



**COUNTY OF MENDOCINO**  
**DEPARTMENT OF PLANNING AND BUILDING SERVICES**

860 NORTH BUSH STREET · UKIAH · CALIFORNIA · 95482  
120 WEST FIR STREET · FT. BRAGG · CALIFORNIA · 95437

BRENT SCHULTZ, DIRECTOR  
TELEPHONE: 707-234-6650  
FAX: 707-463-5709  
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pbs@mendocinocounty.org  
www.mendocinocounty.org/pbs

August 14, 2019

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Mendocino County Zoning Administrator at its regular meeting on Thursday, September 12, 2019, at 10:00 a.m., to be held at Planning & Building Services, 860 N Bush Street, Public Conference Room, Ukiah California, will conduct a public hearing on the following project at the time listed or as soon thereafter as the item(s) may be heard.

**CASE#:** V\_2019-0004

**DATE FILED:** 6/4/2019

**OWNER:** MAX STOVER

**REQUEST:** A variance to reduce the minimum front, side and rear setbacks from fifty (50) feet to thirty (30) feet in order to facilitate the construction of an open-sided pole barn/shade structure at the northern property line.

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt

**LOCATION:** 7.7± miles northeast of Covelo town center, lying on the north side of Mendocino Pass Road (CR 338), 1.4± miles west of its intersection with Indian Dick Road (Private), located at 32600 Mendocino Pass Rd., Covelo (APN: 032-280-49).

**SUPERVISORIAL DISTRICT:** 3

**STAFF PLANNER:** MARK CLISER

The staff report and notice will be available for public review 10 days prior to the hearing at 860 North Bush Street, Ukiah, California and on the Department of Planning and Building Services website at: [https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/zoning\\_administrator](https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/zoning_administrator)

Your comments regarding the above project(s) are invited. Written comments should be submitted to the Department of Planning and Building Services Commission Staff, at 860 North Bush Street, Ukiah, California, 95482, no later than September 11, 2019. Oral comments may be presented to the Zoning Administrator during the public hearing.

The Zoning Administrator's action regarding this item shall be final unless appealed to the Board of Supervisors. The last day to file an appeal of the Zoning Administrator's decision is the 10th day after the hearing. To file an appeal, a written statement must be filed with the Clerk of the Board with a filing fee prior to the expiration of the above noted appeal period. If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Department of Planning and Building Services at, or prior to, the public hearing. All persons are invited to appear and present testimony in this matter.

Additional information regarding the above noted item(s) may be obtained by calling the Department of Planning and Building Services at 234-6650, Monday through Friday, 8:00 a.m. through 5:00 p.m. Should you desire notification of the Zoning Administrator's decision you may do so by requesting notification in writing and providing a self-addressed stamped envelope to the Department of Planning and Building Services.

BRENT SCHULTZ, Director of Planning and Building Services



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**August 14, 2019**

**TO: Willits News**  
**FROM: James F. Feenan, Commission Services Supervisor**  
**SUBJECT: Publication of Legal Notice.**

**Please publish the following notice one time on August 21, 2019 in the Legal Notices Section of the Willits News.**

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BRENT SCHULTZ, Director of Planning and Building Services



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**ZONING ADMINISTRATOR  
STAFF REPORT- VARIANCE**

**SEPTEMBER 12, 2019  
V\_2019-0004**

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**SUMMARY**

**OWNER/APPLICANT:** MAX STOVER  
PO BOX 312  
CALPELLA, CA 95418

**REQUEST:** A variance to reduce the minimum front, side and rear setbacks from fifty (50) feet to thirty (30) feet in order to facilitate the construction of an open-sided pole barn/shade structure at the northern property line.

**LOCATION:** 7.7± miles northeast of Covelo town center, lying on the north side of Mendocino Pass Road (CR 338), 1.4± miles west of its intersection with Indian Dick Road (Private), located at 32600 Mendocino Pass Rd., Covelo (APN: 032-280-49).

**TOTAL ACREAGE:** 39.5± Acres

**GENERAL PLAN:** RL (Rangeland)

**ZONING:** RL:160 (Rangeland: 160 Acre Parcel Minimum)

**SUPERVISORIAL DISTRICT:** 3<sup>rd</sup> Supervisorial District (Haschak)

**ENVIRONMENTAL DETERMINATION:** Section 15303 (New Construction or Conversion of Small Structures)

**RECOMMENDATION:** Approve With Conditions

**STAFF PLANNER:** MARK CLISER

**BACKGROUND**

**PROJECT DESCRIPTION:** A variance to reduce the minimum rear setback from fifty (50) feet to thirty (30) feet to facilitate the construction of an open-sided pole barn/shade structure and the after-the-fact permitting of a storage structure along the northern property line. The applicant plans to connect to PG&E in the future, as well as construct a residence and septic system.

**APPLICANT'S STATEMENT:** *"I have an existing permitted well (permit number WW22867, 6/13/2016), permitted grading of driveway (permit number BU 2012-0346, 12/9/2013) and permitted grading of land to improve drainage (permit number BU 2016-0022, 2/19/2016). I have planted approximately 400 trees and shrubs (mostly California natives) since 2016. Project: I have a very unique and very beautiful property. Although, one with severe limitations for development due to the topography and the fact that it is cut/divided by two roads (Mendocino Pass Road and Hams Pass/Blands Cove Road) and the middle fork of the Eel River. I only have one suitable site for development and it is limited due to a large rock out-cropping and the hilly terrain. However, it does not meet the 50 foot setback requirement. I am seeking a variance to allow me to build an open-sided pole barn/shade structure within 30 – 49 feet of my north property line. This will allow me to derive greater enjoyment from my property by allowing me a place to get out of the sun and a protected area for storage of personal property and my vehicle. Thank you for your consideration."*

**RELATED APPLICATIONS:**

- TU\_2012-0066 (Gravel Driveway – Encroachment Permit)
- BU\_2012-0396 (Grading of Driveway)
- BU\_2016-0022 (Grading for drainage from driveway)

**SITE CHARACTERISTICS:** The approximately 39.5± acre project is located 7.7± miles northeast of Covelo town center, lying on the north side of Mendocino Pass Road (CR 338), 1.4± miles west of its intersection with Indian Dick Road (Private), located at 32600 Mendocino Pass Rd., Covelo (APN: 032-280-49). Structures on the project site include a 256 square foot storage building / shade structure, and a 288 square foot shade structure which will be removed. A motorhome is parked on the property, and is intended to be used during construction of a future residence. Propane is stored on-site within a tank. This Variance is conditioned to inform the ‘Applicant’ that use of the motorhome is only allowed under the Mendocino County Code Section 20.168.025(B) with an Administrative Permit or Mendocino County Code Section 20.168.035 – Camping, so long as it is less than fourteen (14) days or less in any six (6) month period. Furthermore, the ‘Applicant’ is advised that subsequent development, including the proposed Single-Family Residence will require a discretionary review, if constructed within the setback.

Access to the site is provided via Mendocino Pass Road (CR 338). The site features a personal cultivation site which is allowed given the acreage. The parcel is bisected by the Middle Fork Eel River. The northern third of the parcel is bisected by Mendocino Pass Road (CR 338). The area south of the river is primarily forested, while the area to the north is clear of vegetation. The parcel slopes, both north and south, towards the Eel River, and offers few suitable choices for development that are not within the parcel setbacks. Average slope on the northern portion of the parcel is approximately -46 percent.<sup>1</sup> Potentially suitable locations exist on the south side of the river, however access to them is difficult given road conditions and the distance required to access that side of the property. The proposed location for development (Attachment K), is suitable and features an area for a future residence (Attachment L), and two areas identified for septic and leach (Attachments M & N).

Elevation at the proposed building site is approximately 1,610 feet above mean sea level (amsl). The area of proposed development is situated approximately 515 feet north of a designated National Wetlands Inventory Riverine (Middle Fork Eel River).<sup>2</sup> A review of California Natural Diversity Database indicates occurrences of special status species on the subject property and adjacent parcels. There may be additional occurrences or additional species within this area which have not yet been surveyed and/or mapped.<sup>3</sup> The entirety of the site is within a mapped “Moderate” and “High Fire Hazard” area, and is within a State Responsibility Area, which is subject to the jurisdiction of CALFIRE.<sup>4</sup>

The entire site, as well as adjacent parcels, is within a mapped “Naturally Occurring Asbestos” area.<sup>5</sup> The Mendocino County Air Quality Management District enforces state regulations to reduce the effects of development projects involving construction sites and unpaved roads in areas tested and known to contain naturally occurring asbestos.

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<sup>1</sup> Google Earth Maps. July 23, 2018.

<sup>2</sup> Mendocino County Department of Planning & Building Services. 2019. *Wetland* [map].

<sup>3</sup> Mendocino County Department of Planning & Building Services. 2019. Natural Diversity Database [map].

<sup>4</sup> Mendocino County Department of Planning & Building Services. 2019. Fire Hazard Zones & Responsibility Area [map].

<sup>5</sup> Mendocino County Department of Planning & Building Services. 2019. Soils [map].

**SURROUNDING LAND USE AND ZONING:** Surrounding lands are classified as Rangeland. The lot is bisected by Mendocino Pass Road and the surrounding lots are primarily undeveloped.

	GENERAL PLAN	ZONING	LOT SIZES	USES
<b>NORTH</b>	Rangeland (RL)	Rangeland (RL160)	80± acres	Agricultural
<b>EAST</b>	Rangeland (RL)	Rangeland (RL160)	77± acres	Agricultural
<b>SOUTH</b>	Rangeland (RL)	Rangeland (RL160)	240± acres	Agricultural
<b>WEST</b>	Rangeland (RL)	Rangeland (RL160)	240± acres	Agricultural

**PUBLIC SERVICES:**

Access: MENDOCINO PASS ROAD (CR 338)  
 Fire District: CALFIRE (STATE RESPONSIBILITY AREA)  
 Water District: N/A  
 Sewer District: N/A  
 School District: ROUND VALLEY UNIFIED

**AGENCY COMMENTS:** On June 28, 2019 project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. A summary of the submitted agency comments are listed below:

REFERRAL AGENCIES	COMMENT
Department of Transportation	Comments
Environmental Health	No Comments
Building Inspection (FB)	No Response
CalFire – Resource Management	Comments
CalFire – Land Use	No Comments
Assessor	No Comments
County Addresser	No Response
Sherwood Valley Rancheria	No Response
Cloverdale Rancheria	No Response
Redwood Valley Rancheria	No Response

**ENVIRONMENTAL REVIEW:** The proposed project has been determined to be categorically exempt from CEQA per Section 15303 (New Construction or Conversion of Small Structures)

**PROJECT FINDINGS:** Per MCC Section 20.200.020, before any variance may be granted or modified it shall be shown that the following findings can be made:

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

The subject property is located on steep terrain (average slope of -46 percent), which limits potential building sites. The northern portion, however, features several level clearings easily accessed from Mendocino Pass Road (CR 338). The majority of these clearings, however, all require a setback reduction for development to occur. An area not subject to setback restrictions has been identified as a potential location for future septic and leach. Suitable locations do exist on the southern portion of the subject parcel. However, access to these areas is difficult given the Middle Fork Eel River, which bisects the parcel. Additionally, the nearest access point is approximately 1.7 miles east of the parcel, then west approximately 1.3± miles along an unpaved road. **Finding (A) can be made.**

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

The variance is being requested due to topographical challenges related to the property and the encumbrances created by the zoning designation. The existence of these obstacles is not due to any action of the applicant. Per Mendocino County Code Section 20.060-040, front, rear, and side setbacks are all fifty (50) feet. Combined with the topographical challenges, potential building sites are limited. **Finding (B) can be made.**

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

The use of this property for a single family residence and appurtenant uses is considered a substantial property right that is possessed and enjoyed by similar properties throughout the County. **Finding (C) can be made.**

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

There would be no impact on the public welfare, as the proposed development would be approximately 0.6± from the nearest adjacent structure located on a separate parcel. Additionally, due to the topography of the northern adjacent parcel, development within 100 feet of the proposed project would be unlikely. **Finding (D) can be made.**

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

The granting of such variance is found to be consistent with the General Plan, and the proposed use is compatible with this designation. The 39.5± acre subject property is consistent in size with nearby properties. **Finding (E) can be made.**

#### **RECOMMENDATION**

By resolution, adopt a Categorical Exemption and grant V\_2019-0004 for the Project, as proposed by the applicant, based on the facts and findings and subject to the conditions of approval.

8-5-2019

DATE



MARK CLISER, PLANNER I




Appeal Period: 10 Days  
Appeal Fee: \$1616.00

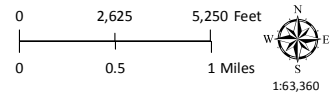
#### **ATTACHMENTS:**

- |                 |                 |
|-----------------|-----------------|
| A. Location     | H. Flood Map    |
| B. Aerial Map   | I. Wetland Map  |
| C. Site Plan    | J. Soils Map    |
| D. Zoning       | K. Photograph A |
| E. General Plan | L. Photograph B |
| F. Adjacent     | M. Photograph C |
| G. FHZ Map      | N. Photograph D |



CASE: V 2019-0004  
 OWNER: **STOVER, Max**  
 APN: 032-280-49  
 APLCT: Max Stover  
 AGENT:  
 ADDRESS: 32600 Mendocino Pass Road, Covelo

-  Major Rivers
-  Highways
-  Major Roads






LOCATION MAP  
 ATTACHMENT A

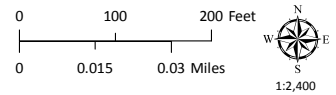
MENDOCINO COUNTY PLANNING DEPARTMENT - 6/17/2019

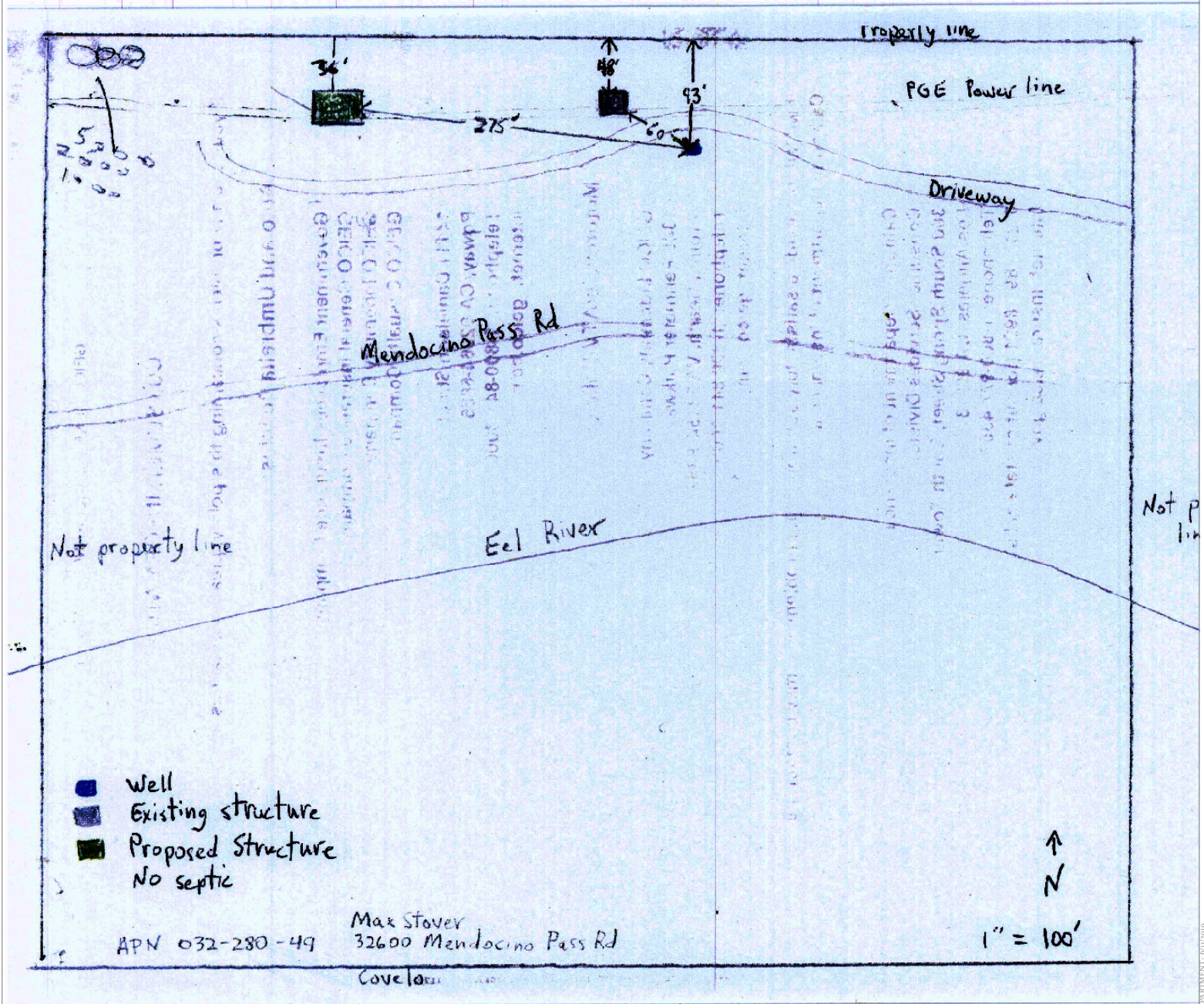




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OWNER: **STOVER, Max**  
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APLCT: Max Stover  
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-  Named Rivers
-  Public Roads
-  Driveways/Unnamed Roads





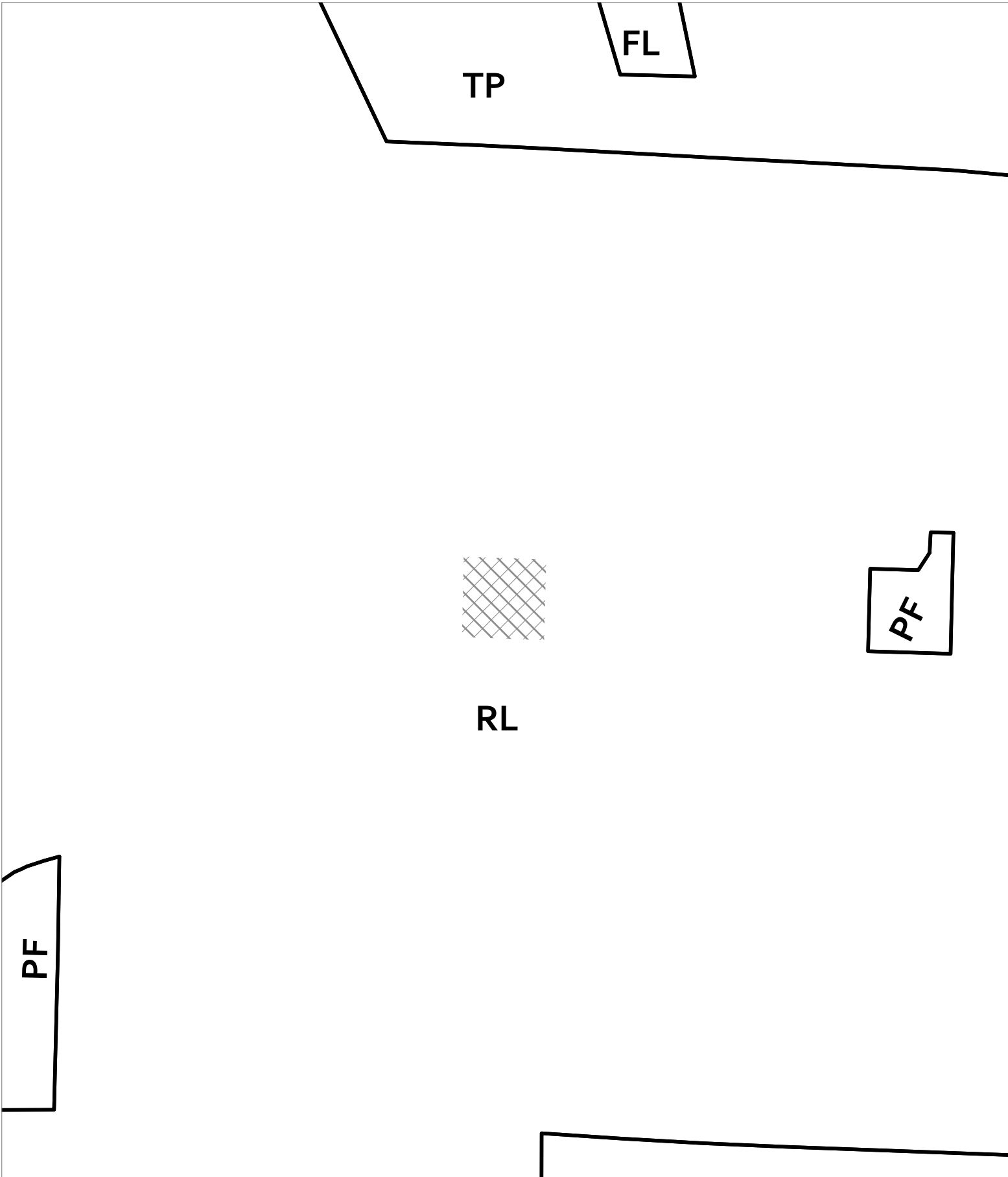
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NO SCALE

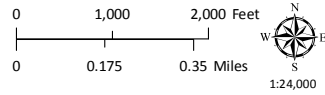
SITE PLAN  
 ATTACHMENT C

MENDOCINO COUNTY PLANNING DEPARTMENT - 6/17/2019



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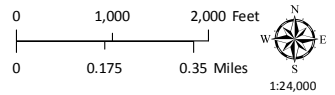
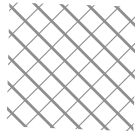
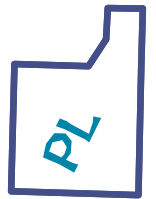
 Zoning Districts




MENDOCINO COUNTY PLANNING DEPARTMENT - 6/17/2019

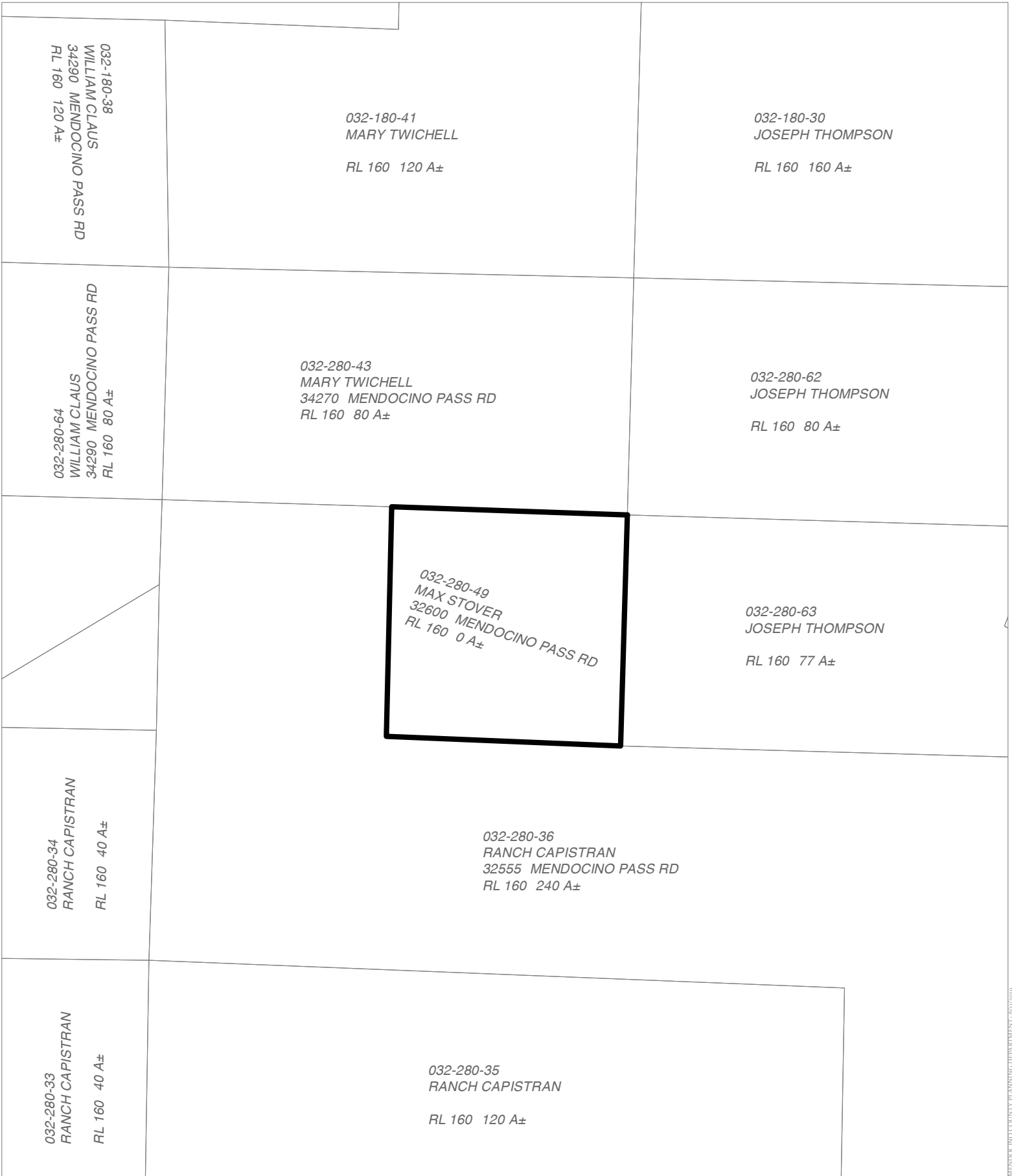
FL 160

RL 160

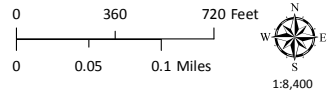


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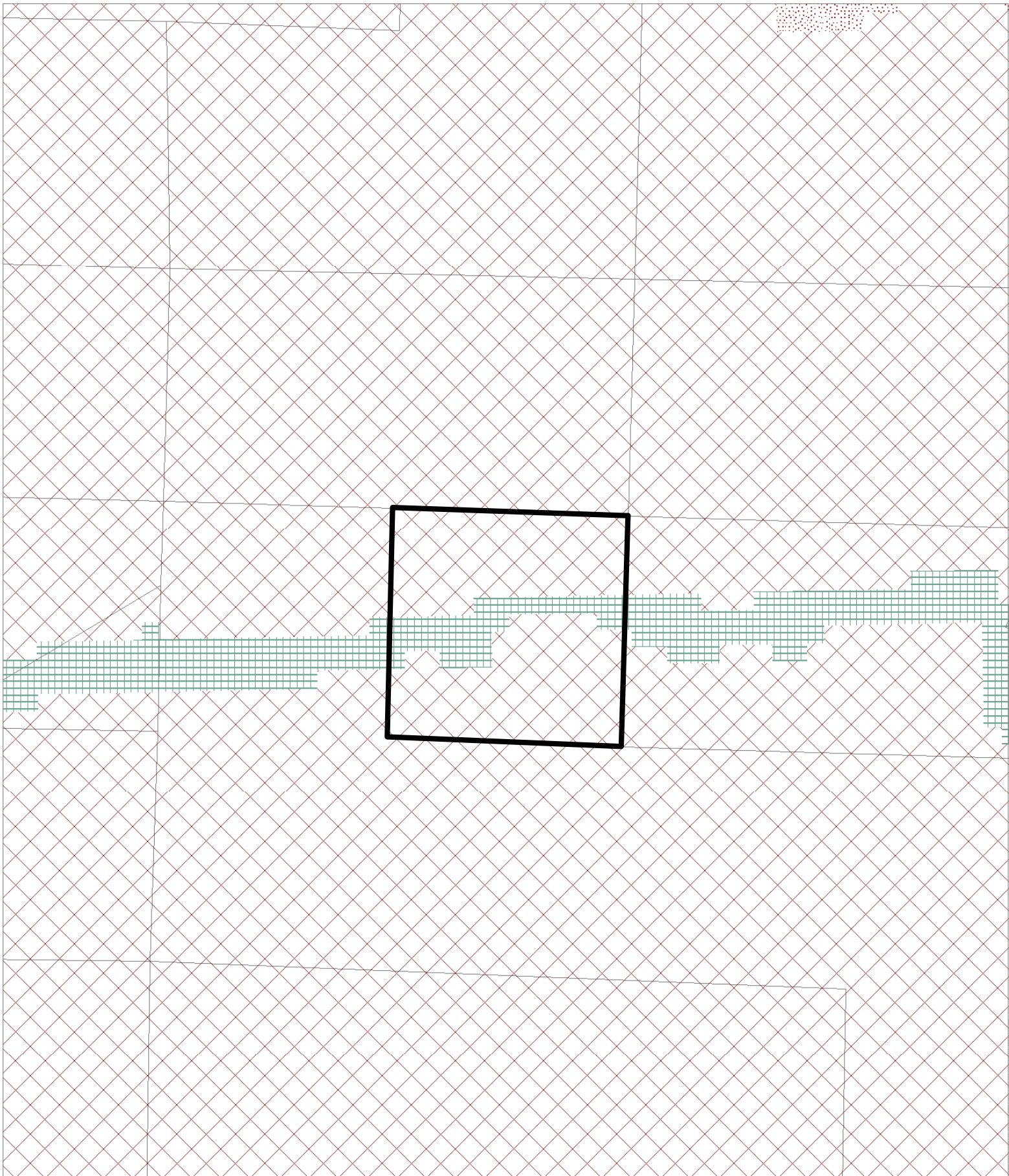
 General Plan Classes






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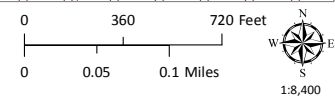


MENDOCINO COUNTY PLANNING DEPARTMENT - 6/17/2019



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 ADDRESS: 32600 Mendocino Pass Road, Covelo

-  Very High Fire Hazard
-  High Fire Hazard
-  Moderate Fire Hazard



**FIRE HAZARD ZONES & RESPONSIBILITY AREAS**  
 STATE RESPONSIBILITY AREA


MENDOCINO COUNTY PLANNING DEPARTMENT - 6/12/2019

AREA OF MINIMAL FLOOD HAZARD *Zone X*

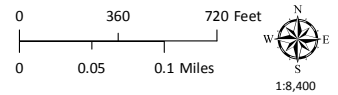
*Zone A*

AREA OF MINIMAL FLOOD HAZARD *Zone X*

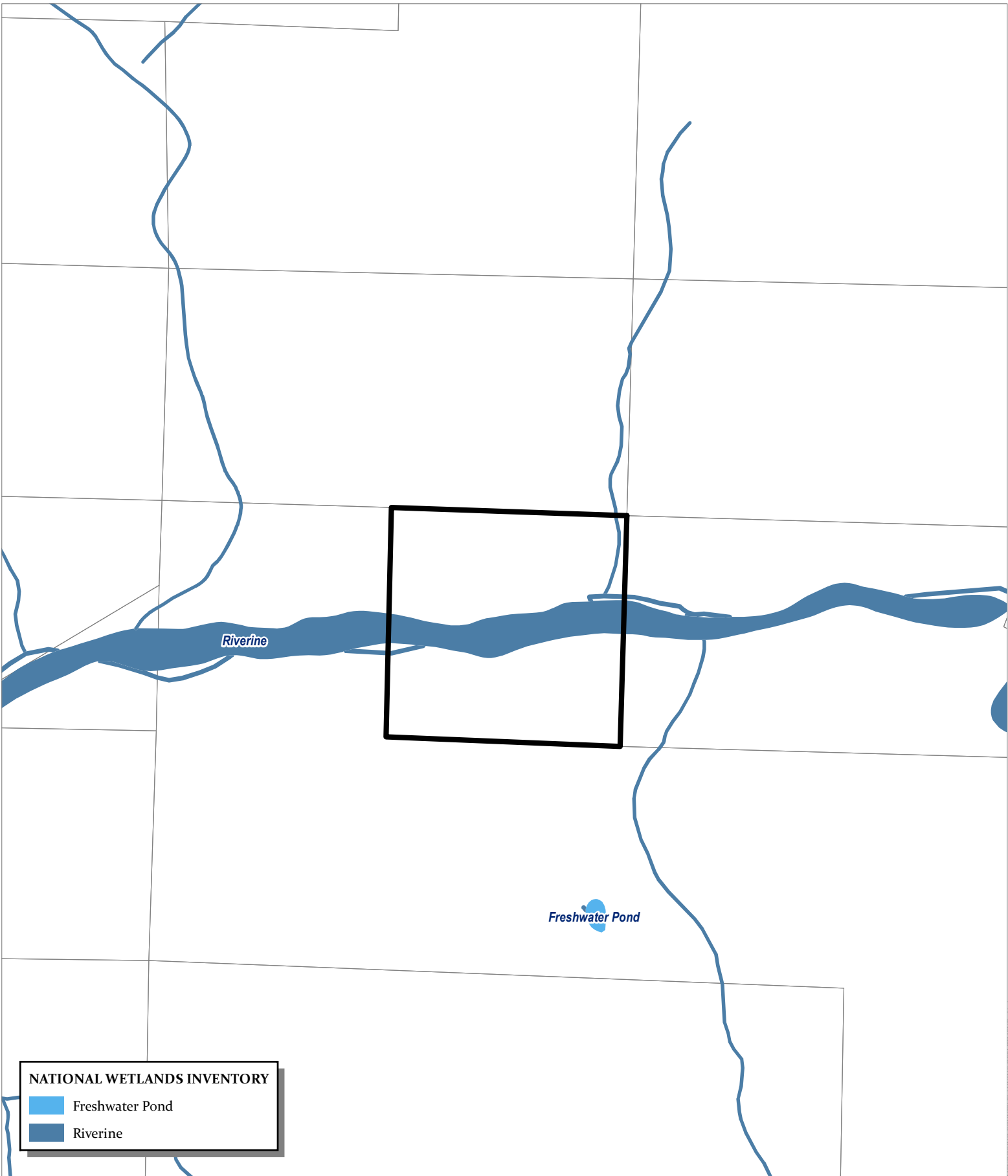
**FLOOD HAZARD AREAS**

 1% Annual Chance Flood Hazard

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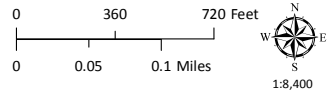
MENDOCINO COUNTY PLANNING DEPARTMENT - 6/17/2019



**NATIONAL WETLANDS INVENTORY**

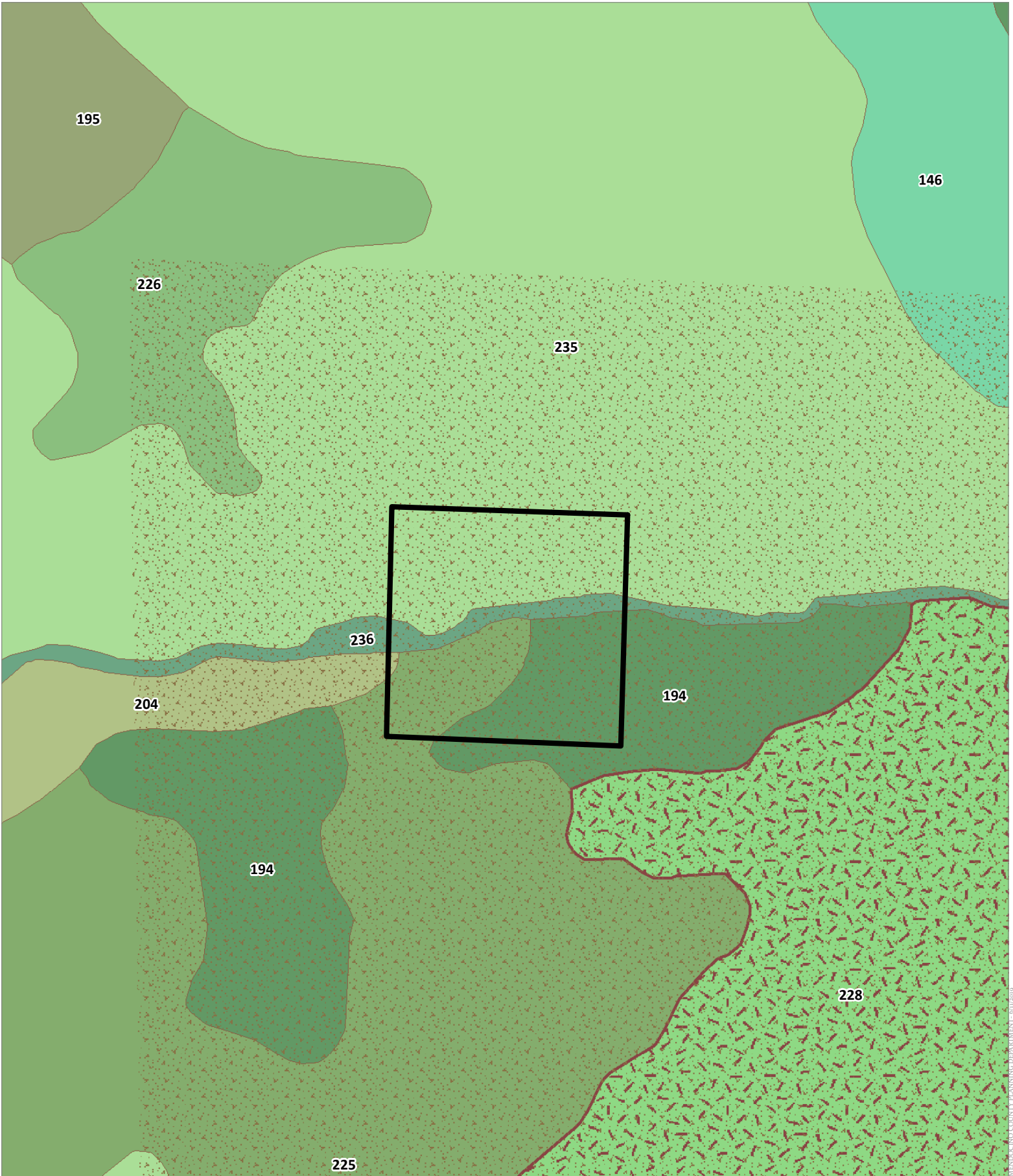
- Freshwater Pond
- Riverine

CASE: V 2019-0004  
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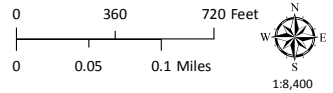
MENDOCINO COUNTY PLANNING DEPARTMENT - 6/17/2019





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 ADDRESS: 32600 Mendocino Pass Road, Covelo

-  Naturally Occurring Asbestos
-  Eastern Serpentine Inclusions
-  Eastern Study Soil Types



SOIL CLASSIFICATIONS  
 ATTACHMENT J

PHOTOGRAPH A



ATTACHMENT K

PHOTOGRAPH B



ATTACHMENT L



**PHOTOGRAPH D**



**ATTACHMENT N**

**ATTACHMENT N**

Resolution Number \_\_\_\_\_

County of Mendocino  
Ukiah, California

September 12, 2019

V\_2019-0004 MAX STOVER

WHEREAS, the applicant, MAX STOVER, filed an application for a Variance with the Mendocino County Department of Planning and Building Services to reduce the minimum front, side and rear setbacks from fifty (50) feet to thirty (30) feet in order to facilitate the construction of an open-sided pole barn/shade structure and the after-the-fact permitting of a storage structure along the northern property line, 7.7± miles northeast of Covelo town center, lying on the north side of Mendocino Pass Road (CR 338), 1.4± miles west of its intersection with Indian Dick Road (Private), located at 32600 Mendocino Pass Rd., Covelo (APN: 032-280-49); 3<sup>RD</sup> Supervisorial District; (the "Project"); and

WHEREAS, in accordance with applicable provisions of law, the Zoning Administrator held a public hearing on September 12, 2019, at which time the Zoning Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Categorical Exemption and the Project. All interested persons were given an opportunity to hear and be heard regarding the Categorical Exemption and the Project; and

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

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

1. That there are special circumstances applicable to the property involved, including size, shape, topography, location, or surrounding;

The subject property is located on steep terrain (average slope of ±46 percent), which limits potential building sites. The northern portion, however, features several clearings easily accessed from Mendocino Pass Road (CR 338). The majority of these clearings, however, also require a setback reduction to accommodate development. Areas outside the setbacks have been identified as potential locations for future septic and leach. Suitable locations do exist on the southern portion of the subject parcel. However, access to these areas is difficult, given the Middle Fork Eel River, which bisects the property. Additionally, the nearest access point is approximately 1.7 miles east of the parcel, then west approximately 1.3± miles along an unpaved road. **Finding can be made.**

2. That such special circumstances or conditions are not due to any actions of the applicant subsequent to the application of the zoning regulations contained in the Division;

The variance is being requested due to topographical challenges related to the property and the encumbrances created by the zoning designation. The existence of these obstacles is not due to any action of the applicant. Per Mendocino County Code Section 20.060-040, front, rear, and side setbacks are all fifty (50) feet. Combined with the topographical challenges, potential building sites are limited. **Finding can be made.**

3. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property in question;

The use of this property for a single family residence and appurtenant structures is considered a substantial property right that is possessed and enjoyed by neighboring properties. **Finding can be made.**

4. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such a vicinity and zone in which the property is located;

There would be no impact on the public welfare, as the proposed development would be approximately 0.6± from the nearest adjacent structure located on a separate parcel. Additionally, due to the topography of the northern adjacent parcel, development within 100 feet of the proposed project would be unlikely. **Finding can be made.**

5. That the granting of such variance will not adversely affect the General Plan;

The granting of such variance is found to be consistent with the General Plan, and the proposed use is compatible with this designation. The 39.5± acre subject property is consistent in size with nearby properties. Allowing the reduction of this setback will not affect or alter usage of the northern parcel, which is presently vacant. **Finding can be made.**

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

BE IT FURTHER RESOLVED that the Zoning Administrator designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Zoning Administrator decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Zoning Administrator action shall be final on the 11<sup>th</sup> day after the date of the Resolution unless an appeal is taken.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: JAMES F. FEENAN  
Commission Services Supervisor

By: \_\_\_\_\_

BY: BRENT SCHULTZ  
Zoning Administrator

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## EXHIBIT A

### CONDITIONS OF APPROVAL

V\_2019-0004 MAX STOVER

SEPTEMBER 12, 2019

**APPROVED PROJECT DESCRIPTION:** A variance to reduce the minimum front, side and rear setbacks from fifty (50) feet to thirty (30) feet in order to facilitate the construction of an open-sided pole barn/shade structure at the northern property line.

**ENVIRONMENTAL DETERMINATION:** This project was determined to be exempt from the requirements of the California Environmental Quality Act (CEQA) per §15303 (Class 3)(e) accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

#### **CONDITIONS OF APPROVAL:**

1. The use of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the Variance.
2. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Zoning Administrator.
3. This permit shall be subject to revocation or modification by the Zoning Administrator upon a finding of any one or more of the following grounds:
  - a. That such permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which such permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

4. 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.
5. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
6. The Applicant is advised that this variance will expire at the end of 2 years, on September 12th, 2021, unless construction of the open-sided pole barn/shade structure is commenced and diligently pursued in compliance with required building permits prior to that date.
7. The Applicant shall comply with those recommendations in the California Department of Forestry letter of May 23, 2019, (CalFire 245-19) or other alternatives as acceptable to the Department of Forestry. Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.



8. Per Mendocino County Department of Transportation, the Applicant shall not construct any structure within the reduced setback area that may hinder current sight distance on the County Road.
9. The 'Applicant' is informed that use of the motorhome is only allowed under the Mendocino County Code Section 20.168.025(B) with an Administrative Permit or Mendocino County Code Section 20.168.035 – Camping, so long as it is less than fourteen (14) days or less in any six (6) month period.
10. The 'Applicant' is informed that the existing storage structures must be permitted or removed, as specified in the provided 'Site Plan' and 'Staff Report'.
11. The 'Applicant' is informed the discussed 'Single-Family Residence' will require a separate discretionary review, if intended to replace the existing storage structure or located within the setback.
12. To record the Notice of Exemption with the CA State Clearinghouse, the applicant shall pay a fee of \$50.00 for the filing of the Notice of Exemption which 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 the project's appeal period.