: Agriculture (AG:40) / Flood Plain (FP)

SUPERVISORIAL DISTRICT: 3

ENVIRONMENTAL DETERMINATION: Categorically Exempt; Class 1 and Class 4

RECOMMENDATION: Approve with Conditions

STAFF PLANNER: Sam 'Vandy' Vandewater

BACKGROUND

PROJECT DESCRIPTION: The applicant is proposing to modify previously approved Use Permit UM 22-88/90 to allow for the expansion of agricultural sales and services onto the west side of Hill Road. The applicant is also requesting to modify Condition B-5 of to reduce the Hill Road setback from 50 ft. to 10 ft.

The original Use Permit (U_1983-0090) allowed the establishment of an agricultural sales and services operation in the existing location. The operation entailed the sale of feed and agricultural supplies, as well as pre-cut firewood. At the time of the application, the subject parcel was within a Williamson Act contract. The permit expired January 26, 1986, leading to the subsequent use permit noted below.

Use Permit (U_1988-0022) allowed the existing agricultural sales and services use to continue operations indefinitely. The permit allowed for all previous uses, and expanded the operation to allow for larger sale items such as compost, water tanks, and gates to be maintained outside of the permitted commercial structure. At the time of the application, the subject parcel was within a Williamson Act contract. A condition of this permit entailed the Notice of Non-Renewal for the Williamson Act to have 10 acres of the subject parcel removed from agricultural preserve. A modification to this permit (UM 22-88/90) allowed for the expansion of the existing operation to include an additional building for sales and storage.

The owner and applicant, Martin Mileck, seeks to modify the Use Permit (UM 22-88/90) to allow for agricultural sales and services on the west side of Hill Road. Additionally, the applicant seeks to reduce the setback of product storage from Hill Road from the existing 50 feet to a new setback of 10 feet; this is

a modification to Condition B-5 of Use Permit UM 22-88/90. The use of land on the west side of Hill Road would be limited to storage of sale products such as compost, firewood, and sprinkler systems; no new development would be permitted. The subject, 9.64± acre parcel is not under a Williamson Act contract, but remains surrounded by applicant-owned land that is subject to Williamson Act contract provisions.

SITE CHARACTERISTICS: The proposed project is located roughly 3 miles east of Covelo town center and is situated on a parcel that is divided by Hill Road, the road from which the parcel gains access. The subject parcel (APN: 034-020-68), along with the parcel surrounding it (APN: 034-020-67), constitutes a single, legal parcel; the subject parcel having been removed from the surrounding agricultural preserve. The eastern portion of the subject parcel is mostly utilized for the existing agricultural sales and services business; very little land remains undisturbed. There is some vegetation in the form of grasses and a few trees on the southern portion of the east side and the business sits at the base of some larger hills. The business includes three large, metal structures that are used for feed, supplies, and other agricultural products, as well as some smaller accessory structures. Additionally, several areas of the eastern portion are used for the storage of agricultural equipment, firewood, compost, and other products too large for the structures.

The western portion of the parcel is far less utilized by the agricultural sales and services business. The storage of compost and other agricultural materials is the main use of the western portion, with regards to the business. The residence of the business owner is also located on the western portion. The west side is less disturbed with regards to land use and is vegetated with grass and small shrubs. The western portion of the parcel is located within a flood plain as the general area slopes towards Mill Creek.

The subject parcel is connected to the Round Valley Water District and utilizes an on-site septic system for wastewater. Additionally, the subject parcel is located within the Covelo Fire Protection District.

RELATED APPLICATIONS ON-SITE:

- **U_1983-0090** – Use Permit to allow for agricultural sales and services.
- **U_1988-0022** – Use Permit to continue previously permitted agricultural sales and services.
- **UM 22-83/90** – Use Permit Modification to expand existing agricultural sales and services use.

Off-Site:

There are no identified projects or structures on neighboring parcels that would affect the proposed project.

SURROUNDING LAND USE AND ZONING:

| | GENERAL PLAN | ZONING | LOT SIZES | USES |
|--------------|---------------------|---------------------|------------------|-------------|
| NORTH | Agriculture (AG) | Agriculture (AG:40) | 69.67± | Vacant |
| EAST | Agriculture (AG) | Agriculture (AG:40) | 69.67± | Vacant |
| SOUTH | Agriculture (AG) | Agriculture (AG:40) | 69.67± | Agriculture |
| WEST | Agriculture (AG) | Agriculture (AG:40) | 69.67± | Vacant |

PUBLIC SERVICES:

Access: Hill Road (CR 327B)
 Fire District: Covelo Fire Protection District
 Water District: Round Valley Water District
 Sewer District: None
 School District: Round Valley Unified School District

AGENCY COMMENTS: On May 26, 2017, project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their submitted recommended conditions of approval are contained in Exhibit A of the attached resolution. Any comments that would trigger a project modification or denial are discussed in full as key issues in the following section.

| REFERRAL AGENCIES | COMMENT |
|---------------------------------|-------------|
| Planning | No Comment |
| Department of Transportation | Comment |
| Environmental Health | No Response |
| Building Inspection | No Response |
| Assessor | No Response |
| Agriculture Commissioner | No Response |
| Farm Advisor | No Response |
| Emergency Services | No Comment |
| Forestry Advisor | No Response |
| Covelo Fire Protection District | No Response |
| Round Valley Water District | No Response |
| Sonoma State University | Comment |
| Cloverdale Rancheria | No Response |
| Redwood Valley Rancheria | Comment |
| Sherwood Rancheria | No Response |

KEY ISSUES

1. General Plan and Zoning Consistency: The subject parcel is located within the Agricultural (AG) General Plan Land Use Designation. The AG General Plan zone can 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.” As the use of the subject parcel has existed since the early 1980s, the project remains consistent with the AG designation because the operation has remained on the 10 acres of land it was originally permitted to occupy. This has help to prevent the expansion of the operation into additional lands that are suited for agricultural activities. Furthermore, the subject business operation is related to agriculture as it provides supplies and equipment that are required to conduct agricultural endeavors.

The proposed project is also consistent with the Agricultural (AG:40) zoning district, as defined by the Mendocino County Code. Chapter 20.052.005 of the Mendocino County Code defines the AG:40 as a district “intended to create and preserve areas for the raising of crops and animals. Processing of products produced or raised 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 could jeopardize the agricultural use of surrounding lands.” The proposed project is consistent with this definition as it entails commercial activities associated with crop and animal raising. As noted, the existing business operation offers agricultural supplies and equipment for sale, thus indicating a form of conformance with the agricultural zoning district.

2. Use Permit Findings: The proposed use permit is required to meet the use permit findings set forth in the Mendocino County Code (MCC Section 20.196.020). Below is the discussion of each finding and how the use permit appropriately meets those requirements.

- A. *That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;*

As shown in the previous section, the proposed project is in conformity of the General Plan as it expands an existing use within an area dedicated for said use, thus preserving the surrounding agricultural lands.

B. *That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;*

The proposed project is already connected to existing water and septic system. Additionally, the project gains access from Hill Road and no comments have been received from responsible agencies that the existing access is inadequate.

C. *That such use will not, under the circumstances of that particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, the finding shall be to that effect;*

The proposed project was determined to be Categorical Exempt under CEQA, thus the project will not be a detriment to the wellbeing of surrounding neighbors or the environment. Conditions of Approval are recommended to ensure the project will not create a nuisance.

D. *That such use preserves the integrity of the zoning district.*

Similarly to the General Plan conformity finding above, compliance with the Mendocino County Code zoning district is discussed in the previous section. While the zoning district in which the project is located traditionally is utilized for agricultural uses, the proposed project does preserve the integrity of the zoning district simply because of the requirement for this use permit process to allow for the proposed use. In other words, this use permit signifies the preservation of the zoning district integrity as the use is permissible in the Agricultural zoning district with the granting of a use permit.

3. Environmental Protection: The project is Categorical Exempt from the provisions of CEQA, pursuant to Class 1 of Article 19 of the California Environmental Quality Act Guidelines. The Class 1 exemption applies to "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.

Furthermore, the project is Categorical Exempt from the provisions of CEQA, pursuant to Class 4 of Article 19 of the California Environmental Quality Act Guidelines. The Class 4 exemption applies to "minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purpose." The proposed project meets the criteria of Section 15304 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, the Zoning Administrator grant Use Permit Modification UM_2017-0003 for the Project, as proposed by the applicant, based on the facts and findings and subject to the Conditions of Approval.

5/30/2018
DATE

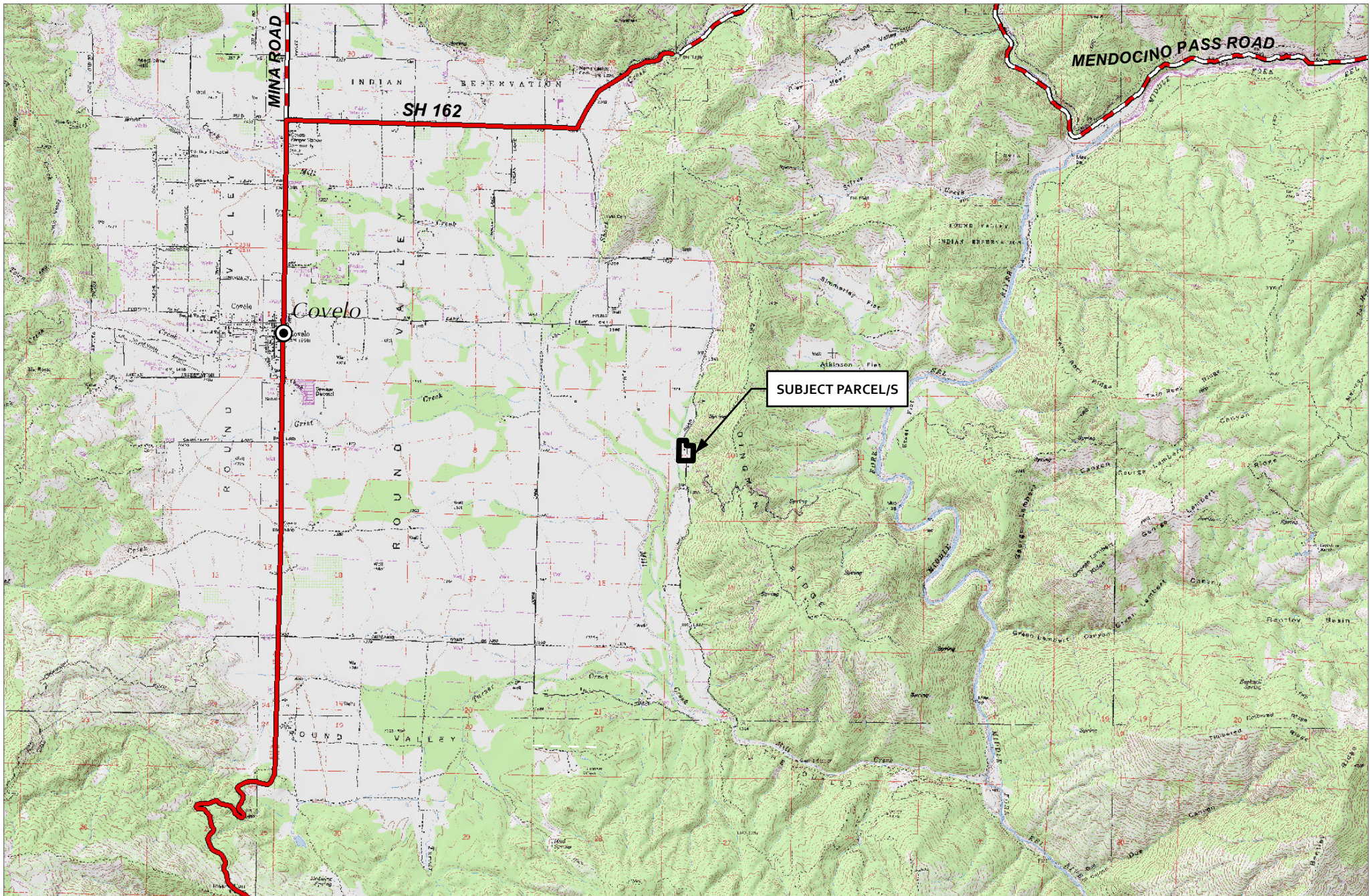
Julia Acker for
SAM 'VANDY' VANDEWATER
PLANNER II

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




ATTACHMENTS:

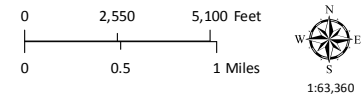
- A. Location Map
- B. Aerial Map
- C. Site Map
- D. Zoning Map
- E. General Plan Map
- F. Adjacent Map
- G. Fire Hazards Map
- H. Flood Zone
- I. Soils Map
- J. Williamson Act Map
- K. Timber Production Map
- L. Water Districts Map

RESOLUTION AND CONDITIONS OF APPROVAL (Exhibit A):



CASE: UM 2017-0003
 OWNER: MILECK, Martin
 APN: 034-020-68
 APLCT: Martin Mileck
 AGENT: Sean O'Rourke
 ADDRESS: 74540 Hill Road, Covelo

-  Major Towns & Places
-  Highways
-  Major Roads



N
 W E
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 1:63,360

LOCATION MAP

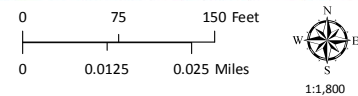
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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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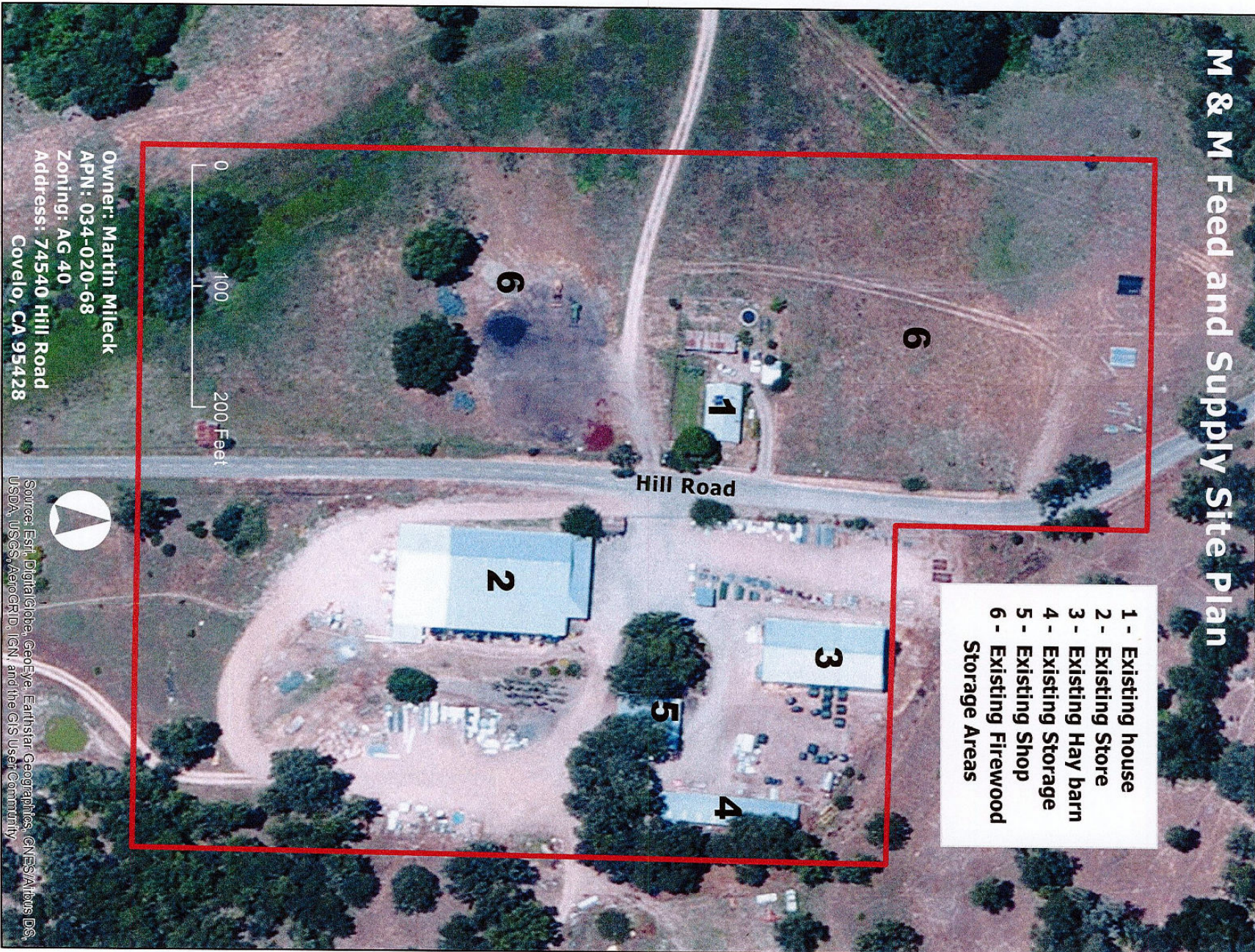
Public Roads
Driveways/Unnamed Roads



AERIAL IMAGERY

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M & M Feed and Supply Site Plan



- 1 - Existing house
- 2 - Existing Store
- 3 - Existing Hay barn
- 4 - Existing Storage
- 5 - Existing Shop
- 6 - Existing Firewood Storage Areas

Owner: Martin Mileck
APN: 034-020-68
Zoning: AG 40
Address: 74540 Hill Road
Covelo, CA 95428



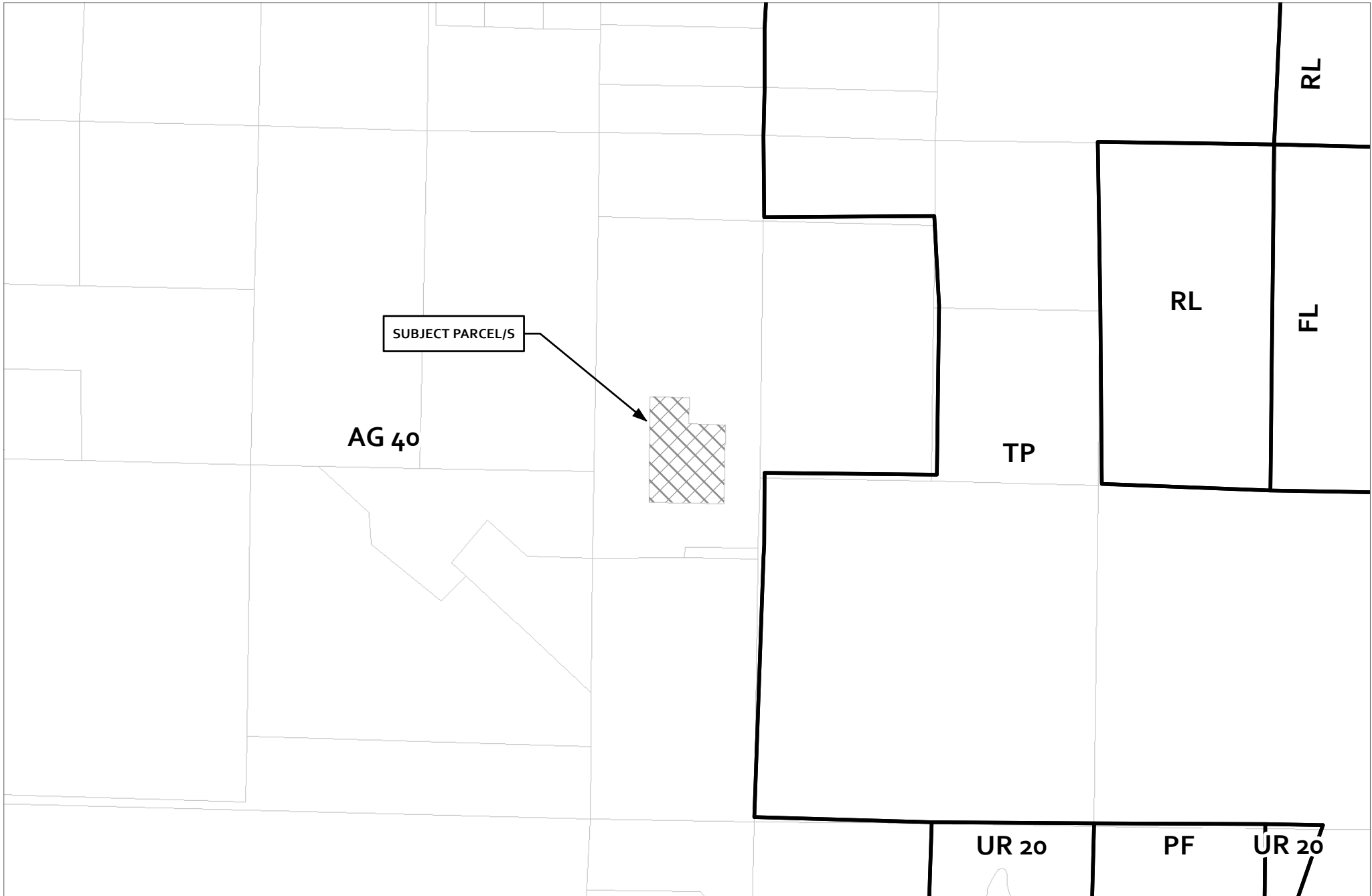
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NO SCALE

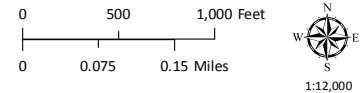
SITE PLAN

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 Zoning Districts




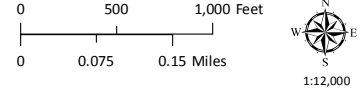
ZONING DISPLAY MAP

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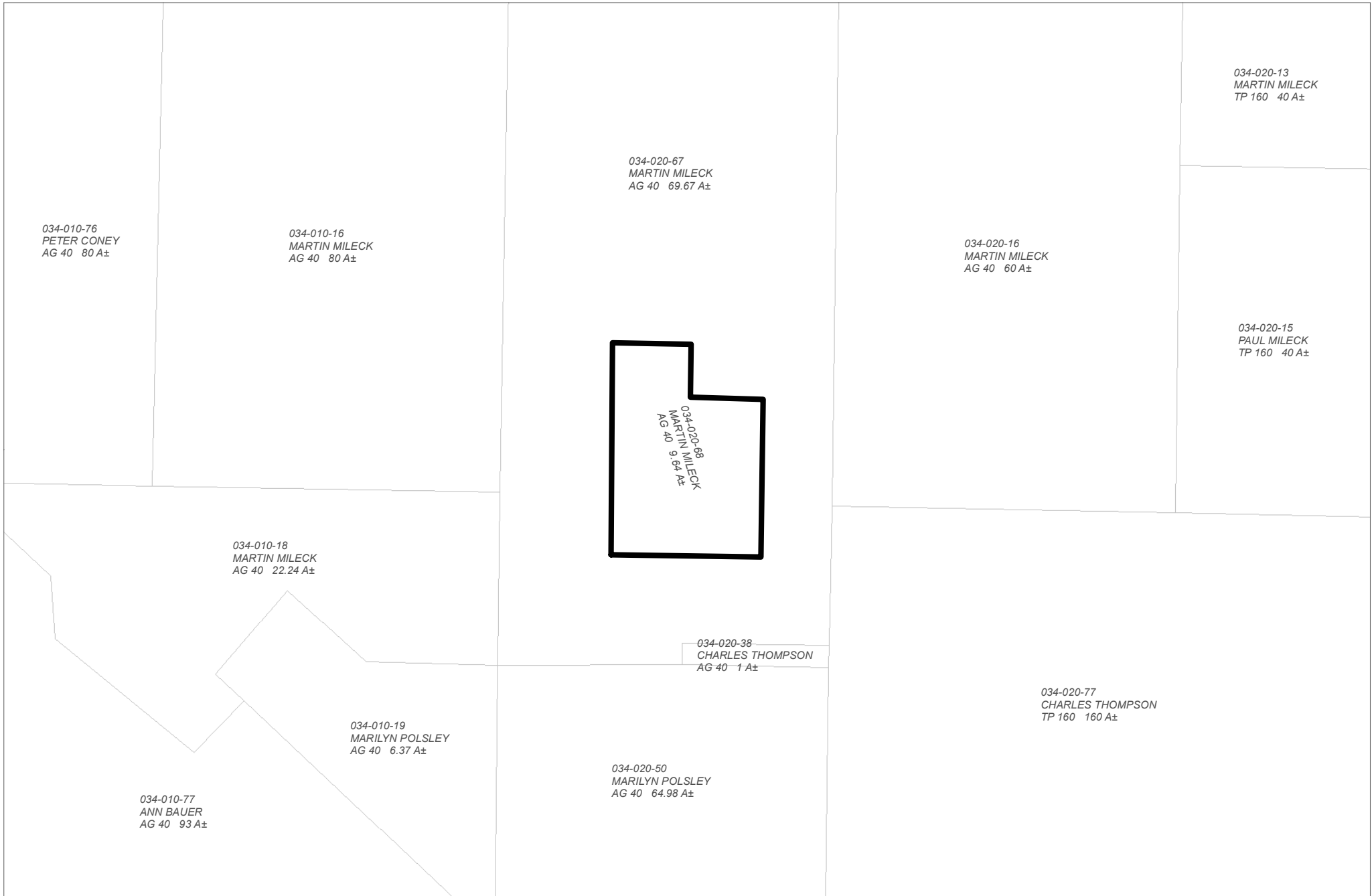
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 General Plan Classes

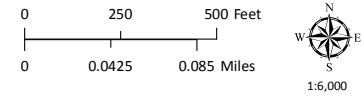


GENERAL PLAN CLASSIFICATIONS

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ADJACENT PARCELS

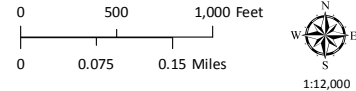
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COVELO FIRE PROTECTION DISTRICT

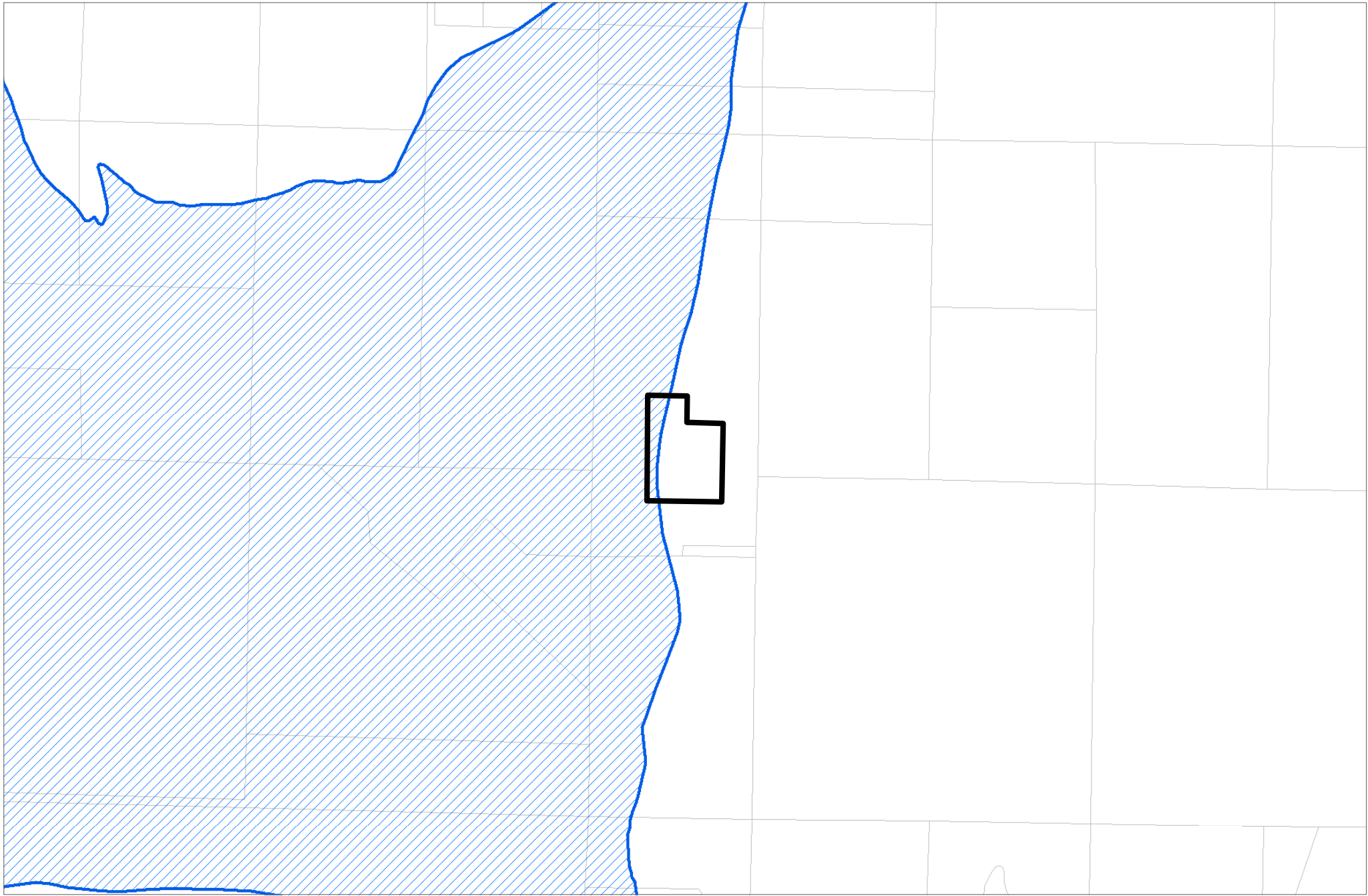
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-  County Fire Districts
-  Moderate Fire Hazard
-  Very High Fire Hazard
-  High Fire Hazard

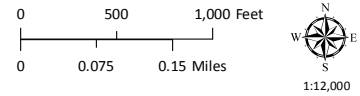


FIRE HAZARD ZONES & RESPONSIBILITY AREAS
 STATE RESPONSIBILITY AREA

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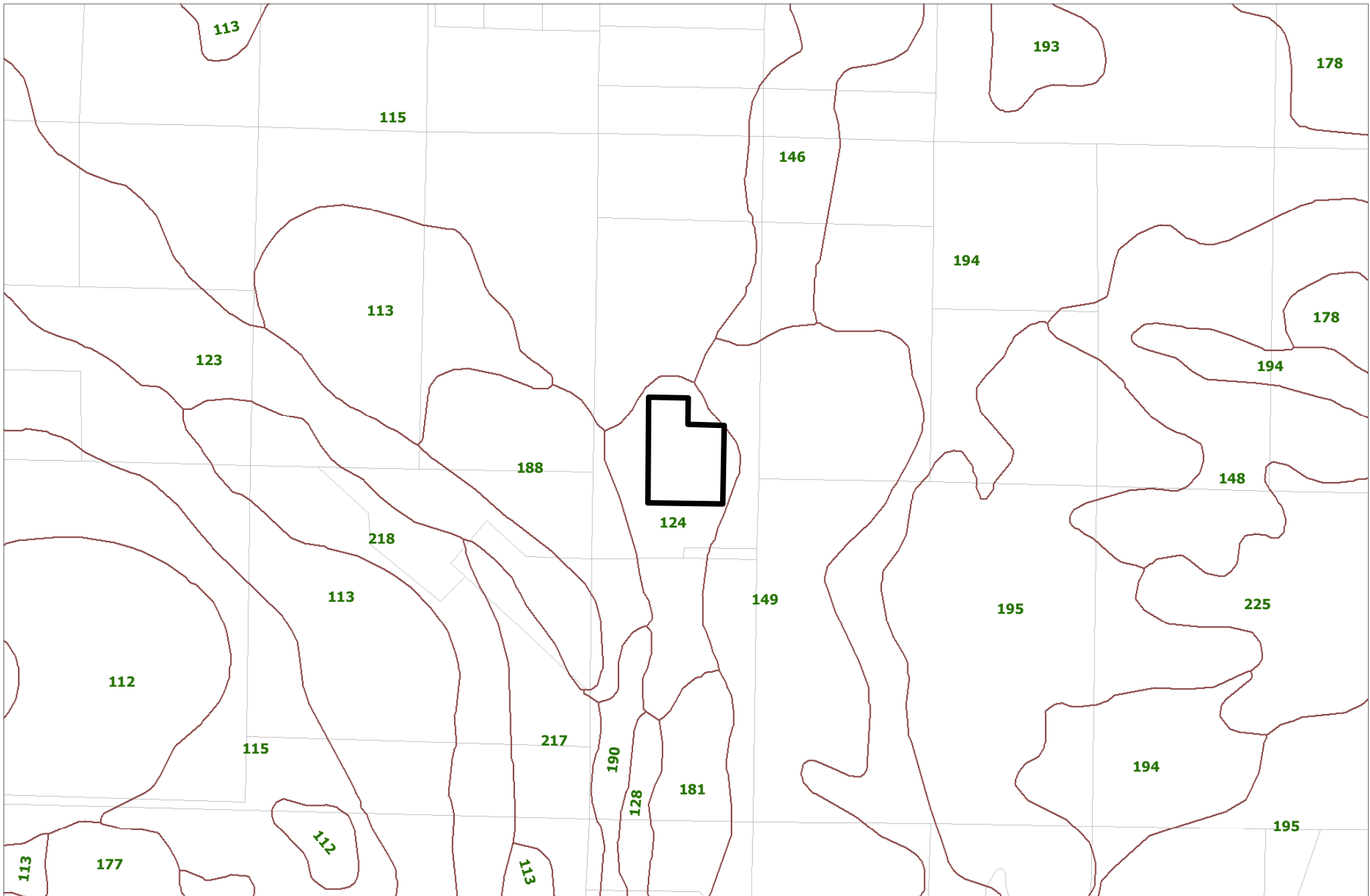


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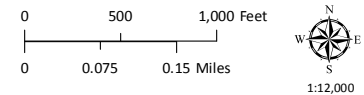
FEMA FLOOD ZONE
NFIP MAPS, JULY 18th, 2017

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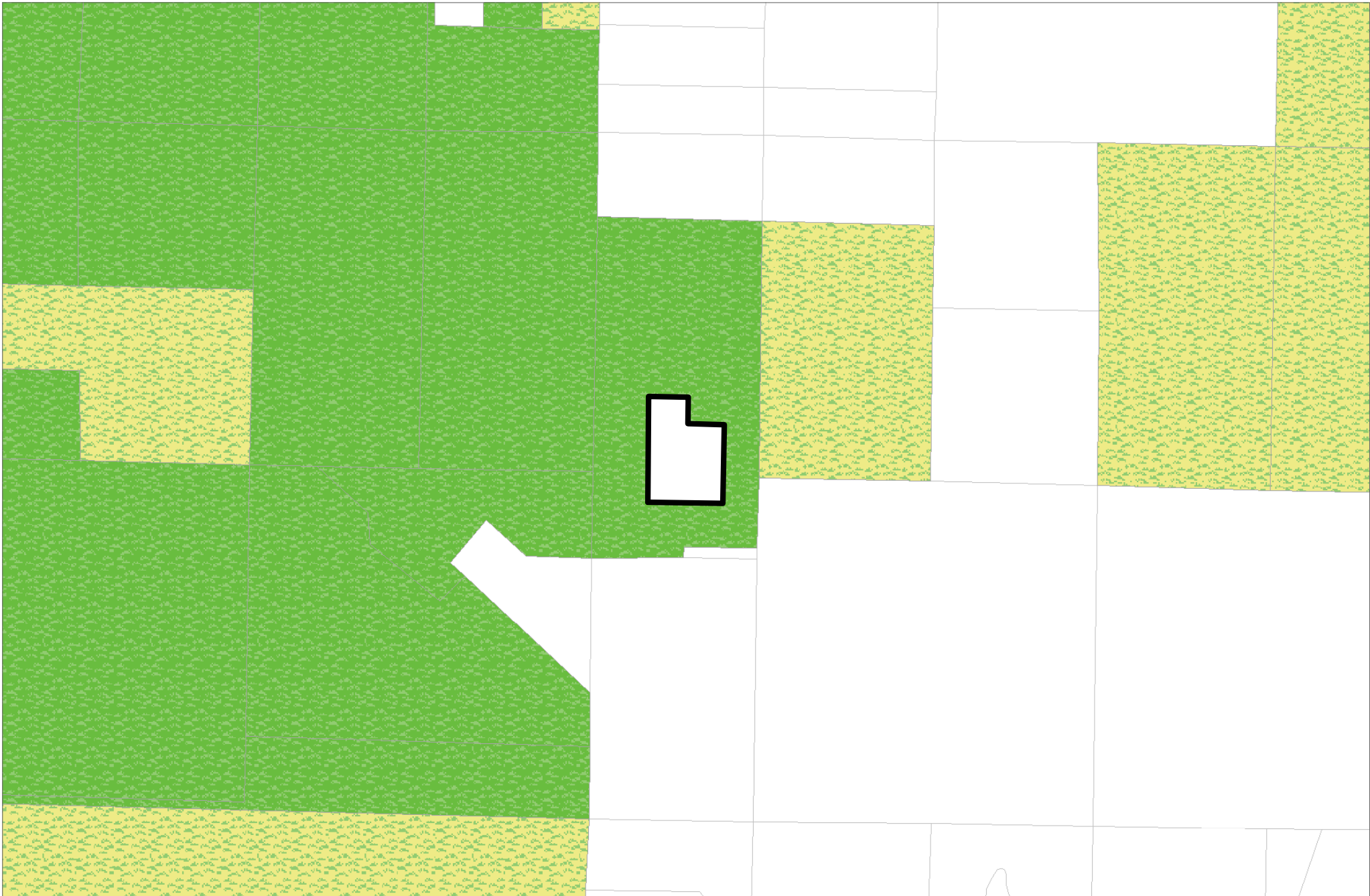
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 Eastern Soils



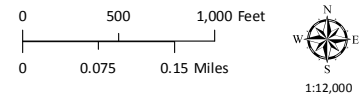
LOCAL SOILS

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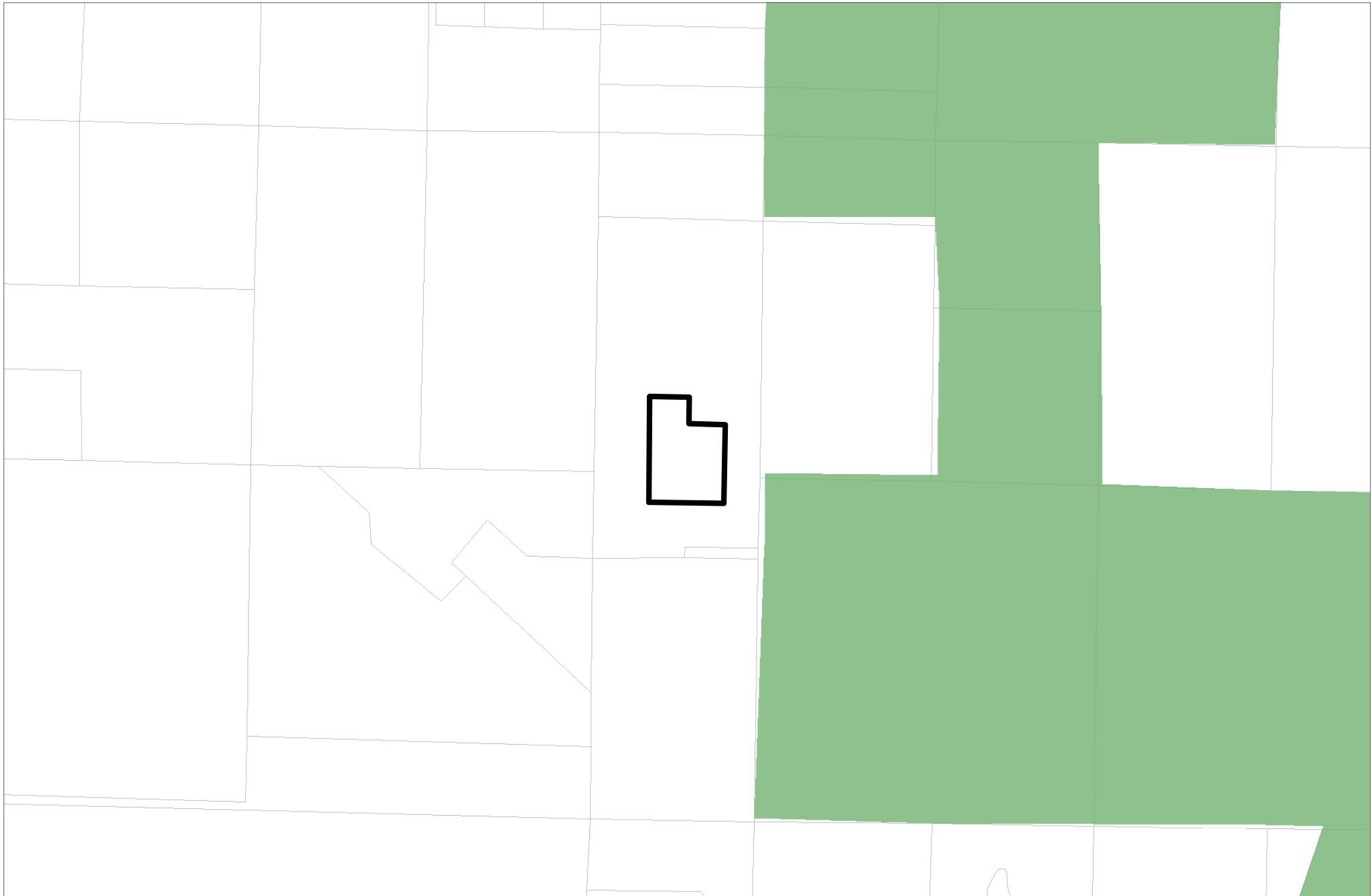
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-  Williamson Act 2016
-  Prime Ag 2016
-  Non-Prime Ag 2016



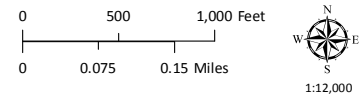
LANDS IN WILLIAMSON ACT CONTRACTS

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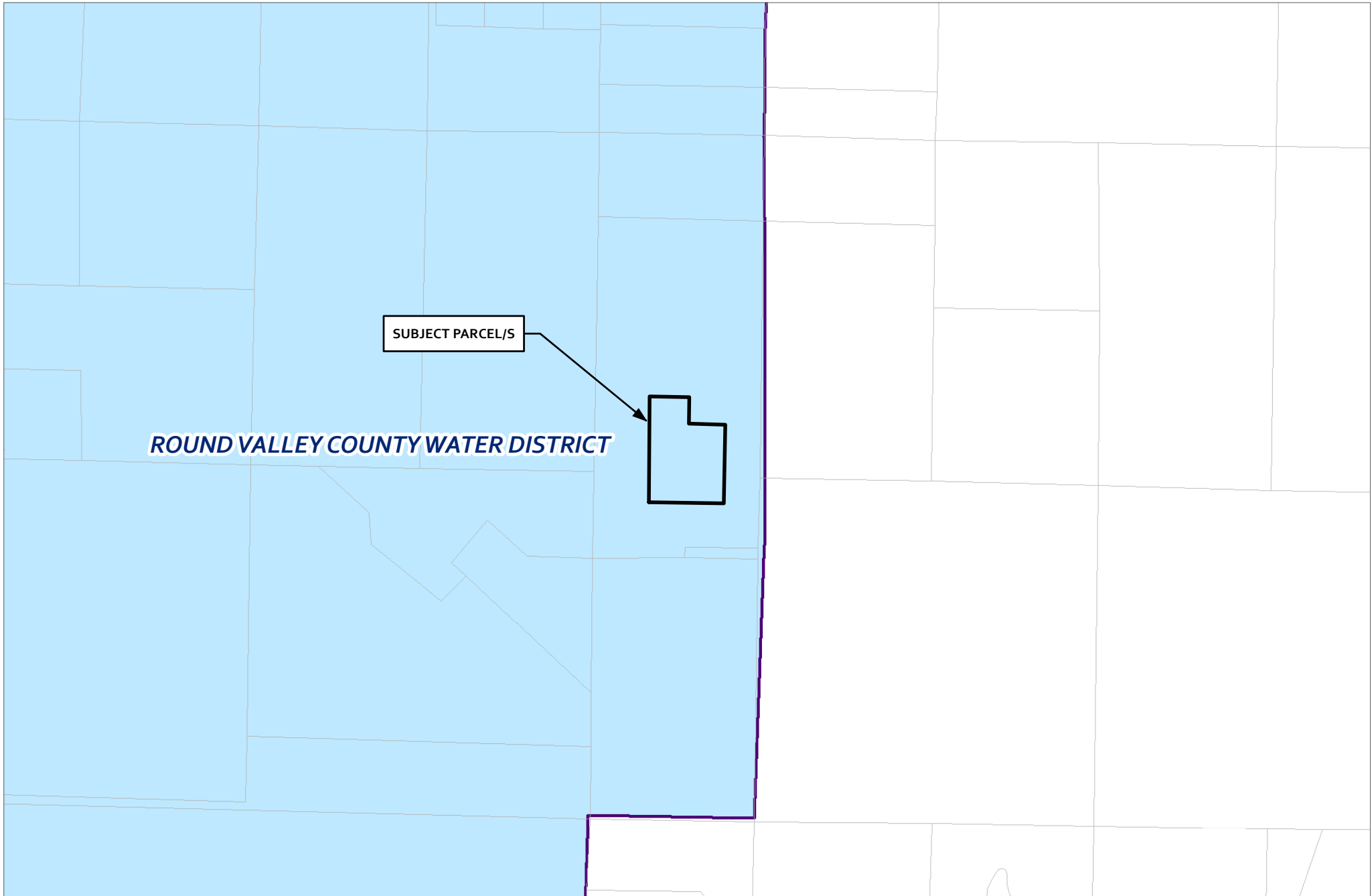
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 TPZ 2015




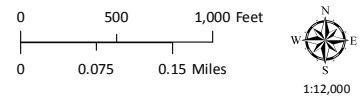
TIMBER PRODUCTION ZONES

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 County Water Districts



WATER DISTRICTS

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Resolution Number _____

County of Mendocino
Ukiah, California
June 14, 2018

UM_2017-0003 - MARTIN MILECK

RESOLUTION OF THE ZONING ADMINISTRATOR, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, GRANTING A USE PERMIT MODIFICATION FOR EXPANSION OF AN EXISTING AGRICULTURAL SALES & SERVICES.

WHEREAS, the applicant, MARTIN MILECK, filed an application for a USE PERMIT MODIFICATION with the Mendocino County Department of Planning and Building Services to expand an existing agricultural sales and services operation, 3.5± mi. east of Covelo center, on the east side of Hill Road (CR 327B), 1± mi. south of eastern terminus of East Lane (CR 327C). Located at 74540 Hill Road, Covelo (APN: 034-020-68); General Plan AG; Zoning AG:40/FP; Supervisorial District 3; (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 Class 4; and

WHEREAS, in accordance with applicable provisions of law, the Zoning Administrator held a public hearing on, June 14, 2018, at which time the Zoning Administrator heard and received all relevant testimony and evidence presented orally or in writing the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Zoning Administrator has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Zoning Administrator regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Administrator makes the following findings;

1. **General Plan & Zoning Consistency Findings:** The subject parcel has a General Plan Land Use Designation of Agricultural (AG) and the Project is consistent with the General Plan definition. Additionally, the subject parcel lies within the Zoning District of Agricultural (AG:40) and the Project is consistent with the Zoning District per MCC 20.056.
2. **Use Permit Findings:** The Project satisfies the Use Permit required findings per the Mendocino County Code §20.196.020.
3. **Environmental Protection Findings:** The proposed project has been determined to be Categorically Exempt from a CEQA Initial Study under a Class 1 and Class 4 exemption.

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

BE IT FURTHER RESOLVED that the Zoning Administrator designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Zoning Administrator 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 Zoning Administrator 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:

IGNACIO GONZALEZ
Zoning Administrator

EXHIBIT A

CONDITIONS OF APPROVAL UM_2017-0003 - MARTIN MILECK JUNE 14, 2018

APPROVED PROJECT DESCRIPTION: Modification to Use Permit 22-88/90 to allow for agricultural sales and services on the west side of Hill Road and modification to the previously adopted Conditions of Approval.

CONDITIONS OF APPROVAL:

PREVIOUSLY APPROVED CONDITIONS OF UM 22-88/90

A. Conditions which must be met prior to July 22, 1990:

1. Prior to July 22, 1990, applicant shall construct a standard two-way commercial driveway approach onto Hill Road, CR 327B, pursuant to encroachment permit procedures administered by the Department of Public Works. No work shall commence in the public right of way without the applicant (owner) first having applied for and received an approved encroachment permit. Written verification shall be submitted to the Department of Planning and Building Services from the Department of Public Works verifying that this condition has been satisfied.
2. Applicant shall submit architect or engineered plans to the Building Division of the Department of Planning and Building Services for the structure used as the store. The permit for this structure must be issued within three months unless an extension is approved by the Zoning Administrator.
3. Materials for the Farm Supply Business shall be confined to the east side of Hill Road, with only firewood storage allowed west of Hill Road. The total area for the operation shall not exceed 10 acres.
4. That an accurate plan, prepared by a qualified person, depicting the operation boundaries, areas of use, parking, etc., be submitted to and approved by the Department of Planning and Building Services.

B. Conditions which must be complied with for the duration of this permit:

1. That no more than 20 percent of the firewood operation may involve on-site cutting of wood.
2. Noise levels may not exceed 55 dba/Ldn as measured at the nearest residence.
3. Should on-site tree cutting be used as part of the firewood operation, a timber harvest plan shall be reviewed and approved by the California Department of Forestry. A copy of the timber harvest plan shall be submitted to the Department of Planning & Building Services.
- ~~4. That the operation must be confined to no more than 10 acres, on the east side of Hill Road.~~
- ~~5. All outside storage of materials and goods must be set back 50 feet from Hill Road.~~
6. A 30 foot clear area must be kept around all firewood, materials, and structures as required by the California Department of Forestry.
7. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
8. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Zoning Administrator.

9. That this permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State, and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
10. This permit shall be subject to revocation or modification by the Zoning Administrator upon a finding that any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as a nuisance.
11. 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 difference than that which is legally required by this permit, this permit shall become null and void.

NEW CONDITIONS FOR UM_2017-0003:

12. A standard commercial road approach shall be constructed onto Hill Road (CR 327B) to a minimum width of twenty two (22) feet, area to be improved twenty (20) feet from the edge of the County road, to be surfaced with asphalt concrete.
13. Any proposed work within County right-of-way requires obtaining an encroachment permit from the Mendocino County Department of Transportation.
14. The operation shall be confined to no more than ten (10) acres and shall not be conducted in any portion of the FEMA designated Flood Plain.
15. All outside storage of materials shall be set back ten (10) feet from Hill Road.