



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: APRIL 25, 2017
TO: BRENT SCHULTZ, COASTAL PERMIT ADMINISTRATOR
FROM: JULIANA CHERRY, PLANNER III
SUBJECT: CDP 2017-0032 REVISED RECOMMENDATIONS & RESPONSE TO COMMENTS

Consideration of CDP 2017-0032 was continued to April 25, 2019, to allow time for staff to confer with the applicant's representative regarding necessary clarifications to the Report, and for Staff to prepare a response to comments received from the California Coastal Commission and the applicant's representative.

Since the March 28, 2019 CPA meeting, alternative conditions have been prepared. Staff and the applicant's representative met on April 4 to discuss the revised conditions and revised Report. The March 28, 2019 Report has been revised in response to comments received. The April 25, 2019 Report for CDP 2017-0032 includes underlined text where information has been added to the March 28, 2019 Report. ~~Strikeouts~~ show information intended to be deleted from the March 28, 2019 Report.

The Findings and Conditions included in the April 25, 2019 Report are presented in their final form, as Staff recommends they be adopted.

The Site Plan attached to the March Report has been replaced with a Revised Site Plan dated March 28, 2018.



**COASTAL PERMIT ADMINISTRATOR
STAFF REPORT - STANDARD CDP**

**MARCH 28 APRIL 25, 2019
CDP_2017-0032**

SUMMARY

OWNER: ~~ANNE HELEN GARDNER FRITZRUTH ANN JANE GARDNER LIFE EST~~
1114 MONROE AVE
CHARLESTON, IL 61920

APPLICANT: GARY & ANN FRITZ
1114 MONROE AVENUE
CHARLESTON, IL 61920

AGENT: SPADE NATURAL RESOURCES CONSULTING
PO BOX 1503
MENDOCINO, CA 95460

REQUEST: A Coastal Development Standard Permit to remove a travel trailer and shed; and to construct a 1,848-square-foot residence, detached garage, accessory structures and change a test well to a production well within 50-feet of sensitive coastal resources.

LOCATION: In the Coastal Zone, 2± miles east of Mendocino (town) lying directly south of Little Lake Road (CR 408). Accessed via Canterbury Lane (Private). Located at 43007 Little Lake Rd., Mendocino, CA, 95460. APN: 119-430-20

TOTAL ACREAGE: 1 Acre

GENERAL PLAN: Coastal Element, General Plan
Rural Residential (RR5:R)

ZONING: Mendocino County Coastal Zoning Code
Rural Residential (RR:5)

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

APPEALABLE: Yes, Within 100 Feet of a Wetland

RECOMMENDATION: Approve with Conditions

STAFF PLANNER: JULIANA CHERRY

BACKGROUND

PROJECT DESCRIPTION: A Standard Coastal Development Permit request to remove a travel trailer and shed, and to construct a 1,848-square-foot residence, 952-square-foot detached garage, and accessory structures less than 5025-feet from the edge of a Bishop Pine forest, wetlands, and California sedge. Accessory structures include 40-square-foot propane tank, 57-square-foot water-storage tank, 465-square-feet of decks and covered porches, 396-square-feet additional driveway area, and an existing 50-square-foot pump house. The applicant seeks after-the-fact authorization for the existing primary leach

field installed in July 1988 and authorization for the replacement leach field location previous approved by the Division of Environmental Health.

APPLICANT'S STATEMENT: "Remove existing 25 foot temporary travel trailer and existing shed. Construct a new two-bedroom, 1,848 sq. ft. single-family residence with 465 sq. ft. of decks and covered porch, and a 952 sq. ft. detached garage; maximum building height of 28' above natural grade. Connect to utilities. Install a new 4100 gallon water storage tank. Request connection to existing primary septic system; request probable future repair/replacement of septic tank, installation of new pump tank and trenching septic line from said tank and associated infrastructure to secondary/replacement septic field. Request connection to existing water well and future conversion of test wells to production wells (See *Application Questionnaire* stamped received August 29, 2018)."

RELATED APPLICATIONS:

On-Site

- Septic 1831-F
- Building Permit Electric to Well FB88-630
- U 1988-47 Temporary occupancy of a travel trailer during construction of home
- CC 147-77 conditional Certificate of Compliance
- SV 78-14 Subdivision Violation

Neighboring Property APN 119-430-19

- CDP 2000-29 Garage & 99-1201 Garage
- 949-419 Addition
- CS 54-86
- 6232 F Septic

SITE CHARACTERISTICS: This one-acre site is relatively flat. Site elevations vary between 500 and 520 feet above sea level and the land slopes downward in a southwesterly direction (See attachment *Topographic Map*). Soils are mapped as Shinglemill-Gibney complex and Ferncreek sandy loam soils (See attachment *Local Soils*). Shinglemill-Gibney complex and Ferncreek sandy loam are hydric soils. Shinglemill-Gibney complex soil is capable of producing pygmy vegetation; pygmy vegetation is not present on-site. East and west of the project site are 135 acres of Jackson State Forest lands. The property is located in a redwood forest, and portions of the property also contain Bishop pine forest. Wetlands cover a significant portion of the property. California sedge is adjacent to the existing 3,935-square-foot unimproved driveway (See attached *Revised Site Plan*). In addition to the existing driveway with two access points to Canterbury Lane, there is an existing cleared area situated between the Bishop Pines, wetlands, and sedge. This cleared area is the site proposed for the residence, deck, and garage. Development is proposed to be located within an Environmentally Sensitive Habitat Areas (ESHA) or within the ESHA buffer.

After U-1988-47 and Septic Permit 1831-F were approved, the property owner constructed a gravel-3,935-square-foot driveway, primary leachfield, replacement leachfield, well and 40050-square-foot pump house, temporary trailer, 120-square-foot shed, and electric-utility box. The location for the replacement leachfield was approved in 1988; the replacement leach field has not been installed. The sewage disposal system is primarily located within a septic easement and a portion of the Wetland ESHA (See attached Revised Site Plan). The applicant proposes to continue use of the driveway, septic, well and pump house, and a relocated electric-utility box. The temporary trailer and shed would be removed. While local use permits (e.g., U-1988-47) were granted for the existing development, the property owner has not demonstrated that coastal development permits were issued to authorize the development. The 3,935-square-foot existing, unimproved driveway likely pre-dates adoption of the Coastal Act.

The proposed location for the single-family development would be further from the edge of ESHA than the temporary trailer that is proposed to be removed. Botanical surveys describe that there is no feasible location for development that is more than fifty feet from wetlands and rare plants or rare plant communities (May 23, 2018, page 4). To ensure that environmentally sensitive habitat and other designated resource areas are protected for both the wildlife inhabiting them as well as the enjoyment of

present and future populations, a survey report was prepared. The Botanical and Biological Scoping Survey Report, as revised on May 23, 2018, identified wetlands, Bishop Pine Forest, Redwood Forest, sedge, and suitable habitat for migratory birds, the Lotis Blue Butterfly, Northern red-legged frog, and marbled murrelet (Survey Report, pages 16, 18, et al). No special status species were present when the site was surveyed.

SURROUNDING LAND USE AND ZONING: As listed in Table 1, the surrounding property to the north and south are designated Rural Residential (RR5) and they are developed with Single-Family Residential land uses. Contiguous properties to the east and west are classified as Forestland (FL160) and are a part of Jackson State Forest.

	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	Rural Residential	Rural Residential (RR5)	4.16 A±	Residential
EAST	Forest Lands	Timber Production (TP)	101.06 A±	Passive Recreation
SOUTH	Rural Residential	Rural Residential (RR5)	5.15 A±	Residential
WEST	Forest Lands	Timber Production (TP)	34 A±	Passive Recreation

LOCAL COASTAL PROGRAM CONSISTENCY

The proposed project is not consistent with the goals and policies of the Local Coastal Program (LCP). Specifically, the proposed residential development is not consistent with all LCP policies relating to ESHA, despite the identification of the least environmentally damaging alternative, the lack of feasible alternatives on site, the proposed mitigation measures to offset project impacts, and siting development to minimize impervious surfaces and minimize vegetation removal. The proposed residential development would be located 25 feet from ESHA and would not comply with required minimum buffer widths. The existing leach fields are within a portion of the Wetlands.

1. Land Use: The parcel is classified as Rural Residential (RR5:R). This classification is intended to encourage local small scale food production (farming) in areas which are not suited for large scale commercial agriculture, defined by present or potential use, location, mini-climate, slope, exposure, etc. The Rural Residential classification is not intended to be a growth area and residences should be located as to create minimal impact on agricultural viability. The proposed Single-Family Residential land use is consistent with the Rural Residential classification goals and policies.

Relevant land use policies from Coastal Element Chapter 3.1 *Habitats and Natural Resources* include Policies 3.1-2, 3.1-7, and 3.1-24.

3.1-2 *Development proposals in environmentally sensitive habitat areas such as wetlands, riparian zones on streams or sensitive plant or wildlife habitats (all exclusive of buffer zones) including, but not limited to those shown on the Land Use Maps, shall be subject to special review to determine the current extent of the sensitive resource. Where representatives of the County Planning Department, the California Department of Fish and Game, the California Coastal Commission, and the applicant are uncertain about the extent of sensitive habitat on any parcel such disagreements shall be investigated by an on-site inspection by the landowner and/or agents, County Planning Department staff member, a representative of California Department of Fish and Game, a representative of the California Coastal Commission. The on-site inspection shall be coordinated by the County Planning Department and will take place within 3 weeks, weather and site conditions permitting, of the receipt of a written request from the landowner/agent for clarification of sensitive habitat areas. If all of the members of this group agree that the boundaries of the resource in question should be adjusted following the site inspection, such development should be approved only if specific findings are made which are based upon substantial evidence that*

the resource as identified will not be significantly degraded by the proposed development. If such findings cannot be made, the development shall be denied. Criteria used for determining the extent of wetlands and other wet environmentally sensitive habitat areas are found in [Coastal Element] Appendix 8 and shall be used when determining the extent of wetlands.

California Department of Fish and Wildlife (CDFW) and Planning and Building Services staffs agree that the Bishop Pine forest, California sedge, and wetland boundaries are correctly mapped and the applicant revised their proposal to adjust the proposed width of the ESHA buffer from 6 to 25 feet, while retaining the nominal buffer between the existing unimproved driveway and California sedge. See report Section 3, Habitats and Natural Resources, for a detailed description of how this project satisfies the implementation of Coastal Element Policy 3.1-2, as Mendocino County Code (MCC) Section 20.496.015 *ESHA-Development Application Procedure* implements Policy 3.1-2.

3.1-7 *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards: 1. It shall be sited and designed to prevent impacts which would significantly degrade such areas; 2. It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and 3. Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

Mitigation measures are recommended to protect the ESHA and the values of the limited buffer area. The development proposed within the buffer area is not the same as those uses permitted in the ESHA, but as proposed the project would (1) be sited and designed to prevent impacts that would significantly degrade the ESHA; (2) establish an open space easement to continue the ESHA and support the functional capacity of the ESHA; and (3) allow structures to be located less than fifty feet from within 25-foot-of the ESHA, as no other feasible site is available on the parcel. See report Section 3, Habitats and Natural Resources, for a detailed discussion about how this project satisfies the implementation of Coastal Element Policy 3.1-7, as MCC Section 20.496.020(A)(4) *Permitted Development* implements Policy 3.1-7.

3.1-24 *Any development within designated resource areas, if not specifically addressed by other policies, shall be carefully reviewed and established in accord with conditions which could allow some development under mitigating conditions but would assure the continued protection of the resource.*

Implementation of Policy 3.1-24 is provided by MCC Section 20.496.050 *Development of Resource Areas*. See report Section 3, Habitats and Natural Resources, for discussion about how this project satisfies the implementation of Coastal Element Policy 3.1-24.

2. Zoning: The project site is located within a Rural Residential (RR5) District. The proposed project, which involves construction of a single-family residence, appurtenant structures, and ~~utilities~~ 394-

square-feet of additional driveway area, is a principally permitted use within the Rural Residential District, pursuant to MCC Chapter 20.376 RR -- *Rural Residential District*. Table 2 delineates Rural Residential development regulations and compares them to the proposed project.

	Standard	Proposed
20.376.030 Minimum Front and Rear Yards	20 FT	20 FT
20.376.035 Minimum Side Yards	6 FT	<u>256</u> FT
20.376.045 Building Height Limit	28 FT	28 FT
20.376.065 Maximum Lot Coverage	20 %	6%

The August 29, 2018 proposed and revised residential footprint includes a 1,620 sq. ft. single-level building with a 228 sq. ft. two-floor tower feature, 135 sq. ft. covered porch, 330 sq. ft. deck, 952 sq. ft. two-story garage, a 4,100-gallon water storage tank, and ~~5,170~~ 4,329 sq. ft. of paved driveway access. The existing 120 sq. ft. shed and the travel trailer will be removed (See attached *Revised Site Plan*). As proposed, the development would be consistent with the requirements of MCC Chapter 20.376.

3. **Habitats and Natural Resources:** Several studies were prepared for the proposed project in order to identify sensitive resources on the parcel and to provide recommendations to prevent potential impacts to documented sensitive resources. In accordance with MCC Section 20.532.060 *Environmentally Sensitive Habitat Area-Supplemental Application Procedures*, Spade Natural Resources Consulting (SNRC) prepared a Botanical and Biological Scoping Survey Report (revised May 23, 2018) and a Report of Compliance Revised April 11, 2018. The consultant also prepared a Wetland and Rare Plant Avoidance and Mitigation Plan (September 17, 2018 with Figure 3 revised November 14, 2018). The reports were distributed to agencies for their comments. Written comments were received from the California Coastal Commission staff, CDFW and California Native Plant Society.
 - Pursuant with MCC Section 20.496.015 *ESHA-Development Application Procedures*, the survey report includes Figure 11, which is a map of plant community and sensitive plant resources, and Figure 12, which is a map of wetland data point locations (Survey Report, pages 23, 25). Mapping and surveys indicate that the proposed residential development would be located adjacent ~~to~~ to the following identified ESHA and rare plants: Bishop Pine Forest, California sedge, wetlands, and a Redwood Forest.

Bishop Pine Forest ESHA – Located on the eastern side of the property and cover an area of 500± square-feet (*ibid*, page 23).

California sedge – Present in several patches along the driveway and the southeast corner of the property and cover an area of 300± square-feet (See Figure 11, *ibid*, pages 20, 23).

Wetlands ESHA – Cover more than half of the property and are located primarily in the coast redwood forest (See Figure 12, *ibid*, pages 24-27).

Redwood Forest – The entire parcel can be considered coast redwood forest. The areas mapped as coast redwood forest appear to be second or third growth, and contain roughly 85% coast redwood in the overstory, with approximately 15% Bishop pine in the overstory. The report states that the Redwood Forest is not rare or endangered and that it is listed by the CDFW as G3 S3 forest alliance (*ibid*, page 22).

Off-site Chaparral and potential Sphagnum Bog ESHA – Habitat may be present in the chaparral to the northeast of the property. The potential habitat was mapped based on observations from the property and aerial photo interpretation (*ibid*, page 24).

Off-site Mendocino cypress forest ESHA – Areas with a predominant overstory of tall Mendocino

cypress were observed to the east of the property (*ibid*, page 24).

Given the proximity of development to ESHA, the landowner's agent, County staff, California Native Plant Society, and representatives from CDFW and the California Coastal Commission visited the site to investigate the extent of the sensitive habitat. CDFW and County staff have agreed that the surveyed and mapped ESHA boundaries are appropriate. Pursuant with MCC Section 20.496.015(D), Staff has prepared for the Coastal Permit Administrator's consideration findings that the resources will not be significantly degraded by the proposed development (See recommended Finding #8 and, pursuant with MCC Section 20.532.100(A)(1), ~~noting note~~ that if findings cannot be made pursuant with this section, then the development shall be denied).

- Pursuant with MCC Section 20.496.020 *ESHA-Development Criteria*, a buffer area adjacent to all ESHA is required. The purpose of mapping a buffer area is to provide a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments. As shown in Botanical and Biological Scoping Survey Report Figure 13 *Sensitive resource map with 50-foot buffer area shown*, the proposal would locate development *within* the buffer area of wetlands, Bishop pine forest, and locations of California sedge, a rare plant (Survey Report, May 23, 2019, page 29). Development would be adjacent to, but not within, the sensitive habitat areas. The report recommends avoidance measures to protect the sensitive resources.

If determined to be the least impactful location, the applicants request The proposal is a 50-foot reduced buffer from off-site Mendocino cypress forest and potential Sphagnum Bog ESHA and a 25-foot reduced buffer from authorization to build less than 50-feet from on-site ESHA, including such as wetlands, California Sedge, and Bishop Pine Forest (See recommended condition #13).

Pursuant with MCC Section 20.496.020(A)(1)(b), PBS consulted with CDFW regarding the proposed reduced buffer width between development and off-site Mendocino Cypress Forest ESHA and potential Sphagnum Bog habitat (See Survey Report Figure 11, page 23). CDFW commented that typical activities associated with single-family homes would impact the resources and they could not support the reduction to the minimum buffer distance. While minimum distances should be established for the protection of off-site resources, in practice establishing buffers for on-site ESHAs will have a similar effect (See Survey Report, Figure 13 *Sensitive resource map with 50-foot buffer area shown*, page 29). Based on CDFW comments and the Survey Report, Staff recommends establishing an Open Space Easement for the entire site, excepting the development areas shown on the Revised Site Plan dated March 22, 2018 (See condition #14). This site plan identifies areas proposed for a propane tank, water storage tank, electric post, existing driveway and proposed driveway, garage, and residence, including covered porch and deck; and the locations of existing structures, such as the well, pump house, primary leach field and Environmental Health approved location for a replacement leach field (See attached).

Pursuant with MCC Section 20.496.020(A)(4)(a), eleven characteristics are evaluated to determine whether development could be permitted within the Bishop Pine Forest and Wetlands buffer areas. The Reduced Buffer Analysis, Survey Report Appendix F, compares the proposal to the eleven characteristics listed in MCC Section 20.496.020(A)(4)(a) through 20.496.020(A)(4)(k). Principally, avoidance measures are recommended to continue the functional capacity of adjacent habitat; for example, "Driveway improvements and construction will need to be carefully designed to avoid detrimental impacts to nearby wetlands and locations where California sedge grows. Improvements will also need to maintain similar runoff patterns to provide for adequate hydrological conditions for these sensitive areas (See recommended condition #14)." Staff recommends supporting the The Reduced Buffer Analysis recommendations, with minor clarifications, as follows:

Beginning with MCC Section 20.496.020(A)(4)(a), the Survey Report recommends avoidance measures to maintain the functional capacity of adjacent habitat areas (See condition #14.a). states that no riparian or wetland vegetation would be lost and that the

~~project is not located within a 100-year flood zone. Water run-off would flow in a southwesterly direction across this gently sloping lot. The following measures, as described in the Biological Scoping Survey, Botanical Survey and Wetland Delineation Report Section 6.2 (SNRC, May 23, 2018), are proposed to replace the protective values of the buffer area on the parcel:~~

~~— **Invasive Plants** — Removal of invasive plants present on the site, including bull thistle (*Cirsium vulgare*) is recommended to improve habitat value. Prior to use on the site, heavy equipment should be washed down off site to prevent accidental contamination with invasive plant seed. Invasive plants as listed by CallPC should not be used as landscaping species, and landscaping should consist of native plants compatible with the on-site plant communities.~~

~~a. **Erosion Control** — Standard Best Management Practices shall be employed to assure minimization of erosion resulting from construction. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. Any soil stockpiles will need to be covered or otherwise stabilized to prevent dust impacts.~~

~~a. **Birds and Bats** — The bird breeding season typically extends from February to August. Ideally, the clearing of vegetation and the initiation of construction can be done in the non-breeding season between September and January. If these activities cannot be done in the non-breeding season, a qualified biologist shall perform preconstruction breeding bird within 14 days of the onset of construction or clearing of vegetation. If active breeding bird nests are observed, no ground disturbance activities shall occur within a minimum 100-foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active nest until all young are no longer dependent upon the nest. A biologist should monitor the nest site weekly during the breeding season to ensure the buffer is sufficient to protect the nest site from potential disturbances.~~

~~As with birds, bat roost sites can change from year to year, so pre-construction surveys are usually necessary to determine the presence or absence of bat roost sites in a given area. Pre-construction bat surveys do not need to be performed if work or vegetation removal is conducted between September 1 and October 31, after young have matured and prior to the bat hibernation period. However, if it is necessary to disturb potential bat roost sites between November 1 and August 31, pre-construction surveys should be conducted. Pre-construction bat surveys involve surveying trees, rock outcrops, and buildings subject to removal or demolition for evidence of bat use (guano accumulation, or acoustic or visual detections). If evidence of bat use is found, then biologists shall conduct acoustic surveys under appropriate conditions using an acoustic detector, to determine whether a site is occupied. If bats are found, a minimum 50-foot buffer should be implemented around the roost tree. Removal of roost trees should occur in September and October, or after the bats have left the roost. In summary, no impacts would be expected and therefore no preconstruction surveys would be required for the species above if vegetation removal (including standing dead trees) is scheduled for the months of September or October. The months of November through August would require a bird and/or bat survey dependent on the time of year.~~

~~a. **Northern Red-Legged Frog** — Project contractors will be trained by a qualified biologist in the identification of the northern red-legged frog (*Rana aurora*). A survey for Northern red-legged frog should occur within two weeks prior to construction. Construction crews will begin each day with a visual search around all stacked or stored materials, as well as along any silt fences to detect the presence of frogs. If a special-status frog is detected, construction crews will contact DFW or a qualified biologist to relocate northern red-legged frogs prior to re-initiating work. If a rain event occurs during the construction period, all ground-disturbing construction-related activities will cease for a period of 48 hours after the rain stops. Prior to resuming ground-disturbing construction activities, trained construction crew member(s) will examine the site for the presence of frogs. If no special-status frogs are found, construction~~

~~activities may resume.~~

- ~~a. **Sonoma Tree Vole** — If Douglas fir or Bishop pine trees are to be removed to accommodate the development, a Sonoma tree vole survey shall occur within two weeks of tree removal activities. Protocols per DFW shall be followed should Sonoma tree vole nests be identified in trees to be removed.~~
- ~~a. **Wetland and Rare Plant Impacts** — No direct impacts are to occur to onsite wetlands or rare plants from construction or related activities. All staging and materials storage, and other project components must occur outside of wetlands and rare plant areas. A wetland and rare plant avoidance and restoration plan should be developed to provide guidance in avoidance measures to be followed during construction, and restoration measures to be required should any areas of wetlands or rare plants be accidentally impacted. The plan should include measures to prevent accidental oil, fuel and other potential contaminant spills into natural areas and sensitive areas during construction.~~
- ~~a. **Low Impact Development** — Creation of new impervious surfaces should be minimized to the extent necessary. A low impact development design should be incorporated into the development to address runoff from new impervious surfaces, assuring runoff from the site is adequately infiltrated within the boundaries of the property, and runoff patterns for wetland and sensitive plant areas are maintained or improved.~~

Pursuant with **MCC Section 20.496.020(A)(4)(b)**, the applicant seeks a determination that there is no other feasible site on the parcel suited to residential development and requests approval of the building enveloped shown on the Revised Site Plan (See Report of Compliance Revised April 11, 2018 and Staff Report Section 11 Takings). Staff recommends limiting the area of development (See condition #14.b).

Pursuant with **MCC Section 20.496.020(A)(4)(c)**, the applicant seeks a determination that locating a residential land use, in a cleared area of the lot that would be 25-feet from sensitive habitat areas, would prevent impacts that could degrade adjacent habitat areas (See Report of Compliance Revised April 11, 2018 and Staff Report Section 11 Takings). Staff recommends siting development to prevent impacts that would degrade adjacent habitat areas, including Bishop Pine Forest and Wetlands (See condition #14.c).

Pursuant with **MCC Section 20.496.020(A)(4)(d)**, the applicant seeks a determination that avoidance measures, as outlined in Section 6.2 of the Biological Scoping Survey, Botanical Survey and Wetland Delineation Report, would support the continuance of the identified sensitive habitat areas and maintain their functional capacity, ability to be self-sustaining, and maintain the natural species diversity (See condition #14.d). CDFW and the California Coastal Commission staff recommend conditions requiring an open space easement, to assure the protection of resources and to assure that development is compatible with the continuance of the habitat areas (See recommended condition #14.g).

Pursuant with **MCC Section 20.496.020(A)(4)(e)**, the Biological Scoping Survey, Botanical Survey and Wetland Delineation Report “Appendix F Reduced Buffer Analysis” states that development would be located within buffer areas for wetlands, Bishop pine forest, and California sedge and states there is no other feasible site available on the parcel than the existing cleared land (SNRC, 5-23-2018 Survey Report, May 23, 2018). The Survey Report recommends avoidance measures, which Staff recommends adopting as Condition #14.a. Structures shall be limited to the authorized development envelope (See condition #14.e).

Pursuant with **MCC Section 20.496.020(A)(4)(f)**, to minimize impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural land forms the applicant proposes reliance on the aforementioned a through g measures avoidance measures that Staff recommends adopting as Condition #14.a. In addition, CDFW, the California Coastal

Commission, and Staff recommend the following additional measures to limit human intrusion into the established buffers and ESHAs, because development would be sited within the buffer area and adjacent to sensitive habitat areas (See condition #14.f):

- h. To minimize impervious surfaces, daily use of the unimproved driveway shall the existing u-shaped driveway that intersects with Canterbury Road shall be reduced to a single drive isle that follows the most direct route between the garage door and Canterbury Road. Use of Access to one leg of the u-shaped portion of the driveway, that intersects with Canterbury Road, shall be restricted by a fence or gate and its regular use would discontinue.
- i. To minimize removal of vegetation and the effects of human intrusion into the wetland, limit the development footprint shall be limited to the existing cleared area identified in the Revised Site Plan, and require a A coastal development permit or permit amendment, shall be required for any future development at this site. No trees are proposed to be removed.
- j. To minimize the amount of bare soil disturbed, noise, dust, nutrient runoff, and air pollution, requires the property owner to obtain a building permit for any new development on-site and require an approved grading plan with contours that would limit runoff, dust, and disturbing soil. To minimize human intrusion into ESHA and EHSA buffers, storage of goods, materials, and refuse containers shall be limited to the interior of the buildings and prohibited within ESHA and their buffers.
- k. To minimize human intrusion into the wetland and other habitat areas, requireing low-stature fencing be installed along both sides of the driveway between the garage and the unimproved driveway's intersection with Canterbury Lane. The fence location would obstruct future use of the u-shaped portion of the existing driveway access from Canterbury Lane. Located next to the driveway, accessAccess gates may be installed adjacent to the fuel tank, water storage tank, and along Canterbury Lane. The low-stature fence would establish a physical barrier between the sensitive habitat areas and development.
- l. To minimize alteration of natural land forms, limiting grading to the five cubic yards proposed and require an approved grading plan with contours that would limit runoff, dust, and disturbing soil. In accordance with MCC Chapter 20.492, a building permit, or grading permit exemption, shall be required for any grading, including but not limited to, any excavation or filling or combination thereof involving transfer of more than two (2) cubic yards of material. The Coastal Permit Administrator, or their designee, shall review and approve grading permits to determine their consistency with MCC Chapters 20.492, 20.496, and 20.500 regulations. Grading activities, including the maintaining driveway and parking areas, and any work associated with an Encroachment Permit, shall comply with MCC Chapters 20.492, 20.496, and 20.500 regulations.

Pursuant with **MCC Section 20.496.020(A)(4)(g)**, no riparian vegetation would be lost due to development.

Pursuant with **MCC Section 20.496.020(A)(4)(h)**, the project site is not located within a 100-year flood zone; therefore the hydraulic capacity, subsurface flow patterns, biological diversity and/or biological or hydrological processes, either terrestrial or aquatic, would be protected therefore, peak surface water flows from a 100-year flood would not be evidenced or impeded by above ground structures.

Pursuant with **MCC Section 20.496.020(A)(4)(i)**, to protect the hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological hydrological processes, either terrestrial or aquatic, reliance on the aforementioned a through g measures is proposed. "All hydrology and biologic processes are expected to be protected and maintained (See

Biological Scoping Survey, Botanical Survey and Wetland Delineation Report Appendix F Reduced Buffer Analysis, May 23, 2018-5-23-2018).” In addition to the proposed avoidance measures and, to protect the biological diversity on-site, staff recommends previously listed measures h through l as conditions of project approval (See Conditions #14.a and #14.f).

Pursuant with **MCC Section 20.496.020(A)(4)(j)**, proposed are low-impact development measures to assure runoff from the site is adequately infiltrated within the boundaries of the property and runoff patterns for wetland and sensitive plant areas are maintained or improved, e.g. proposed mitigation measure g, to direct stormwater runoff flows on this relatively flat site in a southwest direction to Big River, located about half a mile south of the project site. (See recommended Conditions #14.a and #18 for low impact development requirements.

Pursuant with **MCC Section 20.496.020(A)(4)(k)**, proposed and recommended are measures to lessen the effect of development on the adjacent sensitive habitat areas, including establishing an Open Space Easement and complying with Wetland Restoration Plan Procedures (e.g., mitigation measures a through k). (See recommended conditions #14.g and #18), which lists the recommended Mitigation Measures described and referenced herein as measures a through k.

- Pursuant with MCC Section 20.496.025(A), development within a wetland is limited and the proposed land use would *not* meet the requirements for permitted development in wetlands. In 1988, the Division of Environmental Health approved a location for the replacement leach field. This location is within the 2017 surveyed wetland. The existing primary leach field is located within the Bishop Pine Forest and the established Septic Easement. Wetland Restoration Plan Procedures shall be followed when development occurs, including installation of a replacement leachfield (See MCC Section 20.532.065 and condition #20).

Pursuant with MCC Section 20.496.025(A)(8) *wetland restoration projects* are allowable. To support the native ecology of the site, wetland restoration activities, or site landscaping, would require an approved coastal development permit. Staff recommends a condition requiring the property owner to record a deed restriction to memorialize land areas not approved for development, and identify lands to be maintained as open space and limited to *Passive Recreation* land uses. The Deed Restriction would include an exhibit identifying open space areas, and the approved location for development, including the driveway, required fence, and allowed gates. Conditions #12 (deed restriction, open space easement), #13 (buffer areas), #14 (avoidance measures), and #14 (open space easement) and #18 (mitigation measures) are recommended.

- Pursuant with MCC Section 20.532.060(E) *Report of Compliance*, a report based upon an on-site investigation was prepared. The investigation highlights that as proposed, the development cannot satisfy all of the criteria specified for development in, and approximate to, an environmentally sensitive habitat area. The Report of Compliance Revised April 11, 2018 “Figure 9 Least impacting option” depicts the recommended location for development (See page 12). This location avoids natural resources and mature vegetation, and limits development to areas that were previously disturbed.

On October 5, 2017, and after reviewing the application and visiting the site, California Department of Fish and Wildlife (CDFW) provided the following observations:

“In reviewing documents for CDP 2017-0032, and from a visit to the site on October 2, I recognize that many elements of the planning for this proposed development are in consideration of both property line buffers and ESHA buffers which make it difficult to place a development on the site without encroaching on one or more buffers. I also recognize that there is an existing clearing on site and that the proposed footprint attempts to minimize disturbance beyond the existing clearing and buildings.”

My larger concern is the setbacks related to the California sedge ESHA and the coastal wetland ESHA. The current proposal is for the edge of the garage to be six feet from the delineated wetland, and for the development footprint to be only 20 feet from the edge of the California sedge ESHA. It should be noted that policy states that the buffer shall not be less than 50 feet. The house and garage design, as presented, is fairly modest in square footage, but expansive in the placement of buildings, such that the footprint of the project is fairly large compared to the living space. This is the only house design option presented, and since the proponent is seeking a buffer reduction beyond the accepted minimum, I believe other house design options should be investigated and presented as ways to increase the setback distance from both the wetland and the California sedge.”

And on March 14, 2018, CDFW commented that their role does not include reviewing projects that propose to encroach on an ESHA. CDFW could not concur that a buffer less than 50-feet is sufficient and wrote:

“What I can provide is my opinion as to the potential effects to ESHA given the current design. I am not worried about the California sedge population ... it appears to have existed beside the driveway for some time, and I wouldn't anticipate the hydrology changing enough to damage it (although a condition to prevent veg clearing in that section might help). However I do worry about the within 6' encroachment on a professionally-delineated wetland, particularly how the house footprint may change the local hydrology. This encroachment I would deem likely to cause a significant impact to the resource. This encroachment may also encourage foot traffic, trash disposal, fill, pollutant spills or storage, clearing of vegetation for a 100' fire-safe buffer, or any other of a wide range of potential impacts that are normally "buffered" by an appropriate amount of space.”

In response to comments received, a revised site design was filed on April 6, 2018. As shown in the Report of Compliance Revised April 11, 2018 Figure 10, the garage location is changed to be the same distance from the wetlands as the proposed residence, a minimum distance of approximately 25 feet (See attached Revised Site Plan). In addition, the proposed garage location was selected to diminish the effects of vehicle emissions on the home's occupants, who are treated for asthma. In response to comments from CDFW, Staff recommends a condition limiting storage of goods, materials, and refuse containers to the interior of the buildings. The property owner should avoid use of areas outside of the approved development envelope, except for *Passive Recreation* activities (See recommended Conditions ~~#12 and~~ #15.d).

- Pursuant with MCC Section 20.532.065, submittal of a Tentative [Wetland] Restoration Plan is required. The purpose of Wetland Restoration Plan Procedures is to provide for the approval of a required wetland restoration plan as a condition of project approval. In 1988, the property owner obtained Use Permit U 1988-47 for temporary occupancy of a travel trailer, but they did not subsequently obtain a Coastal Permit when one was required for the existing primary leach field, future replacement leach field, existing pump house or shed, or travel trailer (See October 23, 2018 email from Destiny Preston). The unimproved driveway existed prior to 1975. Portions of the unimproved driveway and replacement leach field are within wetlands or within 50-feet of the wetland ESHA; therefore, a Tentative [Wetland] Restoration Plan was requested. On October 1, 2018, the tentative plan was distributed to the California Coastal Commission and CDFW staff for their review and comment. On October 9, 2018, CDFW provided the following comments which were shared with the applicant's representative:

“I hope this doesn't stir things up too much, but while the building design has changed to maximize the wetland buffer (by pushing the garage back) I can't help but notice that they are still planning on encroaching back to the original distance (6'?) with a staging area. Was this a part of the analysis, etc? It's kind of like the septic systems that proponents don't consider to be a part of the disturbance... If the staging area up to the wetland edge is part of the overall plan, I'd recommend conditioning mulch and NATIVE seeding of the disturbed area, and perhaps even native plantings of some larger plants (salal comes to mind at this spot) that would help prevent this space from becoming a lawn space or storage space in the future. The

worry, overall, is how expanded use of this area may impact the wetland (Harrington)."

On October 23, 2018, CCC provided the following comments via e-mail:

"Thank you for taking the time to speak with Melissa and me last Friday about the Fritz proposal for the construction a single-family home and garage. Since the parcel subdivision became legal in 1972 (prior to 1976 Coastal Act requirements), we would consider it to be legal. Commission staff has been unable to find a previously issued CDP for this parcel. Condition 6 of the 1988 County-issued use permit for the travel trailer says: "the Applicant shall secure all necessary permits and clearances from the California Coastal Commission." Since a CDP was never secured for the travel trailer and likely the construction of the driveway and septic system (and associated clearing/vegetation removal?), I would assume that the all existing development on the site is unpermitted. Therefore, after-the-fact permitting for the existing development, including the driveway, septic system and any other development on site, should be evaluated with the proposed single-family home and garage. Analysis of the driveway could include whether the width and alignment are appropriate, and whether any improvements are needed to better protect surrounding wetlands on both sides. Improvements may include narrowing the driveway, if applicable, installing appropriate drainage features and/or fencing as needed to better protect surrounding ESHA, and remediating/restoring disturbed areas on the property as mitigation measures for encroaching within ESHA buffers. We concur with CDFWs recommendation to keep adequate ESHA buffers for the construction staging areas to avoid having to disturb and later remediate ESHA (Preston)."

On November 14, 2018 and in response to CDFW comments, a revised Wetland and Rare Plant Avoidance and Mitigation Plan was submitted in conformance with MCC Section 20.532.065. Staff recommends adopting the mitigation measures described therein, including impact avoidance; restoration, monitoring, and reporting (See Conditions #18 through #20). Pursuant with MCC Section 20.532.065(F) and (G), Staff recommends a Final Restoration Plan be prepared by the applicant based on the approving authority approved, or conditionally approved, tentative restoration plan and the Final Restoration Plan shall include those items specified by regulation (See Condition #19).

To summarize Staff Report Section 3 Habitats and Natural Resources, as proposed the project would not be consistent with MCC Section 20.496.020 ESHA Development Criteria, especially regarding buffer widths. Mitigation measures are recommended to reduce the effect of the proposed development on this one-acre site. The juxtaposition of the existing cleared land to wetlands, sedge, and pines located across the site cannot support a minimum fifty-foot buffer width between development areas and sensitive habitat areas. A twenty-five-foot buffer width is proposed and Staff recommends identifying the entire site as ESHA, ESHA buffers, and establishing an open space easement with allowing development in the location shown on the Revised Site Plan dated March 22, 2018 (See condition #14.e). Conditions are recommended to lessen the effect on species sensitive to disturbance, to reduce potential erosion, to use the natural topographic features to locate development and to use existing cultural features (e.g. cleared areas) to delineate development boundaries for the proposed, and to approve a type and scale of development appropriate to the constrained site (See Conditions #12 through #15, #18, and #19). See Staff Report Section 11 Takings for additional details and analysis of project alternatives.

4. Visual Resource and Special Treatment Areas: The site is not designated as a Highly Scenic Area; however, it is designated as a Special Treatment Area due to its proximity to Jackson State Forest, which is a State-owned recreation area. Pursuant with MCC Section 20.504.025, "Special Treatment Area buffer zones were also located adjacent to all publicly owned preserves and recreation areas, including national, State, regional, county and municipal parks. These buffer zones include those forested areas within the Coastal Zone within two hundred feet of all such publicly owned preserves and recreation areas."

The parcel's west and east property boundaries are contiguous with Jackson State Forest. These lands are subject to the Special Treatment Area buffer zone (i.e., 200 feet). The buffer is applied to timber harvesting activities and it is intended to protect the area's special scenic and natural qualities; therefore, ~~a condition requiring Staff recommends the Coastal Permit Administrator determine whether a Coastal Development Permit, or a modification to an existing permit, is recommended whenever required prior to the removal of any tree is proposed~~ (See Condition #17). With the inclusion of this condition, Staff recommends that the proposal would be consistent with MCC Section 20.504.025.

5. Hazards Management: ~~The following hazards are not associated with the lot: faults, bluffs and bluff erosion, Tsunami, landslides, erosion, and flood hazards.~~ The parcel is located in an area classified with a "High Fire Hazard" severity rating. Fire protection services are provided by the California Department of Forestry and Fire Protection (CalFire) and Mendocino Fire Protection District (MFPD). On May 4, 2018, the application was referred to CalFire and MFPD. CalFire File Number 91-17 requires minimum fire safety standards for Hazardous Fire Areas. Attachment *Fire Safe Plan* demonstrates that the proposed project meets CalFire Standards, including driveway standard, emergency water supply standard (4,100-gallon emergency water storage), defensible space standard and a requirement to maintain defensible space, and a reduced setback requirement to 20-feet from the property lines. CalFire provided the following additional comment: "The combined square footage of the home and attached garage is 2,415 SF. Minimum emergency water storage for this size structure is 4,100 gallons. Your exemption request for a reduced property line setback from 30 FT to 20 FT is granted with the addition of emergency water storage in the amount of 4,100 gallons." On April 2, 2019, CalFire affirmed that 4,100-gallon tank requirement would be sufficient for the proposed 2,800-square-foot development.

Standard Condition #5 is recommended to achieve compliance with CalFire fire safe standards. At the request of CalFire, staff recommends specifying that 4,100 gallons of water be stored on-site as part of satisfying Fire Safe Standards and adopting condition #16. With the inclusion of these conditions, the proposal would be consistent with Mendocino County policies for fire protection.

6. Grading, Erosion, and Run-Off: The project would require minimal grading as the site is relatively level in the building area. Approximately 5 cubic yards of cut and fill grading is proposed. Grading is required for the entrance to the garage and for the 3,495-square-foot flat parking area. Best Management Practices would be implemented at the time of construction and protection measures are recommended for the adjacent ESHA (See recommended condition #18). With the inclusion of the recommended condition, the project would be consistent with policies related to grading, erosion and run-off.
7. Archaeological/Cultural Resources: On August 16, 2017, California Historical Resources Information System (CHRIS) responded that the office has no record of any previous cultural resource studies for the proposed project area. CHRIS Coordinator Bryan Much stated that the proposed project area has a low possibility of containing unrecorded archaeological sites and recommended that no further study for archaeological resources. The proposed project was tentatively scheduled to be considered by Mendocino County's Archaeological Commission on October 18, 2017, but was pulled from the Commission's calendar as Planning and Building Services' procedure for projects, where no further studies are recommended by CHRIS, is to not refer the project to Mendocino County Archaeological Commission. PBS procedure (as detailed in a Staff Memorandum) was reviewed by the Archaeological Commission in 2005 and again in 2014. It was determined to be an appropriate guidance document for what projects would require archaeological review. Standard Condition #9 advises property owners of a "Discovery Clause," which prescribes the procedures subsequent to the discovery of any cultural resources during construction of the project. As conditioned, the project would be consistent with Mendocino County policies for the protection of the paleontological and archaeological resource.

On August 1, 2017, the project was referred to three local tribes for review and comment, including the Cloverdale Rancheria, Sherwood Valley Band of Pomo Indians, and the Redwood Valley Little River Band of Pomo Indians. On August 16, 2017, Javier Silva of the Sherwood Valley Band of

Pomo Indians responded with a letter that stated in part, "New construction can be heavily destructive to terrain and cause significant changes in land cover. We advise you to be especially attentive to the historical landscape near natural springs, creeks and other riparian areas. Please inform Sherwood Valley Band of Pomo Indians upon the discovery of any indigenous artifacts or deposits."

8. Groundwater Resources: The project site is located within a mapped Marginal Water Resources Area (See attached *Ground Water Resources*). Building Permit FB88-630 allowed for the construction of pump house associated with a well; the well is situated in the northeast corner of the lot (See attached *Revised Site Plan*). ~~In July, 1988, an~~ Individual Sewage Disposal System Permit No. 1831-F ~~allowed for the primary and replacement is on file to locate the~~ leach fields ~~to be installed~~ on an adjoining residential lot to the south that has granted an easement, recorded May 23, 1988, for a right-of-way to install, maintain, repair and replace a septic system (See attached *Revised Site Plan*).

~~On August 1, 2017 and May 4, 2018, the project was referred to the Division of Environmental Health (DEH) for their review and comment. On October 27, 2017 and May 17, 2018, Environmental Health responded that the well is not permitted, a septic permit is on file, and a request to include a condition stating "Do not build or drive on existing or replacement leach field."~~

~~Staff recommends including a condition allowing the existing well to be converted to a production well and, at the request of Environmental Health, a condition stating "Do not build or drive on primary leach field or replacement leach field (See conditions #21.a and #21.b)."~~ ~~At the request of Environmental Health, staff recommends adopting a condition limiting vehicular access and development opportunities within the Septic Easement or the replacement leach field area (See condition #21).~~

9. Transportation/Circulation: The project would not contribute new sources of traffic on local and regional roadways. The cumulative effects of traffic resulting from development on this site were considered when the Coastal Element land use designations were assigned. *State Route 1 Corridor Study Update for the County of Mendocino* lists the intersection of State Route 1 and Little Lake Road with existing peak hour conditions with a 25.4 PM peak delay and a "C" level of service (2018). This is the nearest State Route 1 intersection to the project site.

On May 4, 2018, the project was referred to Mendocino County Department of Transportation (MCDOT) for comment. The project site is located on Canterbury Lane, a private driveway, adjoining Little Lake Road (CR 408). Four residential lots have direct access to Little Lake Road via Canterbury Lane. On May 11, 2018, MCDOT responded with a request for two conditions that would require a private road approach to be constructed onto Little Lake Road (CR 408) and an encroachment permit for work within the County rights-of-way (See recommended condition #21). At the request of the applicant's agent and on May 14, 2018, the Deputy Director of Transportation Amber Munoz clarified that Canterbury Lane's existing encroachment into Little Lake Road does not meet the Department of Transportation's standard and that the Department is requesting conditions to improve public safety at the private driveway's intersection with the County road. Deputy Director Munoz wrote, "... *This proposed development is located on a driveway, not an established private road (although that wouldn't make much of a difference, if any, in our review). Canterbury Lane takes access off a County Road and is currently in a state which is damaging the edge of the road. Additionally, the narrow width of the driveway and lack of an apron do not provide for safe ingress and egress. The proposed development will exasperate these issues. In my opinion, this condition is necessary to ensure orderly development and the safety of the traveling public.*" Staff recommends adopting the two conditions requested by MCDOT (See conditions #21.c and #21.d).

Pursuant with MCC Section 20.472.015, two parking spaces are required for the proposed single-family home. Proposed is a two-car garage and continued use of 3,935-gravel driveway between the proposed location for the garage and Canterbury Lane.

With the inclusion of the conditions requested by MCDOT, staff recommends that the project would

satisfy policies and standards relating to circulation, driveway access onto County roads, and off-street parking (See recommended condition #21).

10. Public Access: The project site is not designated as a potential public access point on the certified LCP maps. Existing shoreline access is designated along Little Lake Road (See attachment *LCP Land Use Map 17: Mendocino*). Staff recommends that public access policies contained in Mendocino County Code would be satisfied.
11. Takings Analysis: Despite the identification of the least environmentally damaging alternative, the proposed project is not consistent with MCC Section 20.496.020 (A)(1), which reads in part, “the buffer area shall be measured from the outside edge of Environmentally Sensitive Habitat Areas and shall not be less than fifty feet in width.” The proposed project is sited less than fifty feet from ESHA boundaries.

Section 30010 of the California Coastal Act addresses regulatory takings and states the following:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission ... or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

In this case, prohibiting development within fifty feet of an ESHA would deprive the owner of all economic use of the property. There are no alternative development options where the project can be at least fifty feet from ESHA, as the site includes wetlands, Bishop pine forest, and sedge, or a buffer from the ESHA (See attached Revised Site Plan).

Some factors courts examine to determine if a regulatory taking has occurred involve the presence of reasonable investment-backed expectations, the degree to which a regulation may interfere with those reasonable investment-backed expectations, and whether or not a regulation deprives an owner of all economic use of the property. Staff believes there was a reasonable investment backed expectation that that the scale of the residential development proposed is consistent with similar properties in the vicinity. Attachment C to this staff report includes an outline of the cost the applicant has incurred since acquiring the site circa 1988. Considering the property is zoned for residential development as a principally permitted use, and residential development exists on adjacent properties, a reasonable person would believe that the property could be developed with a single-family residence. The property owner obtained permission in 1988 for the temporary occupancy of a travel trailer during the construction of the home, obtained a Certificate of Compliance, septic permit 1831-F and a building permit for the pump house. The property owner also graded and maintained the driveway, purchased architectural plans for the proposed residence and garage, and paid for the preparation of the specialized reports associated with filing a coastal development permit.

The applicant has spent approximately \$30,000 since acquiring the property to maintain the land and apply for a Coastal Development Permit.

In order to assess if the applicant's expectation to build an approximately 1,848-square-foot single-family residence with 952-square-foot detached garage on an approximately one acre lot is similar to comparable single-family developments in the area, forty-nine (49) residences located in the vicinity were examined. The total of existing and proposed development for the subject proposed project would equal around 3,365 square feet. After reviewing 49 similar residential parcels, development sizes vary from between 856 square feet to 7,169 square feet. The average size is 3,724 square feet of development and the median size is 2,943 square feet. The proposed development is within 100 square feet of the average development size (See attached Takings Analysis).

MCC Section 20.368.010 states the principally permitted use types in the RR district, which include: single-family residential, vacation home rental, light agriculture, row and field crops, tree crops and passive recreation. Due to the prevalence of ESHA on the parcel, all principally permitted uses

except for passive recreation would require encroachment into an ESHA buffer. The allowed agricultural uses would require substantial site disturbance and clearing and are not a viable way to use the property. Passive recreation use would be the only option that would be less impactful than the construction of a single-family residence and possibly not require any activities meeting the definition of development under the Coastal Act. Passive recreation uses do not afford the property owner an economically viable use.

The property was purchased with an investment-backed expectation that construction of a single-family residence would be permitted. The obtainment of a 1988 use permit for temporary occupancy of a travel trailer during construction of a home is evidence that the owner intended to pursue development of a single-family residence. This intent is noted in the Staff Report for U 1988-47.

Alternatives to the proposed development, including different development projects and alternative locations, were considered and analyzed by a qualified professional, as required by MCC Sections 20.496.020(A)(4)(b) and 20.532.060(E). The proposed project is considered the most feasible, least environmentally damaging alternative that avoids sensitive coastal resources and related ESHA buffer requirements that satisfies the investment backed expectation of the owner. Mitigation measures were recommended in the Report of Compliance and are recommended as Condition [#18#17](#) to ensure the project does not have an adverse impact on the sensitive resources at the site.

Alternatives to the proposed development: Land Use and Location. The project is located in the Rural Residential District where the principally permitted use type is evidenced on adjoining lots; single-family residences are constructed on the other lots on Canterbury Lane. Besides the principally permitted Coastal Residential Use Types, other permitted use types include Coastal Agricultural Use Types and Coastal Open Space Use Types. "Agriculture and passive recreation are economically infeasible options in this location. The property is too small in size [and] does not contain prime agricultural soils ... to be considered an economically feasible location for agriculture. Further, water ... is likely insufficient to support agriculture and may result in conflicts with neighboring residential uses (Report of Compliance, page 10). "Economically feasible passive recreation in the area is accommodated to the north at the Botanical Gardens, however a small residential property would not be able to compete with the well-established nearby 47 acre attraction (*et seq.*)" Adjoining the lot to the east and west is Jackson State Forest, with ample opportunities for passive recreation.

The property was acquired in April 1970 and, as part of a divorce settlement in the 1980's, title was transferred to Ruth Ann Jane Gardner. In 1988, a septic system was approved and installed; and a use permit was obtained for temporary occupancy during construction of a single-family residence (See Septic 1831-F and U 1988-47). Despite approvals to do so, the property owner did not construct a residence at that time. In 1991, Mendocino County adopted the Mendocino County Coastal Zoning Code and established single-family residential land uses as a principally permitted in the Rural Residential District. On May 10, 2001, Ms. Gardner granted to her daughter, Anne Helen Janine Gardner Fritz, a life estate in favor of Ms. Gardner for so long as she desires to live at 43007 Little Lake Road (the project site) and on June 27, 2017, a Standard Coastal Development Permit application was filed. [On July 18, 2017, Ruth Ann Jane Gardner quitclaimed to Anne Helen Janine Gardner Fritz the property. The current property owner is the applicant, Ann Fritz.](#)

ENVIRONMENTAL DETERMINATION

The Coastal Permit Administrator finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, a Mitigated Negative Declaration is adopted.

PROJECT FINDINGS AND CONDITIONS

Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, the Coastal Permit Administrator approves the proposed project, and adopts the following findings and

conditions.

FINDINGS:

1. Pursuant with MCC Section 20.532.095(A)(1), the proposed development is in conformity with the certified Local Coastal Program, except MCC Section 20.496.020(A)(1) relating to buffer widths from Environmentally Sensitive Habitat Areas, which is specifically addressed by the Supplemental Finding #8 below. A single-family residence, garage, and pump house are consistent with the intent of the Rural Residential classification; and
2. Pursuant with MCC Section 20.532.095(A)(2), the proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities. The proposed project will be served by an existing test well, to be converted to a domestic well under this permit and a sewage disposal system. Canterbury Lane (private drive) will be improved to Department of Transportation standards and is adequate to serve the proposed development. Drainage and other necessary facilities have been considered in project design; and
3. Pursuant with MCC Section 20.532.095(A)(3), the proposed development is consistent with the purpose and intent of the Rural Residential zoning district, as well as all other provisions of Division II of Title 20 of the Mendocino County Code, and preserves the integrity of the Rural Residential District. With compliance with the conditions of approval, the proposed single-family residence, appurtenant structures, and associated utilities would satisfy all development requirements for the district; and
4. Pursuant with MCC Section 20.532.095(A)(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. An Initial Study and adoption of a Mitigated Negative Declaration is recommended. Condition 18 is recommended to insure compliance with the California Environmental Quality Act requirements for a Mitigated Negative Declaration; and
5. Pursuant with MCC Section 20.532.095(A)(5), the proposed development would not have any adverse impact on any known archaeological or paleontological resources if constructed in compliance with the conditions of approval, as there are known resources within the vicinity of the site; and
6. Pursuant with MCC Section 20.532.095(A)(6), other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development. Solid waste service is available either as curbside pick-up or at the Caspar Transfer Station. While the project would contribute incrementally to traffic volumes on local and regional roadways, such incremental increases were considered when the LCP land use designations were assigned to the site; and
7. Pursuant with MCC Section 20.532.095(B), the proposed development would not diminish public access to Mendocino County coastal areas and conforms to the goals and policies of the Coastal Element of the General Plan. The project site is not designated as a potential public access point. Coastal access follows Little Lake Road.
8. Pursuant to MCC Section 20.532.100(A)(1) No development shall be allowed in an ESHA unless the resource as identified will not be significantly degraded by the proposed development, there is no feasible less environmentally damaging alternative, and all feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted. Alternatives to the proposed development were considered. Adjacent properties in the vicinity were reviewed to determine that the size and scale of development is in conformance with adjacent properties. Mitigation measures have been recommended to reduce any potential impacts from the proposed project. As conditioned, the proposed development will not significantly degrade the resource as identified.

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the California Coastal Commission has expired and no appeal has been filed with the California 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.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code (MCC).
3. To remain valid, progress towards completion of the project must be continuous. The property owner(s) has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
4. 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.
5. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
6. The Applicants shall secure all required Building Permits for the proposed project as required by the Building Division of the Department of Planning and Building Services.
7. 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.
8. 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.
9. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the property owner shall cease and desist from all further excavation and disturbances within 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.
10. Conditions approving CDP_2017-0032 shall be attached to any building permit application and shall be a part of on-site construction drawings.
11. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by

Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2,404.75 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within 5 days of the end of any appeal period. Any waiver of the fee shall be on a form issued by the California Department of Fish and Wildlife upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The property owner has the sole responsibility to insure timely compliance with this condition.**

12. Prior to the issuance of a Building Permit associated with CDP 2017-0032, the property owner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel. The deed restriction will include the following statements and, or exhibits:
 - a. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys’ fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project; and
 - b. The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the property owner; and
 - c. The conditions of CDP 2017-0032 permit are imposed as covenants, conditions and restrictions on the use and enjoyment of the property.
 - d. The adopted findings and conditions approving CDP_2017-0032 and the Revised Site Plan dated March 22, 2018 shall be attached as exhibits to the Deed Restriction.
 - e. An Open Space Easement shall be established for the entire site, with development allowed in the locations shown on the Revised Site Plan dated March 22, 2018.

The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

13. Pursuant with MCC Section **20.496.020(A)(1)** *et seq.*, a buffer area shall be established adjacent to all environmentally sensitive habitat areas. A 100-foot buffer width shall be established for all on-site environmentally sensitive habitat areas (ESHA), including Bishop Pine Forest and Wetland ESHAs. A 50-foot reduced buffer width shall be established between the off-site Sphagnum bog and Mendocino cypress trees as described in the Biological Scoping Survey, Botanical Survey and Wetland Delineation Report dated May 23, 2018.
14. Pursuant with MCC Section **20.496.020(A)(4)**, development within 100-feet of identified ESHA shall comply with the following standards:
 - a. Avoidance measures shall be implemented to ensure that development is compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.
 - i. **Invasive Plants** - Invasive plants present on the site, including bull thistle (*Cirsium vulgare*), shall be removed to improve habitat value. Prior to use on the site, heavy equipment shall be washed down off-site to prevent accidental contamination with invasive plant seeds. Special care shall be taken to wash tires and undercarriages, where

invasive seeds might be present. Invasive plants as listed by the California Invasive Plant Council (Cal-IPC) (<https://www.calipc.org/plants/inventory/>) shall not be used as landscaping species. Landscaping shall consist of native plants compatible with the on-site plant communities. The work shall comply with the Final Wetland Restoration Plan.

- ii. **Erosion Control** – Standard Best Management Practices (BMPs), such as straw bales, fiber rolls, and/or silt fencing structures, shall be employed to assure the minimization of erosion resulting from construction and to avoid runoff into sensitive habitat areas. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. Any soil stockpiles shall be covered or otherwise stabilized to prevent dust impacts. Any bare soil created by the construction phase of the project shall be revegetated with native vegetation and/or native seed mixes for soil stabilization.
- iii. **Birds** - The bird breeding season typically extends from February to August. The clearing of vegetation and the initiation of construction shall be done in the non-breeding season between September and January. If these activities cannot be done in the non-breeding season, a qualified biologist shall perform pre-construction breeding bird surveys within 14 days of the onset of construction or clearing of vegetation. If active breeding bird nests are observed, no ground disturbance activities shall occur within a minimum 100-foot exclusion zone. These exclusion zones may vary depending on species, habitat, and level of disturbance. The exclusion zone shall remain in place around the active nest until all young are no longer dependent upon the nest. A biologist shall monitor the nest site weekly during the breeding season to ensure the buffer is sufficient to protect the nest site from potential disturbance.
- iv. **Bats** - Bat roost sites can change from year to year, so pre-construction surveys are usually necessary to determine the presence or absence of bat roost sites in a given area. Pre-construction bat surveys do not need to be performed if work or vegetation removal is conducted between September 1 and October 31, after young have matured and prior to the bat hibernation period. However, if it is necessary to disturb potential bat roost sites between November 1 and August 31, pre-construction surveys shall be performed by a qualified biologist 14 days prior to the onset of development activities, and shall involve surveying trees, rock outcrops, and buildings subject to removal or demolition for evidence of bat use (guano accumulation, or acoustic or visual detections). If evidence of bat use is observed, then a qualified biologist shall conduct acoustic surveys under appropriate conditions using an acoustic detector, to determine whether a site is occupied. If bats are found, a minimum 50 foot buffer shall be implemented around the roost tree. Removal of roost trees shall occur in September and October, or after the bats have left the roost.
- v. **Northern Red-Legged Frog** – Project contractors will be trained by a qualified biologist in the identification of the northern red-legged frog (*Rana aurora*). A survey for Northern red-legged frog shall occur within two weeks prior to construction. Construction crews will begin each day with a visual search around all stacked or stored materials, as well as along any silt fences to detect the presence of frogs. If a special status frog is detected, construction crews will contact California Department of Fish and Wildlife or a qualified biologist to relocate northern red-legged frogs prior to re-initiating work. If a rain event occurs during the construction period, all ground disturbing construction-related activities will cease for a period of 48 hours after the rain stops. Prior to resuming ground disturbing construction activities, trained construction crew member(s) will examine the site for the presence of frogs. If no special status frogs are found, construction activities may resume.
- vi. **Sonoma Tree Vole** – If Douglas fir or Bishop pine trees are to be removed to accommodate the development, a Sonoma tree vole survey shall occur within two weeks

of tree removal activities. Protocols per the California Department of Fish and Wildlife shall be followed should Sonoma tree vole nests be identified in trees to be removed.

- vii. **Wetland and Rare Plant Impacts** – No direct impacts are to occur to onsite wetlands or rare plants from construction or related activities. All staging and materials storage, and other project components must occur outside of ESHA buffers, wetlands, and rare plant areas. Staging and materials storage and other project components may be located within the authorized development areas. If any work should occur within wetland areas or their buffer, it shall comply with the Final Wetland Restoration Plan.
 - viii. **Low Impact Development** – Creation of new impervious surfaces shall be minimized. A low-impact development design shall be incorporated into the development to address runoff from new impervious surfaces, assuring runoff from the site is adequately infiltrated within the boundaries of the property, and runoff patterns for wetland and sensitive plant areas are maintained or improved.
- b. Development shall be limited to the areas identified on the March 22, 2018 Revised Site Plan.
 - c. Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas.
 - d. Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity. Identified avoidance measures shall be implemented.
 - e. No structures shall be allowed within the buffer area, except the authorized development envelope shown on Revised Site Plan dated March 22, 2018. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel.
 - f. Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.
 - i. To minimize impervious surfaces, the existing u-shaped driveway that intersects with Canterbury Road shall be reduced. Use of one leg of the u-shaped portion of the driveway shall discontinue.
 - ii. To minimize removal of vegetation, limit the development footprint to the area identified in the Revised Site Plan dated March 22, 2018, and require a coastal development permit for any future development at this site.
 - iii. To minimize the amount of bare soil disturbed, noise, dust, nutrient runoff, and air pollution, identified avoidance measures shall be implemented.
 - iv. To minimize human intrusion into the wetland and other habitat areas, requiring low-stature fencing be installed along both sides of the driveway between the garage and the driveway's intersection with Canterbury Lane. The fence location shall obstruct future use of the u-shaped portion of the existing driveway access from Canterbury Lane. Access gates may be installed adjacent to the fuel tank, water storage tank, and along Canterbury Lane. The low-stature fence would establish a physical barrier between the sensitive habitat areas and development.
 - v. To minimize alteration of natural land forms, grading shall be limited to the five (5) cubic yards proposed and require an approved grading plan with contours that would limit runoff, dust, and disturbing soil. In accordance with MCC Chapter 20.492, a building permit, or grading permit exemption, shall be required for any grading, including but not

limited to, any excavation or filling or combination thereof involving transfer of more than two (2) cubic yards of material. The Coastal Permit Administrator, or their designee, shall review and approve grading permits to determine their consistency with MCC Chapters 20.492, 20.496, and 20.500 regulations. Grading activities, including the maintaining driveway and parking areas, and any work associated with an Encroachment Permit, shall comply with MCC Chapters 20.492, 20.496, and 20.500 regulations.

- g. Permanent open space and wetland restoration shall be implemented as mitigation measures for development adjacent to environmentally sensitive habitats, including Wetlands and Bishop pine forests.
 - i. To assure the protection of resources and to assure that development is compatible with the continuance of the mapped habitat areas, a Deed Restriction shall establish an Open Space Easement on the property. The boundaries of the easement shall be the property boundaries.
 - ii. Wetland Restoration Plan Procedures shall be implemented pursuant with MCC Section 20.532.065. The Final Wetland Restoration Plan shall be followed.
15. Pursuant with MCC Sections **20.496.025(A)**, to protect environmentally sensitive habitat areas, such as wetlands, riparian corridors, and other environmentally sensitive habitat, the property owner shall immediately prior to, during, and immediately following construction-related activities:
 - a. Install and maintain protective fencing during construction as shown on the November 14, 2018 revised Figure 3 of the Wetland and Rare Plant Avoidance and Mitigation Plan.
 - b. Storage of goods, materials, and refuse containers shall be limited to the interior of the buildings.
 - c. Staging and stockpiling of construction materials shall be located as identified on the November 14, 2018 revised Figure 3 in the Wetland and Rare Plant Avoidance and Mitigation Plan.
 - d. The property owner shall avoid use of areas outside of the approved development envelope. *Passive Recreation* activities are allowed within the Open Space Easement.
16. In accordance with MCC Section **20.500.025** and at the request of California Department of Forestry and Fire Prevention, the property owner shall provide for storing 4,100 gallons of water on-site for fire suppression in the location shown on the Revised Site Plan dated March 22, 2018.
17. Pursuant with MCC Section **20.504.025**, the Coastal Permit Administrator, or their designee, shall determine whether a Coastal Development Permit, or a modification to an existing permit, is required prior to the removal of any tree.
18. In accordance with MCC Section **20.532.060(E)(5)**, Mitigation Measures, including restoration measures and proposed buffer areas, shall be in place during all development activities:
 - a. Prior to any project-related ground disturbing activities, orange plastic construction fence shall be erected at the locations shown in Figure 3 of the Wetland and Rare Plant Avoidance and Mitigation Plan. This construction fence shall be maintained in good working order until all ground disturbance, staging, storage, and heavy equipment use associated with the project is complete. Fencing shall be staked with approximately 6 foot metal t-posts at 4 to 6 foot intervals, and secured to the t-posts with zip ties. If ground disturbing activities are to occur during the rainy season (between October 31 and May 1 of any year), silt fencing shall also be properly installed and maintained in place on the outer (side away from wetlands) side of the construction fence.
 - b. Staging and stockpiling shall be limited to areas within the single-family residence and garage footprint and the stockpile and staging area shown in revised Figure 3 of the Wetland and Rare Plant Avoidance and Mitigation Plan submitted on November 14, 2018. No equipment or materials

shall enter sensitive areas, and all contractors shall be made aware of the purpose of the construction fence and where to store materials.

- c. Prior to the onset of ground disturbing activities, an on-site contractor training shall occur. Contractors and subcontractors shall be trained by a qualified biologist or ecologist, to recognize on-site special status habitats, including but not limited to wetlands, rare plants, and special status vegetation alliances. The contractors shall be made aware of the purpose of the construction fence, how it shall be maintained in place in good working order throughout project implementation, how equipment and materials shall stay out of sensitive areas, and where staging is to occur. A copy of the Wetland and Rare Plant Avoidance and Mitigation Plan shall be provided to contractors and kept on-site.
- d. All heavy equipment maintenance, such as filling with oil and lubricants, shall be performed off-property. Fuel, oils, and lubricants used for heavy equipment shall not be stored at the site. Paints, stains, cement, and other construction materials that may spill shall be stored inside sheds or other storage structures if feasible, or in a dedicated portion of the staging area where a tarp or similar device is placed, preventing absorption into the soil if accidentally spilled. Brushes, pans, and other equipment to be rinsed shall be wrapped in a plastic bag and rinsed off-site. Wash water shall not be thrown into the bushes.
- e. An accidental spill kit shall be kept on site, which shall include a shovel, heavy duty plastic bags, absorbent pads, and personal protective devices (gloves, goggles etc.) necessary for the types of materials kept on the site. The Caltrans Spill Prevention and Control manual (WM-4) included as Appendix A of the Wetland and Rare Plant Avoidance and Mitigation Plan (or a more current version if available), shall be followed for spill prevention and control procedures.
- f. As soon as it is discovered that wetlands, Bishop Pine Forest, California sedge, or areas mapped as such have been detrimentally impacted during project implementation, all disturbances to the sensitive area shall stop. Any equipment or materials shall be removed from the area as carefully as possible. Protective fencing and/or flagging shall be immediately placed around the disturbed area to prevent further impacts. The head contractor on-site shall be responsible to contact the California Department of Fish and Wildlife (CDFW), who shall be allowed on-site as soon as possible in order to assess and record the extent of the disturbance. California Department of Fish and Wildlife contacts include Daniel Harrington at (707) 964-7683 and Jennifer Garrison at (707) 964-1476. After permission is granted by CDFW, any disturbed soils shall be replaced to previous conditions to the extent feasible. Care shall be taken to avoid impacts to any undisturbed areas or special status plants still present.
 - i. If areas of Bishop Pine Forest are detrimentally impacted, CDFW shall determine whether a Bishop Pine Forest restoration plan will be required, or if other measures, such as understory planting will suffice. Restoration efforts shall result in restoration of plants lost at a ratio of at least 2:1 or as required by the CDFW.
 - ii. If areas of California sedge are detrimentally impacted, areas shall be restored to natural conditions to the extent feasible. A restoration plan shall be developed if required by CDFW. Restoration shall occur under the guidance of CDFW and/or qualified botanist with a CDFW special status plant collection permit. Restoration shall result in a replacement ratio of at least 1:1 for plants lost, or as required by CDFW.
 - iii. If areas of wetlands are detrimentally impacted, a Final Restoration Plan shall be prepared pursuant with MCC Section 20.532.065. Any permits required for disturbance shall be obtained after the fact. Wetland restoration efforts shall result in a replacement of plants lost at a ratio of at least 2:1 or as required by the CDFW.
 - iv. Monitoring shall occur until replacement ratio goals are achieved.

- v. Reports shall be received by the CDFW by December 1 of each year until replacement goals have been met and CDFW signs off on the restoration effort. Reports shall include the following information: (1) Name and contact information of person in charge of monitoring activities, and name and contact information of reporting party. (2) Color photos of the active management areas at the beginning and end of the reporting period. (3) A summary of any issues encountered and management steps taken during the reporting period. (4) Methods used during that monitoring period to eradicate weeds, improve ecosystem health, and encourage appropriate vegetative growth. (5) Any new invasive plant species observed or evidence of pathogen presence shall be described.

Reports shall be sent by US Mail to:

Daniel Harrington or Jennifer Garrison
California Department of Fish and Wildlife
32330 North Harbor Drive
Fort Bragg, CA 95437

19. Pursuant with MCC Section **20.532.065** *Wetland Restoration Plan Procedures*, a Final Wetland Restoration Plan shall be prepared by the property owner based on the approving authority approved or conditionally approved tentative restoration plan (i.e., Wetland and Rare Plant Avoidance and Mitigation Plan dated September 17, 2018 with a November 14, 2018 revised Figure 3). In addition, the final plan shall include all of the following:
 - a. A complete statement of the restoration objectives; and
 - b. A complete description of the restoration site including a map of the project site, at a mapping scale no smaller than 1" = 200'; and
 - c. A complete restoration description including scaled, detailed diagrams, and including: (a) A grading plan depicting any alterations to topography, natural landforms, and drainage channels and areas where existing fill and debris will be removed; (b) A vegetation plan including a list of plant species to be eliminated and a list of plant species to be introduced on the restoration site, and describing the methods and proposing a schedule for eliminating and establishing vegetation; (c) A clear statement of when restoration work will commence and be completed; (d) Provisions of public access, where appropriate, for public recreation, scientific, and educational use; and (e) Other measures necessary to achieve restoration objectives and to protect the restoration site from adverse impacts of adjacent development and use. (f) Provisions for mosquito and vector control; and
 - d. Provision for Long-Term Management of the Restoration Site. The final plan shall describe the property owner's responsibilities in assuring that the project will be successful, including monitoring and evaluation, and that the restored area is maintained consistent with the plan's restoration objectives. The plan shall include provisions for making repairs or modification to the restoration site necessary to meet the project objectives. The final plan shall provide either that the restoration site shall be owned in fee by an agency or non-profit organization having among its principal purposes the conservation and management of fish and wildlife, or other habitat resources, or shall provide for dedication of an open space or conservation easement over the restoration area to such an agency or organization.
20. Prior to commencing ground disturbing activities within a Wetland ESHA and pursuant with MCC Section 20.532.065(H), the Coastal Permit Administrator shall determine whether the Final Restoration Plan is in substantial conformance with the approved tentative plan.
21. Prior to the issuance of a Building Permit and pursuant with MCC Chapter 20.516 Transportation, Utilities, and Public Services, new development that requires the expansion or extension of public works or private facilities shall satisfy septage and leach field, water supply and transportation requirements including:

- a. Converting the existing test well to a production well; and
- b. Limiting vehicular access and development opportunities within the Septic Easement or the replacement leach field area; and
- c. Constructing a private road approach onto Little Lake Road (CR 408) and Canterbury Lane (Private) in accordance with Mendocino County Road and Development Standards No. A51B, or as modified by property owner and approved by Department of Transportation staff during field review. The road approach is to be paved with asphalt concrete or comparable surfacing to the adjacent road. Concrete driveways shall not be permitted; and
- d. The property owner shall obtain an encroachment permit from the Mendocino County Department of Transportation for work within County rights-of-way.
- e. A Coastal Permit, or an amendment to CDP 2017-0032, shall be obtained prior to changing the location or design of the primary or replacement leach field.

April 10, 2019

DATE

Juliana Cherry

JULIANA CHERRY
PLANNER III

Appeal Period: 10 Days
Appeal Fee: \$1616.00

ATTACHMENTS:

- | | |
|--|---|
| A. Takings Analysis | M. Adjacent Parcels |
| B. Location Map | N. Fire Hazard Zones & Responsibility Areas |
| C. Topographic Map | O. Important Farm Land |
| D. Aerial Imagery | P. Ground Water Resources |
| E. Aerial Imagery | Q. Local Soils |
| F. <u>Revised Site Plan dated March 22, 2018</u> | R. Williamson Act |
| G. Zoning Display Map | S. Lands in Timber Production Zones |
| H. General Plan Classifications | T. Wetlands |
| I. LCP Land Use Map 17: Mendocino | U. Fire Safe Plan |
| J. LCP Land Capabilities & Natural Hazards | V. Floor Plan |
| K. LCP Habitats & Resources | W. Garage Floor Plan |
| L. Appealable Areas | X. Identified Plan Communities |

SUMMARY OF REFERRAL AGENCY COMMENTS:

Planning (Ukiah)	Comment
Department of Transportation	Comment
Environmental Health (FB)	Comment
Building Inspection (FB)	Comment
Assessor	No Response
Forestry Advisor	No Response
Air Quality Management District	No Response
Archaeological Commission	Comment
Sonoma State University	Comment

US Fish and Wildlife Service	No Response
Native Plant Society	Comment
State Clearinghouse	No Response
CalFire	File No 91-17
California Department of Fish and Wildlife	Comment
California Coastal Commission	Comment
RWQCB	No Response
Department of Conservation	No Response
Soil Conservation Service	No Response
Cloverdale Rancheria	No Response
Sherwood Valley Band of Pomo Indians	No Response
Redwood Valley Rancheria	No Response
Sierra Club	No Response
Mendocino Fire District	No Response

REFERENCES:

Mendocino County, Planning and Building Services, Planning Division. *The County of Mendocino-Coastal Element*. 1985. Ukiah, CA.

Mendocino County, Planning and Building Services, Planning Division. *Division II of Title 20 of the Mendocino County Code*. 1991.

Spade Natural Resources Consulting. 2018. Biological Scoping Survey, Botanical Survey and Wetland Delineation Report for 43007 Little Lake Road (APN 119-430-20) Little River, CA. May 23, 2018.

Spade Natural Resources Consulting. 2018. Report of Compliance Revised April 11, 2018 for 43007 Little Lake Road (APN 119-430-20) Little River, CA. April 11, 2018.

Spade Natural Resources Consulting. 2018. Wetland and Rare Plant Avoidance and Mitigation Plan for 43007 Little Lake Road (APN 119-430-20) Little River, CA. Revised November 14, 2018.

