



**ZONING ADMINISTRATOR
STAFF REPORT- VARIANCE**

**OCTOBER 19, 2018
V_2018-0003**

OWNER/APPLICANT: TEX AND LYNNE SAWYER
P O BOX 304
PHILO CA 95466

AGENT: STEVEN WOOD
P O BOX 166
BOONVILLE CA 95415

REQUEST: Variance to allow a 466 sq. ft. single story accessory building consisting of a workout room, a bathroom and a garage to be built within the required front yard setback. The required setback from the center of the existing private road (Whipple Ridge Rd.) is 45 ft., while the applicant requests a setback of thirty feet from the center of Whipple Ridge Road. Existing on the site is a 1,480 sq. ft. single-family residence. A variance is requested due to the rear half of the lot sloping steeply downhill towards Indian Creek.

LOCATION: .40± miles southeast of the town of Philo, 700± ft. east of State Hwy. 128 (SH 128), located at 8821 Whipple Ridge Rd. (Private), Philo (APN:046-080-21).

TOTAL ACREAGE: .60± acre

GENERAL PLAN: Rural Residential (RR5)

ZONING: Rural Residential (RR5)

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: The application is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) per §15305 (Class 5) (a) minor lot line adjustments and setback variances not resulting in the creation of any new parcel.

RECOMMENDATION: Approve with Conditions

STAFF PLANNER: Keith Gronendyke

BACKGROUND: There is an existing single family residence on the property. The proposed 466 square foot single story accessory structure is slated to have an exercise room, a bathroom and a single car garage. The rear portion of the property directly behind the residence slopes steeply down to Indian Creek, which precludes development without extensive grading and engineering of any structure along with a geotechnical report more than likely to be required to be prepared prior to any construction.

PROJECT DESCRIPTION: This variance request is for a reduced front yard setback. County regulations contained in Sections 20.048.045 Setback Exception and 20.152.020 Corridor Preservation Setback of the Zoning Ordinance require that buildings be set back not only from front property lines a certain distance, depending on what zoning district the property is located in, but also set back from the center of any roadway, public or private, that fronts along the property. In this case, the setback from the center of Whipple Ridge Road, which is a private roadway, is required to be 25 feet while the setback from the property line within the RR5 Zoning District and on a parcel that is less than five acres in size is 20 feet. When these two front setback requirements are added together, the total setback requirement from the

center of the roadway to the front of any structure is 45 feet. As shown on the attached plot plan (see Attachment C) the applicant is requesting a setback from the center of the road to the front of the accessory building of 30, which is 15 ft. less than the requirement.

APPLICANT'S STATEMENT: The applicant has provided the following support for his request for a variance:

"Existing residence is built on relative flat adjacent to road. Septic system and well occupy part of remaining flat. Some sandy loam with scattered creek cobbles. Balance of site is extremely steep bluff to Indian Creek. Partly wooded with Bay and Oak trees."

REVIEW AGENCY AND DEPARTMENT COMMENTS: This application was distributed to the following Mendocino County agencies for any relevant comments: Department of Transportation, Planning Department, Fort Bragg office, Environmental Health Department, Building Department, Fire District of Anderson Valley and Assessor's Office. The following California State Agency was contacted: Department of Forestry; Cal Fire. The following Native American Tribes were also contacted: Cloverdale Reservation, Redwood Valley Rancheria and Sherwood Valley Rancheria of Pomo Indians

REFERRAL AGENCIES	NOT RETURNED	"NO COMMENT"	COMMENTS
Department of Transportation		X	
Environmental Health- Ukiah	X		
Building Services-Ukiah PBS		X	
Anderson Valley Fire Department	X		
Assessor	X		
Cloverdale Rancheria	X		
Redwood Valley Rancheria		X	
Department of Forestry/Calfire		X	
Sherwood Valley of Pomo Indians	X		

SURROUNDING LAND USE AND ZONING:

	ADJACENT GENERAL PLAN	ADJACENT ZONING	ADJACENT LOT SIZES	ADJACENT USES
NORTH:	Agricultural (AG40)	Range Land (RL)	340± Acres	Vineyard, Single-Family Dwelling
EAST:	Rural Residential (RR5)	Rural Residential (RR5)	3± Acres	Single-Family Dwelling
SOUTH:	Rural Residential (RR5)	Rural Residential (RR5)	3.08± Acres	Single-Family Dwelling
WEST:	Rural Communities (RC)	Limited Industrial(L1) and Rural Communities (RC)	1.5± and 4± Acres	PG&E and Lumber Yard

SERVICES:

Access: Whipple Ridge Road (Private Road)
 Fire District: Anderson Valley Fire Department/Calfire
 Water District: On site well
 Sewer District: N/A
 School District: Anderson Valley Unified School District

APPLICANT'S INFORMATION: The applicant has submitted the following information to substantiate the required findings that must be made prior to action by the Zoning Administrator:

(A) *That there are special circumstances applicable to the property involved, including size, shape, topography, location or surrounding;*

A small parcel with steep topography to the south, a bluff dropping to Indian Creek. Approximately 2/3 of site cannot be built upon due to slope and necessary protection of creek.

- (B) *That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the Division;*

The limitations are inherent in the characteristics of the site and have not been created by any action of the applicant.

- (C) *That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question;*

Other properties on Whipple Ridge Road have built structures within the "corridor preservation" setbacks with or without variances, specifically Scharffenberger Cellars has a variance for worker housing.

- (D) *That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located;*

A variance for this project will in no way be harmful to public welfare or to the property or to improvements in the vicinity and zone in which the property is located.

- (E) *That the granting of such variance will not adversely affect the General Plan.*

The variance will not adversely affect the General Plan

STAFF ANALYSIS: After reviewing the application materials, reviewing the findings, the applicant's statement and requisite Mendocino County documents staff determined that the findings that must be made as noted in Mendocino County Code Section 20.200.020 can be substantiated.

Required Findings:

- (A) **That there are special circumstances applicable to the property involved including size, shape, topography, location and surroundings.**

The rear of the property falls off quite steeply ending at the bank of Indian Creek. The approximate distance from the rear of the existing single family residence to the bank of Indian Creek is 120 feet, with an elevation change of roughly 40 feet, which equates to an approximate slope of thirty-three percent. **Because of this special circumstance applicable to the rear topography of the lot, Finding (A) can be made.**

- (B) **That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the chapter.**

The special circumstances that create the need for a variance are not due to any action of the applicant but are primarily caused by the existing steep slope of the land that naturally occurred as a result of Indian Creek slowly and naturally eroding the surrounding hillsides, including the one immediately adjacent to the applicant's residence. **As such, Finding (B) can be made.**

- (c) **That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question.**

There is sufficient precedence already established along Whipple Ridge Road for the reduced front yard setback. As an example, in 2007, a variance was granted for a setback of twenty-five feet instead of the required fifty foot setback in order to construct a farm labor housing unit at 8601 Whipple Ridge Road, which is approximately one-third of a mile from the subject property. **As such, Finding (C) can be made.**

- (D) **That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.**

The applicant posits that the granting of such variance will not be materially detrimental to the public welfare. As previously stated by the applicant: "A variance for this property will in no way be harmful to the public welfare, or property or improvements in the vicinity and zone in which the property is located." Staff agrees with the applicant's assessment in that a minor setback reduction will not negatively affect traffic along Whipple Ridge Road, nor will it negatively affect neighboring property owner's views of the surrounding countryside. Also, as noted above in (C), there is at least one documented case of the same variance request that was previously granted at a neighboring property. **As such, Finding (D) can be made.**

- (E) **That the granting of such variance will not adversely affect the General Plan..**

Policy CP-AV-21 of the Mendocino County General Plan states: "*Hillside development that results is excessive grading or removal or disturbance of native vegetation in Anderson Valley shall be limited to the extent possible.*" The variance seeks to place the accessory dwelling in the front yard setback and not in the rear yard, which would necessitate extensive grading and disturbance of native vegetation. **As such, the variance is consistent with the above noted General Plan policy and Finding (E) can be made.**

Policy DE-1 of the Mendocino County General Plan states in part: "*To the extent possible, future growth in Mendocino County should be accommodated in the cities...and in unincorporated communities with the infrastructure and service capacity to support growth. Future growth should be encouraged on infill parcels and areas contiguous to existing development.*" This development proposal is close to the unincorporated community of Philo and could be considered to be an infill parcel within the Anderson Valley area of Mendocino County. **As such, the variance is consistent with the above noted General Plan policy and Finding (E) can be made**

October 4, 2018

DATE

Keith Gronendyke

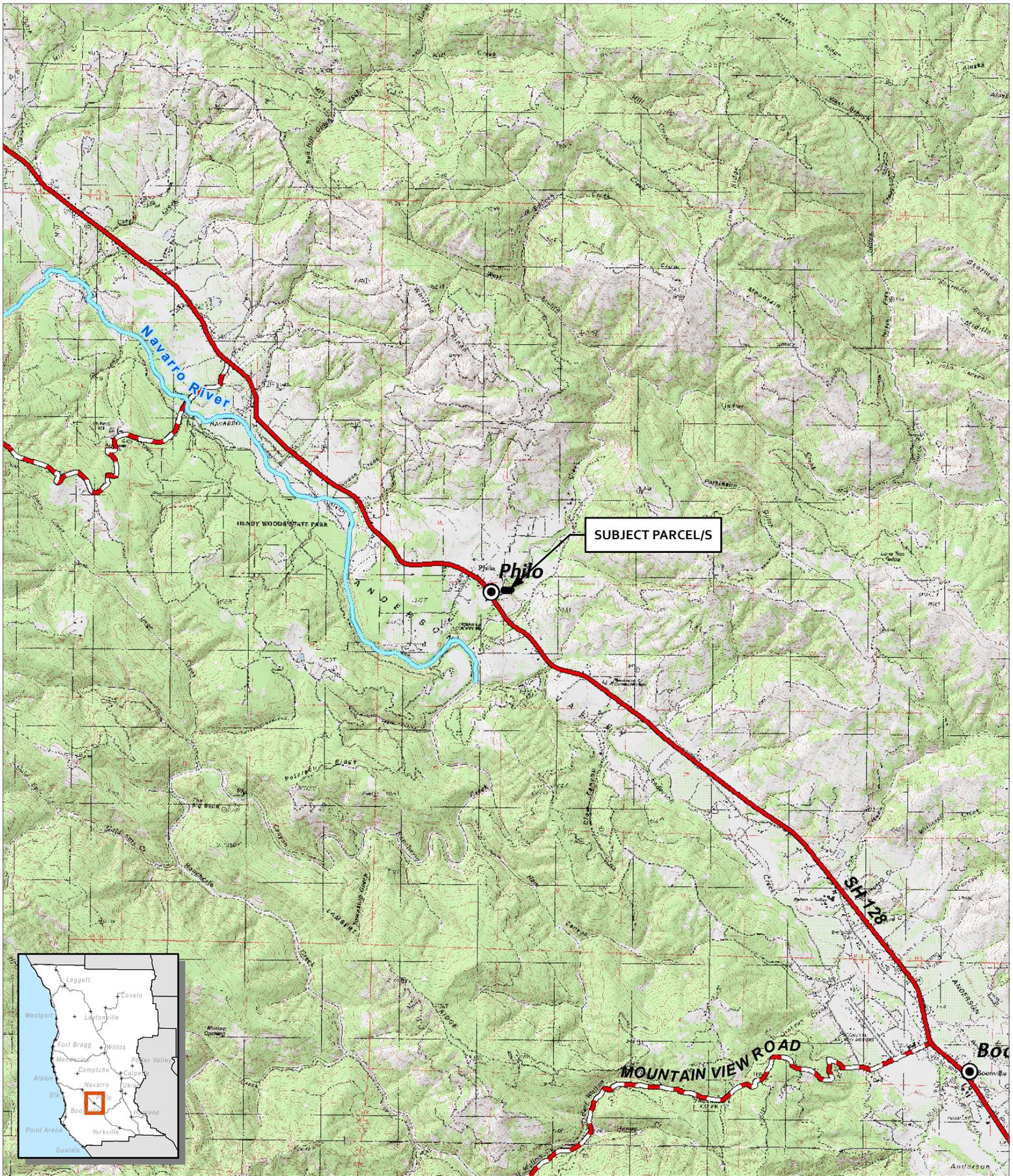
KEITH GRONENDYKE
PLANNER III

Appeal Fee \$1,616.00
Appeal Period 10 days

ATTACHMENTS:

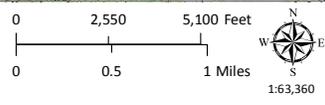
- A. Location Map
- B. Aerial Map
- C. Plot Plan
- D. Proposed Structure Elevations
- E. Adjacent Owner Map
- F. Zoning Map
- G. General Plan/LCP Map
- H. Topographic map

Resolution and Conditions of Approval (Exhibit A)



CASE: V 2018-0003
 OWNER: SAWYER, Willis & Lynne
 APN: 046-080-21
 APLCT: Willis Sawyer
 AGENT: Steven Wood
 ADDRESS: 8821 Whipple Ridge Road, Philo

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



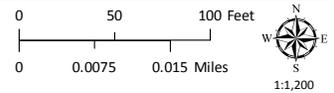
LOCATION MAP

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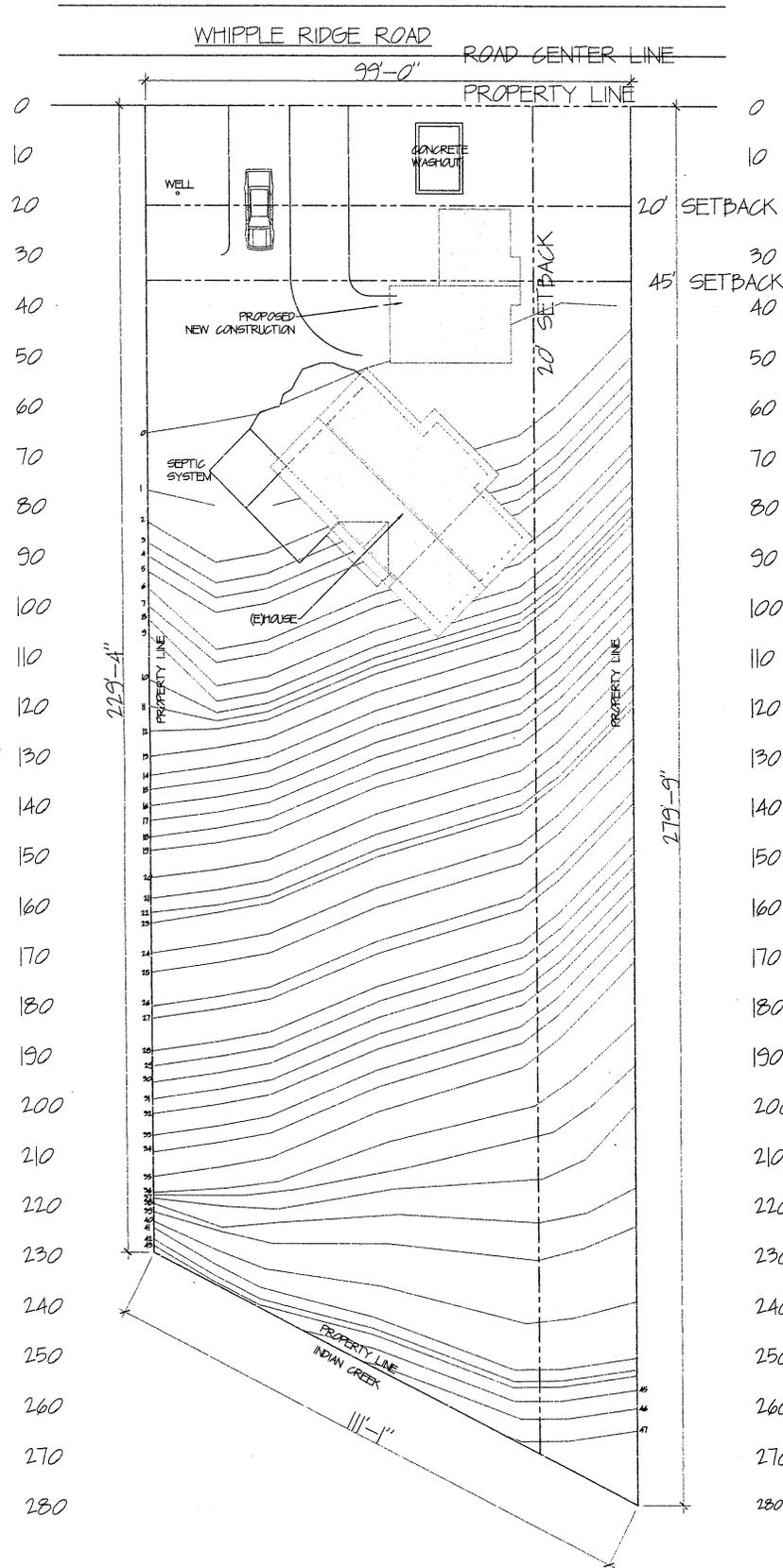
CASE: V 2018-0003
OWNER: SAWYER, Willis & Lynne
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 Named Rivers
 Private Roads



AERIAL IMAGERY

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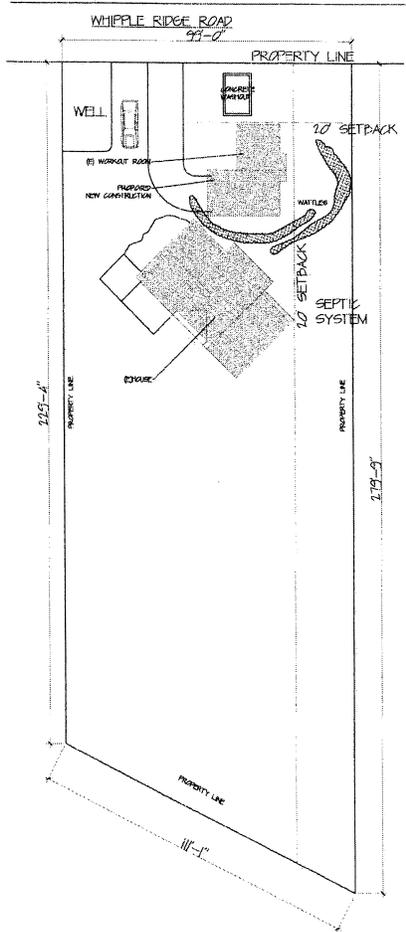


PLOT PLAN

Steven Wood Architect
 PO BOX 166
 BOONVILLE, CA 95415
 707-895-2500
 stevenkwood1945@gmail.com



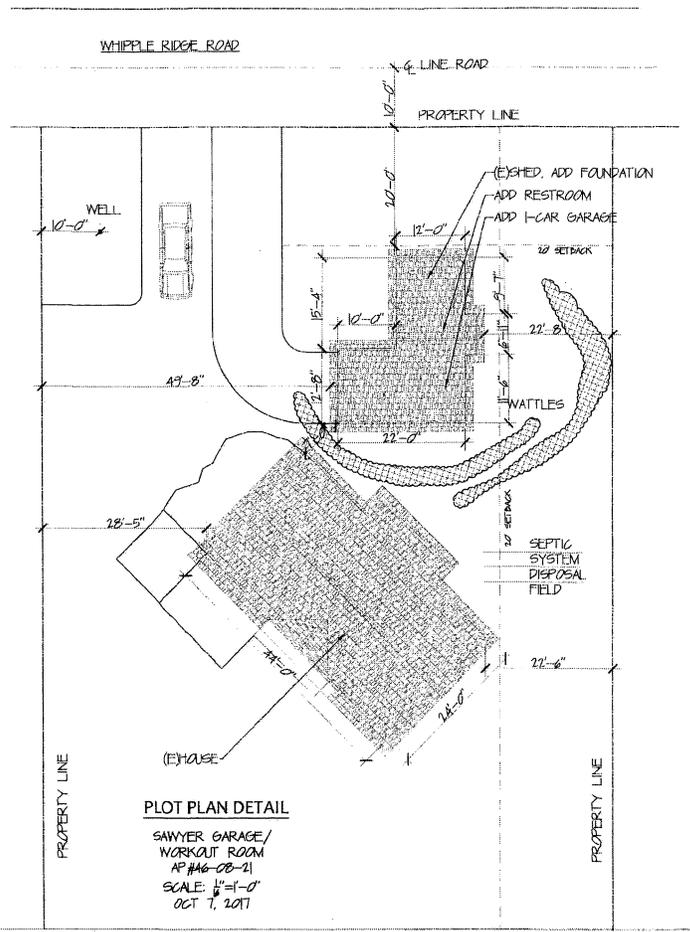
SAWYER GARAGE/
 WORKOUT ROOM
 8821 WHIPPLE RIDGE ROAD
 PHILLO, CA 95466
 AP#46-08-21
 SCALE: NTS
 MAY 10, 2018



PLOT PLAN

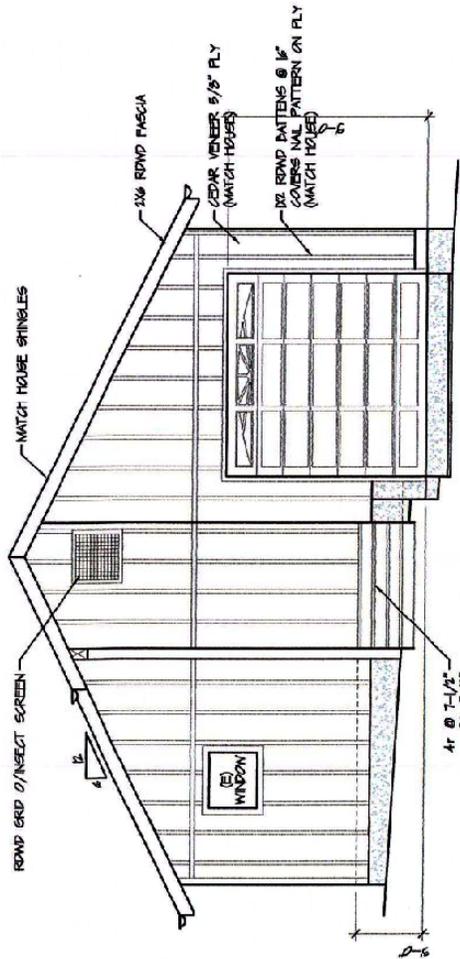
Steven Wood Architect
 PO BOX 166
 BOONVILLE, CA 95415
 707-895-2500
 stevenkwood1945@gmail.com

SAWYER GARAGE/
 WORKOUT ROOM
 AP #44-08-21
 SCALE: NTS
 SEPT 22, 2017

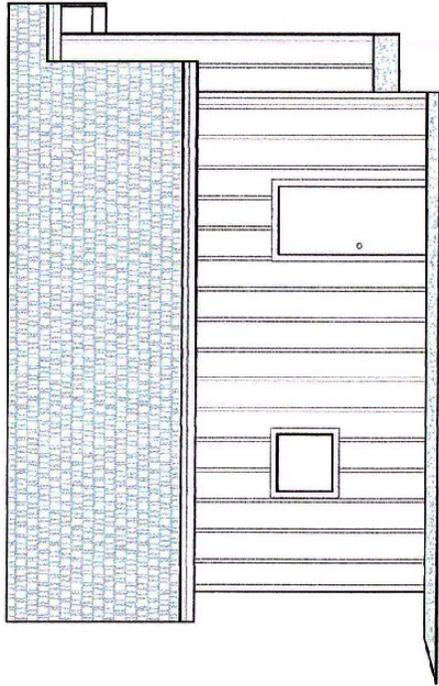


PLOT PLAN DETAIL

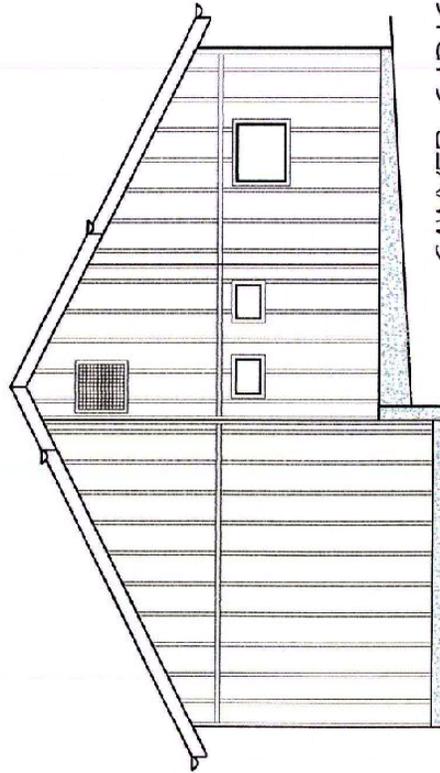
SAWYER GARAGE/
 WORKOUT ROOM
 AP #44-08-21
 SCALE: 1/4"=1'-0"
 OCT 7, 2017



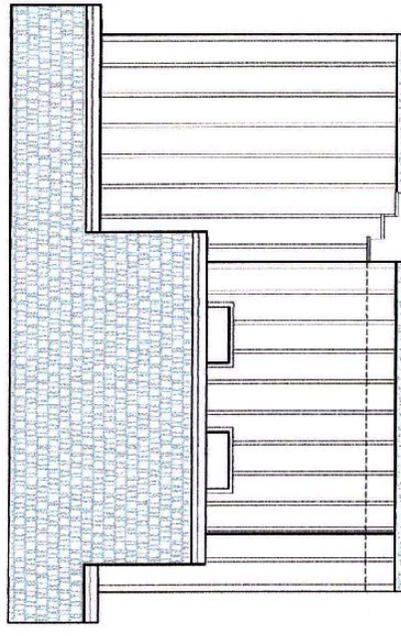
WEST



SOUTH



EAST



NORTH

SAWYER GARAGE/
WORKOUT ROOM
8821 WHIPPLE RIDGE ROAD
PHILO, CA 95466
AP #46-08-21
SCALE: NTS
MAY 10, 2018

Steven Wood Architect

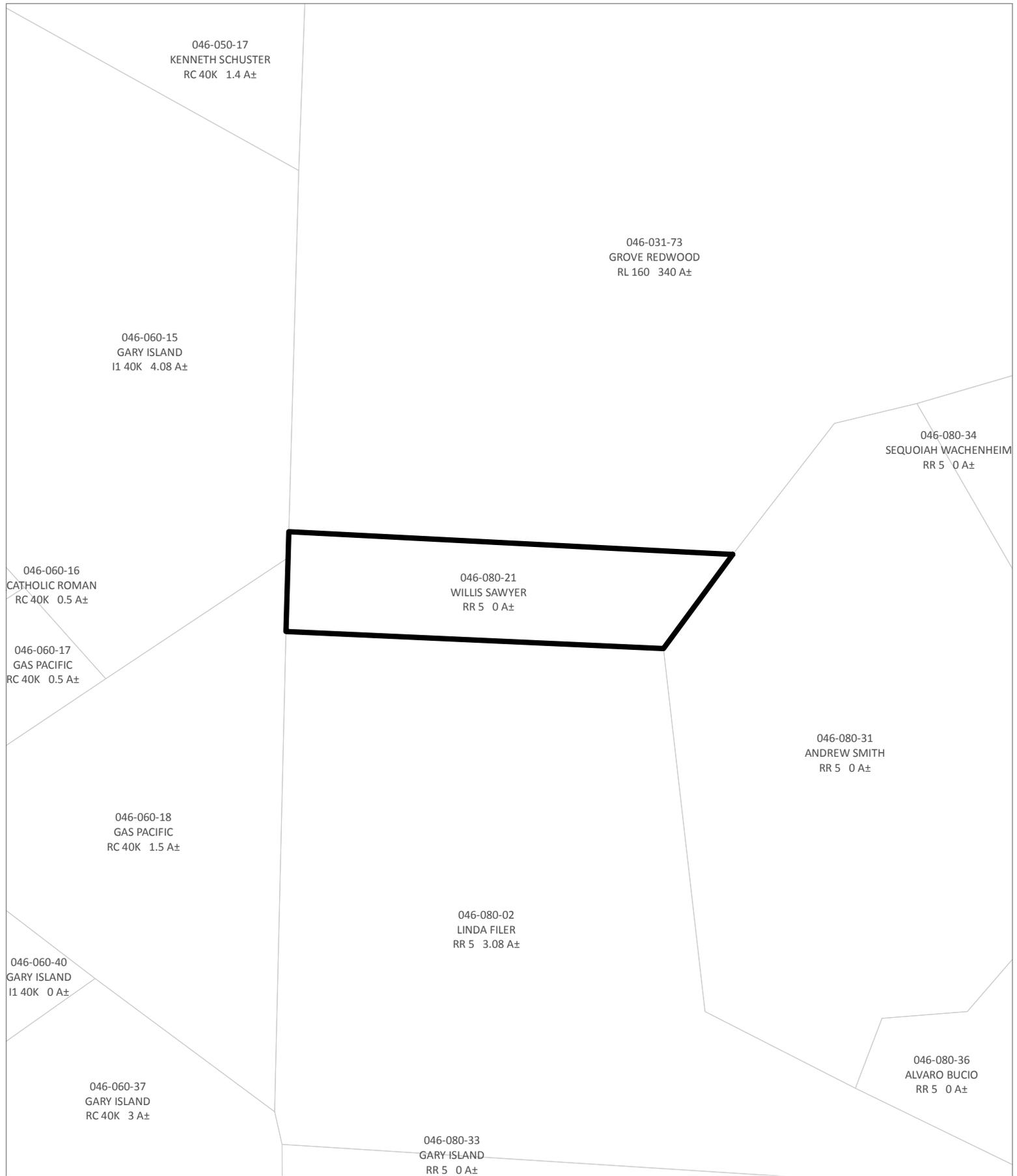
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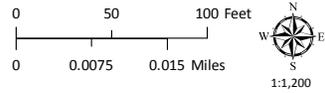
NO SCALE

ELEVATIONS

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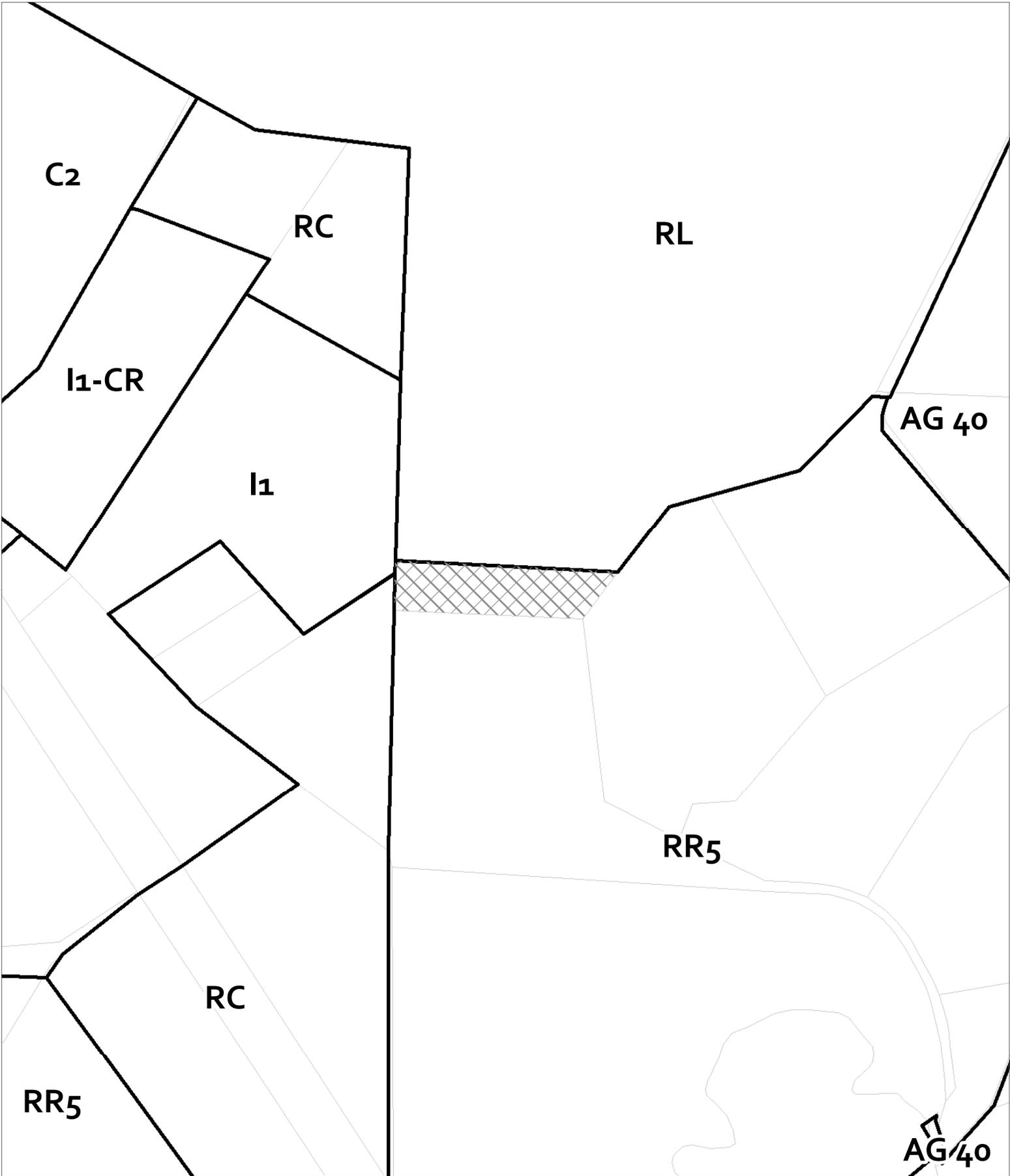


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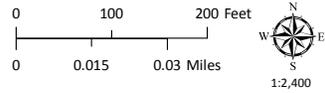
ADJACENT PARCELS

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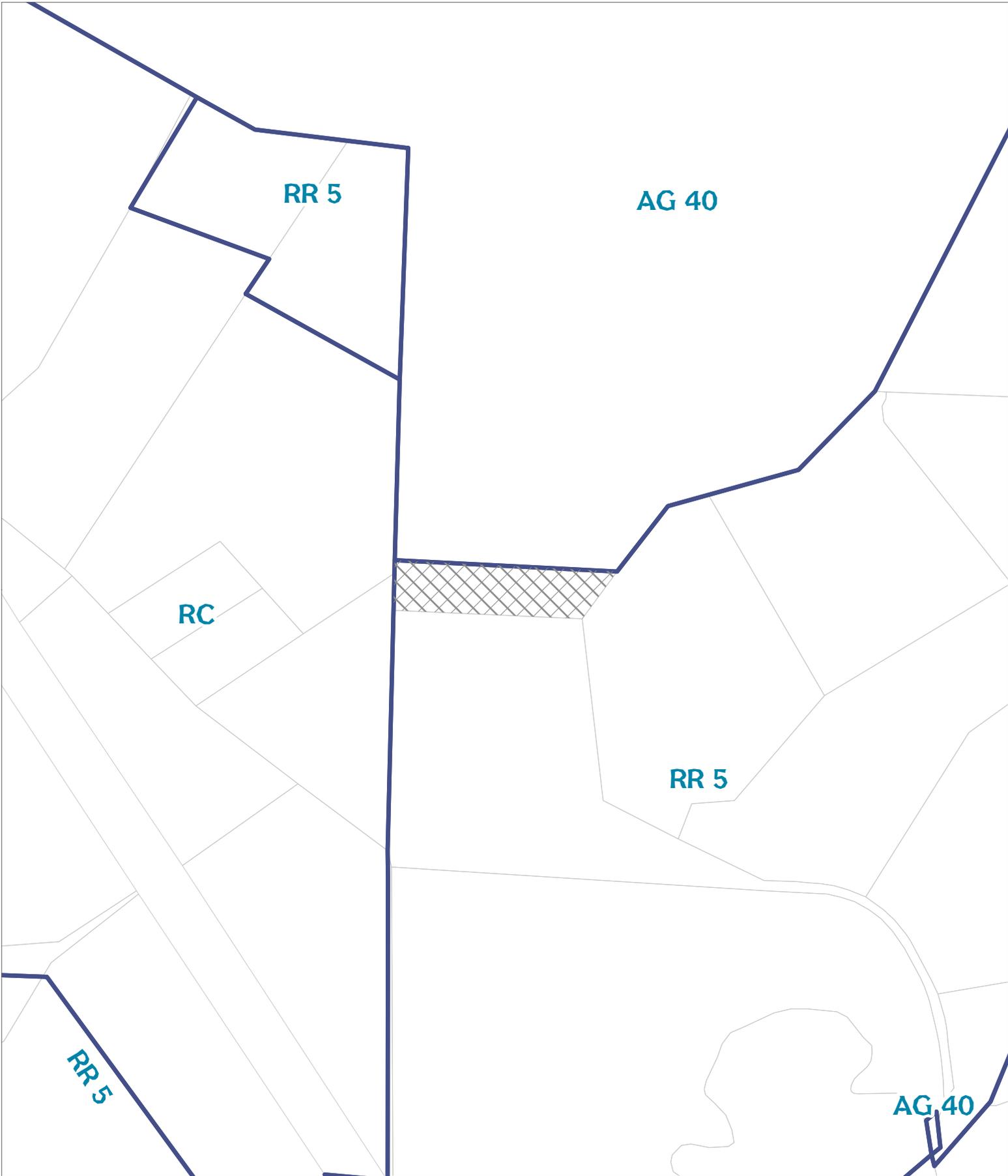
 Zoning Districts



ZONING DISPLAY MAP

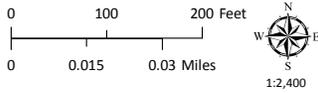
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 General Plan Classes



GENERAL PLAN CLASSIFICATIONS

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Resolution Number _____

County of Mendocino
Ukiah, California
October 19, 2018

V_2018-0003 - TEX AND LYNNE SAWYER

RESOLUTION OF THE ZONING ADMINISTRATOR, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, ADOPTING A CATEGORICAL EXEMPTION AND GRANTING A VARIANCE TO ALLOW AN ENCROACHMENT INTO THE REQUIRED FRONT YARD SETBACK

WHEREAS, the applicants, Tex and Lynne Sawyer, filed an application for a Variance with the Mendocino County Department of Planning and Building Services to allow a 466 sq. ft. single story accessory building consisting of a workout room, a bathroom and a garage to be built within the required front yard setback. The required setback from the center of the existing private road (Whipple Ridge Rd.) is 45 ft., while the applicant requests a setback of thirty feet from the center of Whipple Ridge Road. Existing on the site is a 1,480 sq. ft., Single-family residence. A variance is requested due to the rear half of the lot sloping steeply downhill towards Indian Creek at .40± miles southeast of the town of Philo, 700± ft. east of State Hwy. 128 (SH 128), located at 8821 Whipple Ridge Rd. (Private), Philo (APN:046-080-21); 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 5; and

WHEREAS, in accordance with applicable provisions of law, the Zoning Administrator held a public hearing on, October 19, 2018, at which time the Zoning Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the CATEGORICAL EXEMPTION and 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 Findings: The subject property is classified Rural Residential (RR5) under the General Plan. The proposed variance is consistent with the General Plan.
2. Zoning Findings: The subject property is zoned Rural Residential, 5 acre minimum (RR5). The project is consistent with Chapter 20.048, "R-R Rural Residential District" and the Variance provisions of Chapter 20.200 of the County Code.
3. Variance Findings: The Zoning Administrator approves V_2018-0003 subject to the conditions of approval recommended by staff, and further finding:

(A) That there are special circumstances applicable to the property involved, including size, shape, topography, location, or surrounding;

The rear of the property falls off quite steeply ending at the bank of Indian Creek. The approximate distance from the rear of the existing single family residence to the bank of Indian Creek is 120 feet, with an elevation change of roughly 40 feet, which equates to an

approximate slope of thirty-three percent. **Because of this special circumstance applicable to the rear topography of the lot, Finding (A) can be made.**

- (B) That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in the Division;**

The special circumstances that create the need for a variance are not due to any action of the applicant but are primarily caused by the existing steep slope of the land that naturally occurred as a result of Indian Creek slowly and naturally eroding the surrounding hillsides, including the one immediately adjacent to the applicant's residence. **As such, Finding (B) can be made.**

- (C) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question.**

There is sufficient precedence already established along Whipple Ridge Road for the reduced front yard setback. As an example, in 2007, a variance was granted for a setback of twenty-five feet instead of the required fifty foot setback in order to construct a farm labor housing unit at 8601 Whipple Ridge Road, which is approximately one-third of a mile from the subject property. **As such, Finding (C) can be made.**

- (D) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located;**

The applicant posits that the granting of such variance will not be materially detrimental to the public welfare. As previously stated by the applicant: "A variance for this property will in no way be harmful to the public welfare, or property or improvements in the vicinity and zone in which the property is located." Staff agrees with the applicant's assessment in that a minor setback reduction will not negatively affect traffic along Whipple Ridge Road, nor will it negatively affect neighboring property owner's views of the surrounding countryside. Also, as noted above in (C), there is at least one documented case of the same variance request that was previously granted at a neighboring property. **As such, Finding (D) can be made.**

- (E) That the granting of such variance will not adversely affect the General Plan.**

Policy CP-AV-21 of the Mendocino County General Plan states: "*Hillside development that results is excessive grading or removal or disturbance of native vegetation in Anderson Valley shall be limited to the extent possible.*" The variance seeks to place the accessory dwelling in the front yard setback and not in the rear yard, which would necessitate extensive grading and disturbance of native vegetation. **As such, the variance is consistent with the above noted General Plan policy and Finding (E) can be made.**

Policy DE-1 of the Mendocino County General Plan states in part: "*To the extent possible, future growth in Mendocino County should be accommodated in the cities...and in unincorporated communities with the infrastructure and service capacity to support growth. Future growth should be encouraged on infill parcels and areas contiguous to existing development.*" This development proposal is close to the unincorporated community of Philo and could be considered to be an infill parcel within the Anderson Valley area of Mendocino County. **As such, the variance is consistent with the above noted General Plan policy and Finding (E) can be made**

BE IT FURTHER RESOLVED that the Zoning Administrator hereby grants the requested VARIANCE 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: _____

BY: IGNACIO GONZALEZ
Zoning Administrator

EXHIBIT A

CONDITIONS OF APPROVAL V_2018-0003 – TEX & LYNNE SAWYER OCTOBER 19, 2018

APPROVED PROJECT DESCRIPTION: Variance to allow a 466 sq. ft. single story accessory building consisting of a workout room, a bathroom and a garage to be built within the required front yard setback. The required setback from the center of the existing private road (Whipple Ridge Rd.) is 45 ft., while the applicant requests a setback of thirty feet from the center of Whipple Ridge Road. Existing on the site is a 1,480 sq. ft. single-family residence. A variance is requested due to the rear half of the lot sloping steeply downhill towards Indian Creek.

ENVIRONMENTAL DETERMINATION: This project was determined to be exempt from the requirements of the California Environmental Quality Act (CEQA) per §15305 (Class 5) (a) minor lot line adjustments and setback variances not resulting in the creation of any new parcel.

CONDITIONS OF APPROVAL:

1. 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.
2. This permit is 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.
3. That the application along with supplemental exhibits and related material shall be considered elements of this entitlement and that compliance therewith is mandatory, unless a modification has been approved by the Zoning Administrator.
4. The applicant is advised that this variance will expire at the end of 2 years, on October 19, 2020, unless construction of the accessory structure is commenced and diligently pursued in compliance with required building permits prior to that date.