



**ZONING ADMINISTRATOR
STAFF REPORT- VARIANCE**

**NOVEMBER 8, 2018
V_2018-0001**

SUMMARY

OWNER/APPLICANT: BRUCE AND DINA HUTTON
2040 VALLEY ROAD
WILLITS, CA 95490

REQUEST: Variance to allow a 320 sq. ft. single story accessory building for storage to remain as partially built within the required side yard setback. The required setback from the side property line is 20 ft., while the applicant requests a setback of 10 ft. from the property line. Existing on the site is a 1,600 sq. ft. single family residence, a 792 sq. ft. pump house/garage, and a 100 sq. ft. tack room.

RECOMMENDATION: Approval

LOCATION: 1.25± miles, east of the town of Willits, directly north of the intersection of Davis St. (CR 309A), and Valley Rd. (CR 309), located at 2040 Valley Rd., Willits (APN: 103-190-05).

TOTAL ACREAGE: 2± acres

GENERAL PLAN: Agricultural (AG 40)

ZONING: Agricultural (AG 40)

SUPERVISORIAL DISTRICT: 3

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.

STAFF PLANNER: Keith Gronendyke

BACKGROUND: Currently, there is a 1,600 sq. ft. single family residence, a 792 sq. ft. pump house/garage and a 100 sq. ft. tack room on the property. According to the property owner a “boggy” condition at the rear and the western side (closest to the accessory structure) of the property precludes construction of the accessory dwelling other than where it has already been partially constructed. A review of Building Permits is as follows:

- BU 98000210 (Building Permit) issued on April 9, 1998 to construct a 160 square foot addition along with a 120 sq. ft. covered porch to the existing residence. Final inspection made, and signed off by the Building Department on February 26, 1999.
- BU_2014-0749 (Building Permit) to construct a Class K 680 sq. ft. accessory structure with a 170 sq. ft. covered deck to be utilized as a music studio. A Correction letter was sent to the applicant by Planning Department personnel and eventually this application was cancelled. No copy of the

correction letter was found in the file, but in reviewing the site plan submitted, the same 10 ft. side yard setback is also shown.

- BI_2018-0006 (Building Code Violation) opened January 12, 2018 to substantiate the partial construction of the 320 sq. ft. accessory dwelling without the issuance of a Building Permit from Mendocino County.
- BV_2018-0021 (Building Permit Violation) opened February 13, 2018 to document the partial construction of the subject 320 sq. ft. accessory structure of this variance application without the benefit of a building permit being issued by Mendocino Counties Building Department.

PROJECT DISCRPTION: This variance request is for a reduced side yard setback. County regulations contained in Section 20.052.050 Setback Exception of the Zoning Ordinance when within the Agricultural (AG 40) Zoning District and upon a lot less that five acres in size require that buildings be set a minimum of twenty feet from the side property line, in this case the east property line. As shown on the attached site plan (see attachment C) the applicant is requesting a setback from the east property line of ten feet, which is ten feet less than the requirement.

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

"The new building site is inside a fenced 100' by 100' area. It is the area behind our immediate back yard. It's our second back yard. There is a tin tool shed attached to the fence behind our house. It is near the west side of the property, right before the area becomes boggy. From east to west, the natural slope of the land is approximately one foot down (on the west side), hence the boggy area. I tried to get photos of the water that is standing on the east side today (3-27-18) but the photos did not come out, but my shoes were ruined. There are creek Willow bushes flourishing in the boggy area within that 100' by 100' area. Please note that the entire back section of the 880' long plot is boggy in the winter all the way across. Almost all our land is unsuitable for building."

"The mid-section of the area being described has a short drive used for parking or turning. The south side of the area has a driveway connected to the one in the middle to form a Y or T driveway."

"There are no known historic or cultural aspects of the plot. There is a pretty view of some of the mountains to the north."

"The property is natural Little Lake Pasture. There are some landscaped improvements near the house."

"The surrounding properties are much like ours. Two properties are the same shape as ours, long and thin. A couple of plots are smaller than ours, but most are a little larger. I believe they were subdivided by someone in the 1960s. We all have wet areas, and everyone has pasture land. We have all planted a few trees and bushes. There are no known cultural or historical aspects. I believe everyone can see some of the mountains surrounding the Little Lake Valley."

There are dogs, cats, mice, gophers, farm animals and birds, many kinds of free natural birds, bats, possums, raccoons and deer where there are no dogs. There are small kitchen gardens but no serious agriculture here. This area is zoned for agriculture and reportedly is a 10 acre minimum-except for the nearby small plots that have been grandfathered in. Most neighbors have about two acres, but some have smaller plots. There are quite a few homes fronting Valley Road right around us and many fronting Davis Street across Valley Road from us. For an agricultural area, the human intensity is high, but it is not nearly as intense as Willits' neighborhoods. Most of the homes front the streets with vacant spaces behind the homes. Most of the other buildings, generally outbuildings, tend to be relatively near the houses on their plots. Many plots have multiple dwellings."

Approximately a city block length away to the east is Little Lake Mobile Home Park on Valley Road."

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 Little Lake 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 Rancheria, 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	X		
Little Lake Fire Department		X	
Assessor	X		
Cloverdale Rancheria	X		
Redwood Valley Rancheria	X		
Department of Forestry/Calfire		X	
Sherwood Valley of Pomo Indians	X		
Planning Dept. Fort Bragg		X	

SURROUNDING LAND USE AND ZONING:

	Adjacent General Plan	Adjacent Zoning	Adjacent Lot Sizes	Adjacent Uses
NORTH:	Agricultural (AG40)	Agricultural (AG40)	3.13± Acres	Single Family Dwelling
EAST:	Agricultural (AG40)	Agricultural (AG40)	1.4 and 3.6± Acres	Single Family Dwelling
SOUTH:	Agricultural (AG40)	Agricultural (AG40)	.29± Acres	Single Family Dwelling
WEST:	Agricultural (AG40)	Agricultural (AG40)	2± Acres	Single Family Dwelling

SERVICES:

Access: Valley Road (Public Road)
 Fire District: Little Lake Fire Department/Calfire
 Water District: On-site well
 Sewer District: N/A
 School District: Willits 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;

"This plot, APN: 103-190-05, has special circumstances due to size, shape and topography. It is too narrow to accommodate the 50 ft. setback requirement; it is only 100 ft. wide, which leaves no space at all to build any building. The topography is also a problem. The east side is much too boggy for a building. The west side has the only possible building site because the land is high enough and firm it will not flood unless there is a catastrophe and everything is inundated. Were the plot 10 acres, as

mandated for this area, there would likely be space for a 50 ft. setback. So, the plot size is also an issue. The rules were designed for larger plots after these plots were created. The attached map of this plot and neighboring plots graphically shows the odd shape of this plot.”¹

- (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;

“No, these special circumstances are not due to any action of ours, the Hutton’s, who are the applicants. The size of our plot was created by someone well before we bought the plot 41 years ago. We bought it this way.”

- (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;

“Yes, we absolutely need this variance in order to enjoy our property rights. Many neighbors have the same issues due to size and shape of their plots. Many other neighbors do not have these issues because their plots can accommodate the setback rule. Again, this can easily be seen by looking at the map of our neighborhood of plots.”

- (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;

“No, granting this variance will not materially harm the public welfare or injure any neighbors’ property or improvements. Please see letters from neighbors attesting to this finding.”

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

“No, granting of this variance will not adversely affect the General Plan for the County of Mendocino. The variance is for a small building in keeping with the other buildings in this vicinity. It 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 property dimensions are approximately 100 ft. wide by 855 ft. long. This is a ratio of about 8 to 1. While this does allow development, certain constraints are inherent in development on such a narrow parcel. **Because of this special circumstance applicable to the extreme length to width ratio of the lot, Finding (A) can be made.**

¹ Staff should add that initially the applicant was told that the setbacks applicable to this property were fifty feet from each property line. This was in error. The zoning designation of the parcel is AG 40, which does require fifty foot setbacks from all property lines for structures unless the parcel is less than five acres, which then the required setbacks are twenty-feet from all property lines. As the subject parcel is approximately two acres, the lesser of the two setbacks would apply. Subsequent to the application being submitted, staff discovered this error and informed the applicant.

- (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. As noted above in Applicant's Information (B), the property was subdivided prior to the applicant's purchase of the subject parcel. This can be verified by looking at the appropriate historical APN book in the Planning and Building Department, which shows the same parcel configuration on the APN page dated March 1969. **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.**

In assessing the Mendocino GIS satellite photographs of surrounding properties adjacent to the applicant's parcel, there are many accessory structures located on all sides of the applicant's property. While it is not known if these structures required a variance, these structures can set a precedence for approving of an accessory structure for this applicant. **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 has stated above that the granting of such variance will not be materially detrimental to the public welfare. As previously stated by the applicant: *"No, granting this variance will not materially harm the public welfare or injure any neighbors' property or improvements. Please see letters from neighbors attesting to this finding."* Staff agrees with the applicant's assessment in that a minor setback reduction will not negatively affect the most impacted property owner to the east as this properties single family residence is located immediately adjacent to Valley Road and approximately 220 ft. to the south. **As such, Finding (D) can be made.**

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

Policy RM-29 page 4-39 reads: *"All public and private discretionary projects shall avoid impacts to wetlands if feasible. If avoidance is not feasible, projects shall achieve no net loss of wetlands, consistent with state and federal regulations."*

While the applicant identifies a good portion of the project parcel as "boggy" a review of the County of Mendocino's GIS mapping for flood hazards indicates that the rear one-fifth of the lot is located in flood zone A, while the project site is in flood zone X, which delineates minimal flood hazard. The topography of the lot is such that runoff of storm water is slow, which is most likely the cause of the "boggy" nature of the rear half of the lot.

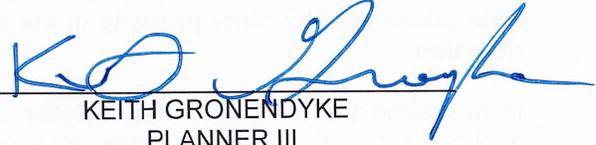
Policy RM-42 on page 4-41 reads: *"Direct new development to community areas and limit development of rural resource lands."* While this parcel is not technically within a designated community area, it is located within a cluster of relatively small parcels that could be considered to be a local community area with limited or no financially viable agricultural operations. **As demonstrated, the variance is consistent with the above noted General Plan policies and, therefore, Finding (E) can be made**

RECOMMENDATION

By resolution, the Zoning Administrator accepts the Categorical Exemption and grant approval of Variance V 2018-0001, as conditioned, based on the facts and findings and subject to the conditions of approval.

10-29-18

DATE

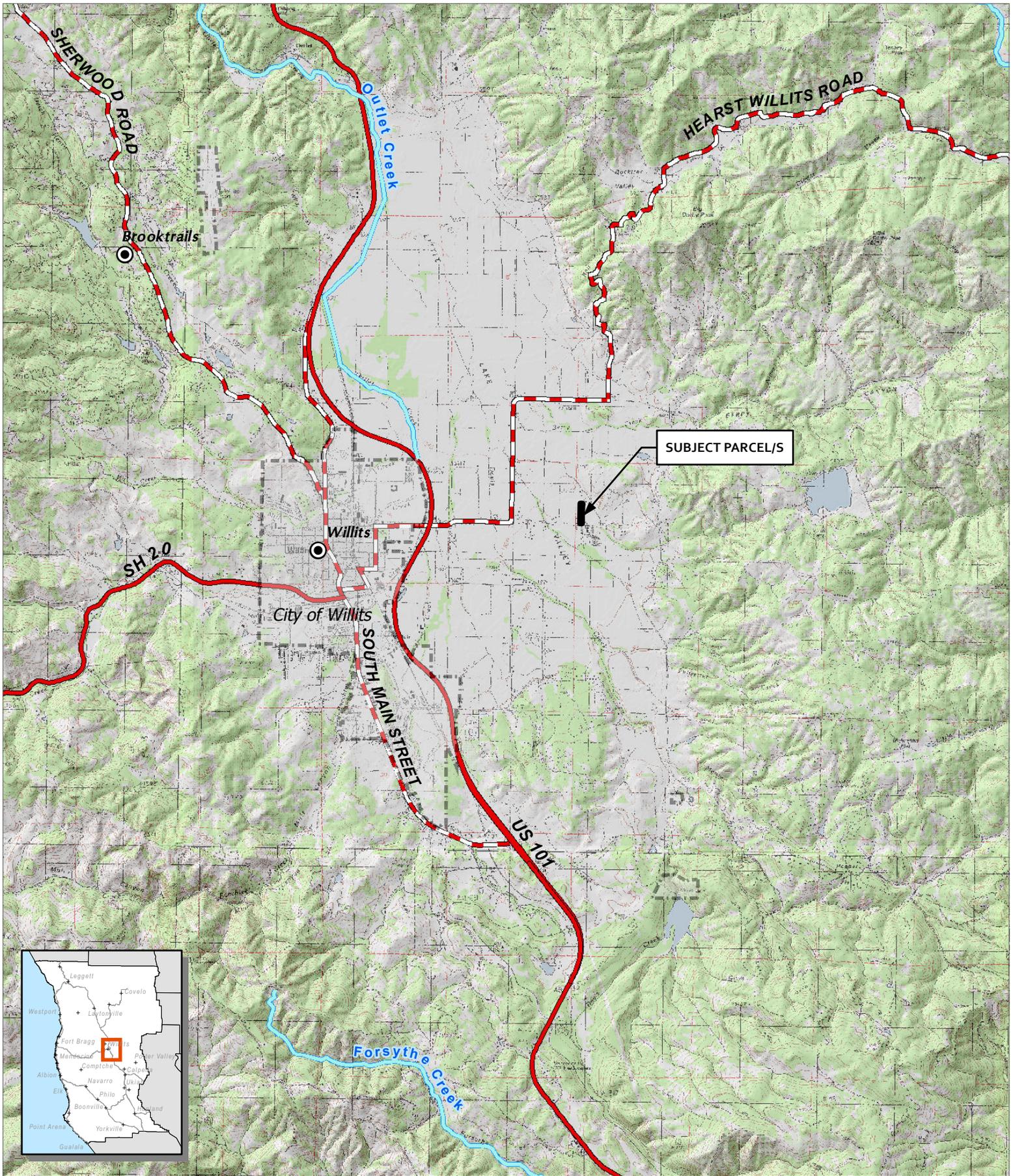

KEITH GRONENDYKE
PLANNER III

Appeal Fee-\$1,616.00
Appeal Period-10 days

ATTACHMENTS:

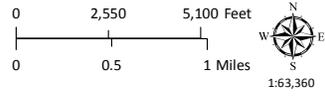
- A. Location Map
- B. Aerial Map
- C. Plot Plan
- D. Proposed Structure Elevations
- E. Adjacent Owner Map
- F. Zoning Map
- G. General Plan/LCP Map
- H. Photographs of partially constructed subject accessory structure

Resolution and Conditions of Approval (Exhibit A)



CASE: V 2018-0001
 OWNER: HUTTON, Dina & Bruce
 APN: 103-190-05
 APLCT: Bruce & Dina Hutton
 AGENT:
 ADDRESS: 2040 Valley Road, Willits

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



LOCATION MAP

THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.
 DO NOT USE THIS MAP TO DETERMINE LEGAL PROPERTY BOUNDARIES

ATTACHMENT A

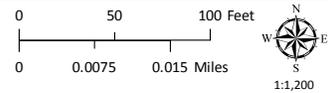


VALLEY ROAD 309

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

CASE: V 2018-0001
OWNER: HUTTON, Dina & Bruce
APN: 103-190-05
APLCT: Bruce & Dina Hutton
AGENT:
ADDRESS: 2040 Valley Road, Willits

-  Public Roads
-  Driveways/Unnamed Roads



AERIAL IMAGERY

ATTACHMENT B

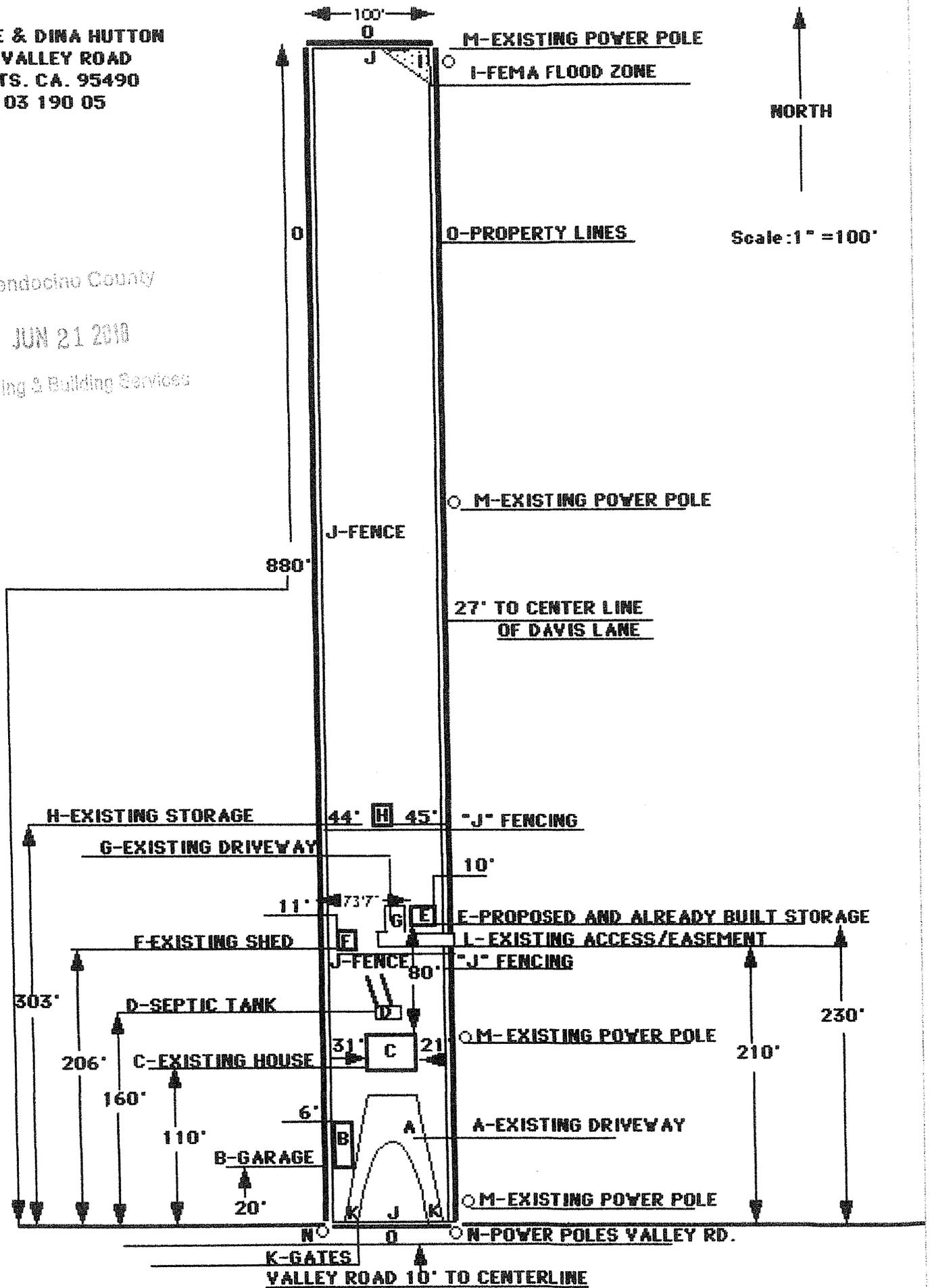
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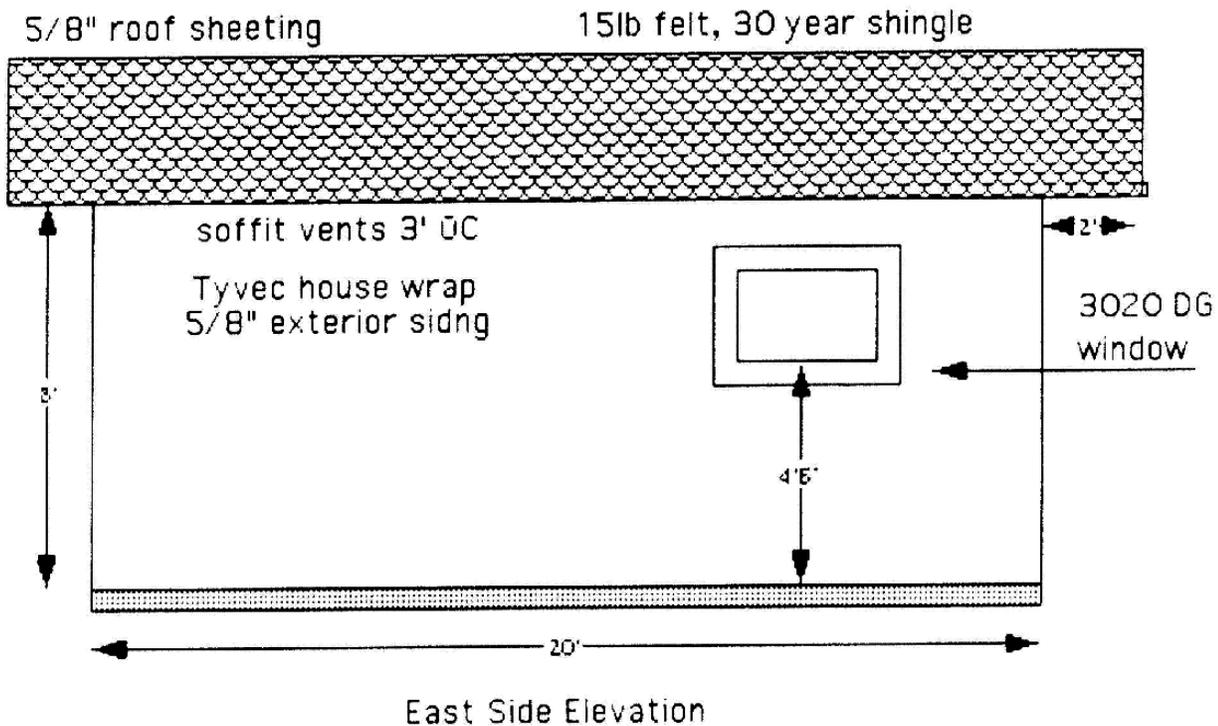
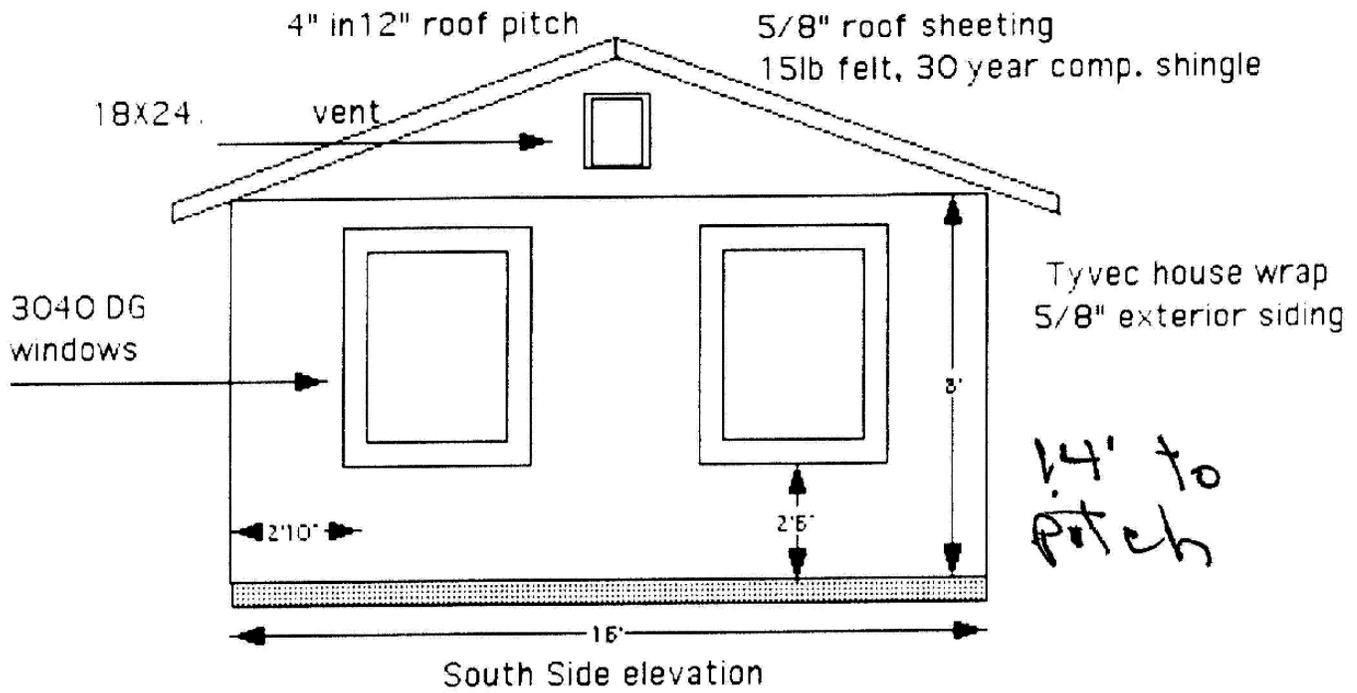
BRUCE & DINA HUTTON
2040 VALLEY ROAD
WILLITS, CA. 95490
APN 103 190 05

Mendocino County

JUN 21 2010

Planning & Building Services





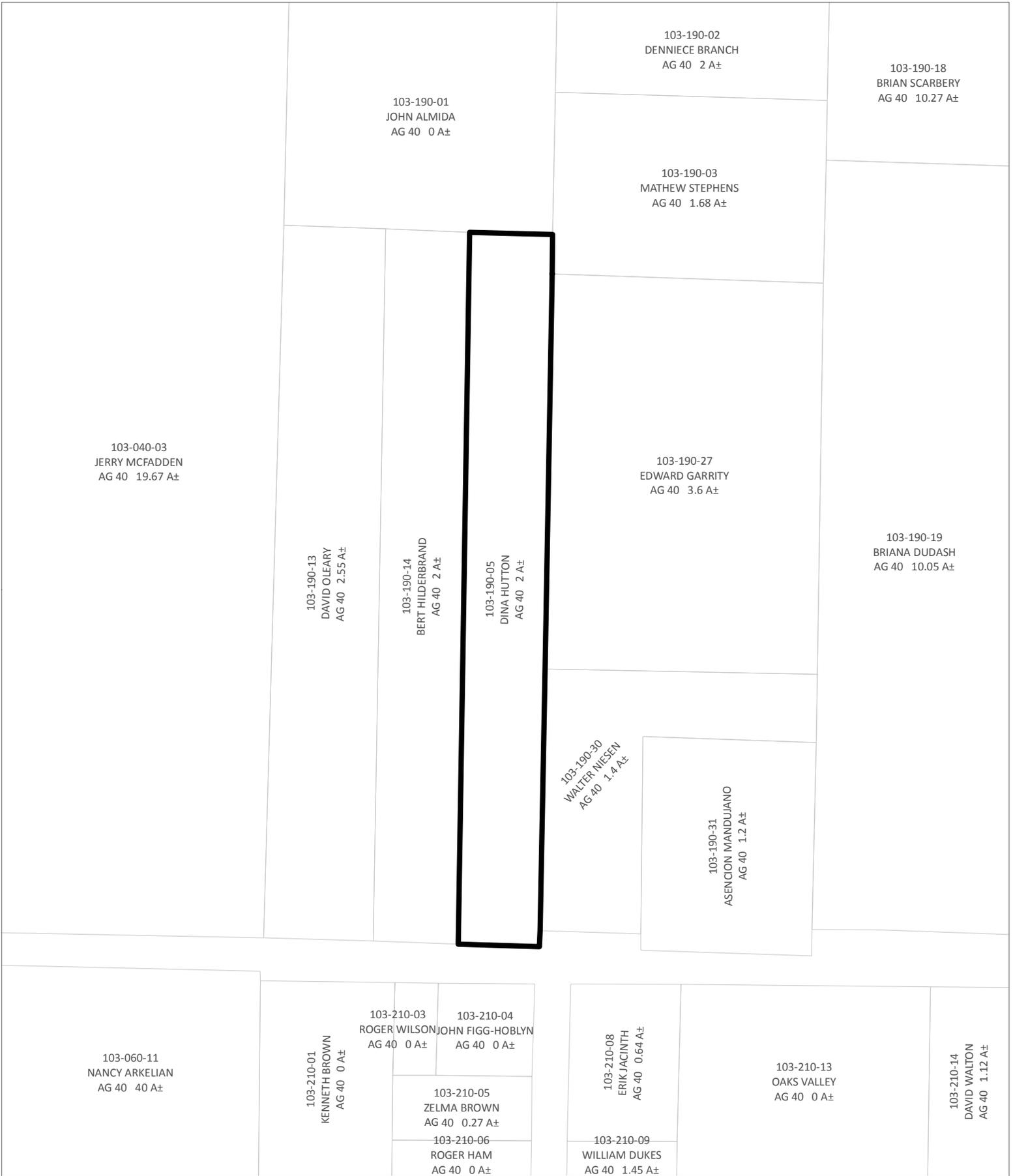
CASE: V 2018-0001
 OWNER: HUTTON, Dina & Bruce
 APN: 103-190-05
 APLCT: Bruce & Dina Hutton
 AGENT:
 ADDRESS: 2040 Valley Road, Willits

NO SCALE

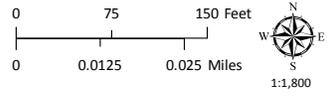
ELEVATIONS

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ATTACHMENT D

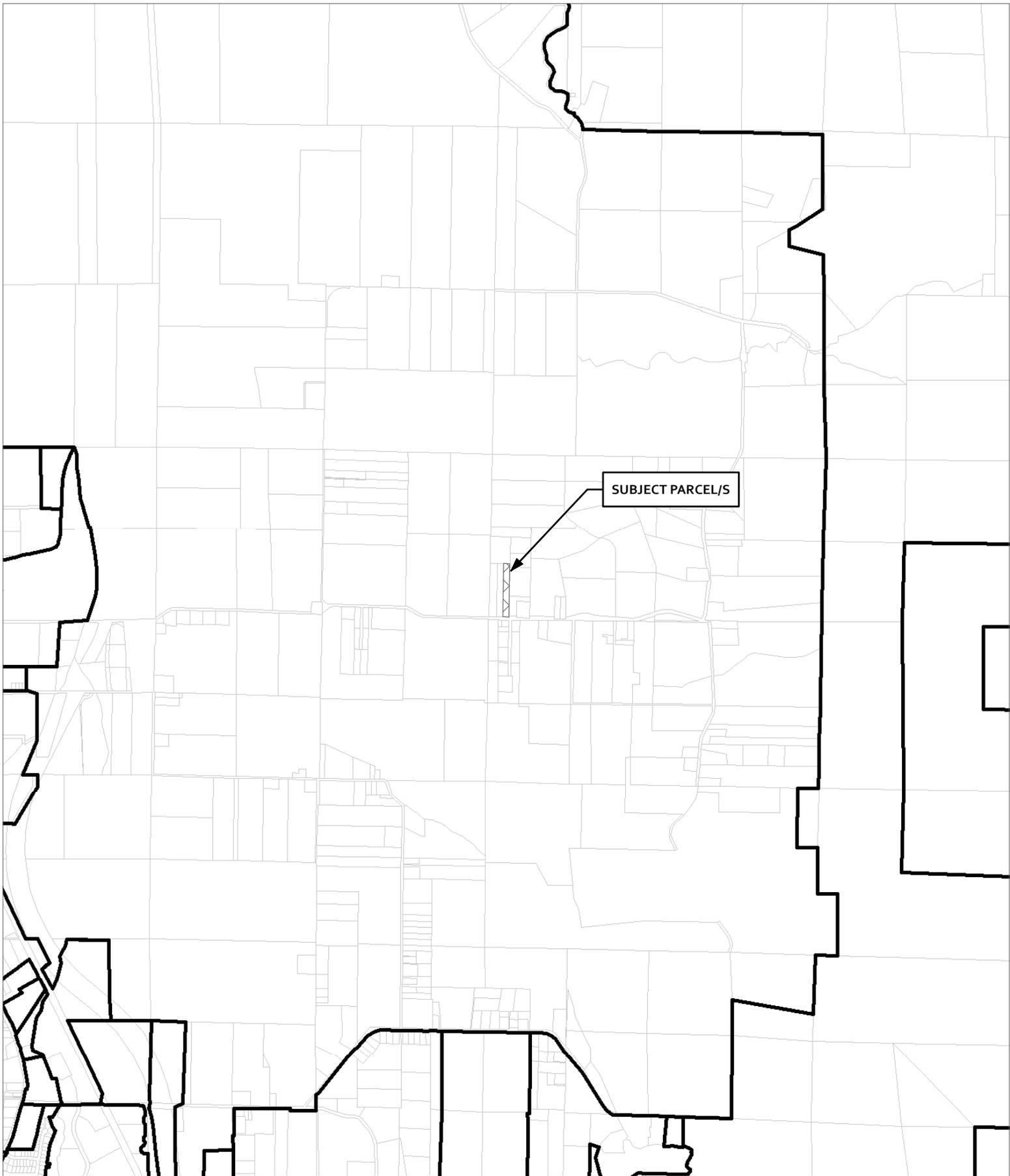


CASE: V 2018-0001
 OWNER: HUTTON, Dina & Bruce
 APN: 103-190-05
 APLCT: Bruce & Dina Hutton
 AGENT:
 ADDRESS: 2040 Valley Road, Willits



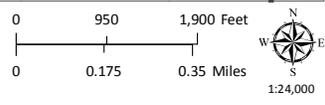
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ADJACENT PARCELS
 ATTACHMENT E



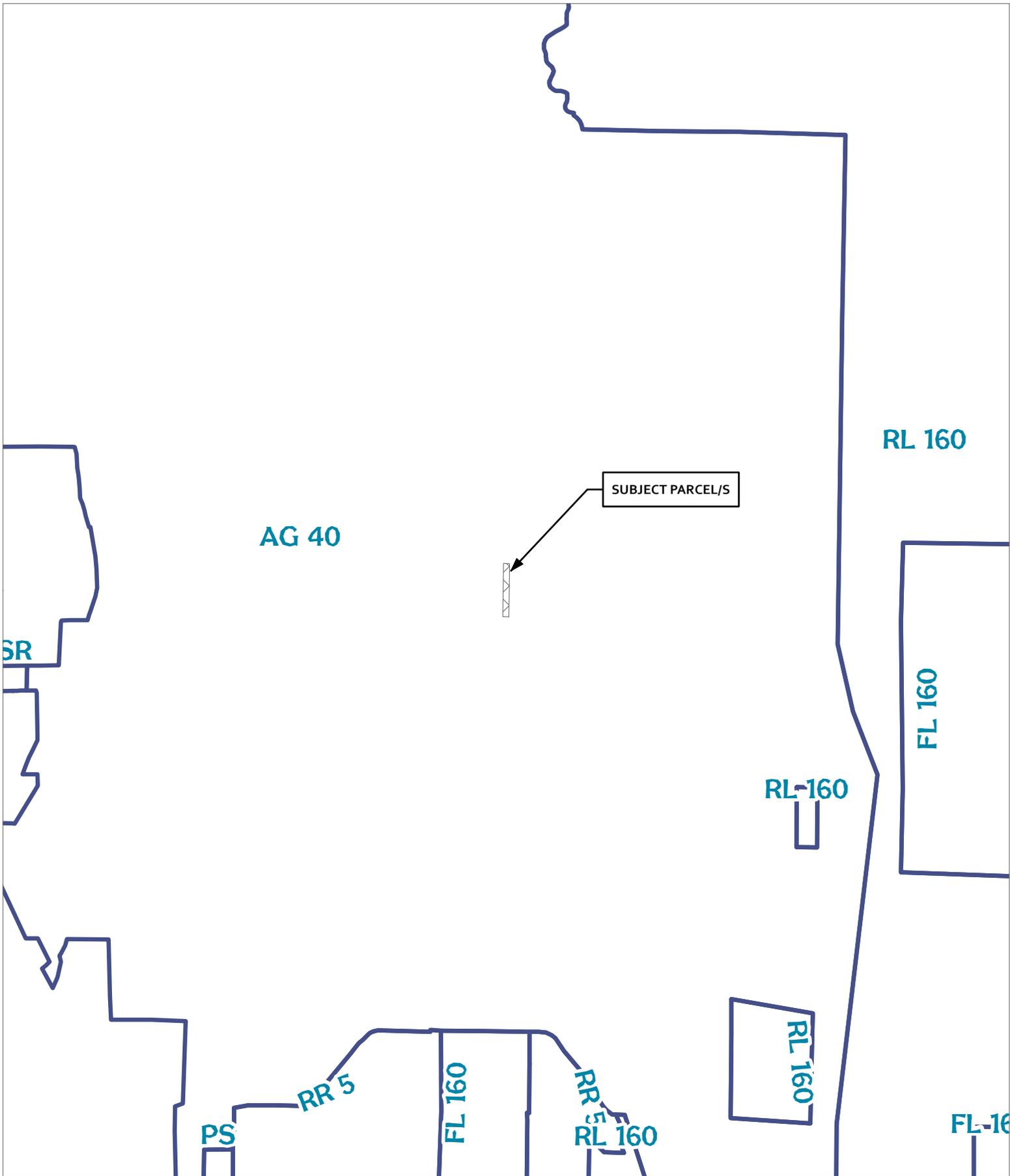
CASE: V 2018-0001
OWNER: HUTTON, Dina & Bruce
APN: 103-190-05
APLCT: Bruce & Dina Hutton
AGENT:
ADDRESS: 2040 Valley Road, Willits

 Zoning Districts



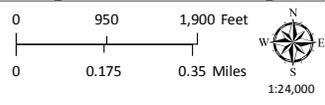
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ZONING DISPLAY MAP
ATTACHMENT F



CASE: V 2018-0001
 OWNER: HUTTON, Dina & Bruce
 APN: 103-190-05
 APLCT: Bruce & Dina Hutton
 AGENT:
 ADDRESS: 2040 Valley Road, Willits

 General Plan Classes

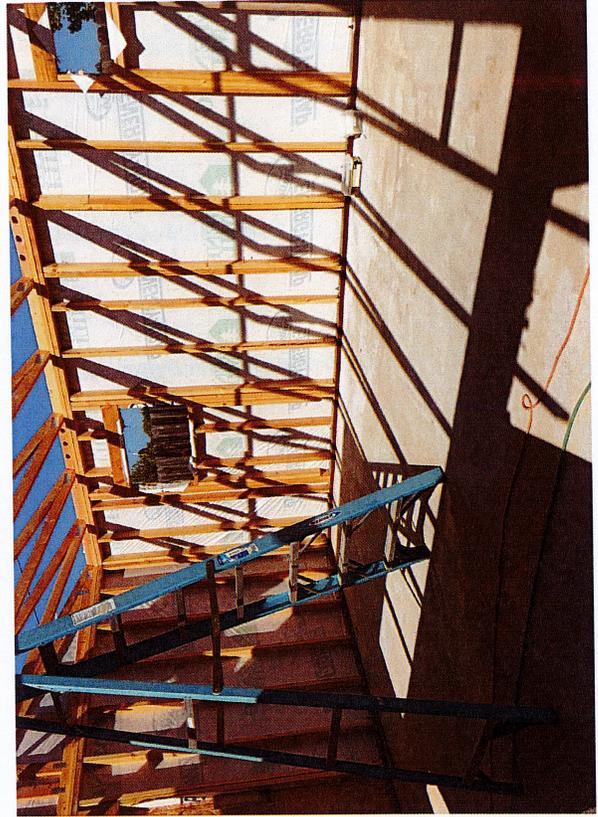
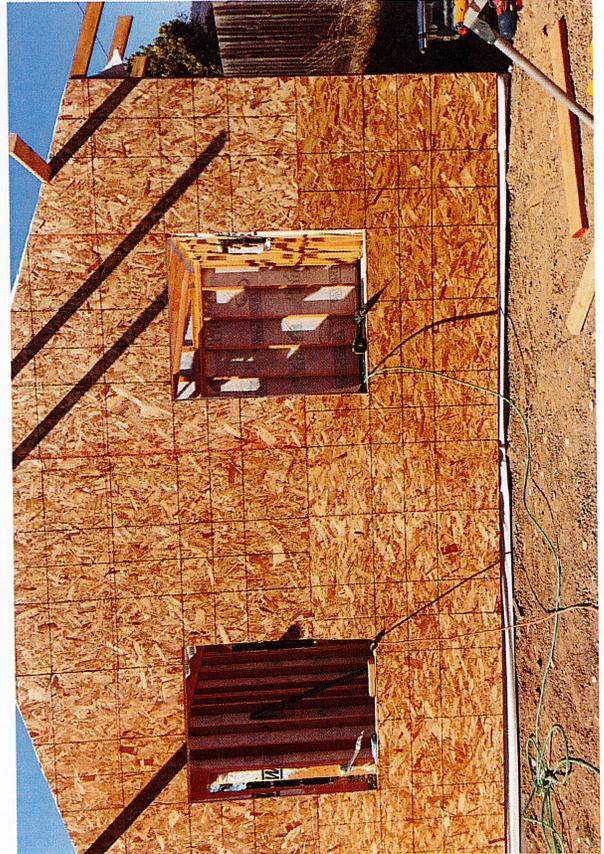
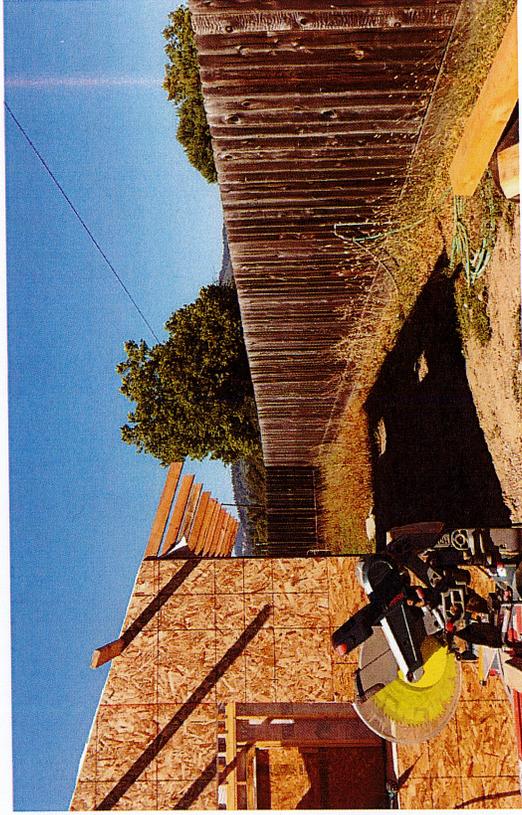


GENERAL PLAN CLASSIFICATIONS
 ATTACHMENT G

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2040 Valley Rd. Willits Ca 95490 Case #BI_2018-006 NOV-2018-

Unpermitted Construction



Resolution Number _____

County of Mendocino
Ukiah, California
November 8, 2018

V_2018-0001 – Bruce and Dina Hutton

RESOLUTION OF THE ZONING ADMINISTRATOR, COUNTY OF
MENDOCINO, STATE OF CALIFORNIA, GRANTING A VARIANCE TO
ALLOW AN ENCROACHMENT INTO THE REQUIRED SIDE YARD
SETBACK

WHEREAS, the applicants, Bruce and Dina Hutton, filed an application for a Variance with the Mendocino County Department of Planning and Building Services to allow a 320 sq. ft. single story accessory building for storage to remain as partially built within the required side yard setback. The required setback from the side property line is 20 ft., while the applicant requests a setback of 10 ft. from the property line. Existing on the site is a 1,600 sq. ft. single-family residence, a 792 sq. ft. pump house/garage, and a 100 sq. ft. tack room. A variance is requested due to the boggy nature of the rear and the eastern side of the parcel, which is the same side as the existing partially constructed accessory structure. The property is located 1.25± miles, east of the town of Willits, directly north of the intersection of Davis St. (CR 309A), and Valley Rd. (CR 309), located at 2040 Valley Rd., Willits (APN: 103-190-05); 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, November 8, 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 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 Agricultural (AG40) under the General Plan. The proposed variance is consistent with the General Plan.
2. Zoning Findings: The subject property is zoned Agricultural, 40 acre minimum (AG40). The project is consistent with Chapter 20.052, "Agricultural District" and the Variance provisions of Chapter 20.200 of the County Code.
3. Variance Findings: The Zoning Administrator approves V_2018-0001 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 property dimensions are approximately 100 ft. wide by 855 ft. long. This is a ratio of about 8 to 1. While this does allow development, certain constraints are inherent in development on such a narrow parcel. **Because of this special circumstance applicable to the extreme length to width ratio 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. As noted above in Applicant's Information (B), the property was subdivided prior to the applicant's purchase of the subject parcel. This can be verified by looking at the appropriate historical APN book in the Planning and Building Department, which shows the same parcel configuration on the APN page dated March 1969. **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.**

In assessing the Mendocino GIS satellite photographs of surrounding properties adjacent to the applicant's parcel, there are many accessory structures located on all sides of the applicant's property. While it is not known if these structures required a variance, these structures can set a precedence for approving of an accessory structure for this applicant. **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 has stated above that the granting of such variance will not be materially detrimental to the public welfare. As previously stated by the applicant: *"No, granting this variance will not materially harm the public welfare or injure any neighbors' property or improvements. Please see letters from neighbors attesting to this finding."* Staff agrees with the applicant's assessment in that a minor setback reduction will not negatively affect the most impacted property owner to the east as this properties single family residence is located immediately adjacent to Valley Road and approximately 220 ft. to the south. **As such, Finding (D) can be made.**

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

Policy RM-29 page 4-39 reads: *"All public and private discretionary projects shall avoid impacts to wetlands if feasible. If avoidance is not feasible, projects shall achieve no net loss of wetlands, consistent with state and federal regulations."*

While the applicant identifies a good portion of the project parcel as "boggy" a review of the County of Mendocino's GIS mapping for flood hazards indicates that the rear one-fifth of the lot is located in flood zone A, while the project site is in flood zone X, which delineates minimal flood hazard. The topography of the lot is such that runoff of storm water is slow, which is most likely the cause of the "boggy" nature of the rear half of the lot.

Policy RM-42 on page 4-41 reads: *"Direct new development to community areas and limit development of rural resource lands."* While this parcel is not technically within a designated community area, it is located within a cluster of relatively small parcels that could be considered to be a local community area with limited or no financially viable agricultural operations. **As demonstrated, the variance is consistent with the above noted General Plan policies and, therefore, 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_2018-0001 – BRUCE AND DINA HUTTON NOVEMBER 8, 2018

APPROVED PROJECT DESCRIPTION: Variance to allow a 320 sq. ft. single story accessory building for storage needs to remain as partially constructed within the required side yard setback. The required setback from the easterly property line is twenty ft., while the applicant requests a setback of ten feet from the easterly property line. Existing on the site is a 1,600 sq. ft. single-family residence, a 792 sq. ft. pump house/garage and a 100 sq. ft. tack room. A variance is requested due to the boggy nature of the rear and the eastern side of the parcel, which is the same side as the existing partially constructed accessory structure.

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 November 8, 2020, unless construction of the accessory structure is commenced and diligently pursued in compliance with required building permits prior to that date.