



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482
120 WEST FIR STREET • FORT BRAGG • CALIFORNIA • 95437

BRENT SCHULTZ, DIRECTOR
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September 11, 2020

**PUBLIC NOTICE OF PENDING ACTION
STANDARD COASTAL DEVELOPMENT PERMIT**

NOTICE IS HEREBY GIVEN THAT the Mendocino County Coastal Permit Administrator at their regular meeting on Thursday, September 24, 2020 at 10:00 a.m. will conduct a public hearing on the following project that is located in the Coastal Zone at the time listed or as soon thereafter as the item may be heard. This meeting will be conducted virtually and not available for in person public participation (pursuant to State Executive Order N-29-20). In order to minimize the risk of exposure during this time of emergency, the public may participate digitally and via telecomment in meetings by sending comments to pbscommissions@mendocinocounty.org and is available for viewing on the Mendocino County YouTube page, at <https://www.youtube.com/MendocinoCountyVideo>.

CASE#: CDP_2015-0019

DATE FILED: 7/29/2015

OWNER: THOMAS E BLUE AND DONA & RICHARD KIDWELL

APPLICANT: DONA KIDWELL, TRUSTEE

AGENT: ED POWERS

REQUEST: Standard Coastal Development Permit for the development of a septic system design, installation of a test well and designation of building envelopes for future development of a single family residence and detached garage/workshop/mechanical building.

ENVIRONMENTAL DETERMINATION: Categorically Exempt Class 6 Information Collection

LOCATION: Approximately 0.25 miles north of the Town of Mendocino, on the south side of County Road 500D approximately 150 feet west of its intersection with Highway 1, located at 11520 Road 500D (APN 119-010-01).

STAFF PLANNER: JULIA ACKER KROG

The staff report and notice will be available 10 days before hearing on the Department of Planning and Building Services website at: <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/coastal-permit-administrator>.

As you are an adjacent property owner and/or interested party, you are invited to appear at the hearing, or to direct written comments to Planning and Building, Services 860 N Bush Street, Ukiah, CA 95482, attention Commission Staff. If you would like to be notified of the Coastal Permit Administrator's action, please submit a written request to this office. All correspondence should contain reference to the above noted case number.

Your comments regarding the above project(s) are invited. Written comments should be submitted by mail to the Department of Planning and Building Services Commission Staff, at 860 North Bush Street, Ukiah or 120 W. Fir Street, Fort Bragg, California. In order to minimize the risk of exposure during this time of emergency, the public may participate digitally in meetings by sending comments to pbscommissions@mendocinocounty.org by September 23, 2020 or orally via telecomment in lieu of personal attendance. A request form to provide telecomment is available at <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas> and must be received prior to 8:00 a.m. the morning of the meeting.

The decision of the Coastal Permit Administrator shall be final unless a written appeal is submitted to the Board of Supervisors with a filing fee within 10 calendar days thereafter. If appealed, the decision of the Board of Supervisors to approve the project shall be final unless appealed to the Coastal Commission in writing within 10 working days following Coastal Commission receipt of a Notice of Final Action on this project.

If you challenge the above case in court, you may be limited to raising only those issues described in this notice or that you or someone else raised at the public hearing, or in written correspondence delivered to the Coastal Permit Administrator at or prior to, the public hearing.

AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE. Mendocino County complies with ADA requirements and upon request, will attempt to reasonably accommodate individuals with disabilities by making meeting material available in appropriate alternate formats (pursuant to Government Code Section 54953.2). Anyone requiring reasonable accommodation to participate in the meeting should contact the Department of Planning and Building Services by calling (707) 234-6650 at least five days prior to the meeting.

Additional information regarding the above noted case may be obtained by calling the Planning and Building Services Department at 964-5379, Monday through Friday.

BRENT SCHULTZ, Director of Planning and Building Services



MEMORANDUM

DATE: SEPTEMBER 11, 2020
TO: COASTAL PERMIT ADMINISTRATOR
FROM: JULIA ACKER KROG, CHIEF PLANNER
SUBJECT: CDP_2015-0019 STATUS UPDATE

The subject permit was previously heard by the Coastal Permit Administrator on November 16, 2016. The request is for a Standard Coastal Development Permit for the development of a septic system design, installation of a test well and designation of building envelopes for future development of a single family residence and detached garage/workshop/mechanical building. The permit was continued from the November 16, 2016 hearing to a date uncertain with direction to the applicant to respond/complete the following (see Attachment A for the Action Sheet):

1. Have a Licensed Land Surveyor complete a property line survey and submit for review and approval by the County.
2. Evaluate the impacts (including vegetation removal) for the proposed well site, including evaluation of if there are other locations on the parcel that have less impacts on identified ESHA.
3. Explore the feasibility of using hand augers for designing the septic system. If not feasible, explain why infeasible.

The Agent for the project, Ed Powers, sent an email to Planning staff on April 22, 2020 regarding the project and comments made by County staff about alternatives for proposed septic improvements and the designation of the entire site as bluff face. County staff responded to the letter from the Agent on June 17, 2020. On July 22, 2020 the Agent responded to County staff's letter and has provided the following update in regards to the previous action by the Coastal Permit Administrator on the project and request for additional information:

Regarding your letter of June 17, 2020, as far as the 'Action Sheet' requirements of the Coastal Permit Administrator for a survey because of potential discrepancy with County DOT, I have had communications with County EH and it's their determination that since State Parks' pressurized sewer main is on that portion of land referred to as the 'pull out' (where the public parks), the well cannot be placed there (see attached letter). This being the case, my recommendation is for the Kidwell's to donate whatever property they own within the 'pullout' to DOT so that area can be a 'dedicated scenic lookout' in perpetuity. The proposed well location would then move to the west end of the property, within the property boundaries which have already been located and showed no discrepancy with the existing boundary of Moeller's property. (I should note that Moeller's have not provided evidence of any discrepancy.) Surveying along the Mean High Tide would serve no purpose.

As for the 'evaluation of impact' for the proposed well site, these would be removal of invasive species as identified in the Biological Report and your staff report, and at drilling site having a drilling rig on site. Since the entire parcel is ESHA, there is not another location outside of ESHA for the well.

The last thing the 'Action Sheet' calls for is the feasibility of using hand augers for the designing of septic system. While this is possible to do, it's not the standard method used by septic designers/installers, however if this is a hinging point for the County we can use hand augers.

Please share our communications with Coastal Commission staff so if there are any issues they want addressed, we can deal with those now. I want to stress this permit has been in process for 6+ years and I feel many road blocks have been placed not because of necessity or to make for a better outcome, but to deprive the Kidwells from their constitutional development rights on this property, and I don't see how any further delays could be construed as anything other than a taking of the Kidwell's property development rights.

See Attachment B for copy of Email from the Agent and associated Attachment to the email from the Division of Environmental Health.

In addition, the Agent contacted County staff on September 4, 2020 and requested to add test holes into the project request for future foundation work. It is estimated to be approximately 5-10 holes that would be required and the applicant provided a Site Plan reflecting the proposed locations. See Attachment C to this Memorandum for the locations of the proposed test holes. Staff does not see challenges with inclusion of the test hole work as the holes will be backfilled once complete with soil and impacts would be temporary.

Staff maintains their previous recommendation on the project to approve a modified project by not authorizing the building envelopes due to the lack of information necessary to support that their location is the only feasible, least environmentally damaging location. In the previous staff report prepared for the project, Staff notes on page 4 of the staff report that: "Building envelopes for a residence and detached accessory structure have also been included in the application. At this time, there is not enough information available about the proposal of the residence for staff to evaluate potential building envelopes. Additional information would need to be submitted about alternative house designs, in order for staff to find the proposal to be the least environmentally damaging location." (See Attachment D to this Memorandum for previous Staff Report and attachments).

Should the Coastal Permit Administrator wish to approve the project, staff recommends adherence to the original Resolution from November 16, 2016 with corrections to hearing dates. (See the Resolution in Attachment D to this Memorandum).

Attachments:

- A. November 16, 2016 CPA Action Sheet
- B. Email Correspondence from Agent dated July 22, 2020
- C. Proposed Foundation Test Holes site plan
- D. November 16, 2016 Staff Report and Attachments (including Resolution)

ATTACHMENT A

Coastal Permit Administrator Action Sheet

Owner/Applicant: Kidwell/Powers

Hearing Date: November 16, 2016

Case #: CDP_2015-0019

Environmental Considerations:

- Categorically Exempt**
- Negative Declaration**
- Environmental Impact Report**

Action:

- Approved**
- Denied**
- Continued to: A Date Uncertain**

Findings:

- Adopted per staff report**
- Modifications and/or additions**

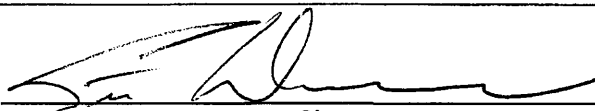
Conditions:

- Adopted per staff report**
- Modifications and/or additions**

Item was continued to a date uncertain to allow additional information to be provided regarding the proposed well location and about the ability to do less invasive soils testing for designing a septic system. The Coastal Permit Administrator suggests the following be completed prior to re-scheduling of the project for a subsequent hearing:

- 1. Have a Licensed Land Surveyor complete a property line survey and submit for review and approval by the County.*
- 2. Evaluate the impacts (including vegetation removal) for the proposed well site, including evaluation of if there are other locations on the parcel that have less impacts on identified ESHA.*
- 3. Explore the feasibility of using hand augers for designing the septic system. If not feasible, explain why infeasible.*

Coastal Permit Administrator:



Signature

ATTACHMENT B

From: <ed@m.cn.org>
To: "Julia Acker" <ackerj@mendocinocounty.org>
CC: <ed@m.cn.org>
Date: 7/22/2020 11:09 AM
Subject: Re: 500D Kidwell project
Attachments: EH_11520 ROAD 500D LETTER-7-6-20.pdf

Julia,

In response to your email of July 2, 2020 in which it appears that you are in essence saying if the Kidwells sell their property without a Coastal Development Permit in place a new owner would not have the same development rights as the current owners have. So it appears the Kidwells have two choices: proceed with existing (or modified permit application for a home/garage/workshop) or let the property remain idle based on the likelihood that any new owner would face a fight for any development rights. The latter, of course, would make any sale prior to the issuance of a building permit largely impossible.

Regarding your letter of June 17, 2020, as far as the 'Action Sheet' requirements of the Coastal Permit Administrator for a survey because of potential discrepancy with County DOT, I have had communications with County EH and it's their determination that since State Parks' 4" pressurized sewer main is on that portion of land referred to as the 'pull out' (where the public parks), the well can not be placed there (see attached letter). This being the case, my recommendation is for the Kidwell's to donate whatever property they own within the 'pullout' to DOT so that area can be a 'dedicated scenic lookout' in perpetuity. The proposed well location would then move to the west end of the property, within the property boundaries which have already been located and showed no discrepancy with the existing boundary of Moeller's property. (I should note that Moeller's have not provided evidence of any discrepancy.) Surveying along the Mean High Tide would serve no purpose.

As for the 'evaluation of impact' for the proposed well site, these would be removal of invasive species as identified in the Biological Report and your staff report, and at drilling site having a drilling rig on site. Since the entire parcel is ESHA, there is not another location outside of ESHA for the well.

The last thing the 'Action Sheet' calls for is the feasibility of using hand augers for the designing of septic system. While this is possible to do, it's not the standard method used by septic designers/installers, however if this is a hinging point for the County we can use hand augers.

Please share our communications with Coastal Commission staff so if there are any issues they want addressed, we can deal with those now. I want to stress this permit has been in process for 6+ years and I feel many road blocks have been placed not because of necessity or to make for a better outcome, but to deprive the Kidwells from their constitutional development rights on this property, and I don't see how any further delays could be construed as anything other than a taking of the Kidwell's property development rights.

Sincerely,

Ed Powers
707-357-0902

attachments:
MCEH letter of 7-6-20



Mendocino County Health & Human Services Agency

Healthy People, Healthy Communities

Tammy Moss Chandler, Director

Trey Strickland, Director
Environmental Health



July 6, 2020

Mr. Edward Powers

RE: Well Development at 11520 Road D, Mendocino

Dear Mr. Powers,

On Thursday July 2, 2020 we met on-site to investigate the potential well location for the development proposed under CDP-2015-0019 at 11520 Road D. Environmental Health first made comments on the proposal in February 2016, when an on-site septic system and on-site water well were proposed. New information regarding a Mendocino City Community Service District sewer main has come to light and subsequently limited the area where a water well can be installed.

The minimum setback from a pressurized sewer main to a drinking water well is 50 feet. Per my measurements, the proposed well site on the west side of the parcel near the area of dedication is 25-27 feet from the sewer lateral. EH cannot allow a well to be drilled on that side of the parcel.

The sewer line appears to run from the east heading west towards Highway 1 along the old original highway until it intersects with the current Highway 1. The sewer line crosses the street toward this parcel and enters the parcel about midway through the parcel.

You may propose a drill site on the east side of the parcel so long as it meets the 50-foot setback to the sewer line (which is at that point across the street). The 50-foot setback eliminates a majority of the property for well development.

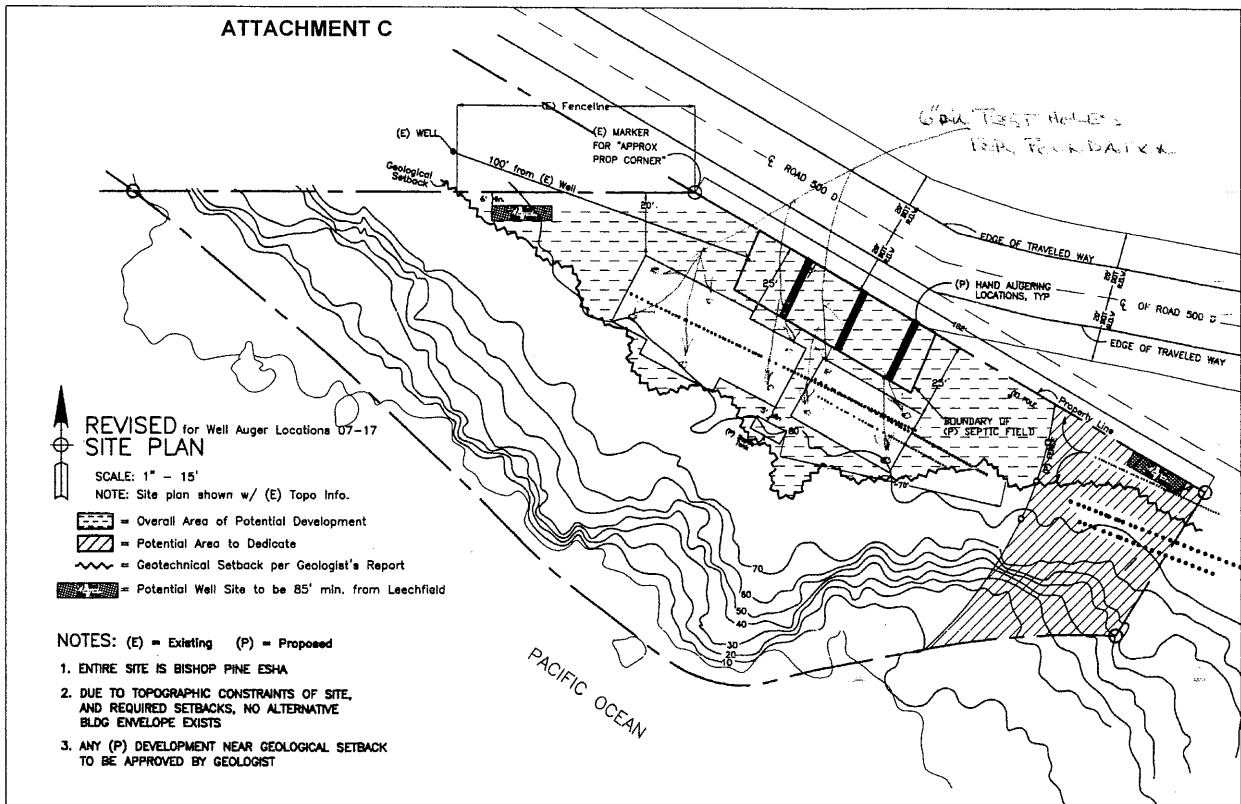
Environmental Health would like to see this entire street connect to the sewer system for health and sanitation purposes. I understand that a proposal to connect is being reviewed by LAFCO, which Environmental Health supports due to the scarcity of septic area and the potential impact of failing septic systems on the scenic bluff top. Regardless of connection status, the setback to the sewer line will be enforced.

A handwritten signature in blue ink, appearing to read "Marlayna Bourbonnais Duley".

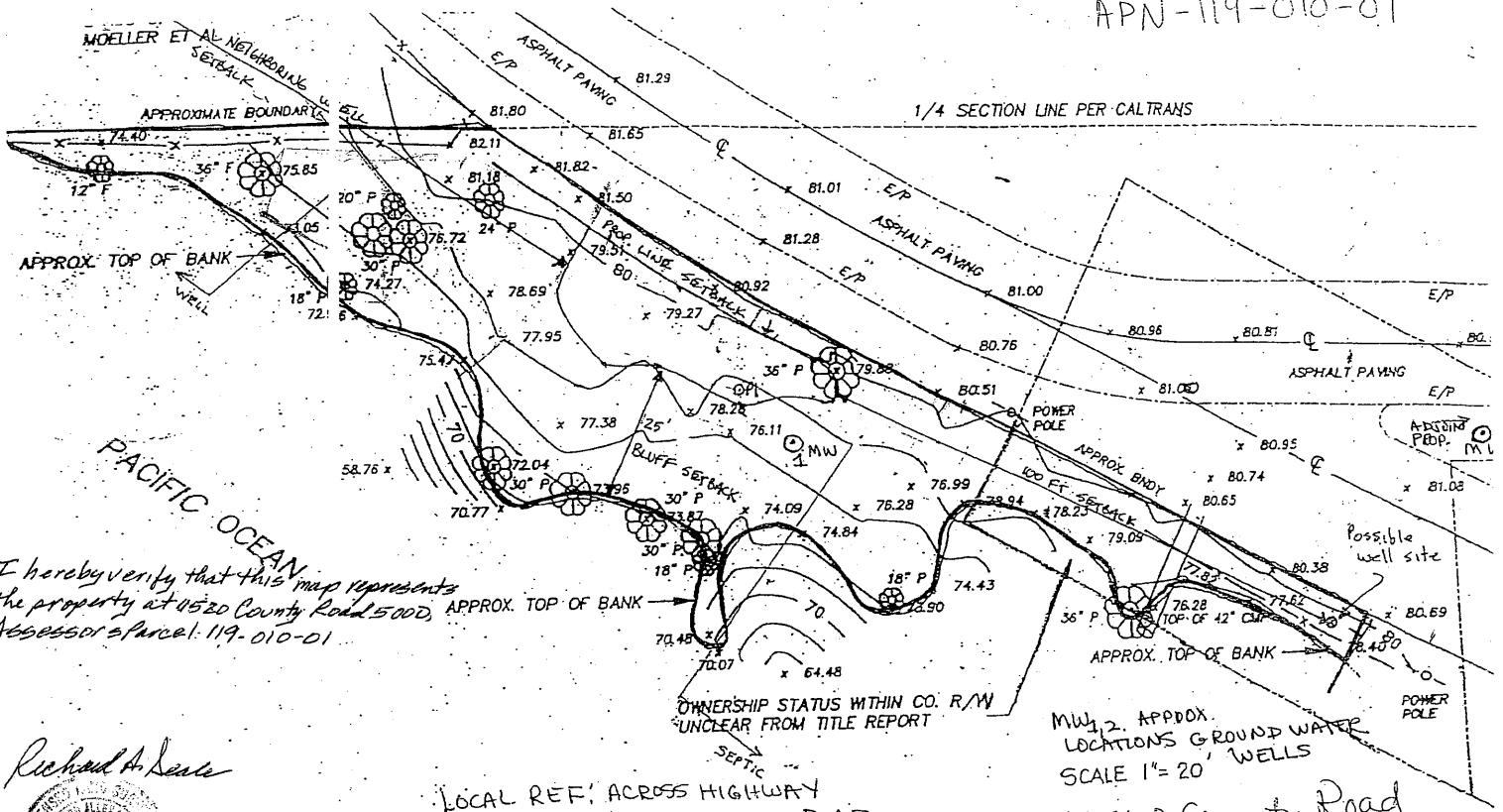
Marlayna Bourbonnais Duley, REHS

Land Use Program Manager

ATTACHMENT C



APN-119-010-01



I hereby verify that this map represents
 the property at 11520 County Road 500D,
 Assessor's parcel: 119-010-01

Richard A. Lewis



LOCAL REF: ACROSS HIGHWAY
 JACK PETERS CREEK ROAD

M.W. 2, APPROX.
 LOCATIONS GROUND WATER
 SCALE 1" = 20' WELLS

11520 County Road
 500 D.

ATTACHMENT D



COASTAL PERMIT ADMINISTRATOR STAFF REPORT- CDP_STANDARD

NOVEMBER 16, 2016
CDP_2015-0019

SUMMARY

OWNERS: THOMAS E BLUE
1252 DENTON WAY
REDDING, CA 96002

DONA & RICHARD KIDWELL
6604 WINDING WAY
CARMICHAEL, CA 95608

APPLICANT: DONA KIDWELL, TRUSTEE
6604 WINDING WAY
CARMICHAEL, CA 95608

AGENT: ED POWERS
PO BOX 1384
MENDOCINO, CA 95460

REQUEST: Standard Coastal Development Permit for the development of a septic system design, installation of a test well and designation of building envelopes for future development of a single family residence and detached garage/workshop/mechanical building.

DATE DEEMED COMPLETE: January 27, 2016

LOCATION: 0.25± miles north of the Town of Mendocino, on the south side of County Road 500D, 150± feet west of its intersection with Highway 1, located at 11520 Road 500D; APN 119-010-01.

TOTAL ACREAGE: 1.38 Acres

GENERAL PLAN: Rural Residential five (5) acre minimum with an alternate density of two (2) acre minimum (RR5(2))

ZONING: Rural Residential five (5) acre minimum with an alternate density of two (2) acre minimum (RR5(2))

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically Exempt pursuant to Class 3 and Class 6

RECOMMENDATION: APPROVAL WITH CONDITIONS

STAFF PLANNER: JULIA ACKER

CA COASTAL RECORDS: Image [201303006](#)

PROJECT DESCRIPTION: Standard Coastal Development Permit for the development of a septic system design, installation of a test well and designation of building envelopes for future development of a single family residence and detached garage/workshop/mechanical building.

The applicant has applied for this Coastal Development Permit to determine if the site is capable of providing adequate utilities to support future development of a single-family residence and associated improvements. Planning Staff is recommending denial of the building envelope request, which is discussed in full detail within the staff report.

APPLICANT'S STATEMENT: Development & Installation of (P) Septic System & Well; (P) Building Envelopes for SFR & Detached Garage/Wrkshop/Mechanical Bldg.

RELATED APPLICATIONS ON-SITE:

None.

Neighboring Property

- CDP_2000-0092 (Kelada) approved on May 24, 2001 the demolition of an existing 850 square-foot, single-story, single-family residence and construction of a new 3,275 square-foot, two-story single-family residence with a 657 square-foot attached garage. Average height above natural grade to be 15.25 feet. Demolition of an existing shed, relocation of an existing propane tank, and removal of 11 trees. Staff had initially recommended denial of the project based upon visual resource protection, but the Coastal Permit Administrator approved the project subject to additional findings for approval and additional conditions.

SITE CHARACTERISTICS: The property is a vacant blufftop parcel, bordered by County Road 500D to the northeast and the Pacific Ocean to the southwest. The site is heavily constrained by geologic and botanical resources, with the entire parcel being located on the bluff face.

SURROUNDING LAND USE AND ZONING:

	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	RR5(RR2)	RR5(RR2)	~1 ACRE	RESIDENTIAL
EAST	RR5(RR2)	RR5(RR2)	~1 ACRE	RESIDENTIAL
SOUTH	RR5(RR2)	RR5(RR2)	~2 ACRES	RESIDENTIAL
WEST	PACIFIC OCEAN	PACIFIC OCEAN	PACIFIC OCEAN	PACIFIC OCEAN

PUBLIC SERVICES:

Access: COUNTY ROAD 500D
Fire District: MENDOCINO
Water District: NONE
Sewer District: NONE
School District: MENDOCINO

AGENCY COMMENTS: On January 27, 2016 project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their required related permits, if any, are listed below. Their submitted recommended conditions of approval are contained in Exhibit A of the attached resolution. A summary of the submitted agency comments are listed below. Comments that would trigger a project modification or denial are discussed in full as key issues in the following section.

REFERRAL AGENCIES	RELATED PERMIT	COMMENT	DATE
Department of Transportation	Encroachment Permit	Comments	February 18, 2016
Requires Encroachment Permit for a standard private driveway approach.			
Environmental Health-FB/Ukiah	Septic Permit Well Permit	Comments	February 10, 2016
Site Evaluation Report required to be submitted to obtain septic permit. A well permit is required.			
Planning-Ukiah PBS	N/A	No Comment	February 1, 2016
Building Services-FBPBS	N/A	No Comment	March 1, 2016
Assessor	N/A	No Response	N/A
MCCSD	N/A	No Comment	February 1, 2016
Air Quality Management District	N/A	No Comment	March 2, 2016
Mendocino Fire District	N/A	No Response	N/A
Department of Forestry/CalFire	N/A	No Response	N/A
Sonoma State University-NWIC	N/A	Comments	February 11, 2016
An Archaeological Survey was recommended prior to commencement of project activities.			
Archaeological Commission	N/A	Comments	March 9, 2016 & June 8, 2016
In March voted to require completion of an archaeological survey. In June the Archaeological Survey, dated May 10, 2016, was accepted by the Commission.			
CA Department of Fish and Wildlife	N/A	Comments	September 12, 2016
Follow recommendations of the Biological Report prepared for project. More specific comments will be provided at the subsequent CDP phase for development of a residence on the parcel.			
California Coastal Commission	N/A	Comments	May 25, 2016
Primary concerns were about the geotechnical investigation and the methodology utilized in the report.			
Department of Parks and Recreation	N/A	No Response	N/A
US Fish and Wildlife Service	N/A	Comments	February 11, 2016 & February 18, 2016
Initially expressed concerns regarding potential for Behren's Silverspot Butterfly and Lotis Blue Butterfly. Concerns were resolved after receiving additional information from the project biologist.			

KEY ISSUES

1. General Plan and Zoning Consistency:

The applicant has applied for this Coastal Development Permit to determine if the site is capable of providing adequate utilities to support future development of a single-family residence and associated improvements. Residential development is consistent with the allowable use types in the Rural Residential zoning district and general plan classification.

2. Hazards:

No documented landslides have occurred on the parcel; however, the Coastal Bluff Setback Recommendation Report prepared by LACO Associates, Inc. dated November 14, 2014 states that several recent landslides were observed within the terrace deposits to the north and south of the site. The landslides do not impact the proposed project. The main issue relative to the protection of development from natural hazards is that the entire parcel has been determined by qualified professionals to be considered bluff face. Coastal Commission Staff reviewed the submitted Report and expressed concern that the entire site is bluff face. LACO agreed with Commission Staff that the lot is bluff face. Therefore,

any development on the parcel would be located on the bluff face. Staff finds the project to be inconsistent with MCC Section 20.500.020(D)(4), which states that no development other than that which furthers the public welfare can be permitted on the bluff face. Despite inconsistency with Mendocino County Code, LACO recommends a 25 foot setback distance from the 70 foot elevation contour for future residential development, to guarantee a structural life of 75 years. This 25 foot setback shall be required to be demonstrated on all future permits, as recommended in Condition #12.

3. Natural Resources

A Biological Scoping and Botanical Survey Report was prepared by Spade Natural Resources Consulting (SNRC) for the project in March 2015. The entire vegetated portion of the property is comprised of disturbed Bishop pine forest. The Bishop pine forest is designated as an Environmentally Sensitive Habitat Area (ESHA) and due to the prevalence of Bishop pine forest on the site, no buffer can be provided. Any development on the parcel is therefore inconsistent with Mendocino County Code. Minimization and avoidance measures were recommended by SNRC and are included as Condition#13, should the project be approved.

4. Takings Analysis:

The County may approve a project that is not consistent with the Local Coastal Program if it can be found that a Regulatory Takings would occur if the project was denied. In this case, prohibiting development within fifty feet of an ESHA and on a bluff face would deprive the owner of all economic use of the property. There are no alternative development sites where the project can be located at least fifty feet from ESHA, as the entire site is Bishop Pine Forest. Additionally, there are no areas on the property that are not considered to be bluff face.

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. The challenge with the subject application is that it is solely for completing the necessary soils work for design of a septic system and to install a test well on the parcel to determine if the site is capable of providing adequate utilities for future residential development.

Building envelopes for a residence and detached accessory structure have also been included in the application. At this time, there is not enough information available about the proposal of the residence for staff to evaluate potential building envelopes. Additional information would need to be submitted about alternative house designs, in order for staff to find the proposal to be the least environmentally damaging location.

Staff research indicates there was a reasonable investment-backed expectation at the time the property was purchased that the property could support residential development. Considering the property is zoned for residential development as a principally permitted use, and residential development exists on adjacent properties, a reasonable person would have believed that the property could be developed with a single-family residence. Additionally, Northern Bishop Pine Forest became recognized by Mendocino County as a rare plant community in 2008, after the property was purchased. Bluff face development was not prohibited at the time the property was purchased, as the first County Ordinance was adopted in 1951.

Due to the prevalence of ESHA on the parcel, all principally permitted uses for the zoning district would require encroachment into a fifty foot ESHA buffer. The allowed agricultural uses would require substantial site disturbance and clearing and are not a viable use of 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. However, passive recreation uses do not afford the property owner an economically viable use.

5. Environmental Protection

While the site is designated as an Environmentally Sensitive Habitat Area, the proposed improvements at this time are solely for determining if adequate utilities exist to support future development of the parcel. Conducting the necessary studies for development of a septic system design and drilling of a test well are not anticipated to cause significant environmental impacts. The proposed project is therefore considered to be Categorical Exempt from the provisions of CEQA, pursuant to Class 6 of Article 19 of the California Environmental Quality Act Guidelines. The proposed development meets the criteria of Section 15306, and therefore will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. Further analysis pursuant to CEQA shall be performed at the subsequent modification phase when a single-family residence is proposed.

RECOMMENDATION

By resolution, adopt a Categorical Exemption and grant the Standard Coastal Development Permit for the Project, as modified by the Coastal Permit Administrator, based on the facts and findings and subject to the conditions of approval.

DATE

JULIA ACKER

Appeal Period: 10 Days
Appeal Fee: \$1100.00

ATTACHMENTS:

- A. Location Map
- B. Topographical Map
- C. Elevation Contour
- D. Aerial Map
- E. Site/Tentative Map
- F. Adjacent Owner Map
- G. Zoning Map
- H. General Plan
- I. LCP Map
- J. Fire Hazards Map
- K. Flood Zone
- L. Ground Water Resource Area
- M. Highly Scenic/Tree Removal

COASTAL APPROVAL CHECKLIST

RESOLUTION AND CONDITIONS OF APPROVAL (Exhibit A):

**COASTAL PERMIT APPROVAL CHECKLIST
CDP_2015-0019 (KIDWELL)
NOVEMBER 16, 2016**

PROJECT TITLE: CDP_2015-0019 (KIDWELL)

PROJECT LOCATION: The site is located approximately 0.25 miles north of the Town of Mendocino, on the south side of County Road 500D approximately 150 feet west of its intersection with Highway 1, located at 11520 Road 500D (APN 119-010-01).

**LEAD AGENCY NAME,
ADDRESS AND CONTACT PERSON:** Julia Acker, Planner III
Mendocino County Planning and Building Services
120 West Fir Street, Fort Bragg, California 95437
707-964-5379

GENERAL PLAN DESIGNATION: Rural Residential five (5) acre minimum with an alternate density of two (2) acre minimum (RR5(2))

ZONING DISTRICT Rural Residential five (5) acre minimum with an alternate density of two (2) acre minimum (RR5(2))

DESCRIPTION OF PROJECT: Standard Coastal Development Permit for the development of a septic system design, installation of a test well and designation of building envelopes for future development of a single family residence and detached garage/workshop/mechanical building.

The applicant has applied for this Coastal Development Permit to determine if the site is capable of providing adequate utilities to support future development of a single-family residence and associated improvements. Planning Staff is recommending denial of the building envelope request, which is discussed in full detail within the staff report.

SITE DESCRIPTION AND SETTING: The property is a vacant blufftop parcel, bordered by County Road 500D to the northeast and the Pacific Ocean to the southwest. The site is heavily constrained by geologic and botanical resources, with the entire parcel suggested as being located on the bluff face.

DETERMINATION: The proposed project **conditionally satisfies all required findings for approval of a Coastal Development Permit**, pursuant to Section 20.532.095 and 20.532.100 of the Mendocino County Code, as individually enumerated in this Coastal Permit Approval Checklist.

20.532.095 Required Findings for All Coastal Development Permits	Inconsistent	Consistent (With Conditions of Approval)	Consistent (Without Conditions of Approval)	Not Applicable
(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish the following:				
(1) The proposed development is in conformity with the certified local coastal program.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

20.532.095 Required Findings for All Coastal Development Permits	Inconsistent	Consistent (With Conditions of Approval)	Consistent (Without Conditions of Approval)	Not Applicable
(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(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.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:				
(1) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

20.532.095(A)(1) The proposed development is in conformity with the certified local coastal program.

Inconsistent

The Local Coastal Program (LCP) sets goals and policies for managing resource protection and development activity in the Coastal Zone of Mendocino County, an area that extends from the Humboldt County line to the Gualala River. The Local Coastal Program addresses topics such as shoreline access and public trails; development in scenic areas, hazardous areas, and coastal blufftops; environmentally sensitive habitat areas; cultural resources; transportation; public services; and more. The LCP serves as an element of the General Plan and includes Division II of Title 20 of the Mendocino County Code (MCC), and its policies must be consistent with the goals of the California Coastal Act.

Various aspects of the Local Coastal Program are specifically addressed by separate Required and Supplemental Findings for Coastal Development Permits, including utilities, transportation, zoning, CEQA, archaeological resources, public services, coastal access, and resource protection. The following is a discussion of elements of the Local Coastal Program not specifically addressed elsewhere in this checklist.

General Plan Land Use – Rural Residential

The subject parcel is classified as Rural Residential by the Coastal Element of the Mendocino County General Plan, which is intended “to encourage local small scale food production (farming) in areas which are not well 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” (Chapter 2.2 of the County of Mendocino General Plan Coastal Element). The principally permitted use designated for the Rural Residential land use classification is “one dwelling unit per existing parcel and associated utilities, light agriculture and home occupation” (Chapter 2.2 of the County of Mendocino General Plan Coastal Element).

The purpose of this application is to authorize the completion of the necessary studies to determine if the site is capable of providing adequate utilities for future residential development. This application is consistent with the intent and permissible uses within the Rural Residential classification. A future Modification to the Coastal Development Permit would be required for construction of a residence and associated uses on the parcel. This application designates building envelopes for future development; however, staff has concerns that there is not adequate information to formally designate those building envelopes at this time. Additional information should be provided as to the size and scale of development on adjacent parcels and also evaluate several potential designs of the structure to minimize the footprint in Environmentally Sensitive Habitat Areas and balance the protection of visual resources.

Hazards

Chapter 3.4 of the Mendocino County Coastal Element addresses Hazards Management within the Coastal Zone.

Seismic Activity: The property neither lies within, nor does it adjoin a mapped Alquist-Priolo Earthquake fault zone. The San Andreas fault is located approximately three (3) miles west of the project site and is the nearest active fault. The Maacama fault is approximately twenty-five (25) miles east of the project site. The site, like the rest of Mendocino County, is subject to strong ground shaking. Figure 3-12 of the Mendocino County General Plan indicates that the subject parcel is not located in a known area of soil liquefaction.

Landslides: No documented landslides have occurred on the parcel; however, the Coastal Bluff Setback Recommendation Report (LACO 2014) states that several recent landslides were observed within the terrace deposits to the north and south of the site. Additionally the adjacent parcel to the southeast had two small landslides noted during the processing of the CDP for reconstruction of a residence on that parcel (CDP_2000-0092 Kelada). Setbacks were recommended by the consulting engineer for that particular project and do not appear to affect the subject property or proposed project. The site is a blufftop parcel, where it has been determined that the entire parcel is considered bluff face, which is discussed in the Erosion section.

Erosion: The site varies from gentle slope along the northeastern portion of the site, which then transitions into a rapidly steepening slope that becomes near vertical (LACO 2014). LACO recommends a 25 foot setback distance from the 70 foot elevation contour for future residential development, to guarantee a structural life of 75 years. All proposed improvements are compliant with the recommended setback. This 25 foot setback shall be required to be demonstrated on all future permits, as recommended in Condition #12.

The California Coastal Commission commented that “the bluff edge must be defined. At this site, this is difficult as the entire lot appears to rise gradually landward from the steep (nearly vertical) cliff that commences at approximately the 70 foot contour... possibly the entire lot could be considered to lie on the bluff face.” LACO did not dispute this response and provided a “no response” comment on the California Coastal Commission observations. No further response from California Coastal Commission staff was received with regards to the adequacy of the geotechnical investigation. Planning staff therefore concludes that the entire parcel lies on the bluff face.

MCC Section 20.500.020 (B)(4) states in part that *No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry.* Given that the parcel is considered to be entirely bluff face and the proposed development is for residential use, staff finds the project inconsistent with policies related to protection of development from natural hazards.

Flooding: The project is located outside all mapped 100-year flood hazard areas, and therefore will not impede or redirect flood flows, and will not expose people or structures to a significant risk involving flooding, including flooding as a result of the failure of a levee or dam.

Fire: The project is located in an area that has a moderate fire hazard severity rating, as shown on the Fire Hazard Zones and Responsibility Areas map. The project application was referred to the Mendocino Fire Protection District and California Department of Forestry and Fire Protection (Calfire) for comment. Mendocino Fire Protection District nor Calfire responded to the referral. A Calfire preliminary clearance was submitted with the application, but due to the fact that no habitable structures are to be built at this time, the requirements of that clearance will only be addressed in a subsequent CDP Modification for a residence.

Visual Resources

Protection of visual resources is a specific mandate of Section 30251 of the Coastal Act, and is subsequently addressed in Chapter 3.5 of General Plan's Coastal Element and implemented by MCC Chapter 20.504.

The project is located in an area that is designated Highly Scenic by the Local Coastal Program, meaning that the development is subject to Local Coastal Program Visual Resource policies relating to Highly Scenic Areas. Future development of a residence would be subject to Highly Scenic Area policies and depending on the evaluation of visual impacts of the future design of the residence, modification of the proposed building envelopes may be required.

Natural Resources

The certified Mendocino County LCP includes sections of both the MCC and the Coastal Element of the General Plan addressing Environmentally Sensitive Habitat Areas (ESHA). The MCC states that development having the potential to impact an ESHA shall be subject to a biological survey, prepared by a qualified biologist, to determine the extent of sensitive resources, to document potential negative impacts, and to recommend appropriate mitigation measures.

A Biological Scoping and Botanical Survey Report was prepared by Spade Natural Resources Consulting (SNRC) for the project in March 2015 (SNRC 2015a). The Report noted that the entire vegetated portion of the property is comprised of disturbed Bishop pine forest. A patch of Pacific reedgrass is located in the central portion of the property but the SNRC has stated that "the patch is not large enough to be considered a separate plant community." Additionally there was a small patch of grand fir trees noted within the Bishop pine forest. The Bishop pines were noted to be diseased and dying and it was noted that there is a significant presence of invasive plants.

Due to the presence of the Bishop pine forest, the entire property is designated a sensitive habitat area or a buffer to the sensitive habitat area. Mendocino County Code typically requires a 100 foot buffer to sensitive habitat areas which may be reduced to 50 feet with the opinion of a qualified biologist and agreed upon by California Department of Fish and Wildlife. An analysis of development within the buffer area was provided (SNRC 2015a), but due to the fact that no buffer can be maintained from noted sensitive habitats, the project is found to be inconsistent with policies relative to protection of natural resources. Minimization and avoidance measures were recommended and are included as Condition#13, should the project be approved (SNRC 2015a).

20.532.095(A)(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities.

Consistent (with conditions of approval)

Utilities: The applicant has applied for this Coastal Development Permit to determine if the site is capable of providing adequate utilities to support future development of a single-family residence and associated improvements. There is minimal space on the site to support well and septic. Dependent on the results of the test well and septic system design the site may be determined to not support future residential development.

Access Roads: The applicant has applied for this Coastal Development Permit to determine if the site has adequate utilities to support future development of a single-family residence and associated improvements. The site of the proposed well and proposed septic system is accessible from the roadway and no driveway access is necessary at this time. There is a question of the extent of the County right-of-way on a portion of the parcel where a secondary well site and septic improvements may be located. Staff therefore recommends completion of a property line and roadway survey prior to issuance of any permits on the property, Condition#14.

Drainage: Drainage is subject to MCC Chapter 20.492, and provides regulations mitigating the impact of stormwater runoff and erosion. Standard erosion control Best Management Practices (BMPs) should be employed to avoid or minimize potential impacts to adjacent habitats. Condition#11 is therefore recommended.

20.532.095(A)(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district.

Consistent (without conditions of approval)

Intent: The parcel subject to the application is zoned Rural Residential. The intent of the Rural Residential zoning district is "to encourage and preserve local small scale farming in the Coastal Zone on lands which are not well-suited for large scale commercial agriculture. Residential uses should be located as to create minimal impact on the agricultural viability" (MCC Section 20.376.005). The applicant has applied for this Coastal Development Permit to determine if the site is capable of providing adequate utilities to support future development of a single-family residence and associated improvements.

Use: The parcel subject to the application is zoned Rural Residential as shown on the Zoning Display Map. The applicant has applied for this Coastal Development Permit to determine potential for future development of a single-family residence and associated improvements, which is consistent with allowable uses in the district.

Density: The maximum dwelling density in the Rural Residential zoning district in this location is one single-family residence per 5-acres (or 2-acres due to variable density classification) (MCC Section 20.376.025 (C)). The applicant has applied for this Coastal Development Permit to determine if the site has adequate utilities to support future development of a single-family residence and associated improvements. The proposed development does not conflict with the dwelling density standards of the Rural Residential zoning district.

Yards: The minimum required front, side, and rear yards in the Rural Residential zoning district for a parcel of this size are twenty (20) feet in the front, rear, and six (6) feet in the side yards (MCC Section 20.376.030 through MCC Section 20.376.040 and Internal County Memorandum). Due to the fact that the parcel is over 1 acre in size, Calfire setback standards apply, requiring thirty (30) foot setbacks from all property boundaries for structures. The site plan as currently submitted shows a less than 30 foot setback for residential structures from property lines, which shall require agreement upon by Calfire. Since no permanent structures are proposed with this application setbacks are not determined at this stage of development.

Height: The maximum permitted building height for residential structures in the Rural Residential zoning district and Highly Scenic Area is eighteen (18) feet (MCC Section 20.376.045). Since no permanent structures are proposed with this application height consistency is not determined at this stage of development.

Lot Coverage: The maximum permitted lot coverage in the Rural Residential zoning district is twenty (20) percent for a parcel of this size (MCC Section 20.376.065). Since no permanent structures are proposed with this application lot coverage is not determined at this stage of development.

20.532.095(A)(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

Consistent (without conditions of approval)

The proposed project is Categorically Exempt from the provisions of CEQA, pursuant to Class 6 of Article 19 of the California Environmental Quality Act Guidelines. The future development of a single-family residence will be subject to preparation of an Initial Study and likely adoption of a Negative Declaration or Mitigated Negative Declaration or Environmental Impact Report.

The Class 6 exemptions find that "basic data collection... strictly for information gathering purposes..." meeting the criteria of Section 15306, has "been determined to not have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA." In this case, conducting the necessary studies to design a septic system and drill a test well is strictly for information gathering purposes and will not result in permanent impacts. The future development of a single-family residence and associated accessory improvements will be subject to the preparation of an Initial Study and likely adoption of a Negative Declaration or Mitigated Negative Declaration or Environmental Impact Report.

The proposed development meets the criteria of Section 15306, and therefore will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

20.532.095(A)(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.

Consistent (with conditions of approval)

An Archaeological Survey (Van Bueren 2016) was prepared for this project and was reviewed by the Mendocino County Archaeological Commission on June 8, 2016. The survey was accepted with no sites discovered and therefore **Condition 8** is recommended advising the applicant of the Discovery Clause, which prescribes the procedures subsequent to the discovery of any cultural resources during construction of the project, and states:

Condition 8: If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (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 resource(s) in accordance with Section 22.12.090 of the Mendocino County Code.

With the inclusion of the recommended conditions of approval, the project is found consistent with Mendocino County policies for protection of paleontological and archaeological resources.

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.

Consistent (without conditions of approval)

Solid Waste: The applicant has applied for this Coastal Development Permit to determine if the site has adequate utilities to support future development of a single-family residence and associated improvements. Adequate solid waste will be addressed in a subsequent CDP for a residence.

Roadway Capacity: The applicant has applied for this Coastal Development Permit to determine if the site has adequate utilities to support future development of a single-family residence and associated improvements. Adequate roadway capacity will be addressed in a subsequent CDP for a residence.

20.532.095(B)(1) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

Consistent (without conditions of approval)

The proposed development is located west of the first public road. The Mendocino County LCP Maps show an existing public access trail down the roadway for County Road 500D. This project will not preclude access to that area.

20.532.100 (A) Resource Protection Impact Findings	Inconsistent	Consistent (With Conditions of Approval)	Consistent (Without Conditions of Approval)	Not Applicable
(1) Development in Environmentally Sensitive Habitat Areas. No development shall be allowed in an ESHA unless the following findings are made:				
(a) The resource as identified will not be significantly degraded by the proposed development.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) There is no feasible less environmentally damaging alternative.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Discussion of Findings

➤ **20.532.100(A)(1), et. seq. No development shall be allowed in an ESHA unless the following findings are made...**

Inconsistent

The proposed project is not consistent with all LCP policies relating to ESHA; there are no other alternative locations on the site that would not impact identified ESHA. A Report of Compliance (SNRC 2015b) was prepared for the project, which designated the least environmentally damaging alternative. However, the project applicant has not sited the entirety of the proposed building envelopes within the area designated as the least environmentally damaging location. The footprint is also shown as two separate structures, causing a sprawling footprint as opposed to a condensed footprint with attached structures. Staff finds that greater evaluation needs to go into designation of building envelopes for the proposed development and requests that the Coastal Permit Administrator deny the request for formal designation of building envelopes at this time.

The proposed well and area of septic system study are located in the only feasible locations that meet safety standards for appropriate setbacks between leachfields and water sources. The only other potential location would be located in an area of the parcel where the property line is contested at this time. Staff recommends Condition #14 to require a property survey prior to issuance of any permits on the parcel.

MCC Section 20.496.020(A)(1) 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 (50) feet in width." The project is inconsistent with this LCP policy; however, no alternative exists on the parcel that could be found to be consistent with this LCP policy. Prohibiting development within fifty (50) feet of an ESHA may deprive the owner of all economic use of the property. Consequently, staff evaluated if denial of the project would result in an unconstitutional taking of private property for public use, which is addressed in further detail in the Staff Report and attachments.

References:

Chapter 2.2. Mendocino County, Planning and Building Services, Planning Division. *The County of Mendocino-General Plan*. 1991. Ukiah, CA.

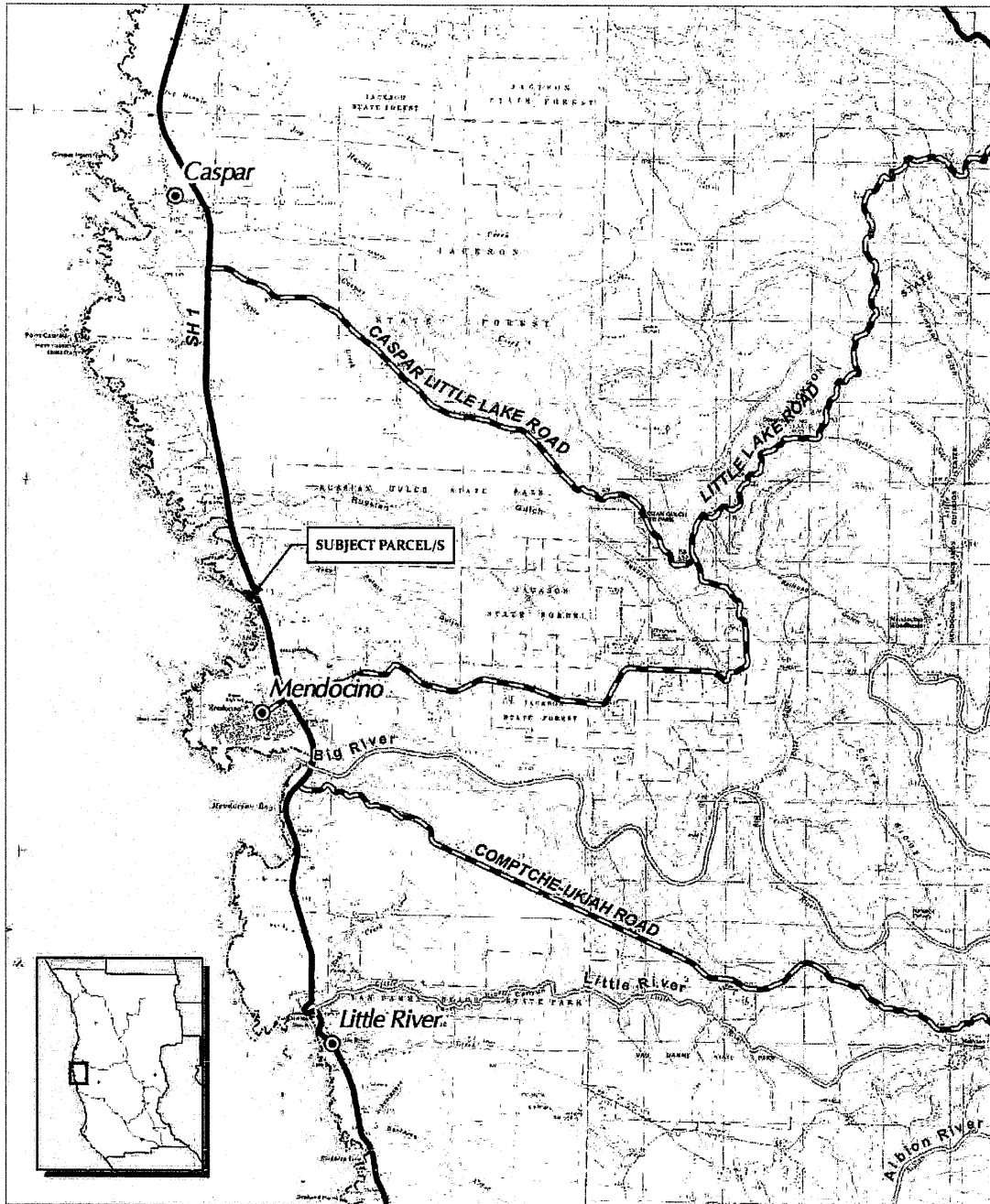
Chapter 2 Mendocino County, Planning and Building Services, Planning Division. *The County of Mendocino-Coastal Element*. 1985. Ukiah, CA.

(LACO 2014) LACO Associates Inc. *11520 Road 500D Residential Development Coastal Bluff Setback Recommendation Report*. November 14, 2014.

(SNRC 2015a) Spade Natural Resources Consulting. *Biological Scoping and Botanical Survey Report*. March 18, 2015.

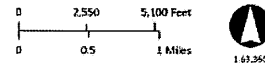
(SNRC 2015b) Spade Natural Resources Consulting. *Report of Compliance*. March 18, 2015.

(Van Bueren 2016) Thad Van Bueren. *Archaeological Survey Report*. May 10, 2016.



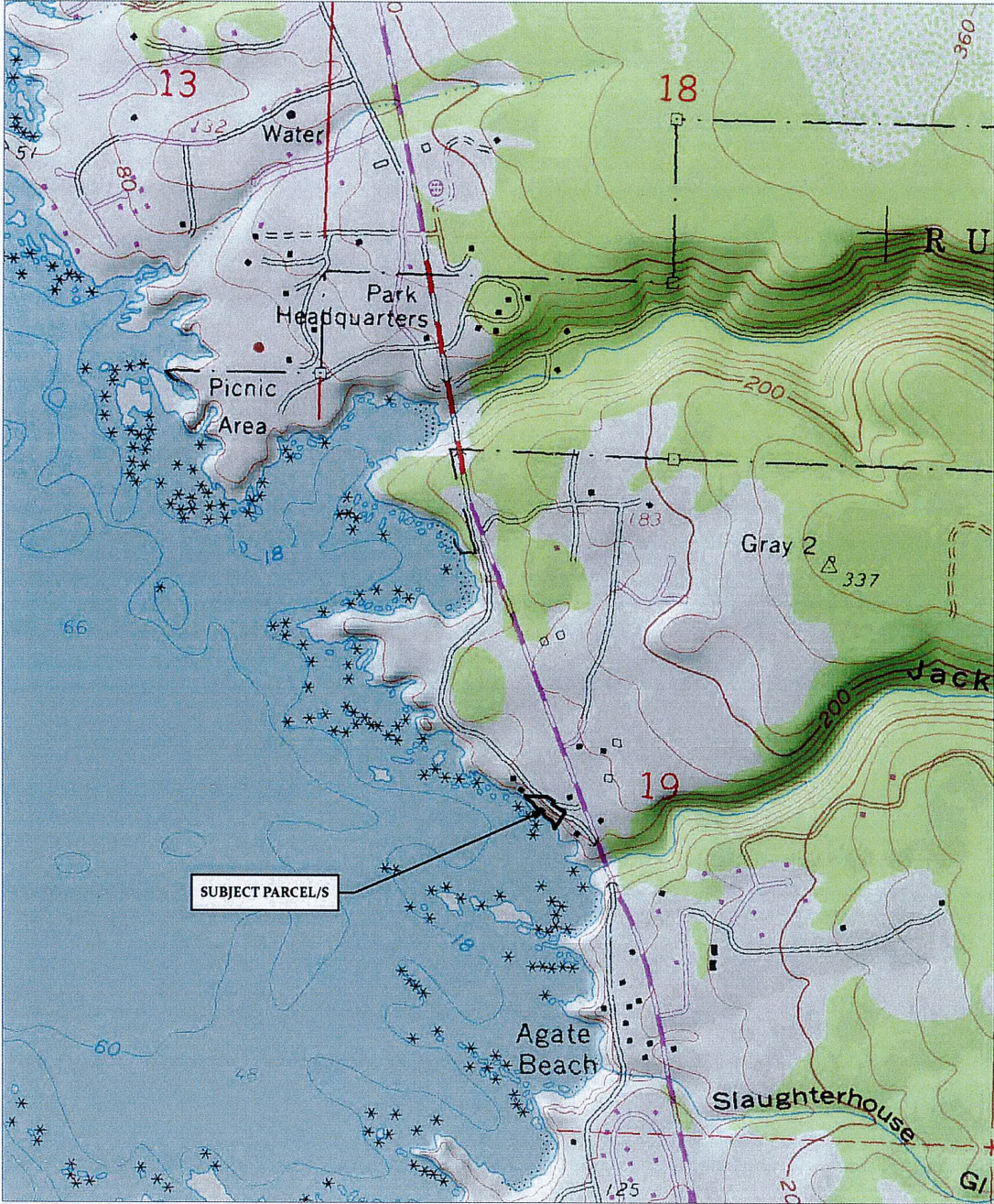
CASE: 119-010-01
 OWNER: KIDWELL, Richard & Dona, et. al.
 APN: 119-010-01
 APLCT: Dona Kidwell
 ADDRESS: 11520 Rd. 500D, ME

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



LOCATION MAP

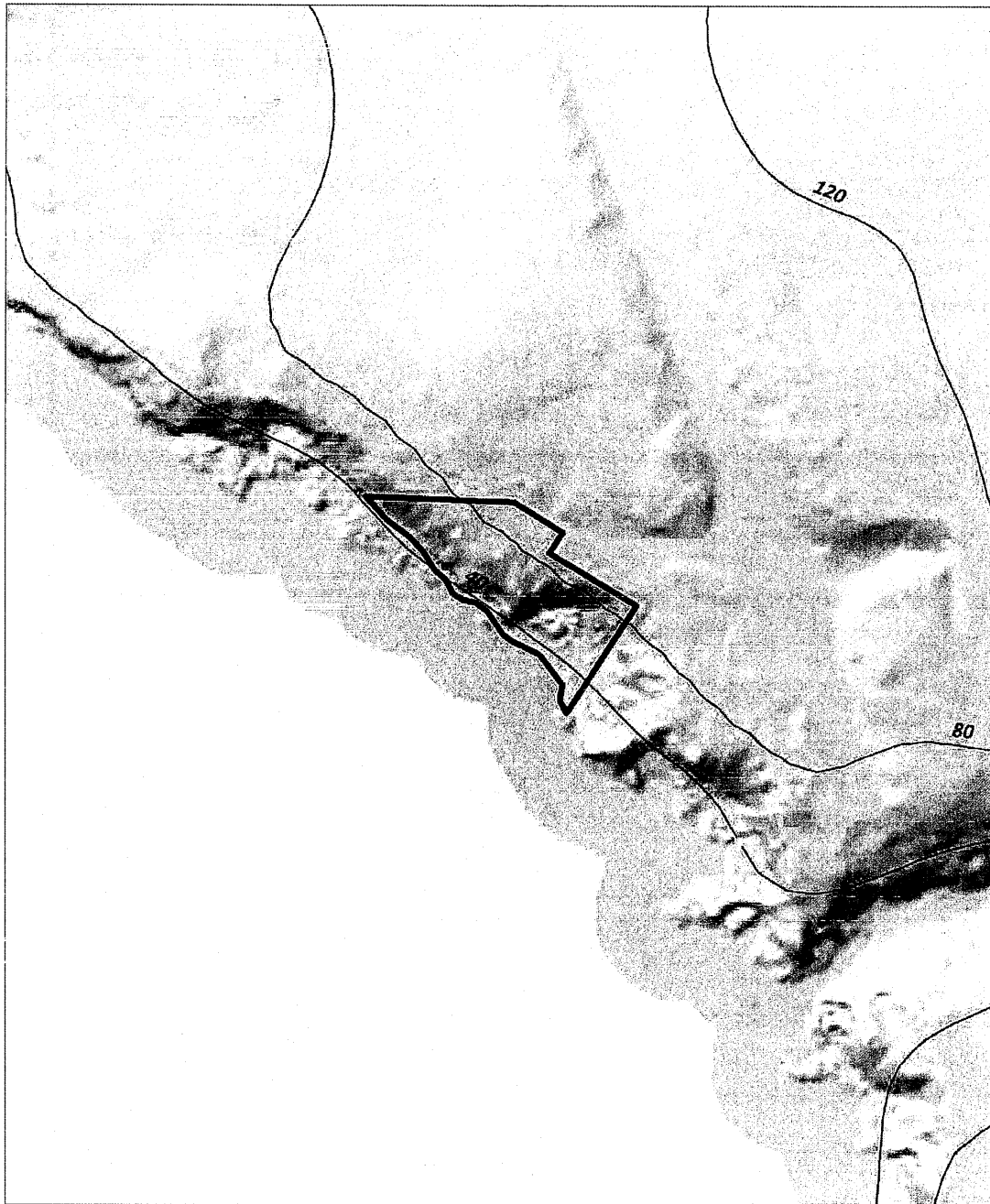
Map produced by the Mendocino County Planning & Building Services, January, 2007
 All spatial data is approximate. Map provided without warranty of any kind.



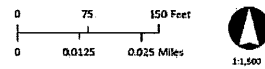
CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
APLCT: Dona Kidwell
ADDRESS: 11520 Rd. 500D, ME

0 500 1,000 Feet
0 0.075 0.15 Miles
1:12,000
TOPOGRAPHIC MAP
CONTOUR INTERVAL IS 40 FEET

Map produced by the Mendocino County Planning & Building Services, January, 2016
All spatial data is approximate. Map provided without warranty of any kind.

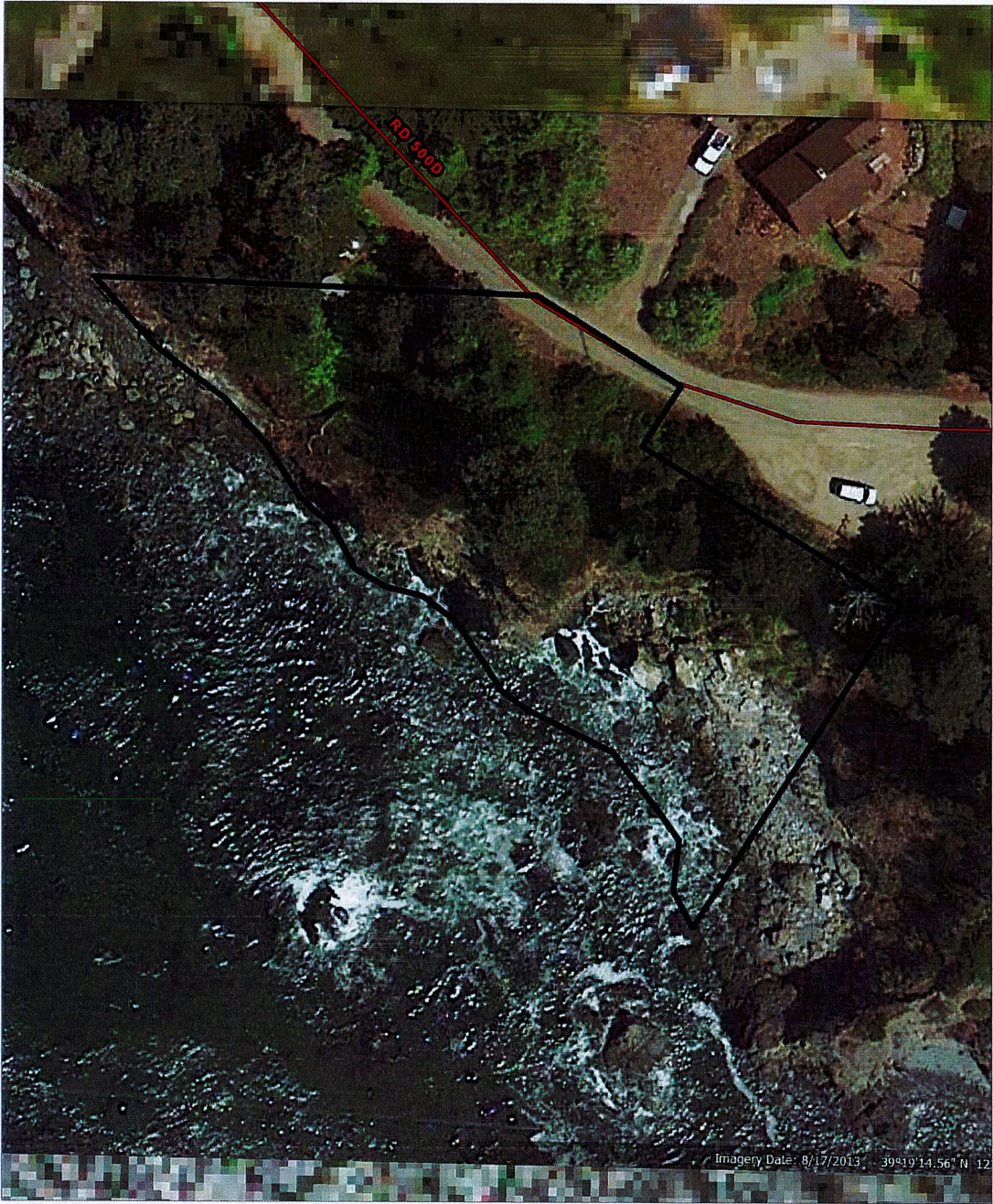


CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
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ADDRESS: 11520 Rd. 500D, ME



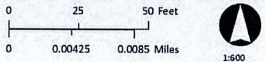
ELEVATION DATA

Map produced by the Mendocino County Planning & Building Services, January, 2016
All spatial data is approximate. Map provided without warranty of any kind.



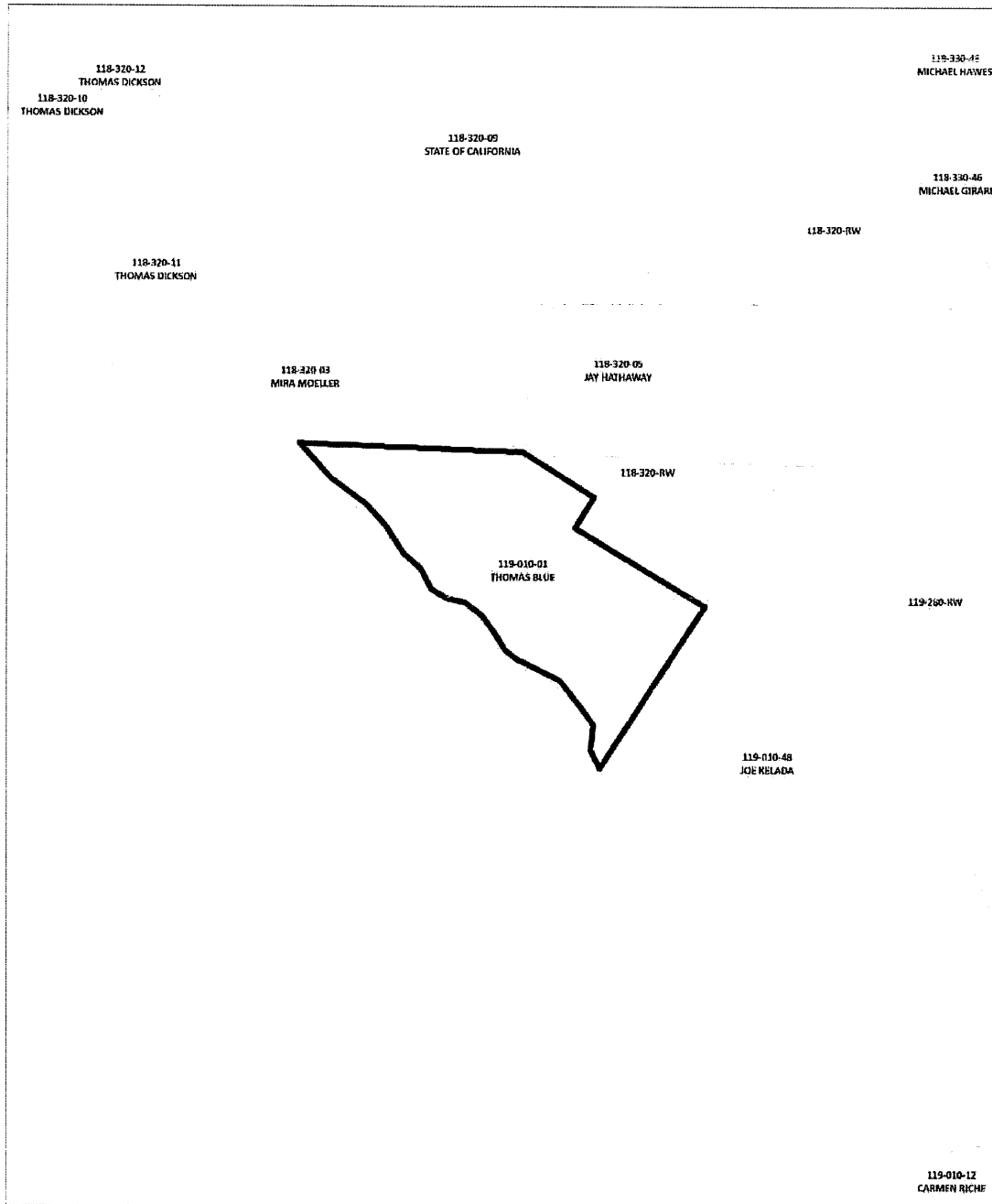
CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
APLCT: Dona Kidwell
ADDRESS: 11520 Rd. 500D, ME

Public Roads

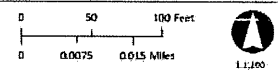


GOOGLE EARTH IMAGERY
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Map produced by the Mendocino County Planning & Building Services, January, 2016
 All spatial data is approximate. Map provided without warranty of any kind.

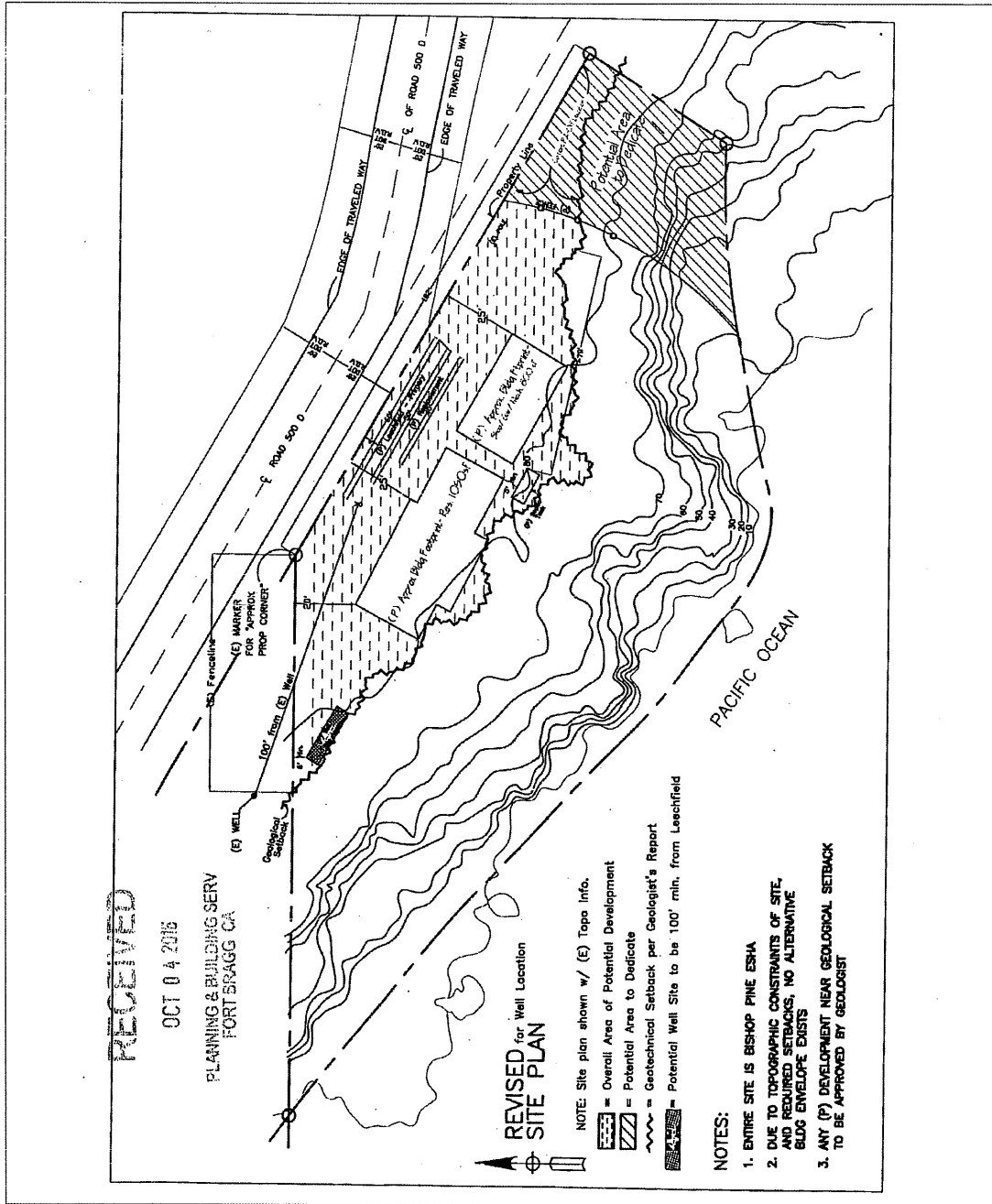


CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
APLCT: Dona Kidwell
ADDRESS: 11520 Rd. 500D, ME



ADJACENT PARCELS

Map produced by the Mendocino County Planning & Building Services, January, 2014
All spatial data is approximate. Map provided with no warranty of any kind.

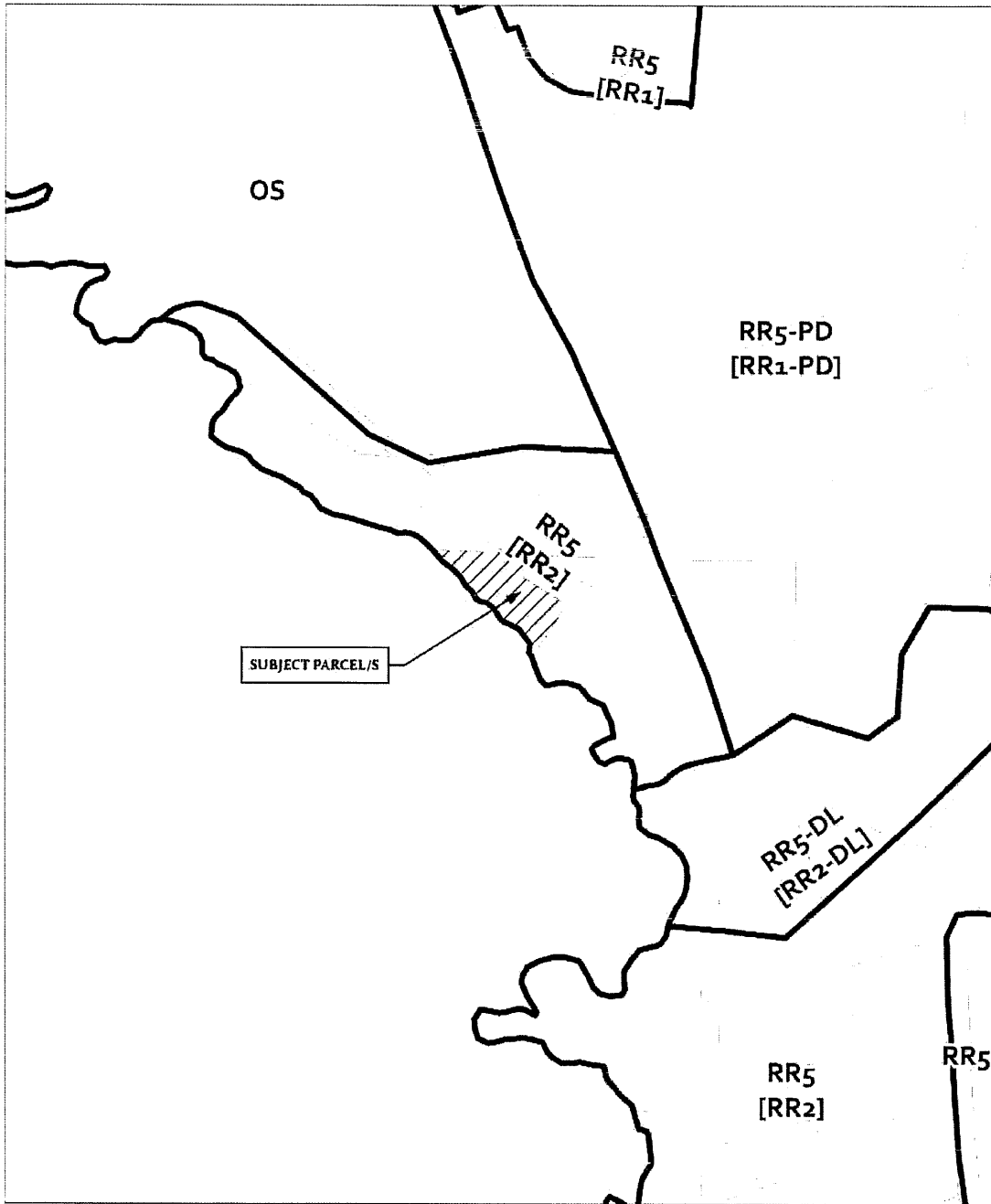


CASE: CDP 2015-0019
 OWNER: KIDWELL, Richard & Dona, et. al.
 APN: 119-010-01
 APLCT: Dona Kidwell
 ADDRESS: 11520 Rd. 500D, ME


NO SCALE

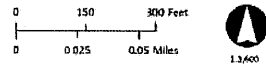
REVISED SITE PLAN

Map produced by the Mendocino County Planning & Building Services, October, 2016
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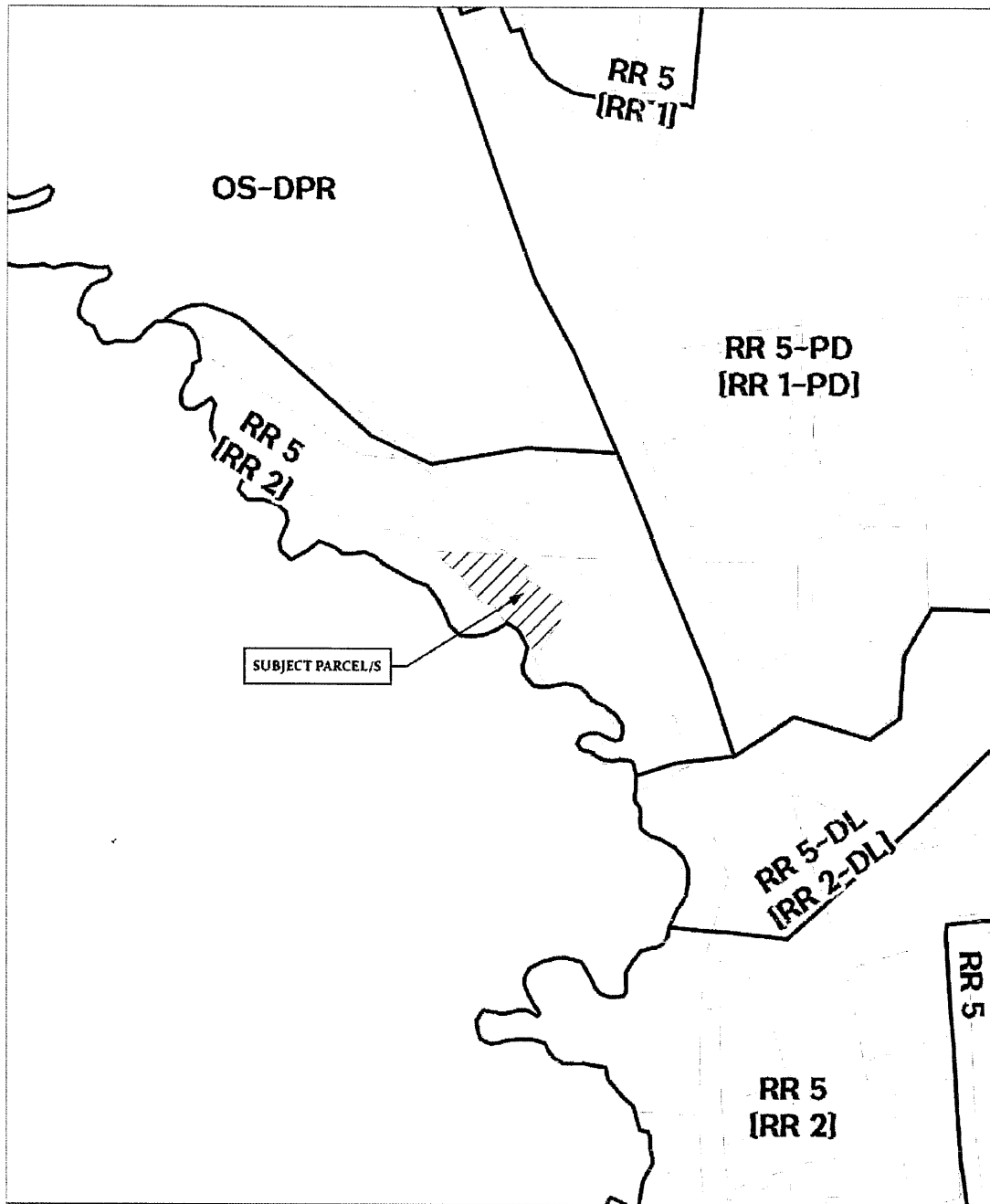
CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
APLCT: Dona Kidwell
ADDRESS: 11520 Rd. 500D, ME

 Zoning Master




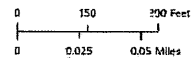
ZONING DISPLAY MAP

Map produced by the Mendocino County Planning & Building Services, January, 2016
All spatial data is approximate. Map provided without warranty of any kind.



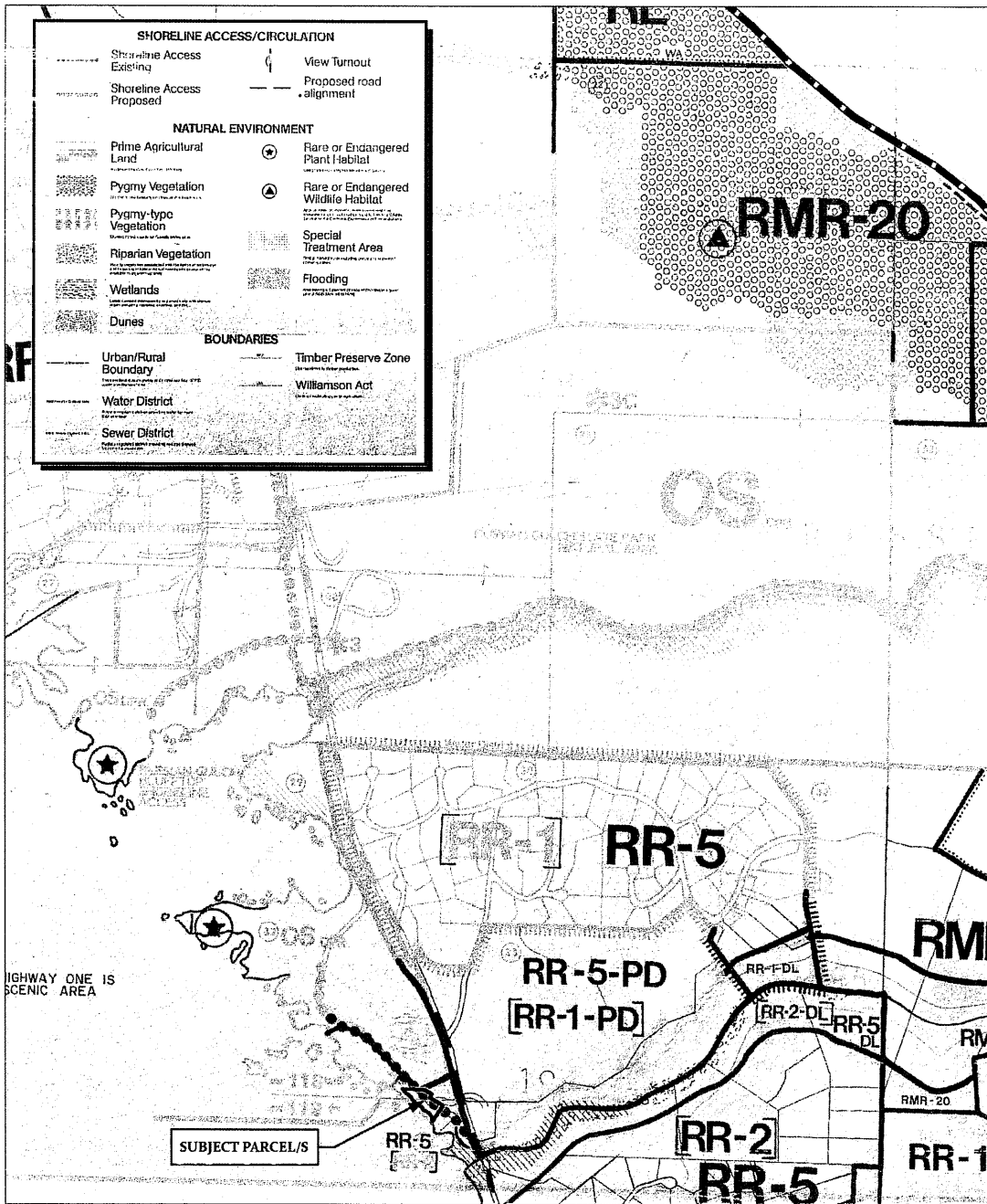
CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
APLCT: Dona Kidwell
ADDRESS: 11520 Rd. 500D, ME

 General Plan Master

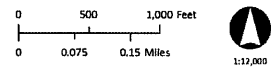


GENERAL PLAN CLASSIFICATIONS

Map produced by the Mendocino County Planning & Building Services, January, 2018
All spatial data is approximate. Map provided without warranty of any kind.



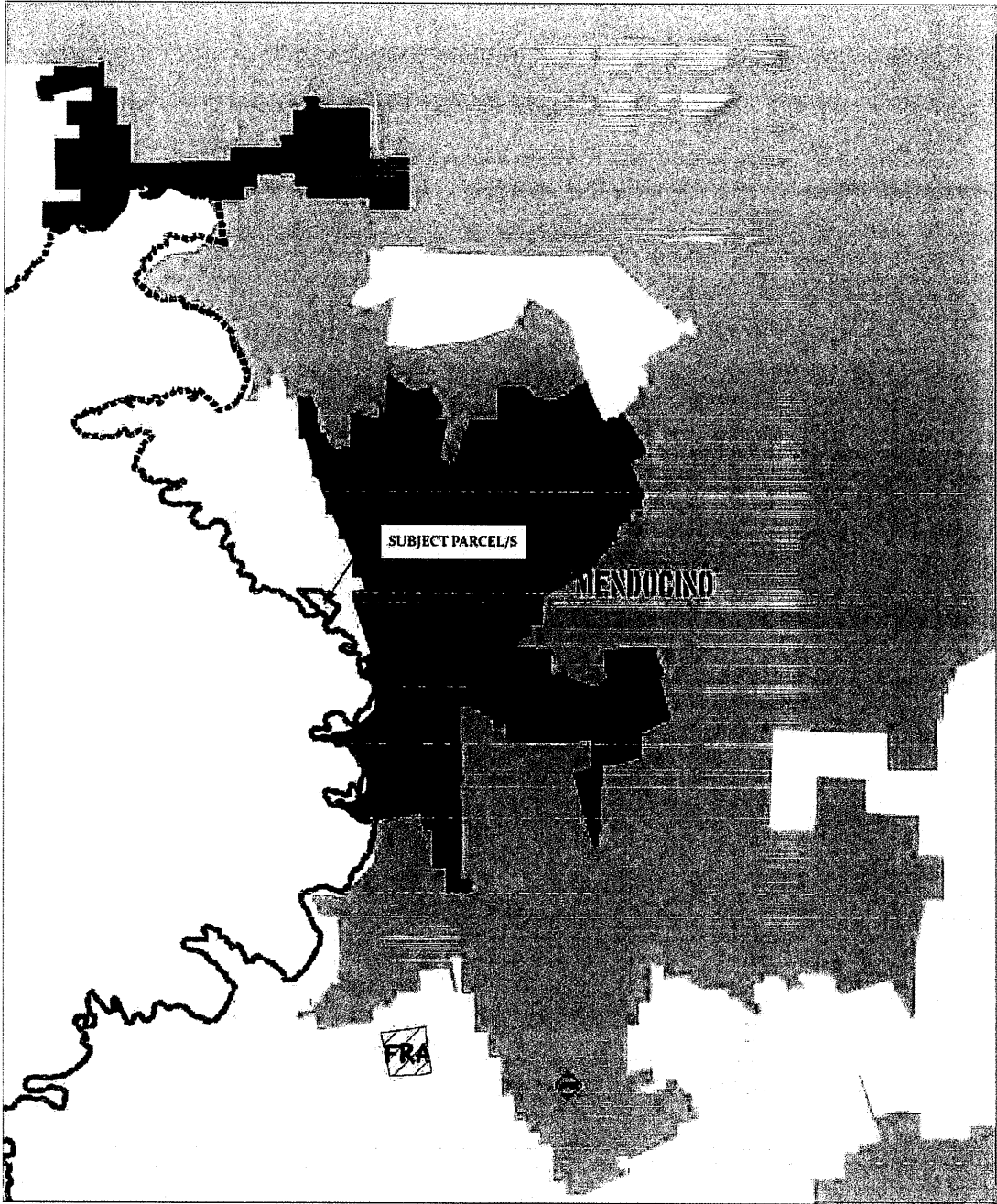
CASE: 119-010-01
 OWNER: KIDWELL, Richard & Dona, et. al.
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Coastal Zone Boundary


LCP MAP 15: CASPAR

Map produced by the Mendocino County Planning & Building Services, January, 2016
 All spatial data is approximate. Map provided without warranty of any kind.



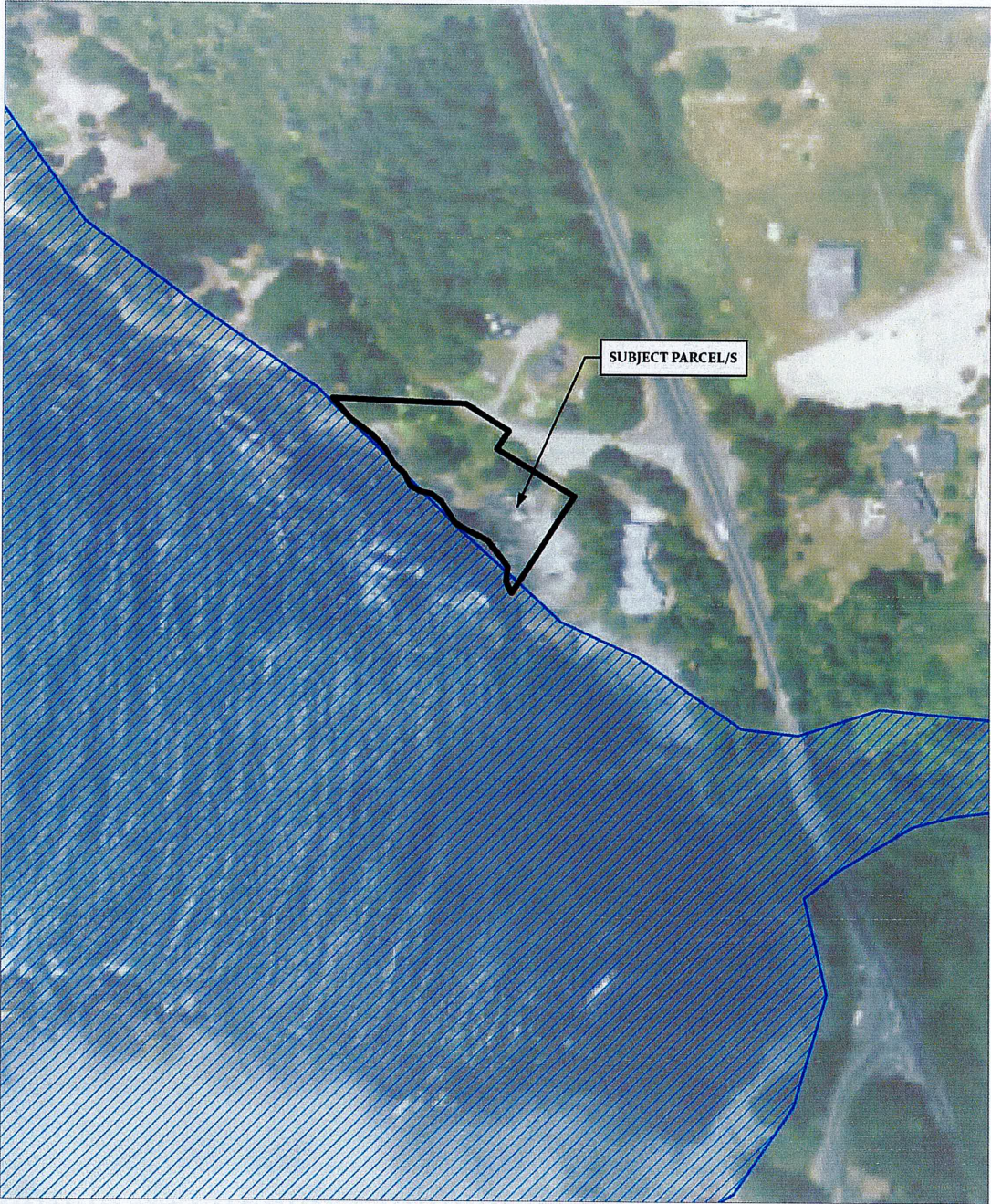
CASE: 119-010-01
 OWNER: KIDWELL, Richard & Dona, et. al.
 APN: 119-010-01
 APLCT: Dona Kidwell
 ADDRESS: 11520 Rd. 500D, ME

	Fire Stations		Very High Fire Hazard
	County Fire Districts		High Fire Hazard
			Moderate Fire Hazard

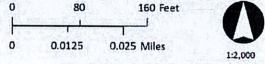
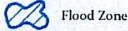
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FIRE RESPONSIBILITY AREAS

Map produced by the Mendocino County Planning & Building Services, January, 2006
 All spatial data approximate. Map provided with the accuracy of 1:17,000.



CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
APLCT: Dona Kidwell
ADDRESS: 11520 Rd. 500D, ME



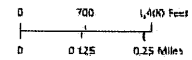
FEMA FLOOD ZONE
NFIP MAPS, JUNE 2nd, 2011

Map produced by the Mendocino County Planning & Building Services, January, 2016
All spatial data is approximate. Map provided without warranty of any kind.



CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
APLCT: Dona Kidwell
ADDRESS: 11520 Rd. 500D, ME

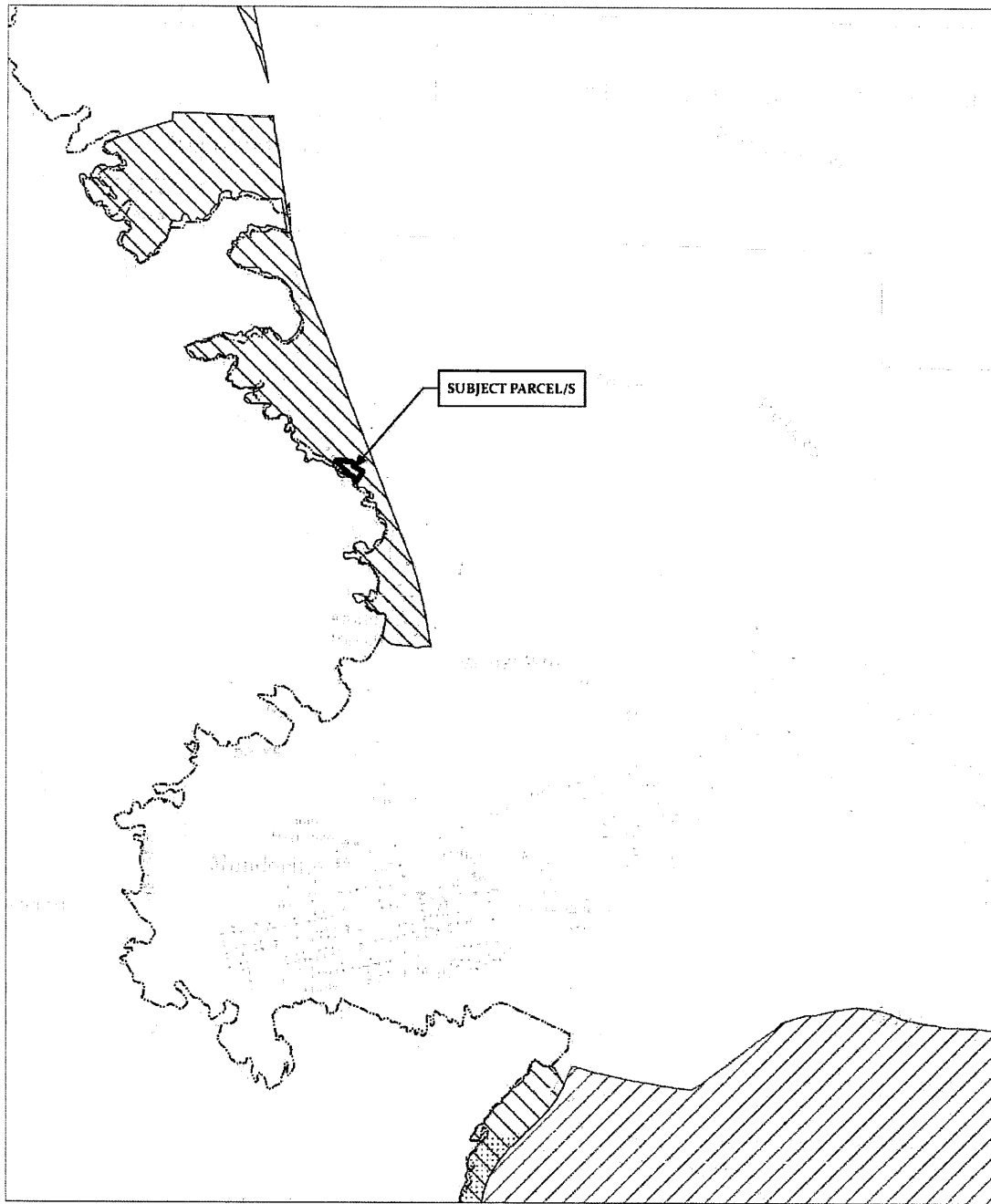
- Critical Water Areas
- Sufficient Water Resources
- Marginal Water Resources






1:15,000

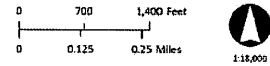
GROUND WATER RESOURCES

Map prepared by the Mendocino County Planning & Building Services, January, 2011
All spatial data representative. Map provided with a warranty of copy fidelity.



CASE: 119-010-01
OWNER: KIDWELL, Richard & Dona, et. al.
APN: 119-010-01
APLCT: Dona Kidwell
ADDRESS: 11520 Rd. 500D, ME

-  Tree Removal Area
-  Highly Scenic Area
-  Highly Scenic Area (Conditional)



HIGHLY SCENIC & TREE REMOVAL AREAS

Map produced by the Mendocino County Planning & Building Services, January, 2015
All spatial data is approximate. Map provided without warranty of any kind.

The proposed project is not consistent with Mendocino County's Local Coastal Program requirements due to two factors: 1) the parcel is 100% Environmentally Sensitive Habitat Area (ESHA) and 2) the parcel is 100% bluff face. The County may approve a project that is not consistent with the Local Coastal Program if it can be found that a Regulatory Takings would occur if the project was denied. Please note that additional information will be provided at the time of the future modification for establishment of a residence on the parcel.

- a. *When was the property acquired, and from whom:*
Property was purchased by Herbert L. Smith and Fern Smith from Lester W. and Charlotte J. Helfer on August 22, 1945.
- b. *The purchase price paid for the property:*
\$700.
- c. *The fair market value of the property at the time it was acquired and the basis upon which fair market value was derived:*
\$700, derived from Sales Contract.
- d. *Whether a general plan, zoning, or similar land use designations applicable to the property changed since the time the property was purchased. If so, identify the particular designation(s) and applicable change(s):*
To the best of the applicant's knowledge none of the current land-use regulations existed in 1945, with the exception of the Subdivision Map Act. The first County Ordinance was adopted on October 11, 1951 (Ord. 306).
- e. *At the time the property was purchased, or at any subsequent time, whether the project been subject to any development restriction(s) (e.g. restrictive covenants, open space easements, etc.), other than the land use designations referred to in the preceding question:*
No.
- f. *Whether the size or use of the property changed in any way since it was purchased. If so, identify the nature of change, the circumstances and the relative date(s):*
No. The property has remained vacant.
- g. *Whether a portion of, or interest in, the property was sold or leased since the time the applicants purchased it, and the relevant date(s), sales price(s), rent assessed, and the nature of the portion of interest sold or leased:*
No.
- h. *A copy of any title report, litigation guarantee or similar document that might have been prepared in connection with all or a portion of the property, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc.):*
The attached preliminary title report was prepared in 2015 as research for the current application.
- i. *The approximate date and offered price of any offers to buy all or a portion of the property since the time the applicants purchased the property:*
In 2002, an offer of \$200,000 contingent on permit.
In 2013, an offer of \$100,000 contingent on permit.

- j. *The costs associated with ownership of the property on an annualized basis for the last five calendar years. These costs should include but not necessarily be limited to, the following: property taxes, property assessments, debt service, including mortgage and interest costs; and operation and management costs:*
Property taxes of approximately \$130 per year for the last five years for a total of \$650
- k. *Whether apart from any rent received from leasing all or a portion of the property, current or past use of the property generates any income. If the answer is yes, the amount of generated income on an annualized basis for the past five calendar years and a description of the use(s) that generates or has generated such income:*
This property has not been used to generate any income since its purchase in 1945.

DISCUSSION:

The proposed project is not consistent with ESHA buffer policies contained in 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. The project is also not consistent with bluff hazard policies contained in MCC Section 20.500.020 (B)(4), which reads in part that "No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry." The proposed project, and the entire parcel, is considered to be located on bluff face.

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, port governing body, 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 therefore. 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 and on a bluff face would deprive the owner of all economic use of the property. There are no alternative development options where the project can be located at least fifty feet from ESHA, as the entire site is Bishop Pine Forest, nor are there any locations where an adequate setback to the bluff edge can be maintained, as the entire site is considered to be bluff face.

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. The challenge with the subject application is that it is solely for completing the necessary soils work for design of a septic system and to install a well on the parcel to determine if adequate utilities exist to support residential development. Building envelopes for a residence and detached accessory structure have also been included but there is not enough information presently available about the proposal of the residence for staff to support formal designation of building envelopes. Additional information would need to be submitted about alternative house designs, in order for staff to find the proposal to be the least environmentally damaging location. Staff research indicates that there was a reasonable investment-backed expectation at the time the property was purchased that the property could support residential development. Considering the property is zoned for residential

development as a principally permitted use, and residential development exists on adjacent properties, a reasonable person would have believed that the property could be developed with a single-family residence. Additionally, Bishop Pine Forest became recognized by Mendocino County as a rare plant community in 2008, after the property was purchased. Bluff face development was not prohibited at the time the property was purchased, as the first County Ordinance was adopted in 1951.

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 would require encroachment into a fifty foot ESHA buffer. The allowed agricultural uses would require substantial site disturbance and clearing and are not a viable use of 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 include sightseeing, hiking, scuba diving, swimming, sunbathing, jogging, surfing, fishing, bird watching, bicycling, horseback riding, boating, photography nature study and painting. These passive recreation uses do not afford the property owner an economically viable use.

Alternatives to the proposed development, including different 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). Mitigation Measures were recommended in the Report of Compliance and are included as Condition 13 to ensure the project does not have an adverse impact on the sensitive resources at the site.

Resolution Number _____

County of Mendocino
Ukiah, California
November 16, 2016

CDP_2015-0019 THOMAS E BLUE/ DONA KIDWELL

RESOLUTION OF THE COASTAL PERMIT ADMINISTRATOR,
COUNTY OF MENDOCINO, STATE OF CALIFORNIA, ADOPTING A
CLASS 6 CATEGORICAL EXEMPTION AND GRANTING A STANDARD
COASTAL DEVELOPMENT PERMIT FOR DEVELOPMENT OF A
SEPTIC SYSTEM DESIGN, INSTALLATION OF A TEST WELL, AND
DESIGNATION OF BUILDING ENVELOPES.

WHEREAS, the applicant, Dona & Richard Kidwell, filed an application for a Standard Coastal Development Permit with the Mendocino County Department of Planning and Building Services to develop a septic system design, install a test well and designate building envelopes. The site is located approximately 0.25 miles north of the Town of Mendocino, on the south side of County Road 500D approximately 150 feet west of its intersection with Highway 1, located at 11520 Road 500D (APN 119-010-01). General Plan RR5(2); Zoning RR:5/FP; Supervisorial District 5; (the "Project"); and

WHEREAS, the Secretary for Resources has found that certain classes of projects have been determined not to have a significant effect on the environment and are therefore exempt from the requirement for the preparation of environmental documents, and the Project was determined to meet the criteria for a Categorical Exemption from the California Environmental Quality Act (CEQA) Class 6; and

WHEREAS, in accordance with applicable provisions of law, the Coastal Permit Administrator held a public hearing on, November 16, 2016, at which time the Coastal Permit Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Class 6 Categorical Exemption and the Project. All interested persons were given an opportunity to hear and be heard regarding the Class 6 Categorical Exemption and the Project; and

WHEREAS, the Coastal Permit Administrator has had an opportunity to review this Resolution and finds that it accurately sets for the intentions of the Coastal Permit Administrator regarding the Class 6 Categorical Exemption and the Project.

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

1. The proposed development is in conformity with the certified Local Coastal Program. The intent of the RR Land Use designation is to promote small scale farming and residential land uses. The proposed project is to conduct the necessary investigations to determine if the site is capable of supporting the necessary utilities for future residential development. The proposed project is inconsistent with policies relative to reduction of hazards and protection of natural resources. Staff conducted a Takings Analysis to determine if denial of the project may constitute a regulatory takings.
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities. The proposed project is to determine if the site can support adequate utilities for future residential development. The proposed improvements at this time are readily accessible from the County Road. A standard driveway approach will be included in the subsequent Coastal Development Permit Modification for residential development.
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district. The future development of a single-family residence is a principally permitted use within the district and the proposed utility studies are consistent with accessory use regulations contained in Mendocino County Code.

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 and is found categorically exempt pursuant to Title 14, Division 6, Chapter 3, Article 19, Section 15306 of the California Code of Regulations.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource. An Archaeological Survey was prepared by Thad Van Bueren dated May 10, 2016 for this project and was reviewed by the Mendocino County Archaeological Commission on June 8, 2016. The survey was accepted with no sites discovered and therefore Condition 8 is recommended advising the applicant of the Discovery Clause.
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. The proposed improvements will not increase the amount of travel on the public roadway. The site is provided with adequate solid waste facilities, as curbside pick-up is available as well as there is a transfer station nearby.
7. The proposed development is located west of the first public road; however, existing public access is provided along Road 500D and the project site is not designated as a potential access point.

BE IT FURTHER RESOLVED that the Coastal Permit Administrator hereby adopts the Class 6 Categorical Exemption. The Coastal Permit Administrator certifies that the Class 6 Categorical Exemption has been completed, reviewed, and considered, together with the comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Class 6 Categorical Exemption reflects the independent judgment and analysis of the Coastal Permit Administrator.

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

BE IT FURTHER RESOLVED that the Coastal Permit Administrator designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Coastal Permit 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 Coastal Permit Administrator action shall be final on the 11th day after the date of the Resolution unless an appeal is taken. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission.

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

ATTEST: ADRIENNE M. THOMPSON
Secretary to the Planning Commission

By: _____

BY: STEVEN D. DUNNICLIFF
Director

ANDY GUSTAVSON
Coastal Permit Administrator

EXHIBIT A

CONDITIONS OF APPROVAL BLUE/KIDWELL - CDP_2015-0019 November 16, 2016

Standard Coastal Development Permit for the development of a septic system design, installation of a test well and designation of building envelopes for future development of a single family residence and detached garage/workshop/mechanical building.

APPROVED PROJECT DESCRIPTION:

Standard Coastal Development Permit for the development of a septic system design, installation of a test well and designation of building envelopes for future development of a single family residence and detached garage/workshop/mechanical building.

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 Coastal Commission has expired and no appeal has been filed with the 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.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

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.
3. 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 Planning Commission.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. 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.

7. 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.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (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 resource(s) in accordance with Section 22.12.090 of the Mendocino County Code.
9. A Well Permit shall be obtained from the Division of Environmental Health by a licensed well driller.
10. The completed Site Evaluation Report shall be submitted to the Division of Environmental Health for review and approval prior to filing for a subsequent Coastal Development Permit Modification for a residence and associated improvements.
11. Standard erosion control Best Management Practices (BMPs) shall be employed during testing activities to avoid or minimize impacts to the ponds and stream. BMPs shall be shown on submitted site plans for all permits associated with this project.
12. All improvements shall maintain a minimum of a 25 foot setback from the 70 foot contour line. This setback shall be shown on all site plans provided to Mendocino County for proposed improvements.
13. To provide for the protection of Natural Resources, the following shall be required:
 - a. Impacts to Bishop pine forest shall be minimized. Development shall be located as close to the road and limited to unvegetated areas to the extent feasible, and removal of vegetation and grading shall be minimized.
 - b. If Douglas fir trees are to be removed, a Sonoma Tree Vole Survey shall be conducted within two weeks of proposed removal and reviewed and approved by the California Department of Fish and Wildlife.
 - c. In order to provide for the protection of special status birds, vegetation removal and initiation of construction shall be done in the non-breeding season between September and January. If this cannot be accomplished pre-construction breeding bird surveys shall be conducted within 14 days of the onset of construction.
 - d. In order to provide for the protection of special status bats, vegetation removal and initiation of construction shall be done between September 1 and October 31. If this cannot be accomplished pre-construction bat surveys shall be conducted prior to initiation of construction or vegetation removal.
 - e. Invasive English ivy, French broom, cape ivy, jubata grass and iceplant shall be removed from the property by hand to the greatest extent practicable.
 - f. Landscaping shall not include any invasive plants and shall ideally consist of native plants compatible with the bishop pine forest.
 - g. Active management of Bishop pine forest area shall be required and shall include occasional duff and brush reduction in the understory, allowing for some bare areas of soil for seed dispersal; invasive plant removal; regular inspections for signs of pathogens, and appropriate treatments when warranted; and avoidance of trampling or mowing of Bishop pine seedlings. An Active

Management Plan shall be provided prior to issuance of the subsequent Coastal Development Permit Modification for a single-family residence and associated improvements.

- h. Development shall avoid overshadowing of the Pacific reedgrass.
14. Prior to issuance of any permits on the property, the applicant shall obtain a survey of the property boundaries. This survey shall be submitted for review by the County and shall be recorded as a Record of Survey for the property.