COASTAL PERMIT ADMINISTRATOR STAFF REPORT FOR STANDARD CDP

CDP 2017-0033
FEBRUARY 24, 2022

SUMMARY

OWNERAPPLICANT:	BLACK DIAMOND HOLDING LLC 13504 SKYPARK INDUSTRIAL AVE CHICO, CA 95973
AGENT:	SCHLOSSER, NEWBERGER ARCHITECTS 435 MAIN STREET FORT BRAGG, CA 95437
REQUEST:	Coastal Development Standard Permit to construct a single-family residence with ancillary uses and restore Dune Mat Habitat within the remainder of the lot.
LOCATION:	In the Coastal Zone, north of the City of Fort Bragg and west of State Route 1, located at 25600 Ward Ave (CR 425B), Fort Bragg (APN: 069-141-44).
GENERAL PLAN:	Rural Residential (RR5(1):U) Coastal Element Chapter 4.3
ZONING:	Rural Residential District (RR:5) Mendocino Coastal Zoning Code
ACRES:	1± Acre
SUPERVISORIAL DISTRICT:	4 (Gjerde)
ENVIRONMENTAL DETERMINATION:	Mitigated Negative Declaration
APPEALABLE:	Yes, Post Permit Appeal Jurisdiction
RECOMMENDATION:	APPROVE WITH CONDITIONS
STAFF PLANNER:	JULIANA CHERRY

BACKGROUND

PROJECT DESCRIPTION: The property is located within dunes adjacent to the Ward Avenue Shoreline Trail and MacKerricher State Park. On a residentially zoned existing lot, the applicants request to construct a two-story, single-family residence with garage and the following ancillary development: septic and leach fields, well and water storage tank, propane tank, and a driveway with a road approach facing Ward Avenue. The 40,000-square-foot lot includes four environmentally sensitive habitat areas, or ESHA, including 0.21-acre Wax Myrtle and Willow Riparian ESHA, 0.013-acre Shore Pine ESHA, 0.12-acre Dune Rush ESHA, 0.20-acre Dune Mat ESHA and 0.41-acre of restorable Dune Mat habitat.

As there is no location on the property that could avoid impacting an ESHA, the applicant has filed an Incidental Take Permit with California Department of Fish and Wildlife (CDFW). Under the Incidental Take Permit, the property owner will be responsible for avoiding, minimizing, and if necessary fully mitigating impacts. Therefore, as part of the application *Fish and Wildlife Habitat Management* (MCC Sec. 20.348.010) is proposed, including the following measures:

- The applicant proposes to fully mitigate impacts to Howell's spineflower by preserving 0.19 acre of dune mat habitat and restoring 0.13 acre restorable dune mat. To reduce the potential of introduction of non-native species and to increase the overall chance of restoration success, the applicant also proposes to restore 0.09 acre of on-site habitat (for a total of 0.21 acre).

- The restoration area and remaining undeveloped portion of the property will be managed according to the terms outlined in the *Habitat Mitigation and Monitoring Plan* and protected from future development in perpetuity.

- And other measures frequently applied to avoid impacts to sensitive habitat

The applicant proposes to phase development. The first phase would include groundwater testing. The second phase would be construction. The final phase would include the activities recommended in the *Habitat Mitigation and Monitoring Plan* prepared by Rincon Consultants and dated April 2021.

In report section **GROUNDWATER RESOURCES**, the 1982 Groundwater Study recommendations and Ordinance No. 4493 policies are described, including that due to dune area land use restrictions, they will be excluded from groundwater reservoir capacity and recharge estimates.

As there is potential for a regulatory takings, the following report includes information about the applicant's expectations, investment, and adjacent development. See **TAKINGS ANALYSIS**.

APPLICANT'S STATEMENT: from the June 2017 application questionnaire, "New single-family residence with attached garage, well, water system, septic system, driveway, decks, patios and utility extensions." The site plan was revised in December 2020. The patios are at grade. A second-floor deck faces west towards the shore.

RELATED APPLICATIONS:

On-Site

- Incidental Take Permit (CDFW)

Neighboring Property

- See Table 3 for list of lots with existing residential development

SITE CHARACTERISTICS: Located in the unincorporated community of Cleone, the existing property has not been developed (See attached). The westerly property line adjoins Ward Avenue where it is contiguous with the County's shoreline. As shown on *Aerial Imagery*, the surrounding lots are developed with residential structures (See attached). Like the project site, the areas west of State Route 1 are mapped within the Appeal Jurisdiction, as shown on the *Post LCP Certification Permit and Appeal Jurisdiction* map (see attached). *LCP Biological Resources* mapping identifies a rare plant with the property and surrounding areas (see attached). On-site botanical surveys confirm that the property includes several rare plants (see the detailed discussion in Report section **HABITATS AND NATURAL RESOURCES** below). Surrounding lands are mapped as a Moderate Fire Hazard Area and coastal groundwater resources are identified as Dunes (see attachments). *LCP Habitats & Resources* exhibit also identify Dunes as a characteristic of the lot and its surrounds (see attached). Established shore access is provided along the coast, as MacKerricher State Park includes lands west of Ward Avenue (see attached *LCP Land Use Map 12: Cleone* and *Misc*). The soil classifications are Western 214 and 138 (see attached). The northeasterly area of the property includes a mapped freshwater emergent wetland that has been confirmed by the surveying biologists (see attached *Classified Wetlands*).

SURROUNDING LAND USE AND ZONING: The surrounding lands are classified as Rural Residential (RR5), except lands to the west, which include dunes, beach, and the Pacific Ocean. Generally, the lots facing Ward Avenue are developed with single-family residences having a similar building setback from the street. The adjacent and surrounding lots were previously developed with custom single-family residences.

Table 1. Surrounding Land Use & Zoning				
	GENERAL PLAN	**ZONING**	**LOT SIZES**	**USES**
NORTH	Rural Residential RR5 (RR1)	RR5	0 ± Acres	Residential
EAST	Rural Residential RR5 (RR1)	RR5	0± Acres±, 1.75± Acres	Residential
SOUTH	Rural Residential RR5 (RR1)	RR5	0± Acres	Residential
WEST	Open Space (OS-DPR)	OS	5.7± Acres	Open Space

PUBLIC SERVICES:

Access: Ward Avenue Shoreline and MacKerricher State Park
Fire District: Fort Bragg Rural Fire Prevention District
Water District: NONE
Sewer District: NONE

LOCAL COASTAL PROGRAM CONSISTENCY

The proposed residential development is consistent with the goals and policies of Mendocino County Local Coastal Program, as detailed below, except Coastal Element Chapter 3.1 *Habitat and Natural Resource Policies* and MCC Chapter 20.496 regulations. Dune Mat, including Howell's Spine Flower, and other environmentally sensitive habitat areas are identified with the entirety of the land located at 25600 Ward Ave (CR 425B). As proposed, development would be sited in the most feasible location to reduce impacts to the surveyed habitats.

1. **LAND USE:** The subject parcel is classified as Rural Residential (RR). Coastal Element Section 2.2 describes the intent of the RR classification as:

> *"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. Principal Permitted Uses include residential and associated utilities, light agriculture, and home occupations. Conditional uses include the conservation of natural resources."*

The property is located within the "Little Valley to Juggle Handle Creek Planning Area" and is subject to Coastal Element Chapter 4.3 policies, including those specifying coastal access routes and trails.

Policy: 4.3-3 *The northerly portion of Ward Avenue which extends from Highway 1 at Cleone to the beach access tunnel and parking area shall be indicated on the Land Use Maps as an existing Shoreline access route. The Department of Parks and Recreation should include this parking and tunnel access area within their park management plan and the parking area and beach access should be maintained as part of the MacKerricher State Beach. The park management plan should specifically address parking and signing of this access point and make specific recommendations which will mitigate for the adverse impacts of increased visitor use within Cleone Acres Subdivision.*

The project would be consistent with many Coastal Element goals and policies, including Element Chapter 4.3 *Land Use Planning Area* objectives. The project is subject to Coastal Element Chapter 3.1 *Habitats and Natural Resources* and Chapter 3.4 *Hazards Management* goals and policies; see associated subject areas for analysis and recommendations (below).

2. **ZONING:** The zoning district for the subject parcel is Rural Residential (RR:5). The intent of the RR District is to implement Coastal Element Rural Residential Classification goals and policies; for example, *Coastal Residential Use Types* are principally permitted in the RR District. Table 2 lists the development standards for the RR District.

Table 2. MCC Chapter 20.376 Rural Residential District		
CRITERIA	**RR:L-5 STANDARD**	**PROPOSED**
20.376.030(A) Minimum Front & Rear Yards	30 feet	40 feet
20.376.035(A) Minimum Side Yards	30 feet	N/A
20.376.040 Setback Exception	6 feet side	15 feet
20.376.045 Building Height Limit	28 feet	28 feet
20.376.065 Maximum Lot Coverage	20%	Less than 20%

The lot area is less than one acre. MCC Section 20.376.040 provides for a setback exception and this exception is further clarified by a July 31, 1991, memorandum: "*If the parcel is two acres or less, setbacks shall be 20 feet, 6 feet, and 20 feet since the parcels exist at the smaller lot size of the variable density classification of the RR-5(1) or RR-5(2) zones. This is consistent with the regular RR-1 and RR-2 zones.*" As proposed, the project would be consistent with MCC Chapter 20.376 *Rural Residential District* standards, Coastal Element 2.2 land use policies, and Planning and Building Services policies regarding minimum setbacks for development in the RR District where the lot is less than two acres in size.

3. **GRADING, EROSION AND RUNOFF:** The approving authority shall review all permit applications for coastal developments to determine the extent of project related impacts due to grading, erosion and runoff. The approving authority shall determine the extent to which the following standards should apply to specific projects, and the extent to which additional studies and/or mitigation are required, specifically development projects within Development Limitations Combining Districts. The applicant submitted a October 2017 geotechnical investigation report prepared by Jim Glomb of Geotechnical and Environmental Consulting. While the application states limited grading will occur, e.g. grading associated with on-site solid waste treatment and foundation construction, MCC Chapter 20.492 regulations are applicable. Jim Glomb also offers relevant findings, conclusions, and recommendations for site preparation and grading, foundations, driveway pavement (permeable), differential settlements, surface drainage, flatwork, utility trenches, maintenance, and construction observation (See recommended Condition 11).

4. **HABITATS AND NATURAL RESOURCES:** Coastal Element Chapter 3.1 and Mendocino County Code (MCC) Chapter 20.496 *Environmentally Sensitive Habitat and Other Resource Areas* applies to all development proposed in the Coastal Zone. The *LCP Habitats & Resources* map identifies dune habitat with the property and *Wetlands Classifications* maps freshwater emergent wetlands in the northeast area of the lot. The application includes four reports describing the habitat observed on-site and recommending measures to protect habitat. The reports are:

   1. Biological Scoping Survey, Botanical Survey and Wetland Delineation Report for 25600 Ward Avenue. Spade Natural Resources Consulting. July 5, 2016.

   2. Analysis of Environmentally Sensitive Habitat Areas. Rincon Consultants. March 2, 2018.

   3. Habitat Mitigation and Monitoring Plan for 25600 Ward Avenue. Rincon Consultants. April 2021.

   4. California Endangered Species Act Section 2081 Incidental Take Permit Application 25600 Ward Avenue. Rincon Consultants. April 2021.

   The reports were distributed to California Coastal Commission (Commission) and CDFW staff for their review and comments on June 5, 2018 and November 3, 2021. An interagency site visit was completed

in 2018 with attendees including staff from Planning & Building Services (PBS), California Department of Fish & Wildlife (CDFW), California Native Plant Society, Schlosser Newberger Architects, and surveying biologists from Rincon & Associates. Following the site visit, PBS and CDFW staff agreed that the entire property included sensitive habitat areas and that the most feasible location for development would be adjacent to Ward Avenue on the westerly portion of the lot. A Shown in Figure 3 of the Incidental Take Permit Application, the following sensitive habitat areas were identified:

- *Dune Mat ESHA*. The property consists mostly of Dune Mat and much of this habitat will be restored as part of the project. The habitat includes Howell's spineflower. The majority of the building footprint, including the driveway, well, septic, and water storage tank, will be located in areas of restorable Dune Mat habitat.

- *Dune Rush ESHA.* The building footprint is proposed 50 feet or more from the surveyed extent of Dune Rush habitat.

- *Shore Pine ESHA.* The proposed building footprint is more than 100 feet from the nearest Shore Pine vegetation.

- *Wax Myrtle and Willow Riparian ESHA*. Development is proposed more than 100 feet from the surveyed edge of the riparian vegetation.

The applicant proposes to cluster the development on the parcel and to restore habitat within the remaining area of the property. Staff recommends memorializing the extent of on-site ESHA (See recommended Condition 10.i). Staff recommends a 100-foot buffer from all on-site ESHA and the applicant proposes to protect the habitat in perpetuity (See recommended Condition 12).

Coastal Element Policy 3.1-7 states, in part:

> *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. ... Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards: 1. It shall be sited and designed to prevent impacts which would significantly degrade such areas; 2. It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and 3. Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

The July 2016 botanical survey and April 2021 *Habitat Mitigation & Monitoring Plan* recommend locating development within the first 90 feet of the lot, as measured from the westerly property boundary adjoining Ward Avenue. MCC Section 20.496.020(A)(4) lists standards for permitted development within the buffer area, including that structures will be allowed within the buffer area only if there is no other feasible site available on the property. As the entire site includes sensitive habitat area, the surveying biologists recommend locating development in the least impacting area and recommend restoration of the remaining three-quarter acre of land. On this constrained site there is no other feasible area available on the parcel for a residential structure.

Mitigation measures are recommended to compensate for development within the ESHA, including measures that will also serve to prevent future impacts to protected habitat. To support the protective values of ESHA buffers, staff recommends Condition 13. In the absence of this recommended condition, MCC Section 20.532.020 could potentially allow specified development to be exempt from *General*

Coastal Development Permit Regulations and could potentially exempt development within the buffer area without first obtaining an amended, or new, coastal development permit.

The proposed project location cannot satisfy MCC Section 20.496.020(A)(1) buffer width criteria, but the project would be limited to the least damaging alternative location. Mitigation measures and a proposed habitat restoration plan would reduce the effect of development on identified ESHA. Pursuant with MCC Section 20.496.020(A)(4)(e), mitigation measures would be required to replace the protective values that are lost as a result of development (See recommended Conditions 20, 21, and 22).

5. **HAZARDS MANAGEMENT:** Coastal Element Chapter 3.4 and MCC Chapter 20.500 *Hazard Areas* applies to all development proposed in the Coastal Zone unless and until it is determined by the Coastal Permit Administrator that the project is not subject to threat from geologic, fire, flood, or other hazards. Mapping does not associate faults or landslides with the site, but it does identify seismic hazards associated with marine terrace deposits (see attachment *LCP Land Capabilities & Natural Hazards*). Shoreline lands are subject to flooding, wave rush, and potential tsunami hazards.

   Section 20.500.020(B) Bluffs and Bluff Erosion - The property is situated along Mendocino County's shore line and includes dunes. To ensure that the proposed development satisfies siting and land use restrictions in areas of geologic hazards, the applicant submitted a geotechnical investigation report (Glomb. 2017).

   Section 20.500.020(C) Tsunami – The closest active fault is located 8.4 miles west; a fault investigation was not performed and the site's risk related to wave rush is not a part of the geotechnical report.

   Section 20.500.020(D) *Landslides* – No landslides or areas of severe erosion were observed at the property.

   Section 20.500.020(E) *Erosion* - Seawalls, breakwaters, revetments, groins, and other structures altering natural shoreline processes or retaining walls are not proposed.

   Section 20.500.025 Fire Hazard - The site is rated a high fire hazard area and is located within the Fort Bragg Rural Fire Protection District (see attachment *Fire Hazard Zones & Responsibility Areas*). Coastal Element Policy 3.4-13 states, "*All new development shall meet the requirements for fire protection and fire prevention as recommended by responsible fire agencies."* On June 5, 2018 and November 3, 2021, comments were requested from California Department of Forestry and Fire Prevention (CalFire) and Fort Bragg Rural Fire Protection District (FBRFPD). A response of no comment was received on November 5, 2021 from FBRFPD. In addition, a preliminary clearance from CalFire identifies fire safe standards for the property. As proposed the project is consistent with MCC Section 20.500.025 *Fire Hazard Development Standards* and Policy 3.4-13.

   Section 20.500.030 Flood Hazard - The geotechnical report notes well logs indicate a groundwater depth of 10 feet circa 1998, but neighbors report that groundwater levels rise to near the ground surface during the rainy season. "Water levels must be expected to vary due to seasonal changes and physical changes to the site, including landscape irrigation (Glomb, page 2)." Flooding may be associated with winter storms (See attachment *Special Flood Hazard Areas*).

   In accordance with PBS memorandum dated June 1, 2004, a condition requiring the property owner to record a deed restriction prior to the issuance of a Building Permit is recommended (See recommended Condition 10). The document would set limitations on the construction of seawalls and require removing structures from the property when they are threatened by flooding (e.g. sea level rise). The document would require that the property owner to be responsible for any clean up associated with portions of the development impacted by fire, erosion, flooding, geologic and other hazards.

   As conditioned, the proposed project would be consistent with Coastal Element Chapter 3.4 hazard policies and Chapter 20.500 regulations for hazard areas, including geologic hazards (faults, bluffs, landslides, and erosion), fire hazards, and tsunami and flood hazards.

6. **VISUAL RESOURCE AND SPECIAL TREATMENT AREAS:** The property is not mapped as a Highly Scenic Area; therefore, the applicability of MCC Chapter 20.504 is limited to Sections 20.504.025 *Special Treatment Areas* and 20.504.035 *Exterior Lighting Regulations*.

> Sec. 20.504.025 reads in part *"…Special Treatment Area buffer zones were also located adjacent to all publicly owned preserves and recreation areas, including national, State, regional, county and municipal parks. These buffer zones include those forested areas within the Coastal Zone within two hundred (200) feet of all such publicly owned preserves and recreation areas."*

The property is located within a Special Treatment Area as the westerly portion of Ward Avenue is contiguous with MacKerricher State Park. A 200-foot buffer from State Parks should be included on the exhibit attached to the recommended Deed Restriction (See recommended Condition 10.i). Like all proposed development within the Coastal Zone, it is subject to MCC Section 20.504.035 *Exterior Lighting Regulations*. See recommended Condition 17 to ensure the project satisfies policies intended to reduce sources of nighttime glare. As conditioned, the project would satisfy Coastal Element goals and policies relating visual resources, including reducing sources of nighttime glare and minimum buffer distances from Special Treatment Areas, including MacKerricher State Park.

7. **ARCHAEOLOGICAL/CULTURAL RESOURCES.** The proposed project was referred to California Historical Resource Information Center (CHRIS); and on November 19, 2019, CHRIS Staff responded with a recommendation that a qualified archaeologist conduct further archival and field study of the unsurveyed portions of the project area to identify cultural resources. The applicant hired Alex DeGeorgey, who surveyed and prepared a report that was accepted by Mendocino County Archaeological Commission on December 8, 2021. The Commission recommends including a discovery clause as a condition of project approval (See recommended Condition 8). As conditioned, the proposed project would be consistent with Coastal Element Chapter 3.5 archaeological resource policies and MCC Chapter 22.12.

   On June 5, 2018, the proposed project was also referred to the following local tribes: Cloverdale Rancheria, Redwood Valley Rancheria, and Sherwood Valley Band of Pomo Indians. No response has been received.

8. **GROUNDWATER RESOURCES:** The purpose of MCC Chapter 20.516 *Transportation, Utilities, and Public Services* is "(A) That development occurs in areas where public services are available..." New development shall be approved subject to the availability of necessary public services and consistent with MCC Sections 20.516.015(A) *Septage and Leach Field* and (B) *Water Supply*. On June 5, 2018 and November 3, 2021, the proposal was referred to agencies for comment, including the Mendocino County Division of Environmental Health (DEH).

   On-site Septic and Leach Field. The proposed project includes installation of an on-site septic tank with connection to a leach field located between Ward Avenue and the residence (See Site Evaluation Report. Carl Rittiman & Associates. May 2017). On November 16, 2021, DEH provided the following comment, "ST26906 valid until June 2, 2022." Recommended Condition 15 provides notice to the property owner that a coastal development permit is required for future repair and maintenance of the septic tank and leach fields.

   Groundwater Extraction. Based on the requirements of MCC Chapter 20.516, applications for development often include the results of a Proof of Water Test. MCC Sec. 20.516.015(B)(1) states, among other things, that "*... Demonstration of the proof of water supply shall be made in accordance with the policies found in the Mendocino Coastal Groundwater Study dated June 1982 ..."* Additionally, page 23 of the 1982 Coastal Groundwater Study describes the character and location of dune soils:

> *"Beach and Dune Deposits. ... Sand dunes cover an area of about 920 hectares (ha) (2,270 acres)*

to an estimated average depth of 15 m (50 ft). However, due to their land use restrictions, they will be excluded from ground water reservoir capacity and recharge estimates."

The 2017 geotechnical investigation describes groundwater conditions (Glomb). Coastal Element Policy 3.1-15 and MCC Sec. 20.496.040(A)(1) allows, within dune habitats, one single-family dwelling on a residentially zoned lot. Therefore, staff supports a finding that the proposed project will satisfy the intent of the aforementioned policy, regulations, and 1982 Coastal Groundwater Study guidelines.

The applicants propose an on-site well and water storage tank to be located adjacent to the residence, as shown on the December 15, 2020 submitted site plan. Condition 19 is recommended to establish the phasing of development and that initially a proof of water test shall be completed (and accepted by the Coastal Permit Administrator). For clarification, the basis for vesting this coastal development permit would not rely upon groundwater testing; rather recommended Condition 1 provides for permit effective date, expiration date, and vesting. As proposed, the project would be consistent with MCC Sections 20.516.015(A) and (B) and the 1982 Coastal Groundwater Study policies.

On June 22, 2021, the Board of Supervisors passed and adopted Ordinance No. 4493 stating discretionary entitlements shall not be approved without (A) considering the anticipated water use of the proposed development and (B) imposing conditions of approval related to limiting or phasing any expansion of water use, as deemed appropriate by the reviewing authority. To better understand the site's potential hydrology and geology, staff reviewed both the 2017 geotechnical investigation report findings and the 1982 Mendocino County Coastal Ground Water Study. The Coastal Ground Water Study recommends water conservation measures (pages 15-16). The proposed project includes some of these measures. In response to Ordinance 4493 and as the 1982 Ground Water Study includes additional measures to limit expansion of water use, staff recommends including the study's water conservation measures as conditions, where appropriate (See recommended Conditions 24 - 27). As proposed, the project would incorporate proven water conservation technology in the construction of the project (e.g. low-flush toilets, control inserts on showers, single-control faucets, and similar). The configuration of the surrounding parcels arguably encourages cluster development, which can reduce the amount of impervious paving and aid in groundwater recharge (1982, page 16). As proposed, the project would preserve natural drainage areas, which the Ground Water Study found aids in groundwater recharge. With the inclusion of these additional conditions, staff recommends the project satisfies Ordinance No 4493 objectives to (A) and (B).

9. **TRANSPORTATION AND CIRCULATION:** New development shall be approved consistent with transportation system provisions, as specified by MCC Section 20.516.015(C). On June 11, 2018 and in response to a request for comments, Mendocino County Department of Transportation suggested two conditions as the project will include a road approach and work within the County rights-of-way (See recommended Conditions 28 and 29). As conditioned, the proposed driveway approach to Ward Avenue and residential development would be consistent with MCC Section 20.516.015(C).

10. **PUBLIC ACCESS:** Coastal Element Chapter 3.6 policies and MCC Chapter 20.528 *Coastal Access Regulations and Open Space Easements* applies to all projects in the coastal zone which fall within the definition of development. Public access to the shore is provided west of the property; existing shoreline access includes Ward Avenue Shoreline and MacKerricher State Park (see attachment *LCP Land Use Map 12 Cleone*). This coastal access trail is also listed in Coastal Element Appendix 13, line 21. Staff recommends the proposed project would be consistent with Coastal Element Chapter 3.6 policies and satisfies MCC Chapter 20.528 regulations.

11. **TAKINGS ANALYSIS:** The proposed project is not consistent with MCC Section 20.496.020(A) *ESHA Development Criteria*. The residential foundation and two leach fields would be located within *Dune Mat ESHA* and the front yard area. As there is no feasible location on the property for residential development without impacting habitat, denial of the proposed development may cause a regulatory taking. 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 the ESHA and ESHA buffers would deprive the owner of all economic use of the property. Some factors courts examine to determine whether a regulatory taking has occurred involve the presence of reasonable investment-backed expectations, the degree to which a regulation may interfere with those reasonable investment-backed expectations, and whether or not a regulation deprives an owner of all economic use of the property. Staff believes there is a reasonable investment backed expectation, as the scale of the proposed residence is consistent with similar properties in the vicinity. The General Plan classification identifies single-family residential land uses as principally permitted at this location. Homes are observed on the surrounding lots. A reasonable person would believe that this property could be improved with a single-family residence.

In June 2016, the applicant purchased the land for $300,000. Since that time, they have filed a Coastal Development Permit application proposing to construct a single-family residence. The application has included several field surveys for floristic, biological, suitable soils, architectural plans, encroachment permits, geotechnical recommendations, site evaluation report, and others; these costs are the burden of the applicant. As of December 2020, expenditures equal $367,743. Comparative analysis identified lots previously approved for residential development in the surrounding area (See Table 3).

Table 3. List of Parcels and Coastal Permits Issued

PARCEL NUMBER	TOTAL DEVELOPMENT	PARCEL SIZE
069-141-43	2,279 SF	40,000 SF
069-141-42	2,167 SF	56,800 SF
069-141-41	2,699 SF	46,000 SF
069-141-40	4,169 SF	40,000 SF
069-141-39	3,285 SF	40,000 SF
069-141-38	1,809 SF	38,380 SF
069-141-37	2,310 SF	57,935 SF
069-141-36	1,509 SF	57,935 SF
069-141-35	2,380 SF	87,120 SF
069-141-34	3,627 SF	53,326 SF
069-141-01	4,354 SF	59,350 SF
069-141-45	2,204 SF	40,000 SF
069-141-44	**2,487 SF proposed**	**40,000 SF**
069-141-46	2,575 SF	40,000 SF
069-141-47	2,165 SF	40,000 SF
069-141-48	3,413 SF	47,917 SF
069-141-49	3,147 SF	44,867 SF
Average	2,756 SF	49,352 SF

12. ENVIRONMENTAL DETERMINATION: The environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, adopting a Mitigated Negative Declaration is recommended.

PROJECT FINDINGS AND CONDITIONS

Pursuant with the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Coastal Zoning Code, staff recommends the Coastal Permit Administrator adopt a mitigated negative declaration and approve CDP_2017-0033, a request to construct, within environmentally sensitive habitat areas, a single family residence (including septic system, patio areas, well, water storage tank, propane tank, driveway) and restore *Dune Mat ESHA* on property located at 25600 Ward Avenue, Cleone (APN 069-141-44).

RECOMMENDED FINDINGS:

1. Pursuant with MCC Section 20.532.095(A)(1), Coastal Residential Land Use Types are principally permitted in the Rural Residential classification; single family residential land uses conform to the goals and policies of the certified Mendocino coastal program, including policies identified in Coastal Element Chapters 3.1 (Habitats and Natural Resources) allowing residential development within dune habitat, 3.4 (Hazards) to avoid flooding, 3.6 (Coastal Access), and Chapter 4.3 (Little Valley to Juggle Handle Creek Planning Area); and

2. Pursuant with MCC Section 20.532.095(A)(2), the proposed residence would connect to on-site septic tank and leach fields, PG&E service; enjoys access to roads, including Ward Avenue; and satisfies the Coastal Element Policies 3.1-15 and 3.8-10 regarding the 1982 Ground Water Study guidelines that exclude dune areas from groundwater reservoir capacity and recharge estimates; and

3. Pursuant with MCC Section 20.532.095(A)(3), Coastal Residential Land Uses are principally permitted uses in the Rural Residential District; the location of development meets or exceeds MCC Chapter 20.376 standards regarding height, lot coverage, and minimum yard requirements; and the proposed development is consistent with the purpose and intent of the Rural Residential classification as listed in Coastal Element Chapter 2.2; and

4. Pursuant with MCC Section 20.532.095(A)(4), as conditioned with mitigation, the project will not have any significant adverse impacts on the environment and the project would not substantially alter natural land forms; and as conditioned, the recommended habitat enhancement measures would restore the protective values of the environmentally sensitive habitat habitats including Dune Mat, Dune Rush, Shore Pine, and Wax Myrtle and Willow Riparian; and

5. Pursuant with MCC Section 20.532.095(A)(5), the proposed project would not have any adverse impact on any known archaeological or paleontological resources, as Standard Condition 8 is in place when archaeological sites or artifacts are discovered and the Archaeological Commission accepted the cultural report on December 8, 2021; and

6. Pursuant with MCC Section 20.532.095(A)(6), other public services are in place to serve the existing Residential Land Use, including PG&E, on-site propane, septic and leach fields, and well and water storage tanks; and in accordance with Coastal Element Policy 3-10 and the 1982 Ground Water Study policies, these services are adequate; and

7. Pursuant to MCC Section 20.532.095(B)(1), the proposed development conforms to public access and public recreation policies of Coastal Element Chapter 3.6 of Mendocino County General Plan; shoreline access is available within walking distance of the residence and west of Ward Avenue.

8. Pursuant with Board of Supervisors Ordinance No. 4493, prior to taking action the Coastal Permit Administrator has considered (A) the anticipated water use of the proposed development and (B) conditions limiting or phasing any expansion of water use.

RECOMMENDED CONDITIONS:

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 Coastal Zoning Code. The permit shall become effective after the ten 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 **three (3) years** after the effective date except where construction and/or use of the property in reliance on such permit have been initiated prior to its expiration.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.

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 Coastal Permit Administrator.

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 property owners 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 property owner 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 resources in accordance with Section 22.12.090 of the Mendocino County Code.

9. Any Building Permit request shall include all conditions of approval of Coastal Development Permit CDP_2017-0033. Conditions shall be attached to or printed on the plans submitted.

10. Prior to the issuance of a building permit, the property owner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator and County Counsel. The deed restriction will include the following statements and exhibits:

    a. The property owner understands that the site may be subject to extraordinary geologic, fire, flood, and other hazards and the property owner assumes the risk from such hazards; and

b. The property owner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project, including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project; and

c. The property owner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the property owner; and

d. The property owner shall not construct any shoreline protective devices to protect the subject structures or other improvements in the event that these structures are subject to damage, or other geologic, fire, flood, or other hazards in the future without first obtaining a coastal development permit or permit amendment; and

e. The property owner shall remove the subject structures when sea level reaches the point where the structures are threatened. In the event that portions of the subject structures, or other improvements associated with the subject structures, drift to the beach or ocean before they can be removed to avoid flooding hazards, the property owner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The property owners shall bear all costs associated with such removal; and

f. Condition 14, which limits the activities within the ESHA and its buffers, shall be included in the statement of restrictions identified with the property; and

g. Condition 15, which requires a Coastal Development Permit to authorize any future development, shall be included in the statement of restrictions identified with the property; and

h. The conditions of Permit CDP_2017-0033 are imposed as covenants, conditions and restrictions on the use and enjoyment of the property; and

i. The following shall be attached as exhibits to the Deed Restriction. The exhibits shall be reviewed and accepted by the approving authority (or their designee). The figures shall be black, white, and grey.

(1) The adopted findings and conditions approving CDP_2017-0033;

(2) The approved site plan (e.g. Sheet A1.1 stamped received Dec 15 2020) amended to include the 200-foot buffer boundary from State Parks; and

(3) A figure showing the location of the ESHA resource areas and habitat restoration area. (The basis of the ESHA resource area exhibit shall be "Figure 4 Impact Map" from Rincon Consultants Habitat Mitigation and Monitoring Plan dated April 2021.)

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

11. In accordance with **MCC Chapter 20.492**, all grading specifications and techniques shall follow the recommendations cited in the California Building Code and the geotechnical engineer's report (Jim Glomb's Geotechnical Investigation dated October 10, 2017), and MCC Chapter 20.500.

12. In accordance with **MCC Chapter 20.496**, sensitive habitat area buffer widths shall be established as follows, except as provided in Condition 13:

a. *Dune Mat ESHA* buffer area shall be no less than 100 feet wide (and the ESHA shall include the

restored Dune Mat habitat areas).

b. *Dune Rush ESHA* buffer area shall be no less than 100 feet wide.

c. *Shore Pine ESHA* buffer area shall be no less than 100 feet wide.

d. *Wax Myrtle & Willow Riparian ESHA* buffer area shall be no less than 100 feet wide.

13. In accordance with **MCC Section 20.496.020(A)(4)** and as no other feasible site is available, the proposed location for the residence and ancillary development shall be allowed within the ESHA and, or ESHA buffer, as shown on the approved site plan.

14. To protect the Dune Mat habitat and restoration areas in perpetuity, the allowed uses within the environmentally sensitive habitat areas and their buffers shall be limited to authorized site preparation, habitat restoration, and *Open Space Use Types*, as allowed within the Rural Residential District, unless an amendment to this permit authorizes otherwise. (See "Habitat Mitigation & Monitoring Plan" and "Incidental Take Permit" prepared by Rincon Consultants and dated April 2021.)

15. Future development, beyond that approved by the subject Coastal Development Permit, may not be exempted from the requirement of obtaining a new Coastal Development Permit, even when development meets the exemption requirements of MCC Section 20.532.020. Future development (including repair and maintenance, or development located within ESHA buffers or ESHA resource areas) requires a coastal development permit or permit amendment.

16. In accordance with **MCC Section 20.500.020(E)**, a coastal development permit, or permit amendment, is required prior to constructing seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls. These structures shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses.

17. Prior to issuance of a Building Permit, the property owner shall furnish exterior lighting details to the satisfaction of the Director or their designee. In compliance with **MCC Section 20.504.035**, exterior lighting shall be kept to the minimum necessary for safety and security purposes and shall be downcast and shielded, and shall be positioned in a manner that will not shine light or allow light glare to extend beyond the boundaries of the parcel.

18. In accordance with **MCC Section 20.516.015(A)**, an on-site septic tank and leach field shall be installed. Any future repair or maintenance of the septic tank or leach field shall require a coastal development permit or permit amendment. Prior to installing a replacement leach field, the property owner shall obtain a Coastal Development Permit.

19. In accordance with **MCC Section 20.516.015(B)**, demonstration of proof of water shall be completed prior to issuance of a building permit and prior to the conclusion of the initial expiration date for CDP_2017-0033.

20. Prior to construction or groundwater testing, the following avoidance measures shall be completed:

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

    b. Birds - The bird breeding season typically extends from February to August. Ideally, the clearing of vegetation and the initiation of construction can be done in the non-breeding season between September and January. If these activities must occur during the breeding season, a qualified biologist shall perform a preconstruction breeding bird survey within 14 days of the onset of

construction or clearing of vegetation. If active breeding bird nests are observed, no ground disturbance activities shall occur within a minimum 100-foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active nest until all young are no longer dependent upon the nest. A biologist should monitor the nest site weekly during the breeding season to ensure the buffer is sufficient to protect the nest site from potential disturbances.

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

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

e. Sonoma Tree Vole – If beach pine trees are to be removed to accommodate the development, a Sonoma tree vole survey shall occur within two weeks of tree removal activities. Protocols per the California Department of Fish and Wildlife shall be followed should Sonoma tree vole nests be identified in trees to be removed.

f. Low Impact Development – Creation of new impervious surfaces should be minimized to the lowest extent necessary. A low-impact development design should be incorporated into the development to address runoff from new impervious surfaces, assuring runoff from the site is adequately infiltrated within the boundaries of the property, and runoff patterns for wetland and sensitive plant areas are maintained or improved.

21. Prior to construction or groundwater testing, the property owner shall provide for the measures described in the *Habitat Mitigation and Monitoring Plan* report prepared by Rincon Consultants and dated April 2021, including the following:

    a. **Implementation Plan.** This section explains how the *Habitat Mitigation and Monitoring Plan* will be implemented; beginning with the required pre-construction activities, site preparation, botanical monitoring, and weed management during the construction phase of the Project and annually for five years thereafter. The primary method of mitigating the loss of Howell's spineflower will be conserving the existing population and promoting the expansion of the population through on-site restoration efforts involving the removal of iceplant and non-native grasses.

The techniques described below can be adjusted in consultation with the designated restoration ecologist, and in consultation with California Department of Fish and Wildlife or U.S. Fish and Wildlife Service. Note that an Incidental Take Permit shall be obtained from CDFW prior to all activities that require impacts to the species.

On-site Mitigation shall include *Preservation, Restoration,* and *Howell's spineflower monitoring,* as follows:

(1) Preservation. The largest existing population of Howell's spineflower on the property occurs in the dune mat habitat outside of the project footprint. This area will be maintained free of iceplant and non-native grasses to the extent practicable if these species are identified in the existing rare plant habitat during monitoring. Previous studies have shown that this species needs some kind of disturbance periodically in order to maintain the vegetation gaps or sparsely vegetated nature of the habitat it occupies. The restoration area and remaining undeveloped portion of the property will be managed according to the terms outlined in the *Habitat Mitigation and Monitoring Plan* and protected from future development in perpetuity by a deed restriction agreement.

Prior to occupancy, the property owner shall install low profile split-rail wood or similar type fencing along the north side of the driveway and on the east side of (behind) the house to deter entry into the restoration and preservation area.

(2) Restoration. The portions of the property outside of the project footprint where iceplant is established are threatening the species habitat and the local population by covering over and blanketing the open dune mat where this diminutive annual grows and carries out its dunes lifecycle. Hand pulling of all iceplant from this area shall be implemented and care will be taken to remove all roots of the iceplant from the site so the plants do not regrow. Hand pulling of the iceplant in these areas will likely result in the expansion of the Howell's spineflower population into areas currently occupied by iceplant and non-native annual grasses, such as ripgut brome, brome fescue, purple velvet grass and rattlesnake grass. Previous studies have shown that Howell's spineflower responds predictably and favorably to iceplant removal (USFWS 2011). The effort to completely remove iceplant from the property shall also involve hand pulling of non-native annual grasses to the extent practicable, so that these species do not invade into the newly opened and disturbed habitats. All green waste generated during site restoration will be removed and disposed of at an off-site location.

Prior to ground disturbing activities associated with installation of the groundwater well and above-groundwater tank within dune mat habitat, the top six to eight-inches of topsoil will be salvaged and set aside for later use during restoration activities within restorable dune mat habitat. Care will be taken to ensure salvaged topsoil is transported by hand (e.g., wheelbarrow), temporarily stored within the construction staging area, covered and clearly labeled until it is ready for use during site restoration. Salvaged topsoil will be used sparingly in areas where iceplant and non-native grasses have been removed so as not to unnecessarily compact the existing topsoil or create unfavorable conditions for natural recruitment of Howell's spineflower.

(3) Howell's spineflower Monitoring. Following construction of the home on the site and implementation of restoration efforts outside of the project footprint, the conservation area and Howell's spineflower shall be monitored annually by a qualified botanist or restoration ecologist. In the first year following construction the botanist or ecologist will establish 20 one-yard-square randomly placed permanent plots within the Howell's spineflower habitat within conservation area and record the number of Howell's spineflower in each plot. The botanist or ecologist will take a photo of each plot annually. Annual monitoring will occur for five years after construction.

b. **Invasive Weed Management and Habitat Enhancement** shall include *Construction Phase Control and Prevention and Ongoing Control and Prevention Measures,* as follows:

(1) Construction Phase Control and Prevention. To minimize risk of introducing new invasive species to the property during construction, all equipment must be inspected and free of mud, seeds, and other vegetation debris prior to deployment at the property. Prior to accessing the property for work in the project footprint, all equipment will be inspected and cleaned if necessary. The limits of the proposed disturbance footprint will be marked in the field by stakes and silt fencing or orange snow fencing to prevent construction activities from accidentally spilling over into the conservation area.

(2) Ongoing Control and Prevention Measures. Seasonally timed weeding shall be done mechanically, by hand, during the five-year monitoring period. Weed control of any new iceplant and non-native grasses (e.g., ripgut brome, brome fescue, purple velvet grass, rattlesnake grass) shall occur annually for five-years.

All personnel performing weed management activities must first be trained by the designated ecologist on the presence of special status plants in the weed management area and all work within proximity to spineflower areas shall be overseen by a biologist. Photos of rare plants clearly identified as species to be protected and left intact, will be provided to workers tasked with removing weeds. Hand removal of weeds shall be the only method of removal to be used. All green waste generated during weed management shall be collected and disposed of at an off-site location.

c. **Success Criteria.** Success criteria are required to objectively assess the overall accomplishments and status of the mitigation efforts. The fundamental purpose of the five-year monitoring program is to measure whether or not the success criteria have been met. The success criteria presented below were selected based on a review of the property conditions and mitigation measures, a detailed examination of existing data, and consideration of optimal mitigation results.

Survival of existing population on site. Approximately 0.31 acre of existing habitat shall be conserved, including 0.19 acre of dune mat habitat and 0.12 acre of dune rush habitat. Approximately 0.19 acre of habitat shall be restored, including restorable dune mat at a ratio of 5:1 for direct impacts to dune mat habitat and at a ratio of 0.1:1 for impacts to restorable dune mat habitat.

Control of iceplant and non-native grasses. Upon completion of the restoration implementation phase, iceplant and non-native grasses shall have been removed from the restoration area.

d. **Monitoring Program.** *Howell's Spineflower Mitigation:* The designated mitigation planting areas shall be monitored for five consecutive years following conservation and restoration efforts at the mitigation site or until the County and CDFW verify that this *Habitat Mitigation and Monitoring Plan* has been completed. Following completion of initial restoration activities and designation of on-site conservation areas, a qualified biologist will oversee the implementation of the required monitoring program. The objective of the monitoring program is to evaluate the progress and overall success of the *Habitat Mitigation and Monitoring Plan* in achieving the following goals: 5 to 1 habitat restoration for impacts to suitable dune mat habitat, 0.1 to 1 habitat restoration for impacts to restorable dune mat habitat, mitigation areas continue to support existing population of Howell's spineflower, and complete removal of iceplant and non-native annual grasses within unaffected areas of dune mat and restorable dune mat habitat.

(1) Required Data Collection. Annual monitoring for iceplant and non-native annual grasses shall be conducted in April of each year. The restoration area shall be inspected and any iceplant or non-native annual grasses shall be mapped for removal. Representative photos shall be collected during the April visit to track progress. The collected data can also be used to determine the success of subsequent *Habitat Mitigation and Monitoring Plan* amendments as required by the adaptive management component of this *Plan*.

(2) Monitoring Frequency and Reporting. Monitoring for iceplant and non-native annual grasses shall occur annually in April, and any subsequent removal of these plants will occur by the end of

April. Monitoring will assess whether the success criteria are being achieved and whether corrective measures need to be employed. Monitoring for the presence of Howell's spineflower within the 20 1-yard square randomly placed permanent plots will occur annually in May.

Annual reports shall be prepared following each year's monitoring effort to document the progress of the restoration program. Reports will be prepared for the property owner and shall be filed with the Mendocino County Planning and Building Services and California Department of Fish Wildlife by June 30th of each year.

e. **Monitoring Program.** *Invasive Weed Management and Habitat Enhancement.* While visiting the site during the annual April monitoring visit, personnel shall examine the property for the presence of iceplant and non-native annual grasses. Any new occurrences of these invasive species shall be controlled mechanically by the end of April through hand pulling if it is identified during the monitoring.

Control of invasive plant species shall be conducted by qualified individuals experienced in habitat restoration techniques as necessary to control and manage their spread and encourage the enhancement of existing Howell's spineflower habitat. A report documenting progress will be provided to the County annually, with a copy provided to CDFW. This progress report can be included within the mitigation monitoring report discussed in Monitoring Frequency and Reporting, j(2) above.

f. **Adaptive Management.** After the initial establishment of the conserved and restored habitat areas, an adaptive management approach will begin. It will include remedial measures to address problems observed within Howell's spineflower mitigation areas as needed (e.g., removal of weeds, etc.). The purpose of adaptive management is to provide a strategy to address unforeseen changes in site conditions. This strategy will guide decisions for revising the mitigation plan and implementing measures to address both foreseeable and unforeseen circumstances that adversely affect compensatory mitigation success. Specific adaptive management strategies will address both foreseen and unforeseen circumstances relating to success of the program. The measures must be designed to ensure the mitigation requirements and objectives are still being achieved. Adaptive measures may include alternative invasive species control methods, and revised monitoring requirements.

Monitoring visits by a qualified biologist as outlined in the Monitoring Program, above, will begin the adaptive management cycle. The information gathered during these monitoring visits will be used to evaluate the progress of the mitigation areas. This evaluation will determine if unforeseen challenges are threatening the success of the mitigation plantings and identify specific problems.

g. **Completion of Mitigation.** Once the final success criteria are met, presumably after five years if no remedial measures are needed, the property owner shall submit a request in writing to the County to have a final site inspection with the goal of completing the mitigation program. California Department of Fish and Wildlife (CDFW) shall also be notified of completion. Once the County and CDFW have agreed that all success criteria defined in this *Habitat Mitigation and Monitoring Plan* have been met, no additional mitigation will be required.

h. **Long-Term Maintenance.** Ongoing weed management is anticipated to be necessary to control invasive species. To maintain the conserved and restored Howell's spineflower habitat, it is recommended that long-term maintenance includes invasive weed management efforts. Long term maintenance is the responsibility of the property owner.

22. The property owner shall provide for the following Mitigation Measures (as described in the *Incidental Take Permit Application* report Section 9 prepared by Rincon Consultants and dated April 2021):

a. Mitigation Measure 1: At a ratio of 5:1 for direct impacts to dune mat habitat and at a ratio of 0.1:1 for impacts to restorable dune mat habitat, 0.19 acre of dune mat habitat shall be preserved and

0.13 acre shall be restored as dune mat. To reduce the potential of introduction of non-native species and to increase the overall chance of restoration success, a total of 0.21 acre of dune mat habitat shall be restored, this includes the remaining 0.09 acre of on-site restorable dune mat habitat.

b. Mitigation Measure 2: To minimize risk of introducing new invasive species to the property during construction, all equipment must be inspected and free of mud, seeds, and other vegetation debris prior to deployment at the property. Prior to accessing the property for work in the project footprint, all equipment will be inspected and cleaned if necessary.

c. Mitigation Measure 3: Prior to the start of construction-related activities, protective fencing will be installed around sensitive habitat clearly defining the limits of work within the property.

d. Mitigation Measure 4: The restoration area and remaining undeveloped portion of the property shall be managed according to the terms outlined in the *Habitat Mitigation and Monitoring Plan* and protected from future development in perpetuity by a Covenant and Environmental Restriction on Property or other appropriate deed restriction agreement.

23. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $2,598.00 or current fee shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services *within 5 days of the end of any public hearing action*. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The property owner has the sole responsibility to insure timely compliance with this condition.

24. In accordance with the 1982 Mendocino County Coastal Ground Water Study recommended water conservation measures, the property owner will incorporate proven water conservation technology in the construction of the project, including, but not limited to, low-flush toilets, flow-control inserts on showers (or similar), single-control faucets, water efficient dishwashers and clothes washers, and hot-water pipe insulation. The property owner may apply for a Coastal Development Permit to install grey-water recycling.

25. In accordance with the 1982 Mendocino County Coastal Ground Water Study recommended water conservation measures, the property owner will install and maintain water efficient irrigation systems that minimize runoff and evaporation, and maximize the water intended to reach plant roots. Drip irrigation, soil moisture sensors and automatic irrigation systems are methods of improving irrigation efficiency.

26. In accordance with the 1982 Mendocino County Coastal Ground Water Study recommended water conservation measures, the property owner will either keep rainwater on site in a retention basin to aid in ground water recharge, or where this is not feasible, the project shall be designed to reduce, retard, and disperse runoff. This may be accomplished by mulched and or terraced slopes to reduce erosion and retain rainfall, porous drain swales and paving materials for infiltration, out-sloped roads to spread runoff evenly down slope, and landscaping with suitable water-conserving erosion control plants that will protect the soil, facilitate infiltration of rainwater, and reduce runoff.

27. In accordance with the 1982 Mendocino County Coastal Ground Water Study recommended water conservation measures and to encourage groundwater recharge, the property owner will preserve existing natural drainage areas and encourage the incorporation of natural drainage systems in the development of the site.

28. A standard residential driveway approach shall be constructed at the connection to Ward Avenue (CR425B) to a minimum width of ten (10) feet, with improved approach extending fifteen (15) feet from the edge of the County road, paved with asphalt concrete or comparable surfacing to the adjacent road as per Mendocino County Standard Drawing A514A. Concrete driveways shall not be permitted.

29. Any proposed work within County rights-of-way requires obtaining an encroachment permit from the Mendocino County Department of Transportation

January 21, 2022
DATE

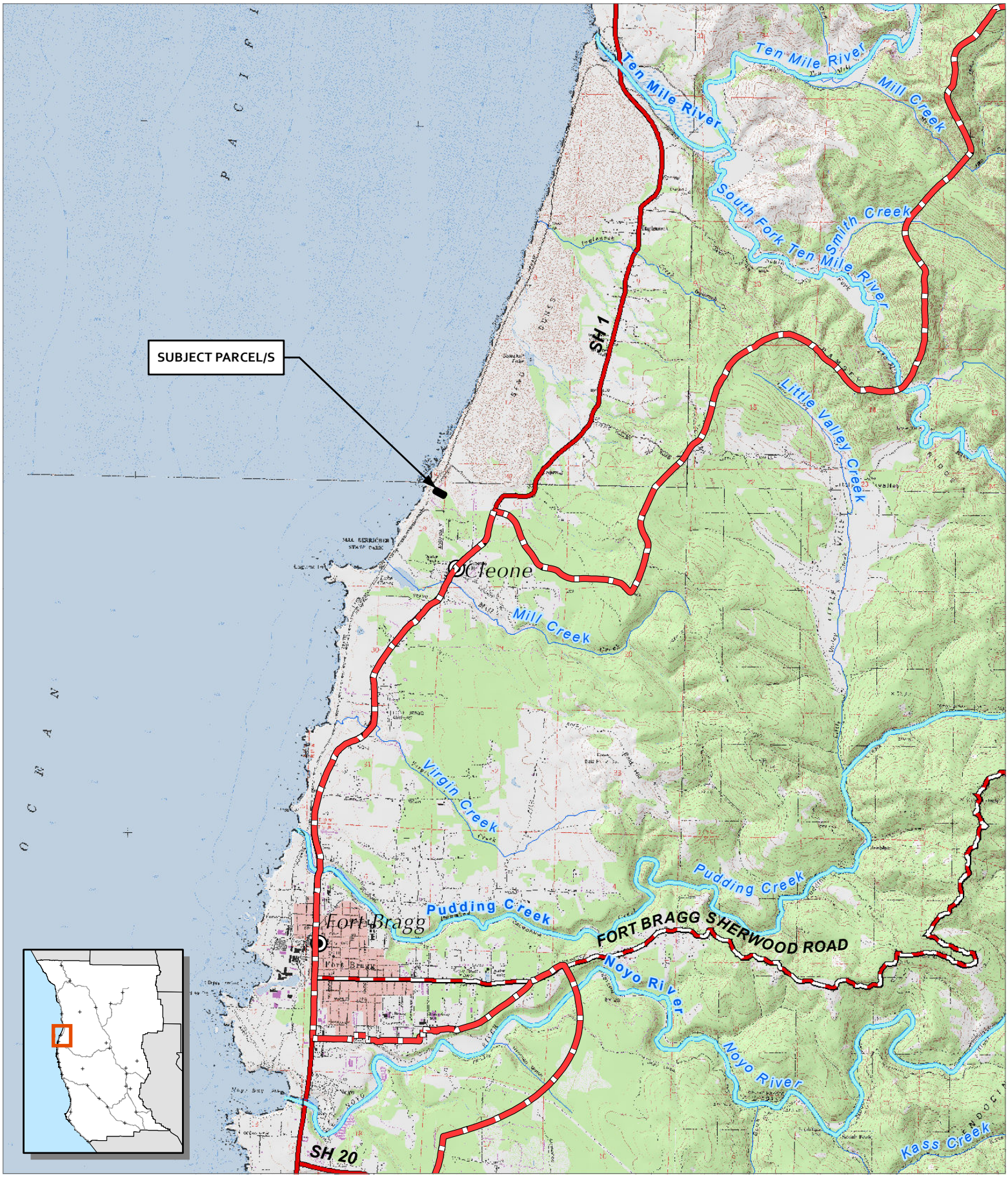
JULIANA CHERRY
PLANNER III

Appeal Period: 10 Days
Appeal Fee: $1,616.00

ATTACHMENTS:

A. Location Map
B. Aerial Imagery
C. Topographic Map
D. Title Sheet, Site Plan
E. Exterior Elevations & Lighting Plans
F. Zoning Display Map
G. General Plan Classifications
H. LCP Land Use Map 12: Cleone
I. LCP Land Capabilities & Natural Hazards
J. LCP Habitats & Resources
K. Biological Resources
L. Appealable Areas
M. Adjacent Parcels
N. Fire Hazard Zones & Responsibility Areas
O. Classified Wetlands
P. Ground Water Resources
Q. Local Soils
R. Important Farmland
S. Misc
T. Rincon Consultants, Inc. Habitat Mitigation and Monitoring Plan. April 2021. (Including Figure 4 Impact Map)
U. Rincon Consultants, Inc. *Draft* Incidental Take Permit Application. April 2021.

MITIGATED NEGATIVE DECLARATION Initial Study available online at:
http://www.co.mendocino.ca.us/planning/meetings.htm



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

Coastal Zone Boundary
Named Rivers
Major Towns & Places
Highways
Major Rivers
Major Roads

0 2,550 5,100 Feet
0 0.5 1 Miles
1:63,360

LOCATION MAP

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

ATTACHMENT A

CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

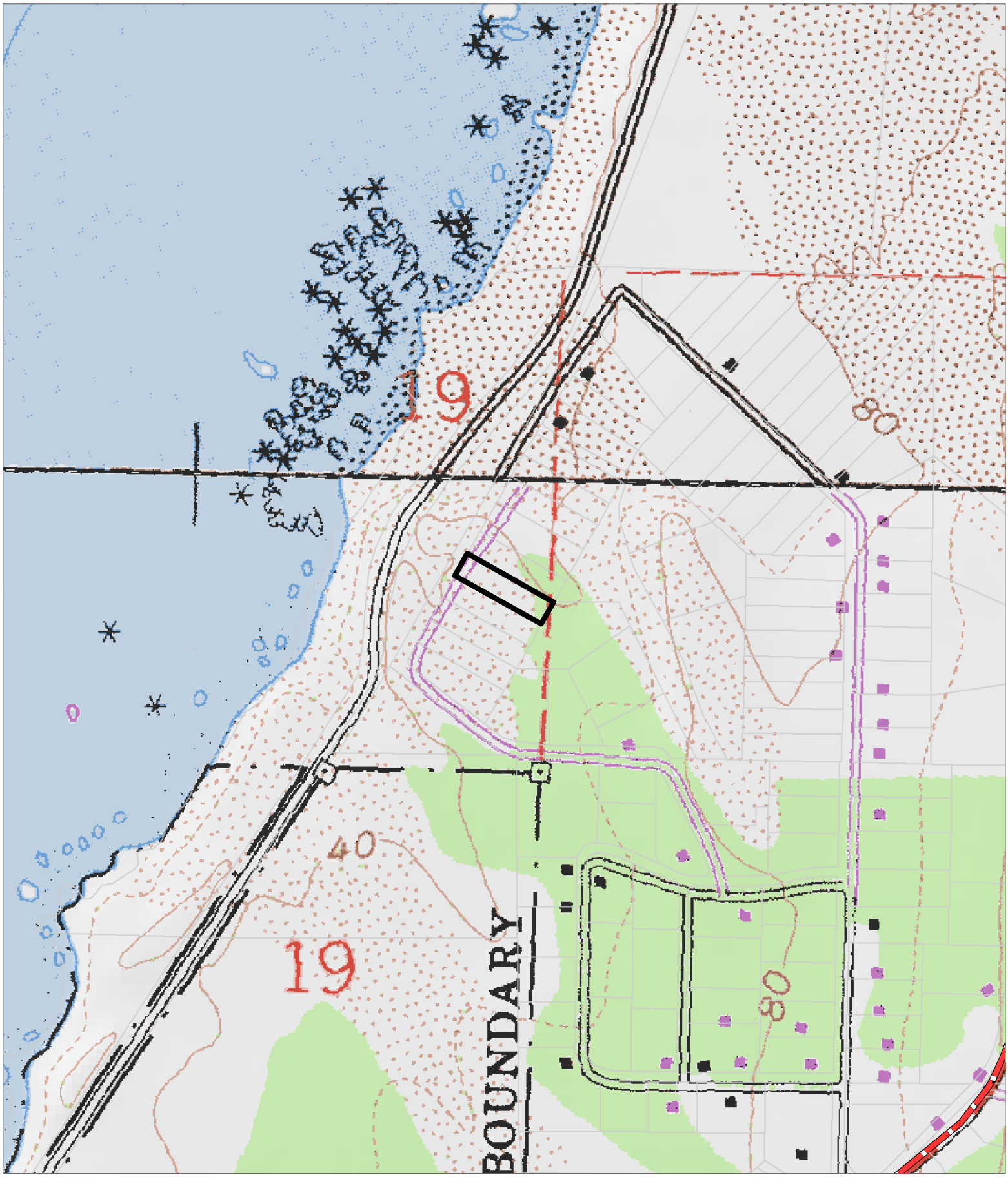
Public Roads

0 37.5 75 Feet
0 0.005 0.01 Miles
1:900

AERIAL IMAGERY

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

ATTACHMENT B



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

Coastal Zone Boundary

0 250 500 Feet
0 0.0425 0.085 Miles
N W E S
1:6,000

TOPOGRAPHIC MAP
CONTOUR INTERVAL IS 40 FEET

ATTACHMENT C

A NEW SINGLE FAMILY RESIDENCE FOR:

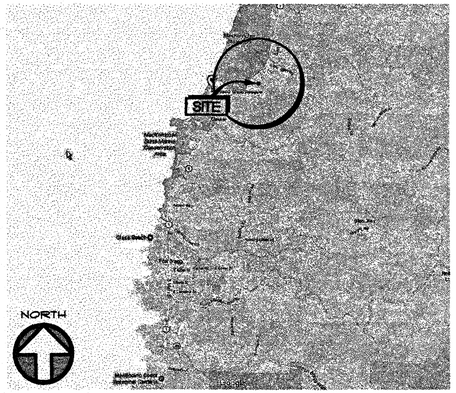
BLACK DIAMOND HOLDINGS, INC.

25600 WARD AVENUE
FORT BRAGG, California 95437

SYMBOLS

- DETAIL NUMBER / SHEET NUMBER
- NOTE NUMBER
- SECTION NUMBER / SHEET NUMBER
- ROOM NUMBER
- DOOR NUMBER
- WINDOW / SLIDING GLASS DOOR / SKYLIGHT / MIRROR
- CONCRETE
- INSULATION
- FINISH LUMBER
- EARTH
- ELEVATION NUMBER / SHEET NUMBER
- REFERENCE POINT
- LUMBER THRU MEMBER
- LUMBER BLOCKING
- PLUMBING FIXTURES
- APPLIANCES
- 2X12 WALLS
- 2X6 WALLS
- 2X4 WALLS
- PARTIAL HEIGHT STUDWALLS

VICINITY MAP



ABBREVIATIONS

A.B.	ANCHOR BOLT	JT.	JOINT
A.C.	ASPHALTIC CONC.	L. OR LAV.	LAVATORY
BLK.	BLOCK	LAM. PLAS.	LAMINATED PLASTIC
BM.	BEAM	MET.	METAL
BN.	BOUNDRY NAILING	MIN.	MINIMUM
CAB.	CABINET	MT.	METAL THRESHOLD
C.J.	CONTROL JOINT	MTD.	MOUNTED
C.L.	CENTER LINE	N.I.C.	NOT IN CONTRACT
CLR.	CLEAR	N.T.S.	NOT TO SCALE
COL.	COLUMN	O/	OVER
CONC.	CONCRETE	O.C.	ON CENTER
CONT.	CONTINUOUS	PEN	PLYWOOD EDGE NAILING
DET.	DETAIL	P.L.	PLATE
D.F.	DOUGLAS FIR	PLAST.	PLASTER
DR.	DOOR	P.T.	PRESSURE TREATED
D.S.	DOWNSPOUT	RD.	ROOF DRAIN
E.J.	EXPANSION JOINT	REDWD.	REDWOOD
EN	EDGE NAILING	R.W.L.	RAIN WATER LEADER
EQ. (E)	EQUAL/EQUIVALENT	SAD.	SEE ARCHITECTURAL DRAWINGS
EXIST	EXISTING	SED.	SEE ENGINEERING DRAWINGS
F.D.	FLOOR DRAIN	S.C.	SOLID CORE
F.E.	FIRE EXTINGUISHER	SHT.	SHEET
FIN. FLR.	FINISH FLOOR	S.S.	STAINLESS STEEL
FN	FIELD NAILING	T.C.	TOP OF CURB
F.O.C.	FACE OF CONCRETE	TYP.	TYPICAL
F.O.M.	FACE OF MASONRY	U.N.O.	UNLESS NOTED OTHERWISE
F.O.S.	FACE OF STUD	V.G.D.F.	VERTICAL GRAIN DOUGLAS FIR
GA.	GAUGE	W/	WITH
G.I.	GALVANIZED IRON	W.C.	WATER CLOSET
GYP.BD.	GYPSUM BOARD	WD.	WOOD
H.B.	HOSE BIBB	W.I.	WROUGHT IRON
H.C.	HOLLOW CORE	W.W.F.	WELDED WIRE FABRIC

DRAWING INDEX

ARCHITECTURAL

A1.1	TITLE SHEET AND SITE PLAN
A1.2	ENLARGED SITE PLAN
A2.1	FLOOR PLANS
A3.1	EXTERIOR ELEVATIONS
A3.2	EXTERIOR ELEVATIONS
E1.1	EXTERIOR LIGHTING PLAN

CODE ANALYSIS

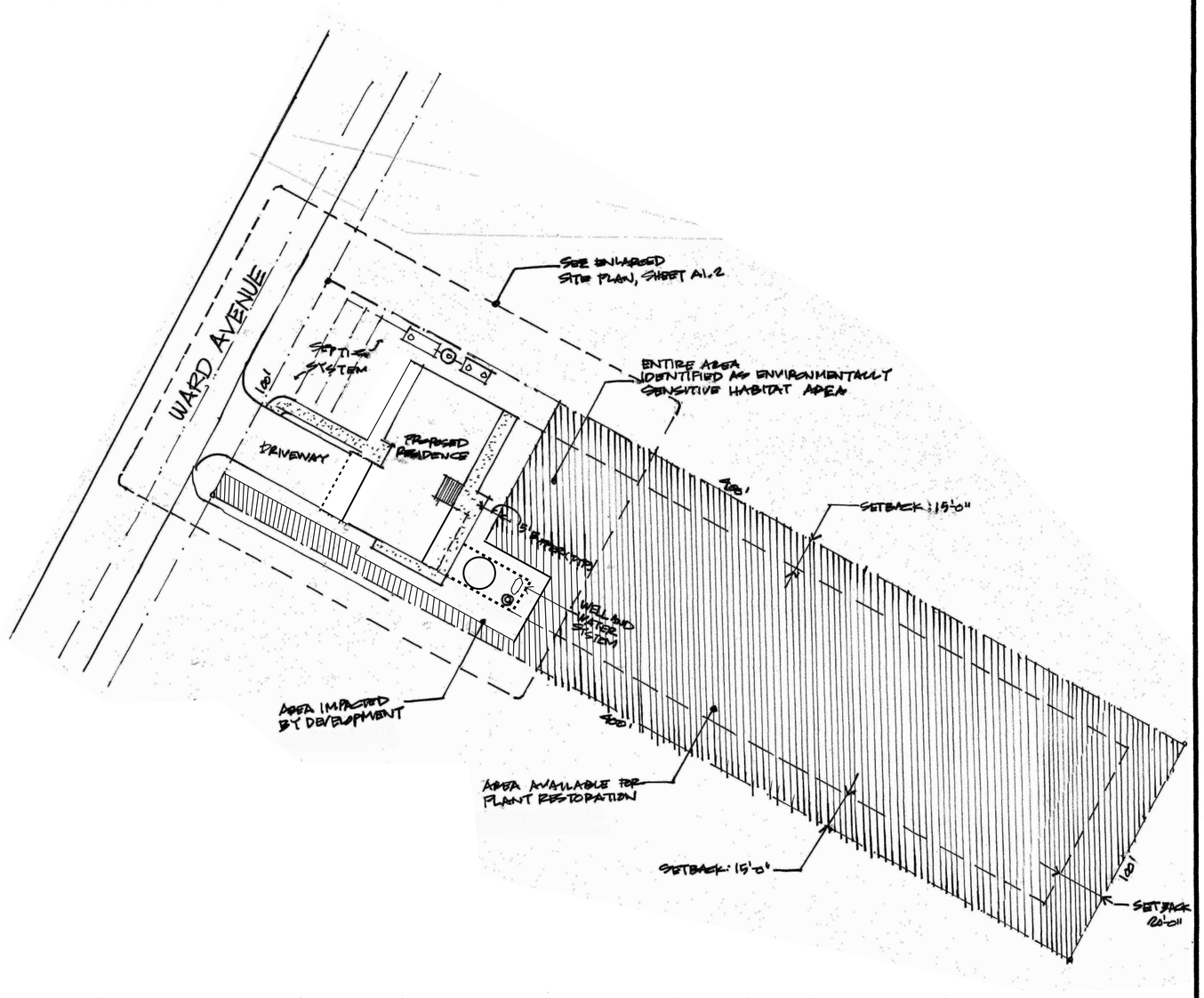
PROJECT: NEW SINGLE FAMILY RESIDENCE
ADDRESS: 25600 WARD AVENUE
FORT BRAGG, CALIFORNIA 95437
ASSESSOR'S PARCEL NO: 069-141-44
CODE AUTHORITY: COUNTY OF MENDOCINO
APPLICABLE CODES: 2016 CBC, CPC, CEC, CMC, CFC, CRC,
2016 CA. GREEN BLDG. STANDARDS,
2016 CA. BLDG. ENERGY EFFICIENCY STDS.

OCCUPANCY GROUP: R-3
CONSTRUCTION TYPE: TYPE V-B
ZONING: RR: 5
PARCEL SIZE: 40,000 SQ. FT.
COUNTY SETBACKS: FRONT: 20 FEET
SIDE: 6 FEET
REAR : 20 FEET
CDF SETBACKS: NOT APPLICABLE- UNDER 1 ACRE

AREA ANALYSIS

EXISTING AREAS:	TOTAL
FIRST FLOOR LIVING AREA:	1540 SQ. FT.
SECOND FLOOR LIVING AREA:	1300 SQ. FT.
TOTAL LIVING AREA:	3840 SQ. FT.
GARAGE AREA:	1040 SQ. FT.
TOTAL AREA:	4880 SQ. FT.

CALCULATED AREAS SHOWN ARE FOR THE BUILDING DEPARTMENT USE ONLY. THE FIGURES ARE NOT TO BE CONSTRUED AS A BINDING AREA OR FOR TAX CONSIDERATION.



SCHLOSSER, NEWBERGER ARCHITECTS
ROBERT SCHLOSSER and TODD NEWBERGER
45 North Main Street Fort Bragg, CA 95437
Phone (707) 961-0991 Fax (707)964-0992
www.landesign.com

A NEW SINGLE FAMILY RESIDENCE FOR:
BLACK DIAMOND HOLDINGS, INC.
25600 WARD AVENUE
FORT BRAGG, California 95437

TITLE SHEET

ISSUE DATE
MARCH 10, 2017
REVISIONS
1 12-3-20

LICENSED ARCHITECT
TODD NEWBERGER
C-31047
8/31/2021
Renewal Date
STATE OF CALIFORNIA

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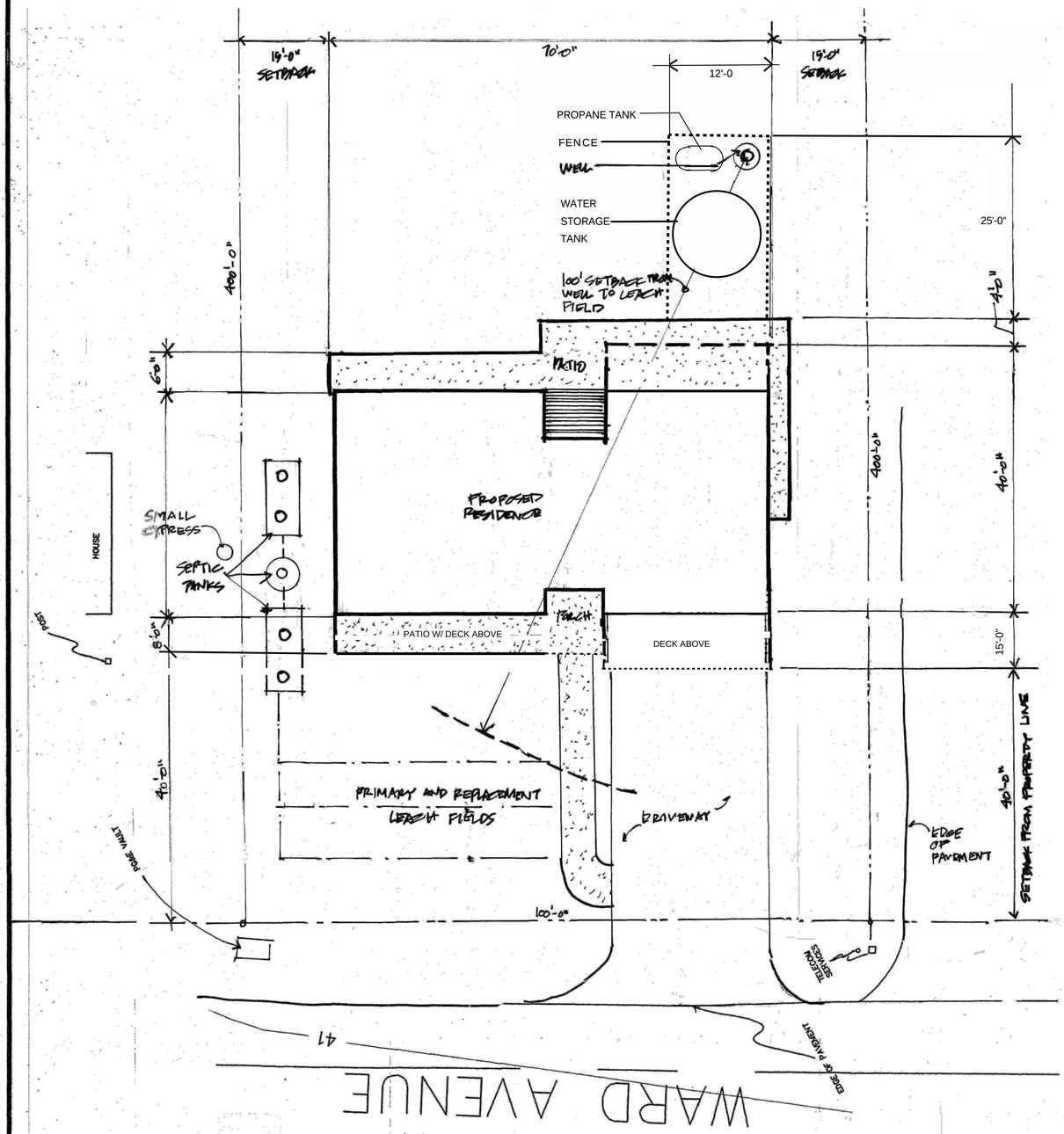
ATTACHMENT D



NORTH

SITE PLAN

1" = 10'-0"

ATTACHMENT D

SCHLOSSER, NEWBERGER ARCHITECTS
ROBERT SCHLOSSER and TODD NEWBERGER
468 NORTH MAIN STREET FORT BRAGG, CA. 95437
Phone (707) 964-6566 Fax (707) 964-5942
www.sandesign.com

SITE PLAN

A NEW SINGLE FAMILY RESIDENCE FOR:

BLACK DIAMOND HOLDINGS, INC.

25600 WARD AVENUE
FORT BRAGG, California 95437

ISSUE DATE
MARCH 10, 2017
REVISIONS
12-3-20

LICENSED ARCHITECT
TODD NEWBERGER
C-31047
8/31/2021
Renewal Date
STATE OF CALIFORNIA

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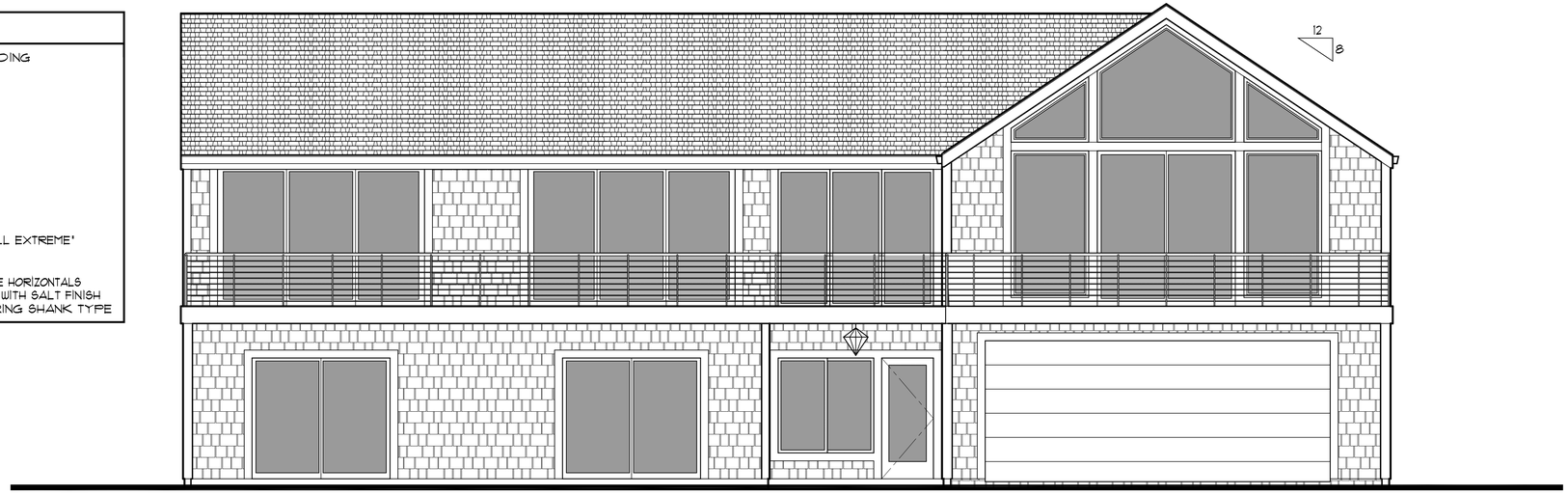
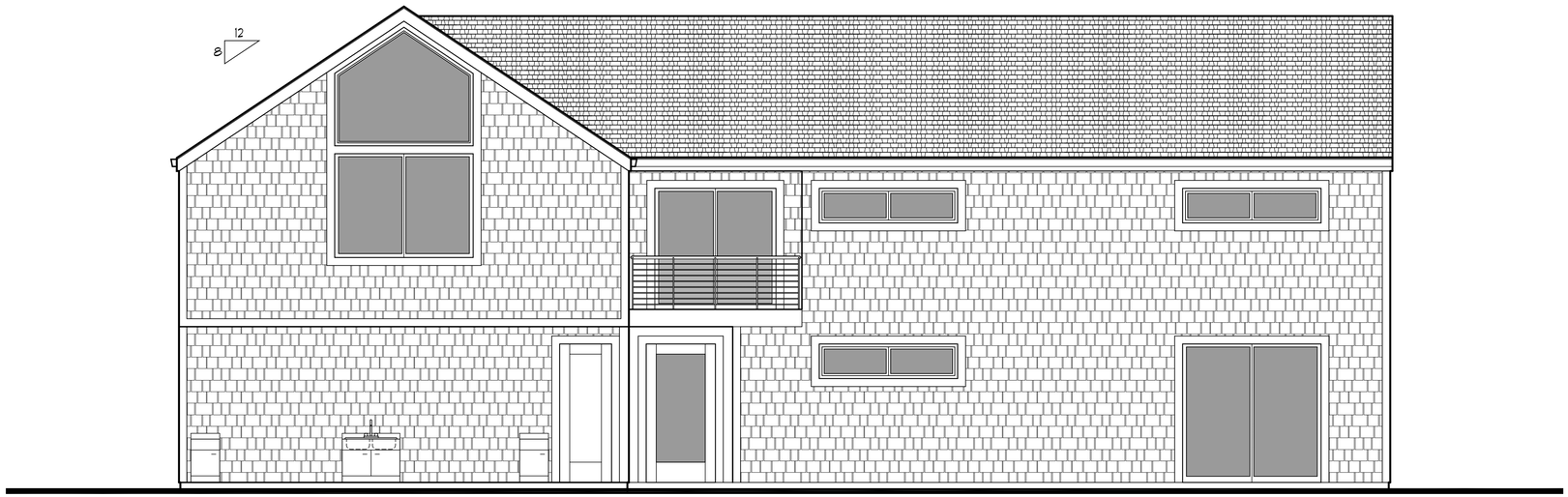
EXTERIOR MATERIALS

SIDING:	JAMES HARDIE HARDIPLANK FIBERCEMENT SHINGLE SIDING (5" EXPOSURE)
ENTRY CLADDING:	NATURAL OR MANUFACTURED STONE VENEER
CASINGS:	JAMES HARDIE HARDITRIM XLD FIBERCEMENT TRIM
TRIM:	JAMES HARDIE HARDITRIM XLD FIBERCEMENT TRIM
FASCIA:	JAMES HARDIE HARDITRIM XLD FIBERCEMENT TRIM
EXTERIOR FIBERCEMENT FINISH:	1 PRIME COAT, 2 FINISH COATS PAINT FINISH
DECKING:	1X6 CLEAR IPE HARDWOOD W/ CLEAR OIL FINISH
WINDOWS:	VINYL SASH WITH INTEGRAL WHITE FINISH
SLIDING GLASS DOORS:	VINYL SASH WITH INTEGRAL WHITE FINISH
EXTERIOR DOORS:	PAINTED FIBERGLASS DOOR AND FRAME
ROOFING:	50 YEAR COMPOSITION SHINGLES - COLOR: BLACK
FLASHING:	16 OZ. COPPER
GUTTERS:	16 OZ. COPPER W/ AMERICAN GUTTER FILTER INC. ' GUTTERFILL EXTREME' DEBRIS FILTERS
DOWN SPOUTS:	16 OZ. COPPER
RAILINGS:	STAINLESS STEEL TUBE AND CAP RAIL WITH STAINLESS STEEL CABLE HORIZONTALS
WALKS AND PATIOS:	CAST IN PLACE REINFORCED CONCRETE / INTEGRAL COLOR WITH SALT FINISH
NAILING:	ALL EXPOSED NAILING TO BE RED HEAD STAINLESS RING SHANK TYPE



WEST



EAST

EXTERIOR ELEVATIONS

1/4" = 1'-0"

ATTACHMENT E

SCHLOSSER NEWBERGER ARCHITECTS
ROBERT SCHLOSSER and TODD NEWBERGER
485 NORTH MAIN STREET FORT BRAGG, Ca. 95437
Phone (707) 961-0811 Fax (707)961-0912
www.schlosserngr.com

EXTERIOR ELEVATIONS

A NEW SINGLE FAMILY RESIDENCE FOR:
BLACK DIAMOND HOLDINGS, INC.
25600 WARD AVENUE
FORT BRAGG, California 95437

ISSUE DATE
1/31/2018
REVISIONS
2 12-3-20

LICENSED ARCHITECT TODD NEWBERGER C-31047 8/31/2021 Renewal Date STATE OF CALIFORNIA

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SCALE AS NOTED
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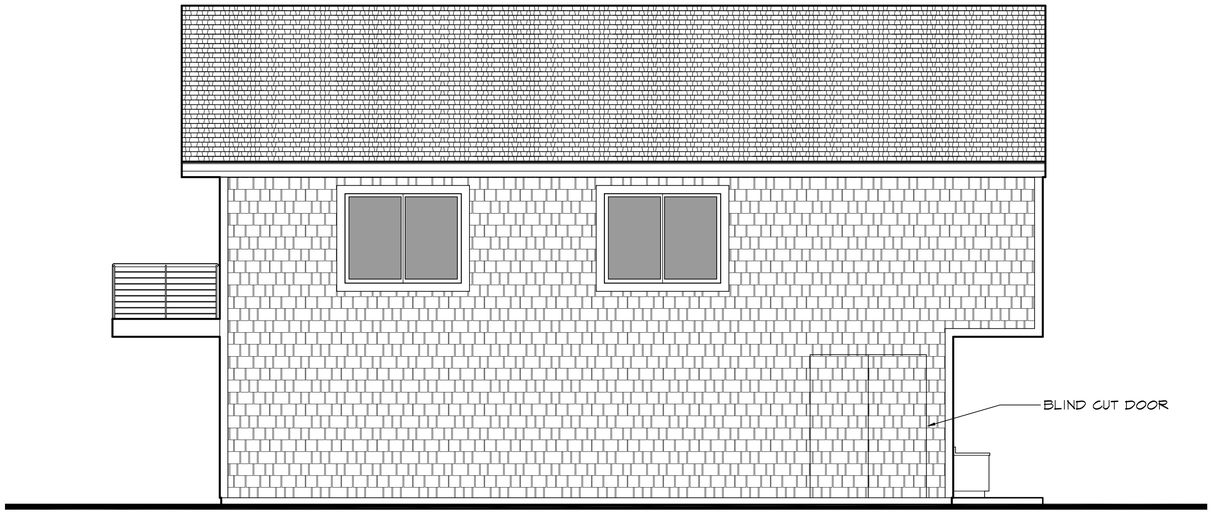
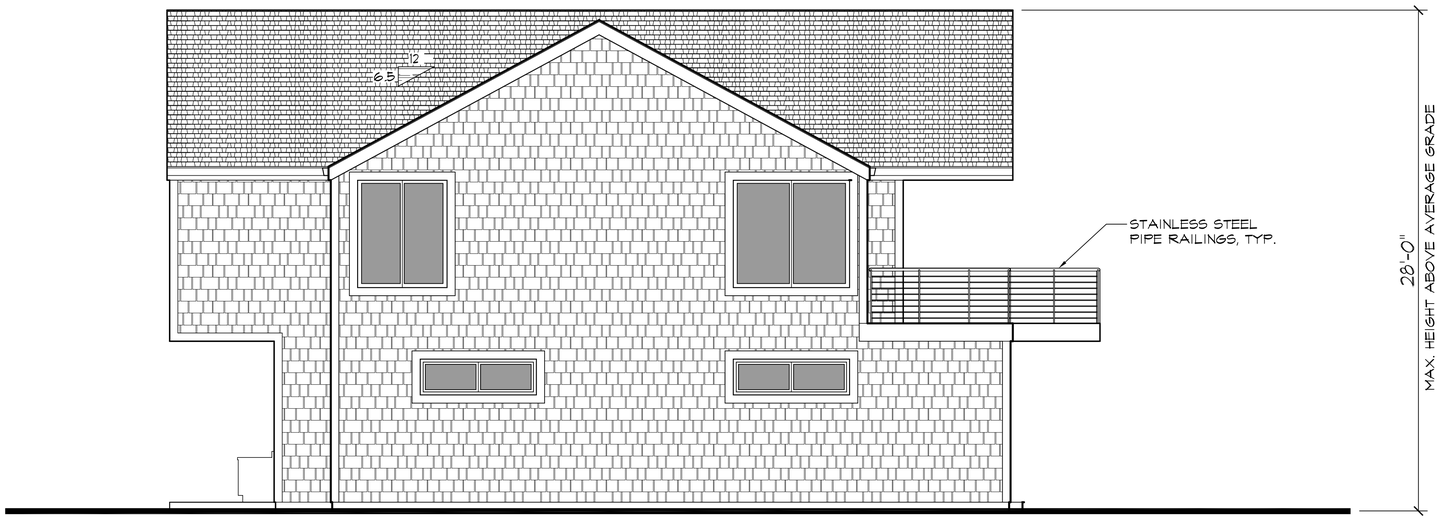
OF SHEETS



SOUTH



NORTH

EXTERIOR ELEVATIONS

1/4" = 1'-0"

ATTACHMENT E

SCHLOSSER, NEWBERGER ARCHITECTS
ROBERT C. SCHLOSSER and TODD NEWBERGER
485 NORTH MAIN STREET FORT BRAGG, Ca. 95437
Phone (707) 961-0911 Fax (707)964-0912
www.fortbragg.com

EXTERIOR ELEVATIONS

A NEW SINGLE FAMILY RESIDENCE FOR:
BLACK DIAMOND HOLDINGS, INC.
25600 WARD AVENUE
FORT BRAGG, California 95437

ISSUE DATE
1/20/2018

REVISIONS
1 12-3-20

LICENSED ARCHITECT
TODD NEWBERGER
C-31047
8/31/2021
Renewal Date
STATE OF CALIFORNIA

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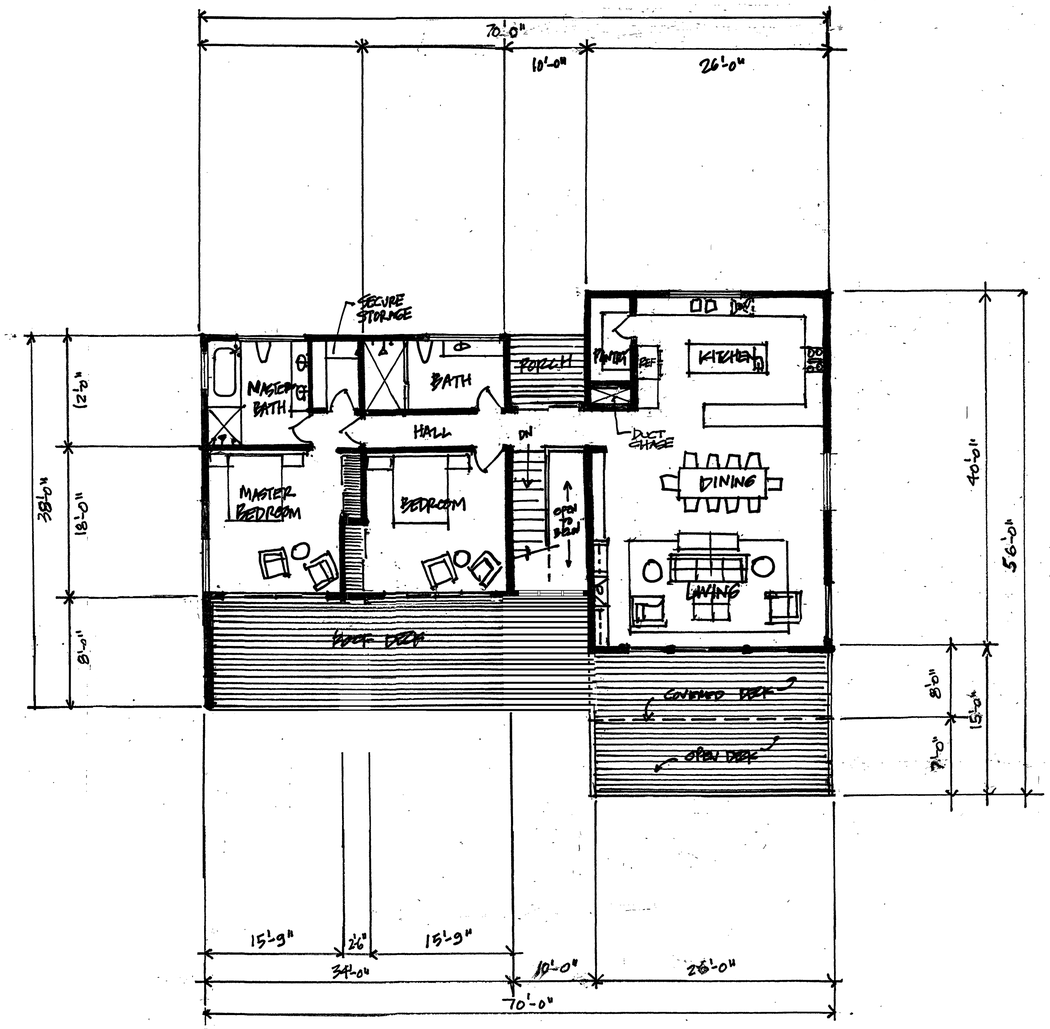
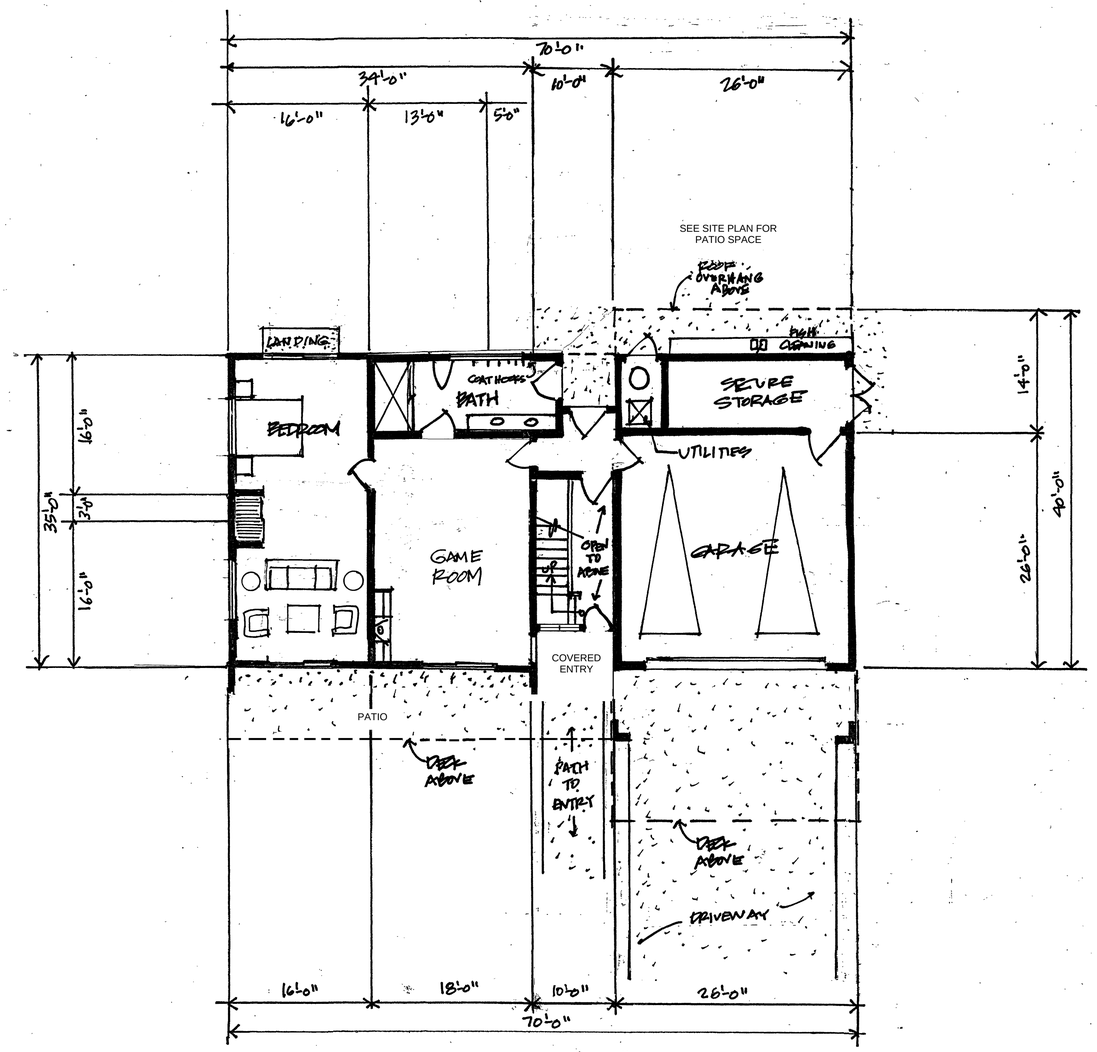


NORTH

SECOND FLOOR PLAN

1/8" = 1'-0"



FIRST FLOOR PLAN

1/8" = 1'-0"

ATTACHMENT F

SCHLOSSER, NEWBERGER ARCHITECTS
ROBERT SCHLOSSER and TODD NEWBERGER
428 NORTH MAIN STREET FORT BRAGG, CA. 95437
Phone (707)964-6446 FAX (707)964-0956
www.jandcdesign.com

FLOOR PLANS

A NEW SINGLE FAMILY RESIDENCE FOR:

BLACK DIAMOND HOLDINGS, INC.

25600 WARD AVENUE

FORT BRAGG, California 95437

ISSUE DATE
MARCH 10, 2017

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12-3-20

LICENSED ARCHITECT
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C-31047
8/31/2021
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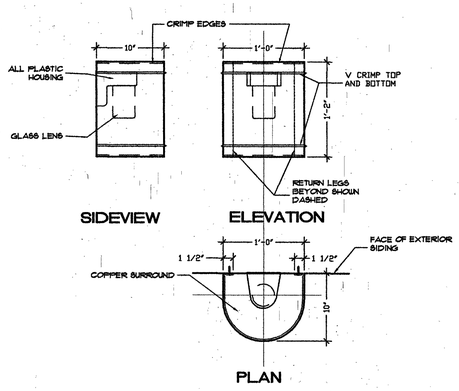
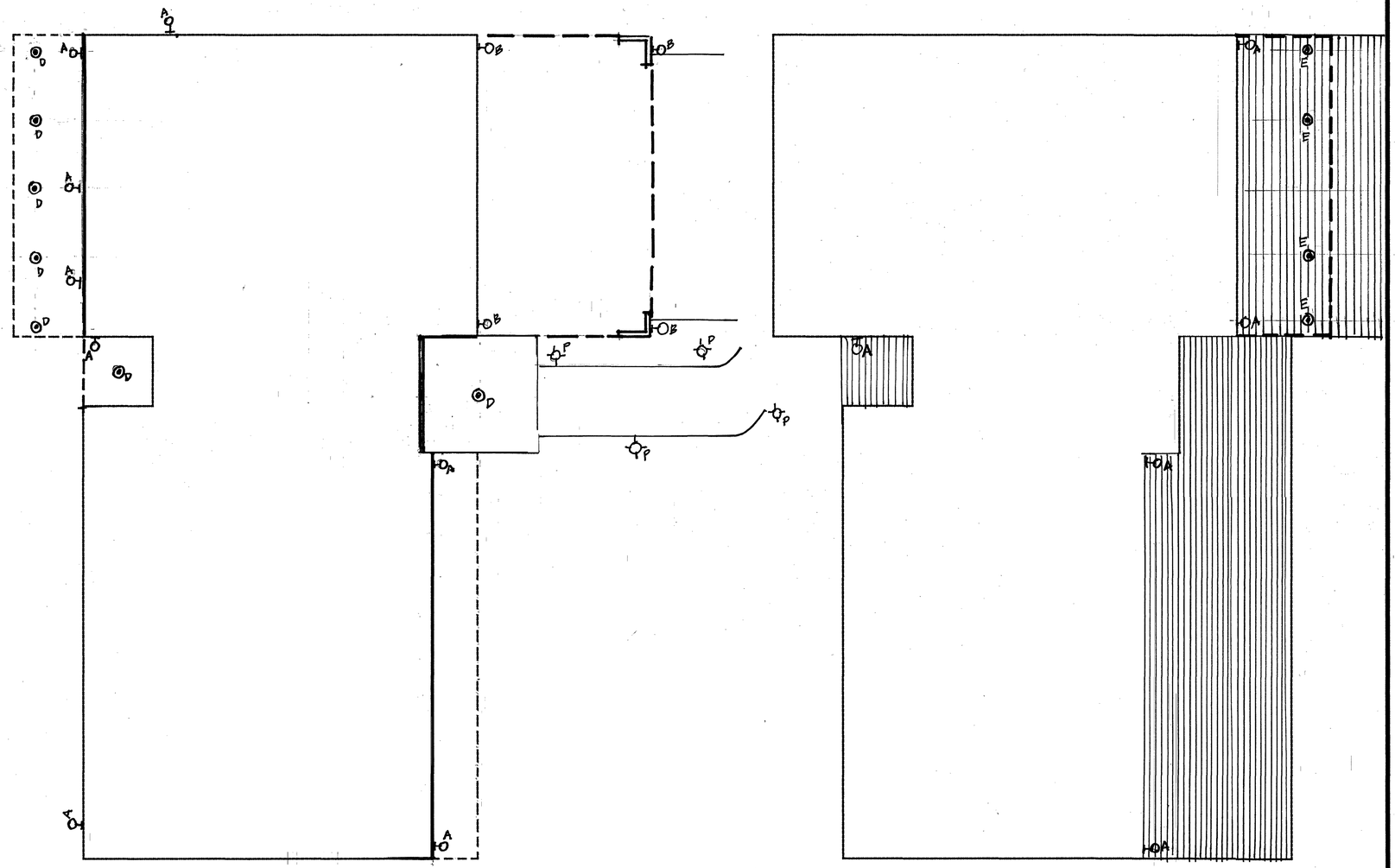


EXTERIOR LIGHT W/ COPPER SURROUND

SCALE: 1" = 1'-0"

EXTERIOR LIGHTING FIXTURE SCHEDULE

	SYM	FUNCTION	MANUFACTURER	MODEL NUMBER	TRIM / COLOR	LAMP	OTHER
EXTERIOR LIGHTS	A	WALL SCONCE	SUPERIOR	5418WA8BL1180EW-K	16 OZ. COPPER	18W CF	COPPER SURROUND, SEE DETAIL 1 SUPERIOR LTG. CONTACT INFO: 800-432-7995
	B	FLOOD LIGHT W/ MOTION DETECTOR	RAB	QB-2	BLACK	(2) R40 75W	W/ INTEGRAL SMS-500 MOTION DETECTOR
	P	PATH LIGHT	FX LUMINAIRE	DM-20 DELMARE	COPPER	20W T4 XENON	FX LUMINAIRE POTENZA 120VOLT TO 12V TRANSFORMER W/ PHOTCONTROL SWITCH OR EQUAL, MANUFACTURER, SIZE AND LOCATION TO BE SELECTED BY ELECTRICIAN AND FIELD VERIFIED W/ ARCHITECT
	D	FLUORESCENT FLAT-WET	MAXILUME	HV4PLIC-26E-AT	4114 REFLECTOR W/ FROSTED GLASS LENS BAFFLE: SATIN HAZE - RING: SATIN HAZE	F26TBX / 830 / A / ECO T4 QUAD PIN CF - GE #97815	DIMMABLE BALLAST & LAMP. LUTRON ELECTRONIC BALLAST # FDB-T4-26-120-1-S
	E	FLUORESCENT SLOPED-WET	ELITE	B38PLIC-AT-26E	B805 FRESNEL SHOWER LENS TRIM: SATIN NICKEL (SN)	↓	↓



NORTH

FIRST FLOOR PLAN

3/16" = 1'-0"

NORTH

SECOND FLOOR PLAN

3/16" = 1'-0"

ATTACHMENT F

SCHLOSSER, NEWBERGER ARCHITECTS
ROBERT SCHLOSSER and TODD NEWBERGER
426 NORTH MAIN STREET FORT BRAGG, Ca. 95437
Phone (707) 964-6570 Fax (707)964-0812
www.schlossernewberger.com

EXTERIOR LIGHTING PLANS

A NEW SINGLE FAMILY RESIDENCE FOR:

BLACK DIAMOND HOLDINGS, INC.

25600 WARD AVENUE

FORT BRAGG, California 95437

ISSUE DATE
MARCH 10, 2017

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2 12-3-20

LICENSED ARCHITECT TODD NEWBERGER C-31047 8/31/2021 Renewal Date STATE OF CALIFORNIA

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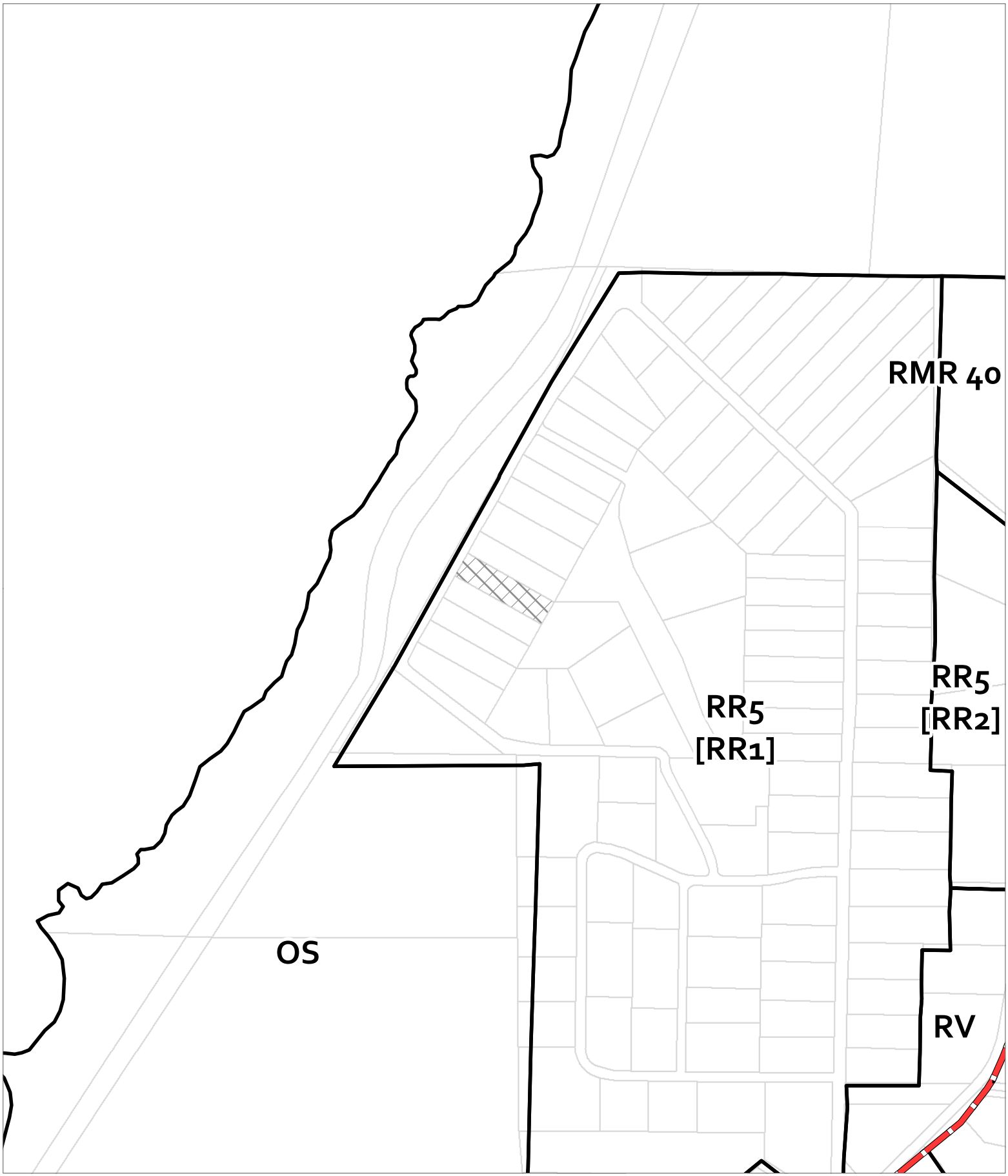


CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

Coastal Zone Boundary

Zoning Districts

0 250 500 Feet

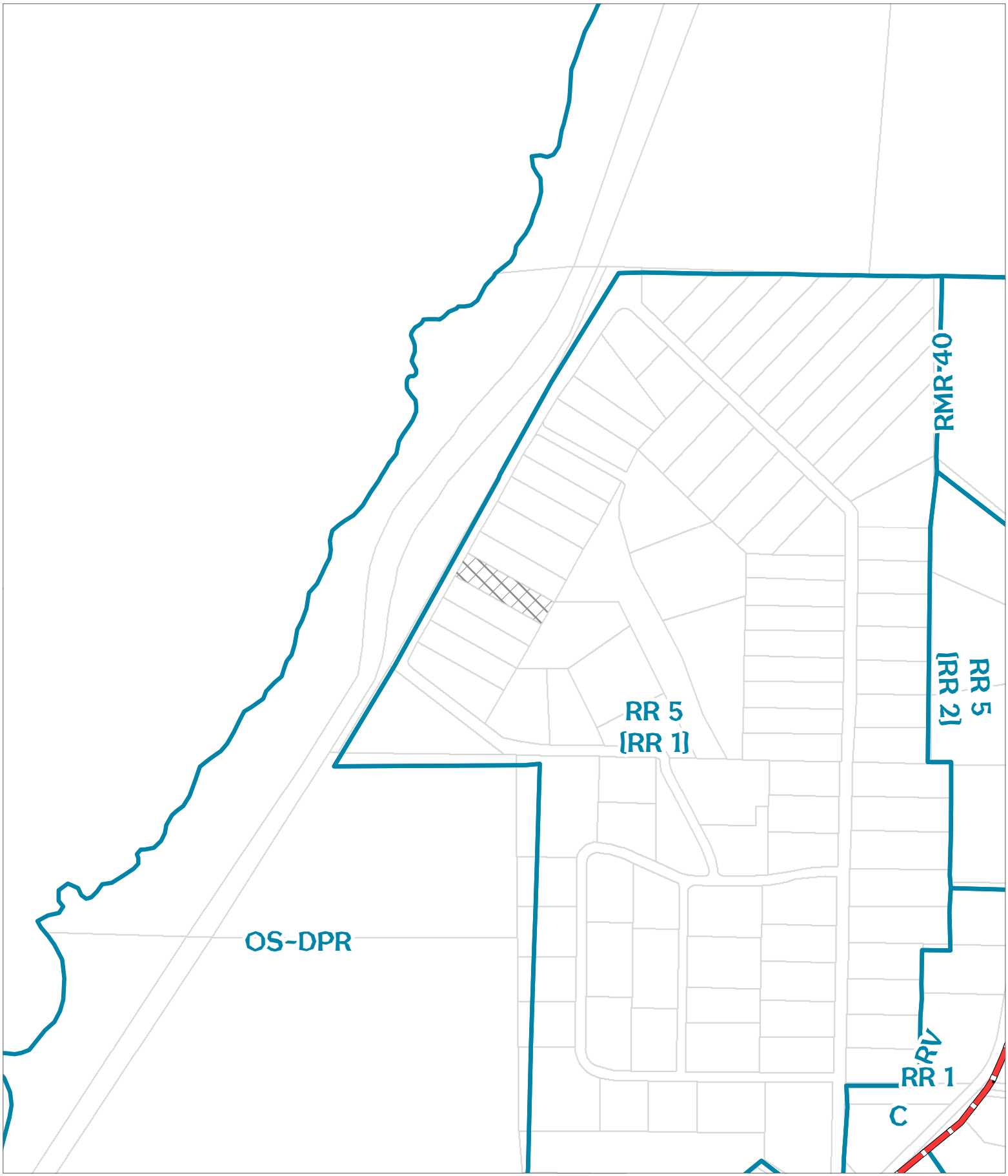
0 0.0425 0.085 Miles

N W E S

1:6,000

ZONING DISPLAY MAP

ATTACHMENT G



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

Coastal Zone Boundary

General Plan Classes

0 250 500 Feet

0 0.0425 0.085 Miles

N W E S

1:6,000

GENERAL PLAN CLASSIFICATIONS

ATTACHMENT H

CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

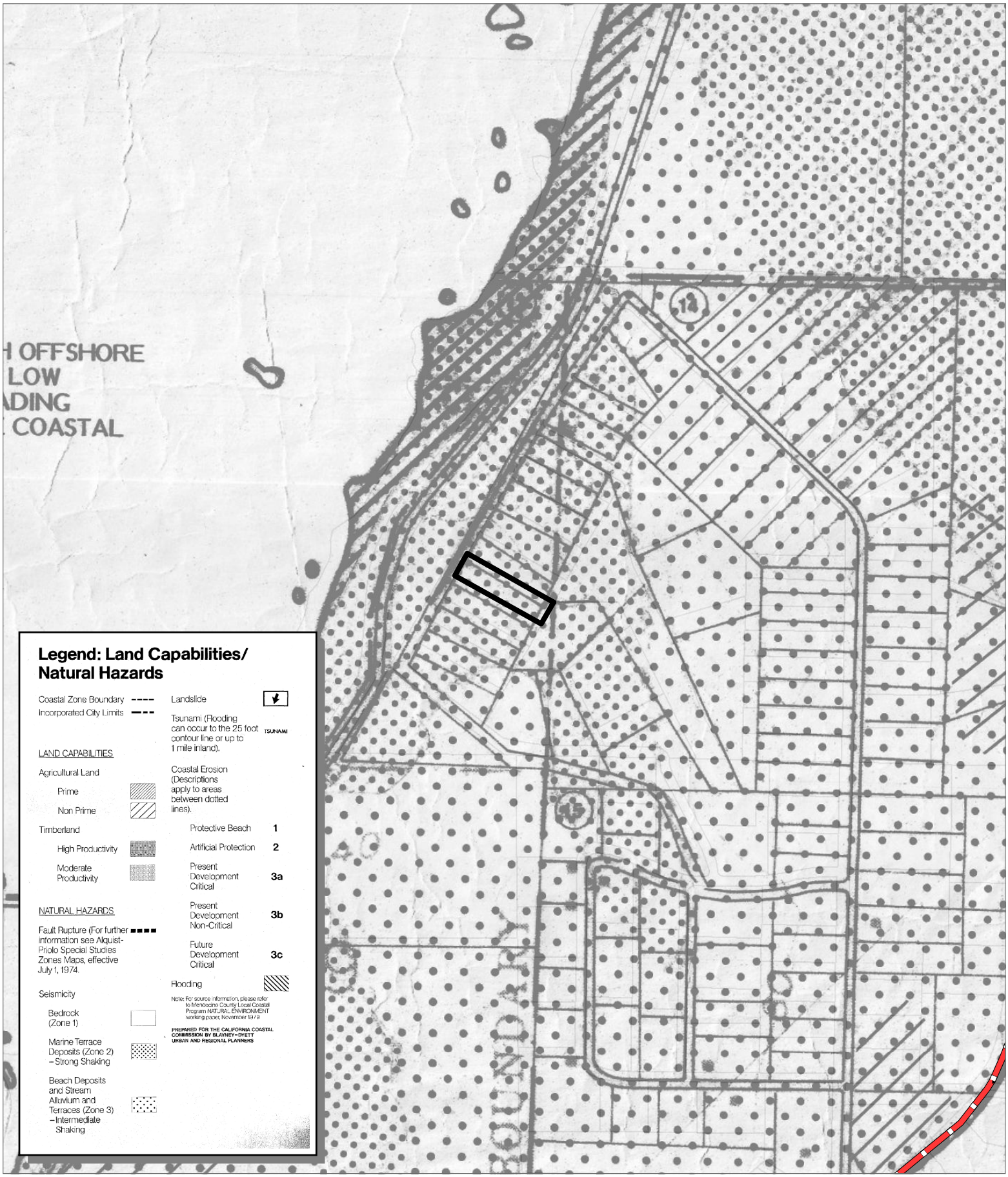
0 250 500 Feet
0 0.0425 0.085 Miles
1:6,000

Coastal Zone Boundary

LCP LAND USE MAP 12: CLEONE

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

ATTACHMENT I



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

0 250 500 Feet
0 0.0425 0.085 Miles
N W E S
1:6,000

Coastal Zone Boundary

LCP LAND CAPABILITIES & NATURAL HAZARDS

ATTACHMENT J

Legend: Habitats/Resources

Coastal Zone Boundary
Incorporated City Limits

MARINE AND FRESHWATER HABITATS
- Open Water W
- Kelp
- Rocky Intertidal Area
- Mudflat
- Beach
- Dunes
- Marsh
  - Saltwater S
  - Freshwater F
  - Brackish B
- Stream
  - Perennial
  - Intermittent

WOODED HABITATS
- Coastal Forest
- Redwood
- Hardwood
- Woodland
- Riparian
- Cutover

DESIGNATED RESOURCE PROTECTION AREA
- State Park or Reserve
- Area of Special Biological Significance
- Natural Area
- Forestry Special Treatment Area

VISUAL RESOURCES
- View Limit
- Viewshed Corridor

OTHER UPLAND HABITATS
- Scrub
- Pygmy Forest
- Pygmy Type Forest
- Barren
- Coastal Prairie Grassland
- Hardwood Forest/ Grassland
- Agricultural Land
  - Farmstead AH
  - Pasture AP
- Urban (Also shown with a dominant vegetation) U
- Sand/Gravel (Extractive Use) e

SPECIAL HABITATS
- Seabird and Marine Mammal Rookery R
- Marine Mammal Haulout Area H
- Spawning Area
- Anadromous Stream
- Wildlife Habitat
- Plant Habitat

Note: For source information, please refer to Mendocino County Local Coastal Program: NATURAL ENVIRONMENT working paper, November 1979.

PREPARED FOR THE CALIFORNIA COASTAL COMMISSION BY BLAYNEY-DYETT URBAN AND REGIONAL PLANNERS

CASE: CDP 2017-0033
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APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

0 250 500 Feet
0 0.0425 0.085 Miles
N W E S
1:6,000

Coastal Zone Boundary

LCP HABITATS & RESOURCES

ATTACHMENT K

CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

Coastal Zone Boundary

0 250 500 Feet
0 0.0425 0.085 Miles
N W E S
1:6,000

APPEALABLE AREAS

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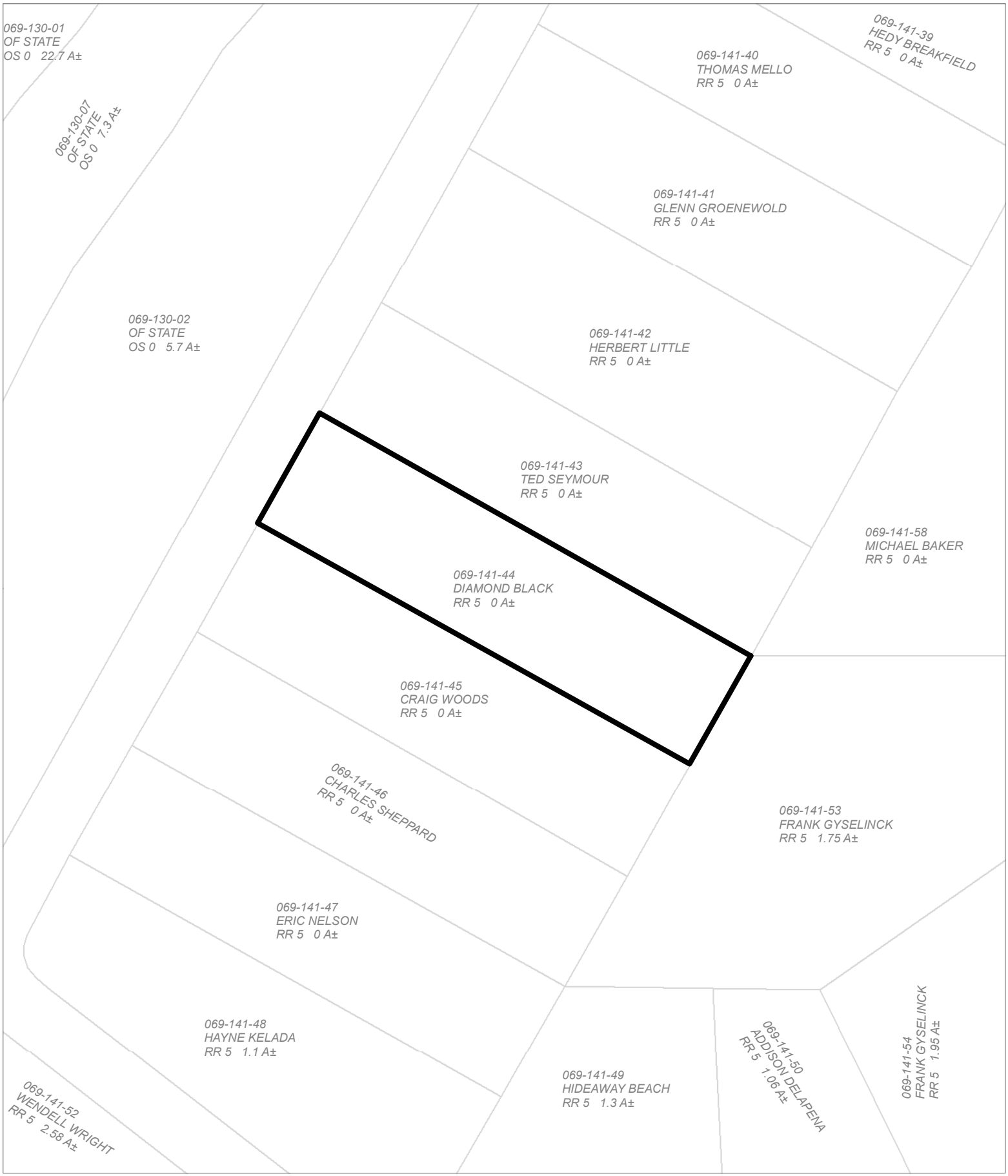
ATTACHMENT L



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

0 50 100 Feet
0 0.0075 0.015 Miles
N W E S
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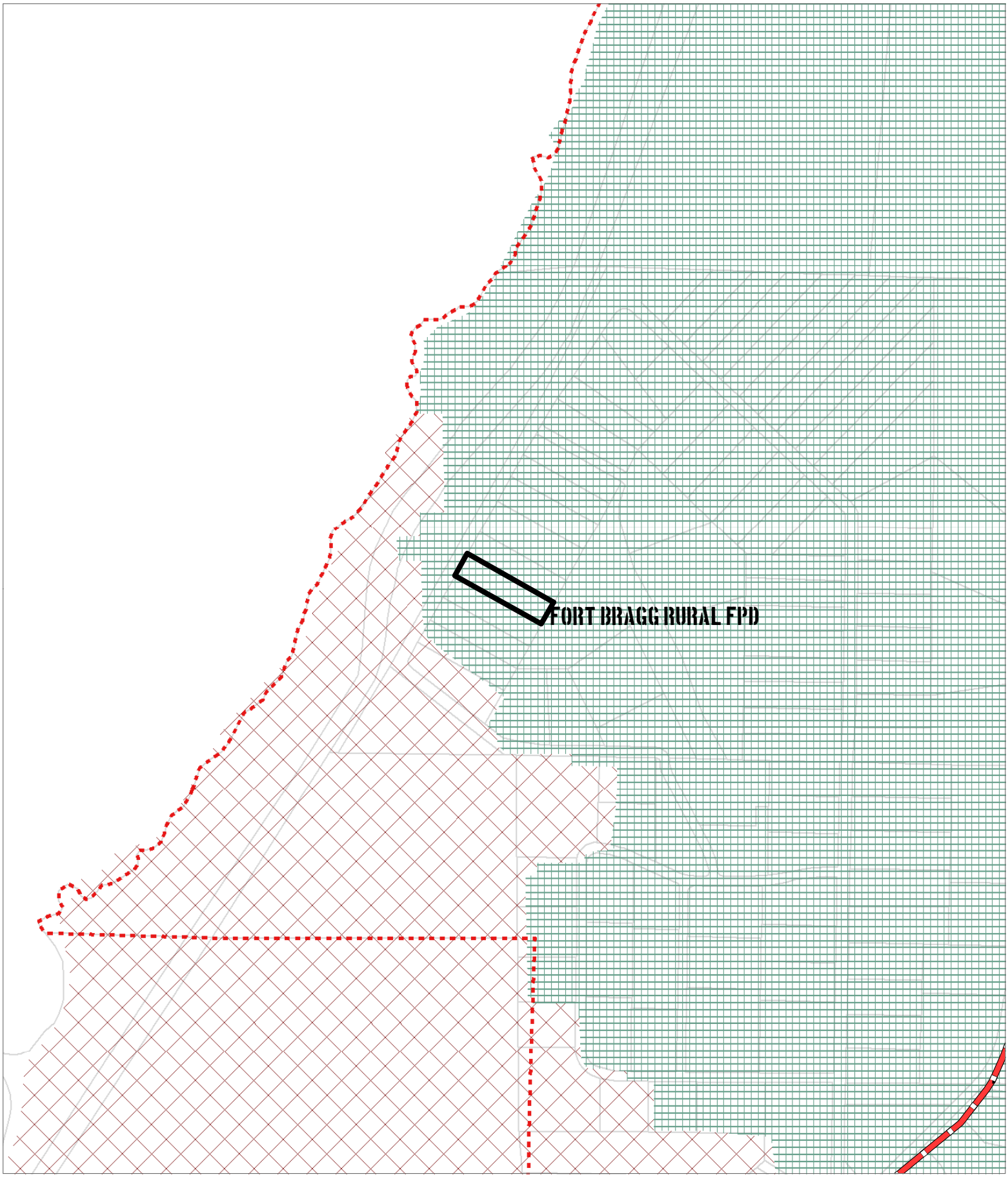
ADJACENT PARCELS

ATTACHMENT M



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

Coastal Zone Boundary
County Fire Districts
High Fire Hazard
Moderate Fire Hazard

0 250 500 Feet
0 0.0425 0.085 Miles
1:6,000

FIRE HAZARD ZONES & RESPONSIBILITY AREAS
STATE RESPONSIBILITY AREA

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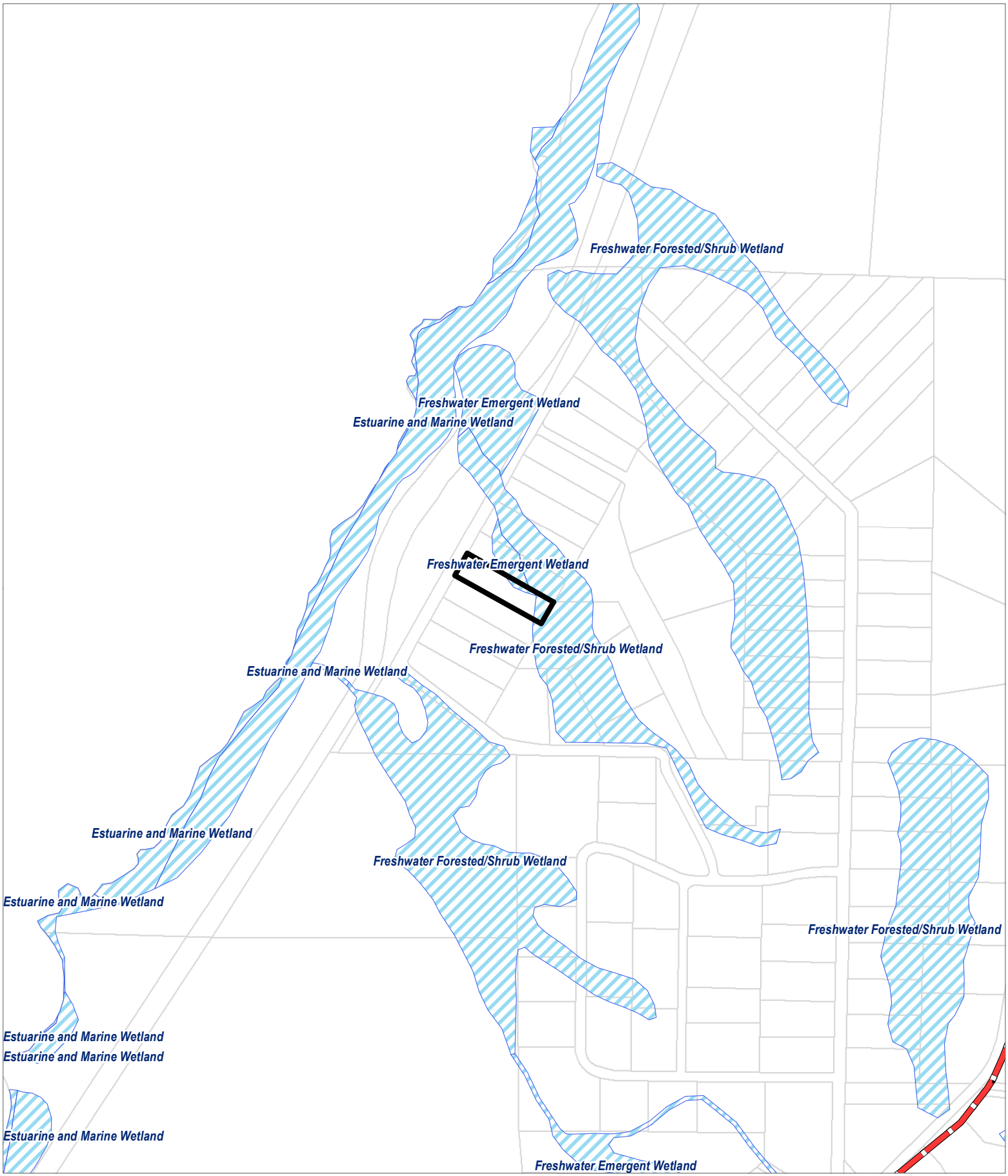
ATTACHMENT N



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

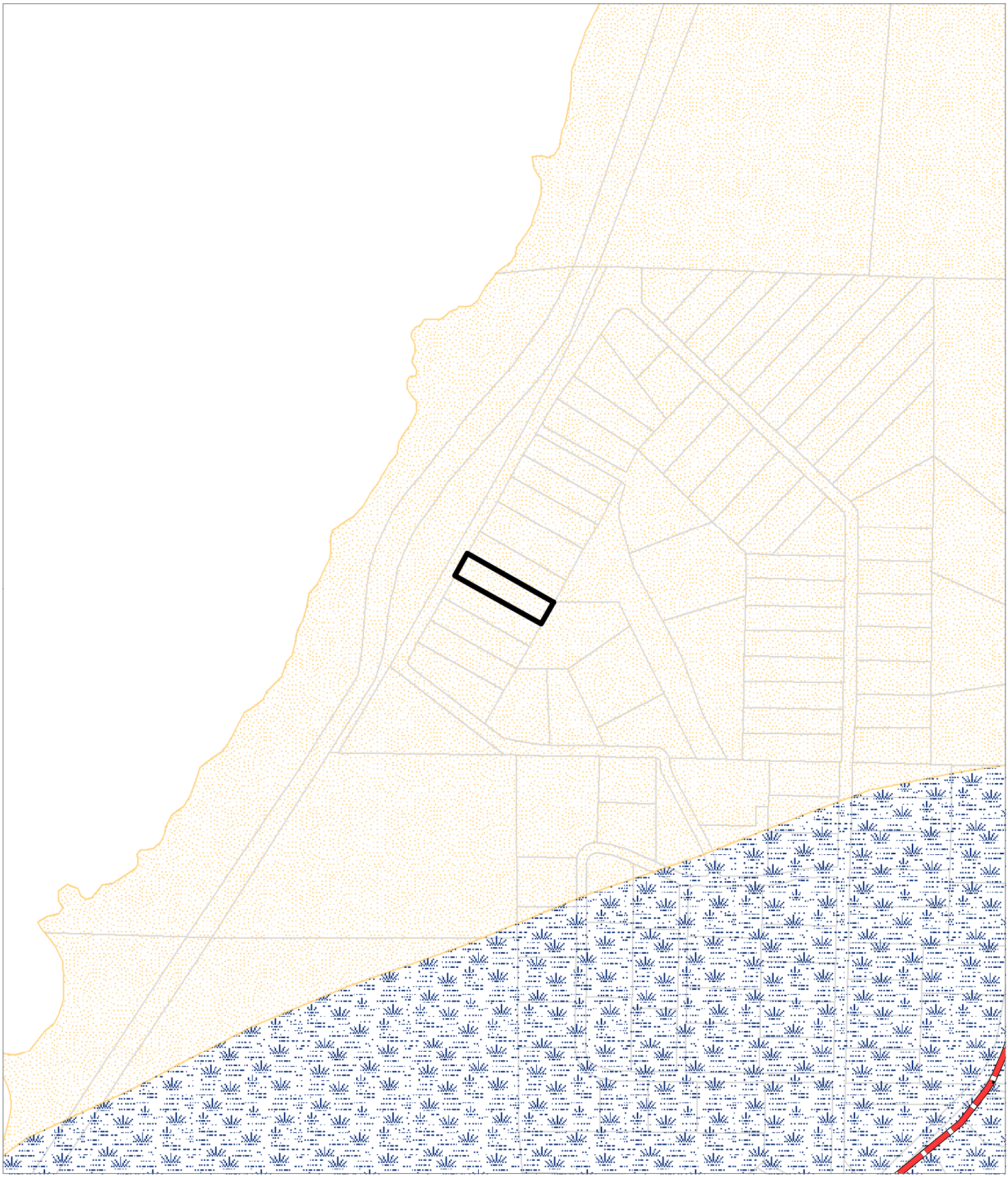
Coastal Zone Boundary

Wetlands

0 250 500 Feet
0 0.0425 0.085 Miles
1:6,000

CLASSIFIED WETLANDS

ATTACHMENT O



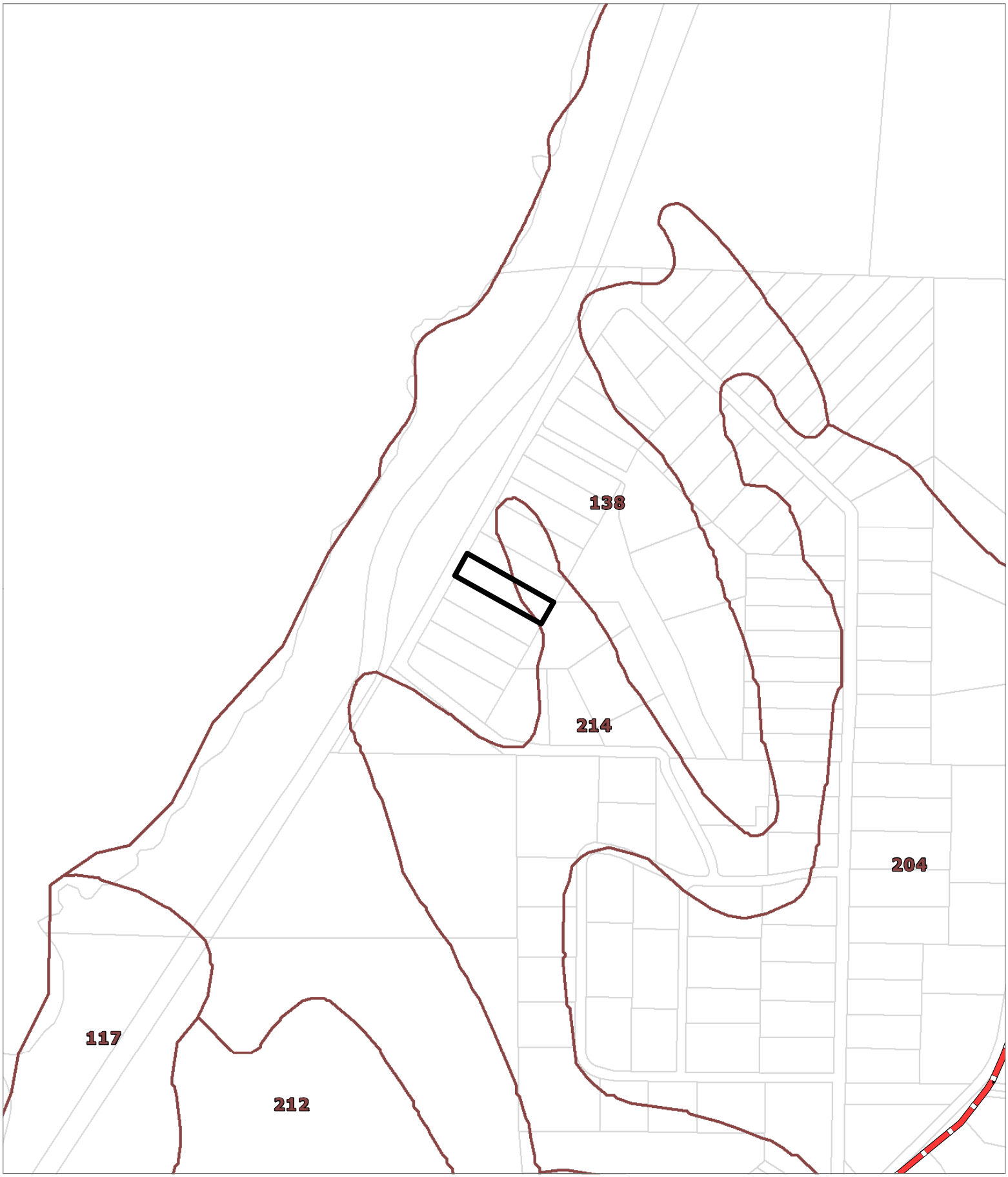
CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

Coastal Zone Boundary
Marginal Water Resources
Dunes

0 250 500 Feet
0 0.0425 0.085 Miles
1:6,000

GROUND WATER RESOURCES

ATTACHMENT P



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

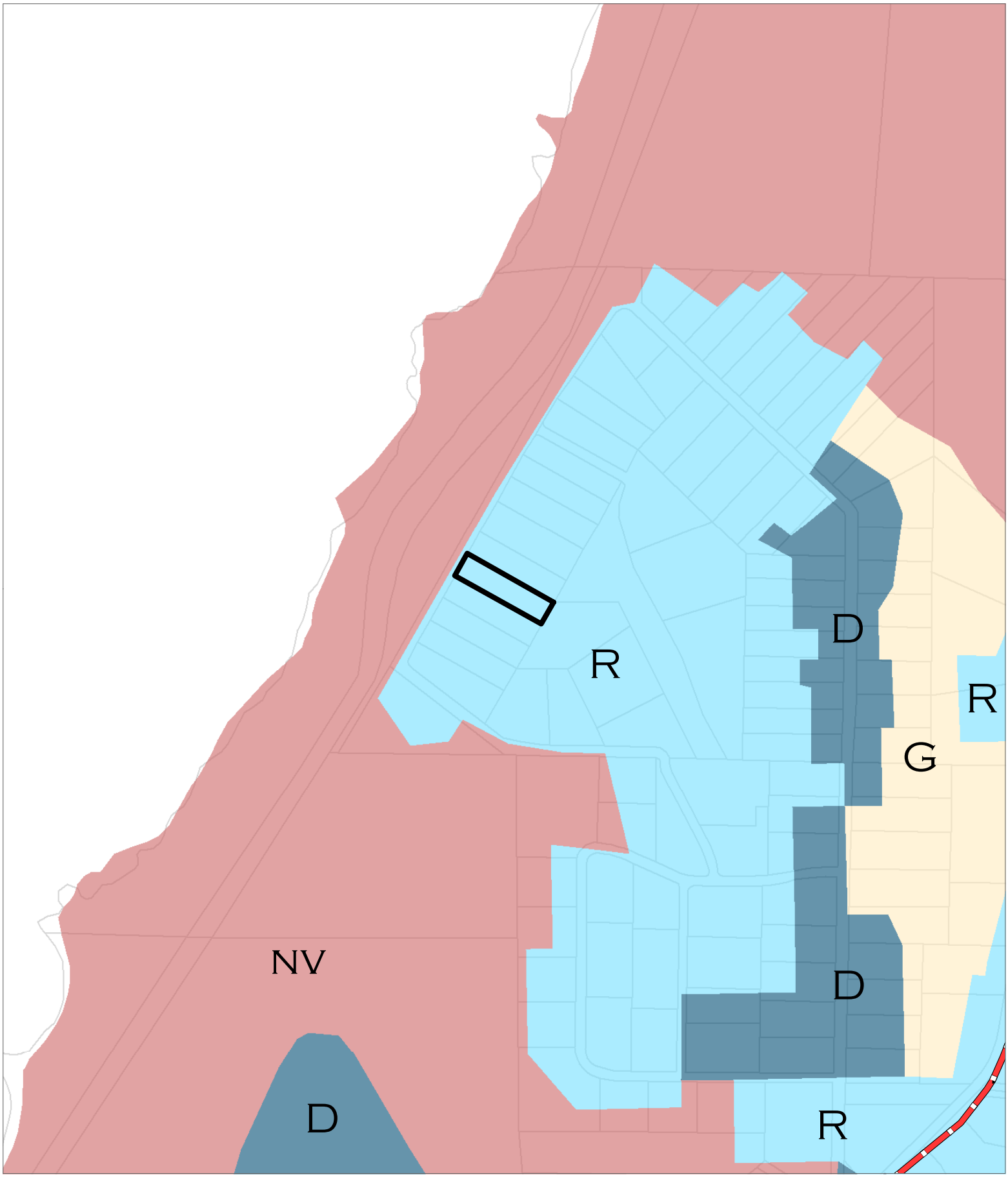
Coastal Zone Boundary

Western Soil Classes

0 250 500 Feet
0 0.0425 0.085 Miles
1:6,000

LOCAL SOILS

ATTACHMENT Q

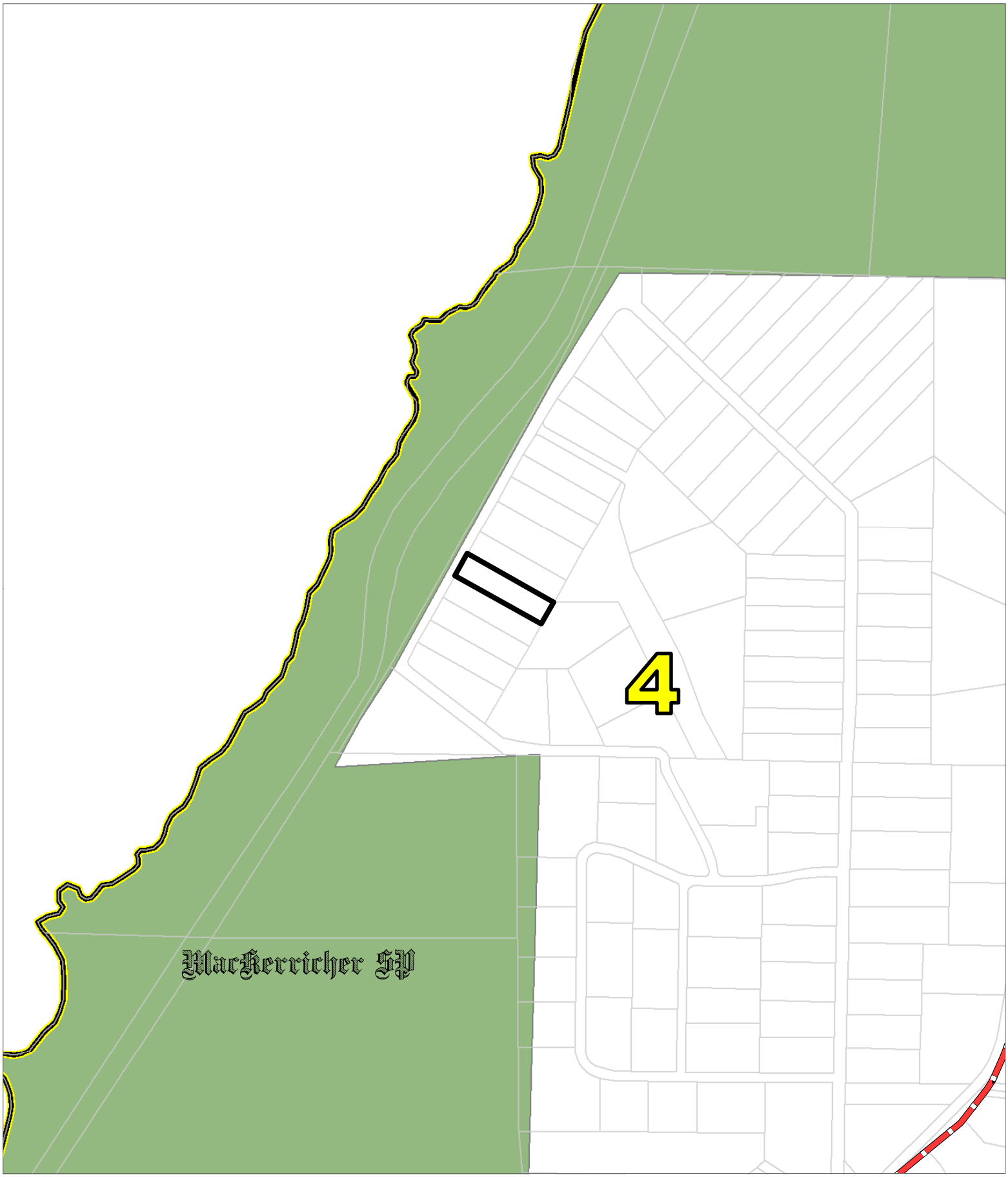


CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

0 250 500 Feet
0 0.0425 0.085 Miles
N W E S
1:6,000

IMPORTANT FARMLAND

ATTACHMENT R



CASE: CDP 2017-0033
OWNER: Black Diamond Holding, LLC
APN: 069-141-44
APLCT: Black Diamond Holdings, LLC
AGENT: SN Architects
ADDRESS: 25600 Ward Avenue, Fort Bragg

Coastal Zone Boundary
Supervisorial Districts 2010
State Parks

0 250 500 Feet
0 0.0425 0.085 Miles
N W E S
1:6,000

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25600 Ward Avenue Project

Habitat Mitigation and Monitoring Plan

prepared by

Black Diamond Holdings
13504 Skypark Industrial Avenue
Chico, California 95973

prepared with the assistance of

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April 2021

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Environmental Scientists | Planners | Engineers
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Executive Summary

This Habitat Mitigation and Monitoring Plan outlines an approach to fully mitigate for impacts to Howell's spineflower (*Chorizanthe howellii*) resulting from construction of a single-family residence at 25600 Ward Avenue (Project). Specifically, this plan summarizes the baseline condition, outlines the anticipated impacts resulting from construction and occupation of the home, and identifies a mitigation program to fully compensate for the impacts.

The Project is located within the community of Fort Bragg in Mendocino County, California. The Project involves a single-lot on an approximately 0.92 undeveloped parcel, located on Ward Avenue. The parcel would be developed with a single-family residence.

Howell's spineflower is an annual herbaceous species that occurs in coastal dunes, coastal prairie and coastal scrub communities. Howell's spineflower is restricted to sand dunes and coastal habitats, including dune mat, at elevations of 20 meters or below. A population of this species occurs on the parcel in dune mat and restorable dune mat vegetation communities. The proposed project would impact 0.21 acre of suitable habitat, including 0.02 acre of dune mat habitat and an additional 0.19 acre of restorable dune mat habitat currently consisting of non-native annual grasses and iceplant.

The primary purpose of this plan is to compensate for impacts to the individuals of Howell's spineflower within the project footprint. This plan includes measures to preserve individuals of Howell's spineflower outside the direct impact area. The plan also aims to control existing iceplant (*Carpobrotus edulis*) and non-native annual grasses in the project area to restore the quality of suitable habitat for this species and minimize detrimental effects of the invasive species. This plan requires restoration activities that include site preparation, a regular care and monitoring schedule to evaluate success and adapt as needed, invasive species management, and maintenance. The mitigation goals are to preserve and restore Howell's spineflower suitable habitat on the project site.

Restoration efforts will be monitored for five years, or until success criteria are met, whichever is longer. When restoration success has been achieved, long term management of the site will continue under the direction of the property owner.

1 Introduction

This Howell's spineflower Mitigation and Monitoring Plan (Plan) outlines an approach to fully mitigate for impacts to Howell's spineflower (*Chorizanthe howellii*) resulting from a single-family residence at 25600 Ward Avenue (Project). Specifically, this plan summarizes the baseline condition, outlines the anticipated impacts resulting from construction and occupation of the home, and identifies a mitigation program to fully compensate for the impacts. The Plan identifies and explains each of the specific mitigation requirements for the Project, how the required mitigation program will be implemented, and the locations of on-site and off-site mitigation. The Plan also discusses the monitoring program for the mitigation, the required success criteria, and long-term management. The preparation of this Plan is to comply with the conditions of approval from the California Department of Fish and Wildlife (CDFW).

This Plan also contains sufficient information to support application to the CDFW for an incidental take permit (ITP; 2081) for the impacts, due to the species' status as California Threatened under the California Endangered Species Act and a California Rare Plant under the California Native Plant Protection Act (California Fish and Game Code Section 1900 et seq.). This Plan outlines the methods through which impacts to the species resulting from the Project would be fully mitigated.

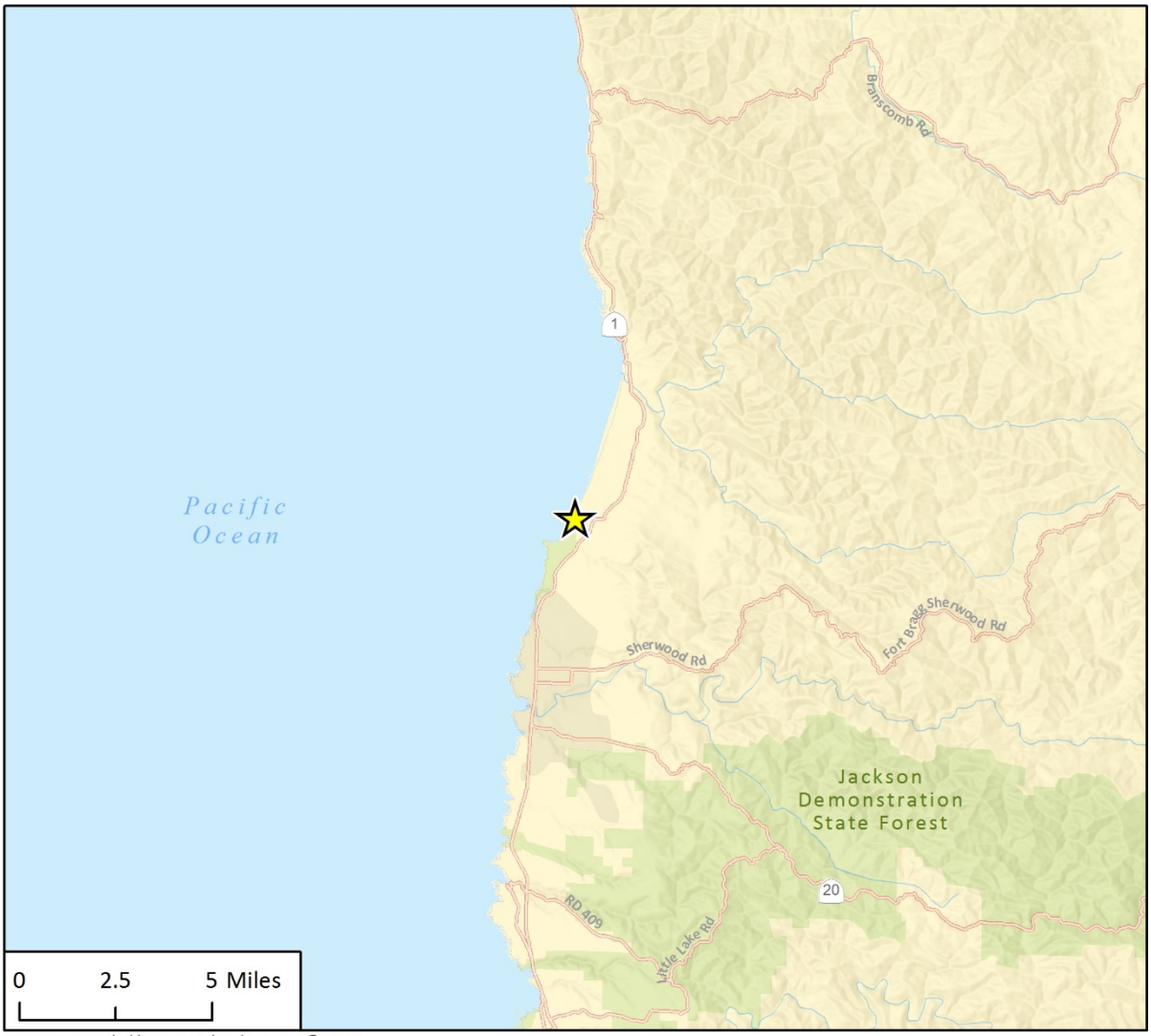
1.1 Project Location

The Project is located within the community of Fort Bragg, Mendocino County, California. Specifically, it is located on the east side of Ward Avenue, approximately 3.5 miles north of the City of Fort Bragg (Figure 1). The Project site is designated Assessor's Parcel Number 069-141-44, an approximately 0.92-acre parcel located at 25600 Ward Avenue, Fort Bragg, California. The parcel is depicted within the *Fort Bragg*, *California* United States Geological Survey (USGS) 7.5-minute topographic quadrangles, in Section 19, Township 19 North, Range 17 West.

1.2 Project Description

Plans for the proposed Project include construction of a two-story residence with a garage on the lower level and a short driveway at the southwest corner of the site providing access from Ward Avenue. The 4,880 square foot (sq. ft.) structure will be of wood-frame construction with a slab on grade floor. Development of the proposed Project, including grading, construction, landscaping, fence installation and facilities improvements, will impact approximately 0.21-acre (9,148 sq. ft.) of the 0.92-acre (40,000 sq. ft.) parcel leaving approximately 0.708 acre (30,840 sq. ft.) of undeveloped area. Within the proposed impact areas, the Project considered in this Plan would permanently remove 0.02 acres of dune mat habitat and an additional 0.19 acre of restorable dune mat habitat currently consisting of non-native annual grasses and iceplant.

Figure 1 Regional Location Map



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Project Location

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Fig 1 Project Vicinity

Figure 2 Project Location Map

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1.3 Supporting Studies and Documents

Previous biological resources studies were completed for the parcel. These include a *Biological Scoping Survey, Botanical Survey and Wetland Delineation Report* prepared by Spade Natural Resources Consulting in 2016 (Spade NRC 2016). In addition, the 5-year review of the species by the U.S. Fish and Wildlife Service was referenced (USFWS 2011). The results of these studies were used as background information to understand the environmental setting in which the Project occurs. In addition, a rare plant survey for Howell's spineflower was conducted in May 2019 to analyze the effects of the Project on this species. These reports, along with current Project design, also assisted in the evaluation of impacts to Howell's spineflower and evaluation of potential restoration and enhancement areas on the site.

2 Environmental Setting

The Project is located within the coastal zone north of the City of Fort Bragg and borders MacKerricher State Park. The region is largely composed from open coastline, coastal forests, state parks and other undeveloped land uses such as timber harvest lands.

2.1 Topography

The parcel is within the coastal zone approximately 350 feet east of the Pacific Ocean. The Project site elevations range from approximately 40 to 60 feet above mean sea level. The parcel is relatively flat and gently slopes westward.

2.2 Geology and Soils

According to the USDA Natural Resources Conservation Service (USDA NRCS) Web Soil Survey data for the Mendocino County, California, (2020), two soil map units occur within the parcel: Duneland and Tropaquepts, 0 to 15 percent slopes.

Duneland

This is a soil type composed of sand that is characteristic of beaches and backslopes. Duneland consists of mounds and hills of loose sand blown from nearby beaches. Areas of this map unit are along the coast of the Pacific Ocean from the mouth of the Ten Mile River south to MacKerricher State Park and at Manchester Beach State Park. Elevation ranges from sea level to 150 feet. Most areas are active and shifting, but other areas have been partially stabilized by vegetation. Duneland exhibits no soil profile development. Permeability of the loose sand is very rapid. Available water capacity is low. The effective rooting depth is 60 inches or more.

Tropaquepts, 0 to 15 percent slopes

These are deep, very poorly drained soils on marine terraces at the heads of drainageways, along drainageways, or in shallow depressions. They formed in marine sediments. In some areas the vegetation is mainly dense stands of Mendocino cypress and Labrador tea. In other areas it is mainly perennial grasses, sedges, and waxmyrtle.

A representative profile has a surface layer of dark gray clay loam about 7 inches thick. The upper 17 inches of the subsoil is light gray clay that has brownish yellow mottles. The lower 5 inches is gray sandy clay loam. The substratum to a depth of 63 inches or more is light brownish gray, light gray, and pale yellow loamy sand and sand. Included with these soils in mapping are small areas of Aborigine, Blacklock, Shinglemill, and Tregoning soils. These included soils make up about 20 percent of the total acreage of the unit. The percentage varies from one area to another. Permeability and available water capacity are extremely variable in the Tropaquepts. The effective rooting depth is limited by continuous saturation from December through April.

2.3 Vegetation Communities

Five vegetation communities were previously mapped within the parcel (Spade NRC 2016) (Figure 3). These communities include dune mat, dune rush, beach or shore pine forest, waxmyrtle scrub/ coastal dune willow and non-native annual grassland. Areas previously mapped as dune rush were later determined to be dominated by Brewer's or salt rush (*Juncus breweri*) rather than San Francisco rush (*Juncus lescurii*) rush. Areas previously mapped as non-native grassland contain significant cover from iceplant (*Carpobrotus edulis*). These areas are considered restoreable dune mat.

An area along the eastern property line is mapped as Beach Pine (*Pinus contorta* ssp. *contorta*) Forest. This area of beach pine is east of and separated from the rest of the property by the wax myrtle and willow riparian area. Understory species include slough sedge (*Carex obnupta*) and Himalaya blackberry (*Rubus armeniacus*).

A riparian area is present in the vicinity of a drainage on the east side of the property. On the property, portions of the riparian area are dominated by wax myrtle (*Morella californica*), while other portions are dominated by dune willow (*Salix hookeriana*). Other associated species in the riparian zone are Scouler's willow (*Salix scouleriana*), slough sedge (*Carex obnupta*), sword fern (*Polystichum munitum*), California bee plant (*Scrophularia californica*) and California blackberry (*Rubus ursinus*).

Along the west side of the property, an area that contains fill soil is present. Most of the annual non-native grassland/iceplant is located in this front area of fill soil, and in the center of the property there is a raised area that is also covered primarily by non-native grasses and iceplant. Dominant species include iceplant, ripgut brome (*Bromus diandrus*), and rattlesnake grass (*Briza maxima*).

In the dune mat habitat, which is characterized by the presence of sand verbena, characteristic species present include Bolander's goldenaster (*Heterotheca sessiflora* ssp. *bolanderi*), yellow sand verbena (*Abronia latifolia*), yarrow (*Achillea millefolium*), iceplant (*Carpobrotus edulis*), and coast buckwheat (*Eriogonum latifolium*).

Areas bordering the dune mat and waxmyrtle/dune willow are dominated by salt rush. The salt rush community is dominated by Brewer's rush or salt rush and associated species include blue wild rye (*Elymus glaucus*).

Figure 3 Vegetation Communities

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Fig 3 Vegetation Communities

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3 Howell's Spineflower Overview

3.1 Species Account and Onsite Population

Howell's spineflower is a special-status plant species in the buckwheat family (Polygonaceae) that is designated as federally endangered and state Threatened under the California Native Plant Protection Act, and has been assigned to the California Rare Plant Rank (CRPR) 1B.2.

Howell's spineflower is a low-growing annual herb that occurs in coastal dunes, coastal prairie and coastal scrub in Mendocino County near Fort Bragg, and blooms from May through July (CDFW 2020). This special-status species has been documented from coastal dunes, coastal scrub and coastal prairie habitats in an area extending north approximately seven miles from the City of Fort Bragg to the Ten Mile River. The species is endemic to this area and populations have not been documented further than 0.5 mile from the Pacific Ocean. The majority (approximately 95%) of the known populations of this species occur within MacKerricher State Park (USFWS 2011).

Major threats to the species include loss of habitat from invasive plants including iceplant, ripgut brome and other non-native annual grasses. Both iceplant and ripgut brome are present in the project area. The species prefers vegetation gaps or sparsely-vegetated areas and has been shown to be capable of occupying open habitat following the removal of invasive species such as iceplant. Howell's spineflower has been shown to colonize areas in which iceplant has been pulled, if the remaining mulch is not too deep, and the species depends on regular disturbance. Other studies have shown that areas cleared of iceplant may be subsequently invaded by ripgut brome (USFWS 2011). Restoration efforts on the property should involve the long-term control of iceplant and non-native grasses (e.g., ripgut brome, brome fescue, purple velvet grass, rattlesnake grass, etc.) to maintain open dune mat habitat for the spineflower.

As previously noted, a subpopulation of Howell's spineflower was observed on the parcel during the site assessments conducted by Spade NRC in 2016. Subsequent mapping and analysis in May and June 2019, conducted by Alison Gardner, documented Howell's spineflower occurring within approximately 0.09 acres of dune mat habitat (Figure 3). The onsite occupied Howell's spineflower population occurs primarily in the dune mat habitat with a small number of individuals found on the periphery of restorable dune community.

3.2 Project Impact Assessment

Implementation of the proposed Project would result in permanent direct impacts to a portion of the local population, and indirect impacts to individuals in close proximity to the development footprint.

The proposed Project would result in direct permanent impacts to 0.02 acre of dune mat habitat and an additional 0.19 acre of restorable dune mat habitat currently consisting of non-native annual grasses and iceplant (see Table 1 and Figure 4). The proposed Project would also result in direct temporary impacts to 0.003 acre of dune mat habitat and 0.002 acre of restorable dune mat habitat. We have assessed impacts by suitable habitat rather than by number of individuals because annual plant populations can fluctuate from year to year within areas of suitable habitat. Floristic surveys did not include estimates of population density of Howell's spineflower and are therefore not included in this analysis. However, based on the results of the June 2019 floristic survey, which

documented a population of Howell's spineflower within 0.09 acre of dune mat habitat, construction activities would result in 0.003 acre of temporary impacts and 0.003 acre of permanent impacts to Howells' spineflower occupied habitat (Figure 3). Temporary and permanent impacts would each result in a 3.3% reduction in the onsite spineflower occupied habitat.

In addition to direct impacts to the Howell's spineflower, indirect impacts could result from Project implementation due to increase abundance of invasive species. Iceplant is an invasive species known to occur within the Project area that rapidly colonizes and spreads to regions of recent ground disturbance. Without control, spread of iceplant may continue to encroach on the existing spineflower population.

The Project impact area affects only a small percentage of the onsite population of this special status plant species documented within the parcel. The majority of the Howell's spineflower on site would not be removed. The remaining individuals of the existing population will be avoided and preserved on site.

Table 1 Summary of Proposed Impacts by Vegetation Type

Vegetation Type	Project Area (Acres)	Proposed Permanent Impact Area (Acres)	Proposed Temporary Impact Area (Acres)
Dune Mat	0.20	0.02	0.003
Restorable Dune Mat	0.41	0.19	0.002
Dune Rush	0.12	-	
Shore Pine	0.013	-	
Wax Myrtle/Willow Riparian	0.17	-	
Total	0.92	0.21	0.005

3.3 Project Mitigation Requirements

The applicant is proposing to mitigate for impacts to dune mat and restorable dune mat habitat by preserving 0.19 acre of dune mat habitat and restoring 0.13 acre restorable dune mat at a ratio of 5:1 for direct impacts to dune mat habitat and at a ratio of 0.1:1 for impacts to restorable dune mat habitat. Additionally, the applicant has agreed to restore the remaining 0.09 acre of on-site restorable dune mat habitat (for a total of 0.21 acre) to reduce the potential of introduction of non-native species and to increase the overall chance of restoration success.

Figure 4 Impact Map

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4 Plan Purpose, Goals, and Rationale

4.1 Purpose of Plan

The primary purpose of this Plan is to compensate for impacts to approximately 0.21 acre of suitable habitat for Howell's spineflower within the Project footprint. This Plan also aims to control existing invasive populations of iceplant and non-native grasses in the Project area to maintain the quality of suitable dune mat habitat for this species and minimize detrimental effects of the invasives. This Plan is intended to guide on site restoration efforts.

Overall, the Plan aims to fully mitigate for direct and indirect impact to the Howell's spineflower population in the Project area and enhance the habitat for Howell's spineflower in the designated on-site restoration area.

The Plan is anticipated to result in an overall net increase of occupied habitat and number of individuals of Howell's spineflower. This requires restoration activities beginning with removal of iceplant and non-native grasses from the restorable dune habitat, a regular monitoring schedule to evaluate success and adapt as needed, invasive species management, and maintenance.

4.2 Goals of Mitigation

The mitigation goals are to increase occupied habitat for Howell's spineflower on the Project site. This will be accomplished by preserving existing areas with Howell's spineflower, and restoring dune mat habitat for the species on site into which the existing population on the property can colonize. The direct impact area in occupied dune mat will be mitigated at a ratio of 5:1 while impacts within restorable dune mat will be mitigated at a ratio of 0.1:1. Mitigation for impacts to this special-status species aims to achieve these ratios via on-site restoration through removal of iceplant and non-native grasses from within restorable dune mat habitat.

4.3 On-site Preservation and Restoration

The on-site restoration area was selected based on presence of suitable restorable dune mat in close proximity to but outside areas of existing established Howell's spineflower populations in the lot (Figure 2). These areas of restorable dune mat currently have significant cover from iceplant and annual non-native grasses. The restored habitat and remainder of the lot where the Howell's spineflower population occurs will be preserved and protected in perpetuity by incorporation into a deed restriction that prohibits development outside of the current design footprint as described in Section 5.1 below.

4.4 Rationale for Approach

The primary method of mitigating the loss of individuals of Howell's spineflower will be through a combination of on-site restoration and preservation of existing habitat. Restoration of habitat for the species has been shown to be successful when removal of iceplant has been implemented in previous studies (USFWS 2011).

4.5 Site Ownership and Responsible Parties

The Project site is currently owned by Black Diamond Holdings. The applicant representative is Robert Schlosser of Schlosser Newberger Architects.

4.6 Financial Assurances

Black Diamond Holdings will provide funding for the implementation of the mitigation activities described herein. CDFW will work with the Permittee to determine which option for financial assurance best fits this project.

4.7 Budget

Table 2 provides an estimated budget for implementation of proposed restoration and monitoring activities at the Project site, including planning and project management, initial weed removal and annual maintenance, followed by five years of monitoring and reporting.

Table 2 Summary of Estimated Mitigation Costs

Activity	Cost
Planning and Project Management	$2,500
Initial Weed Removal and Annual Maintenance for Five Years	$25,000
Monitoring and Reporting for Five Years	$15,000
Total	$47,500

5 Implementation Plan

This section explains how the Plan will be implemented; beginning with the required pre-construction activities, site preparation, botanical monitoring, and weed management during the construction phase of the Project and annually for five years thereafter. The primary method of mitigating the loss of Howell's spineflower will be conserving the existing population and promoting the expansion of the population through on-site restoration efforts involving the removal of iceplant and non-native grasses.

The techniques described below can be adjusted in consultation with the designated restoration ecologist, and in consultation with California Department of Fish and Wildlife or U.S. Fish and Wildlife Service. Note that an Incidental Take Permit must be obtained from CDFW prior to all activities that require impacts to the species.

5.1 On-site Mitigation

5.1.1 Preservation

The largest existing population of Howell's spineflower on the property occurs in the dune mat habitat outside of the project footprint. This area will be maintained free of iceplant and non-native grasses to the extent practicable if these species are identified in the existing rare plant habitat during monitoring. Previous studies have shown that this species needs some kind of disturbance periodically in order to maintain the vegetation gaps or sparsely vegetated nature of the habitat it occupies. The restoration area and remaining undeveloped portion of the Project site will be managed according to the terms outlined in this Plan and protected from future development in perpetuity by a Covenant and Environmental Restriction on Property or other appropriate deed restriction agreement.

Additionally, the applicant will install low profile split-rail wood or similar type fencing along the north side of the driveway and on the east side of (behind) the house to deter entry into the restoration and preservation area.

5.1.2 Restoration

The portions of the property outside of the project footprint where iceplant is established are threatening the species habitat and the local population by covering over and blanketing the open dune mat where this diminutive annual grows and carries out its dunes lifecycle. Hand pulling of all iceplant from this area will be implemented and care will be taken to remove all roots of the iceplant from the site so the plants do not regrow. Hand pulling of the iceplant in these areas will likely result in the expansion of the Howell's spineflower population into areas currently occupied by iceplant and non-native annual grasses, such as ripgut brome, brome fescue, purple velvet grass and rattlesnake grass. Previous studies have shown that Howell's spineflower responds predictably and favorably to iceplant removal (USFWS 2011). The effort to completely remove iceplant from the property should also involve hand pulling of non-native annual grasses to the extent practicable, so that these species do not invade into the newly opened and disturbed habitats. All green waste generated during site restoration will be removed and disposed of at an off-site location.

Prior to ground disturbing activities associated with installation of the ground water well and above-ground water tank within dune mat habitat, the top six to eight-inches of topsoil will be salvaged and set aside for later use during restoration activities within restorable dune mat habitat. Care will be taken to ensure salvaged topsoil is transported by hand (e.g., wheelbarrow), temporarily stored within the construction staging area, covered and clearly labeled until it is ready for use during site restoration. Salvaged topsoil will be used sparingly in areas where iceplant and non-native grasses have been removed so as not to unnecessarily compact the existing topsoil or create unfavorable conditions for natural recruitment of Howell's spineflower.

5.1.3 Howell's spineflower Monitoring

Following construction of the home on the site and implementation of restoration efforts outside of the project footprint, the conservation area and Howell's spineflower will be monitored annually by a qualified botanist or restoration ecologist. In the first year following construction the qualified botanist or restoration ecologist will establish 20 1-yard square randomly placed permanent plots within the Howell's spineflower habitat within conservation area and record the number of Howell's spineflower in each plot. The qualified botanist or restoration ecologist will take a photo of each plot annually. Annual monitoring will occur for five years after construction.

5.2 Invasive Weed Management and Habitat Enhancement

5.2.1 Construction Phase Control and Prevention

To minimize risk of introducing new invasive species to the property during construction, all equipment must be inspected and free of mud, seeds, and other vegetation debris prior to deployment at the Project site. Prior to accessing the property for work in the project footprint, all equipment will be inspected and cleaned if necessary. The limits of the proposed disturbance footprint will be marked in the field by stakes and silt fencing or orange snow fencing to prevent construction activities from accidentally spilling over into the conservation area.

5.2.2 Ongoing Control and Prevention Measures

Seasonally timed weeding shall be done mechanically, by hand, during the five-year monitoring period. Weed control of any new iceplant and non-native grasses (e.g., ripgut brome, brome fescue, purple velvet grass, rattlesnake grass) will occur annually for five-years.

All personnel performing weed management activities must first be trained by the designated ecologist on the presence of special status plants in the weed management area and all work within proximity to spineflower areas shall be overseen by a biologist. Photos of rare plants clearly identified as species to be protected and left intact, will be provided to workers tasked with removing weeds. Hand removal of weeds will be the only method of removal to be used. All green waste generated during weed management will be collected and disposed of at an off-site location.

6 Success Criteria

Success criteria are required to objectively assess the overall accomplishments and status of the mitigation efforts. The fundamental purpose of the five-year monitoring program is to measure whether or not the success criteria have been met. The success criteria presented below were selected based on a review of the Project conditions and mitigation measures, a detailed examination of existing data, and consideration of optimal mitigation results.

1. Survival of existing population on site.

   Approximately 0.31 acre of existing habitat will be conserved, including 0.19 acre of dune mat habitat and 0.12 acre of dune rush habitat. Approximately 0.19 acre of habitat will be restored, including restorable dune mat at a ratio of 5:1 for direct impacts to dune mat habitat and at a ratio of 0.1:1 for impacts to restorable dune mat habitat.

2. Control of iceplant and non-native grasses

   Upon completion of the restoration implementation phase, iceplant and non-native grasses will have been removed from the restoration area.

7 Monitoring Program

7.1 Howell's Spineflower Mitigation

The designated mitigation planting areas will be monitored for five consecutive years following conservation and restoration efforts at the mitigation site or until the County and CDFW verify that this Plan has been completed. Following completion of initial restoration activities and designation of on-site conservation areas, a qualified biologist will oversee the implementation of the required monitoring program. The objective of the monitoring program is to evaluate the progress and overall success of the Plan in achieving the following goals: 5 to 1 habitat restoration for impacts to suitable dune mat habitat, 0.1 to 1 habitat restoration for impacts to restorable dune mat habitat, mitigation areas continue to support existing population of Howell's spineflower, and complete removal of iceplant and non-native annual grasses within unaffected areas of dune mat and restorable dune mat habitat.

7.1.1 Required Data Collection

Annual monitoring for iceplant and non-native annual grasses will be conducted in April of each year. The restoration area shall be inspected and any iceplant or non-native annual grasses shall be mapped for removal. Representative photos shall be collected during the April visit to track progress. The collected data can also be used to determine the success of subsequent Plan amendments as required by the adaptive management component of this Plan.

7.1.2 Monitoring Frequency and Reporting

Monitoring for iceplant and non-native annual grasses will occur annually in April, and any subsequent removal of these plants will occur by the end of April. Monitoring will assess whether the success criteria are being achieved and whether corrective measures need to be employed. Monitoring for the presence of Howell's spineflower within the 20 1-yard square randomly placed permanent plots will occur annually in May.

Annual reports will be prepared following each year's monitoring effort to document the progress of the restoration program. Reports will be prepared for the applicant/landowner and submitted to the County and CDFW by June 30th of each year.

7.2 Invasive Weed Management and Habitat Enhancement

While visiting the site during the annual April monitoring visit, personnel shall examine the property for the presence of iceplant and non-native annual grasses. Any new occurrences of these invasive species will be controlled mechanically by the end of April through hand pulling if it is identified during the monitoring.

Control of invasive plant species shall be conducted by qualified individuals experienced in habitat restoration techniques as necessary to control and manage their spread and encourage the enhancement of existing Howell's spineflower habitat. A report documenting progress will be

provided to the County annually, with a copy provided to CDFW. This progress report can be included within the mitigation monitoring report discussed in section 7.1.2.

8 Adaptive Management

After the initial establishment of the conserved and restored habitat areas, an adaptive management approach will begin. It will include remedial measures to address problems observed within Howell's spineflower mitigation areas as needed (e.g., removal of weeds, etc.). The purpose of adaptive management is to provide a strategy to address unforeseen changes in site conditions. This strategy will guide decisions for revising the mitigation plan and implementing measures to address both foreseeable and unforeseen circumstances that adversely affect compensatory mitigation success. Specific adaptive management strategies will address both foreseen and unforeseen circumstances relating to success of the program. The measures must be designed to ensure the mitigation requirements and objectives are still being achieved. Adaptive measures may include alternative invasive species control methods, and revised monitoring requirements.

Monitoring visits by a qualified biologist as outlined in Section 7 will begin the adaptive management cycle. The information gathered during these monitoring visits will be used to evaluate the progress of the mitigation areas. This evaluation will determine if unforeseen challenges are threatening the success of the mitigation plantings and identify specific problems.

9 Completion of Mitigation

Once the final success criteria are met, presumably after five years if no remedial measures are needed, the applicant will submit a request in writing to the County to have a final site inspection with the goal of completing the mitigation program. CDFW will also be notified of completion. Once the County and CDFW have agreed that all success criteria defined in this Plan have been met, no additional mitigation will be required.

10 Long-Term Maintenance

Ongoing weed management is anticipated to be necessary to control invasive species. To maintain the conserved and restored Howell's spineflower habitat, we recommend that long-term maintenance includes invasive weed management efforts.

Long term maintenance is the responsibility of the property owner.

11 References

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26500 Ward Avenue Residential Project

California Endangered Species Act Section 2081 Incidental Take Permit Application

Submitted to:

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April 2021

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1 Introduction

This permit application was prepared to support Black Diamond Holdings application for an Incidental Take Permit (ITP) in conformance with Section 2081(b) of the California Endangered Species Act (CESA). This permit application describes management actions that will be implemented to minimize and fully mitigate the impacts of any take of state-listed species associated with implementation of the 26500 Ward Avenue Residential Project (Project).

2 Applicant Information

Applicant:	Black Diamond Holdings
Applicant Representative:	Schlosser Newberger Architects
Address:	435 North Main Street, Fort Bragg, California, 95437
Contact:	707-961-0911
Email:	schlosser@lsndesign.com

3 Covered Species Name and Status

The following species (Covered Species), subject to the rules and guidelines of Division 3, Chapter 1.5, Sections 2050-2100 of the California Fish and Game Code (CFGC) and Title 14, Sections 783.2-786.6, of the California Code of Regulations (CCR), is determined to occur on or directly adjacent to the proposed Project area and may be at risk of take:

- Howell's spineflower (*Chorizanthe howelli*); State Threatened

Measures are incorporated to avoid or minimize take to the maximum extent possible, however, the applicant is seeking authorization under Section 2081(b) of the CESA for coverage of incidental take that will result from permanent removal of Howell's spineflower individuals as a result of planned Project activities.

4 Project Description

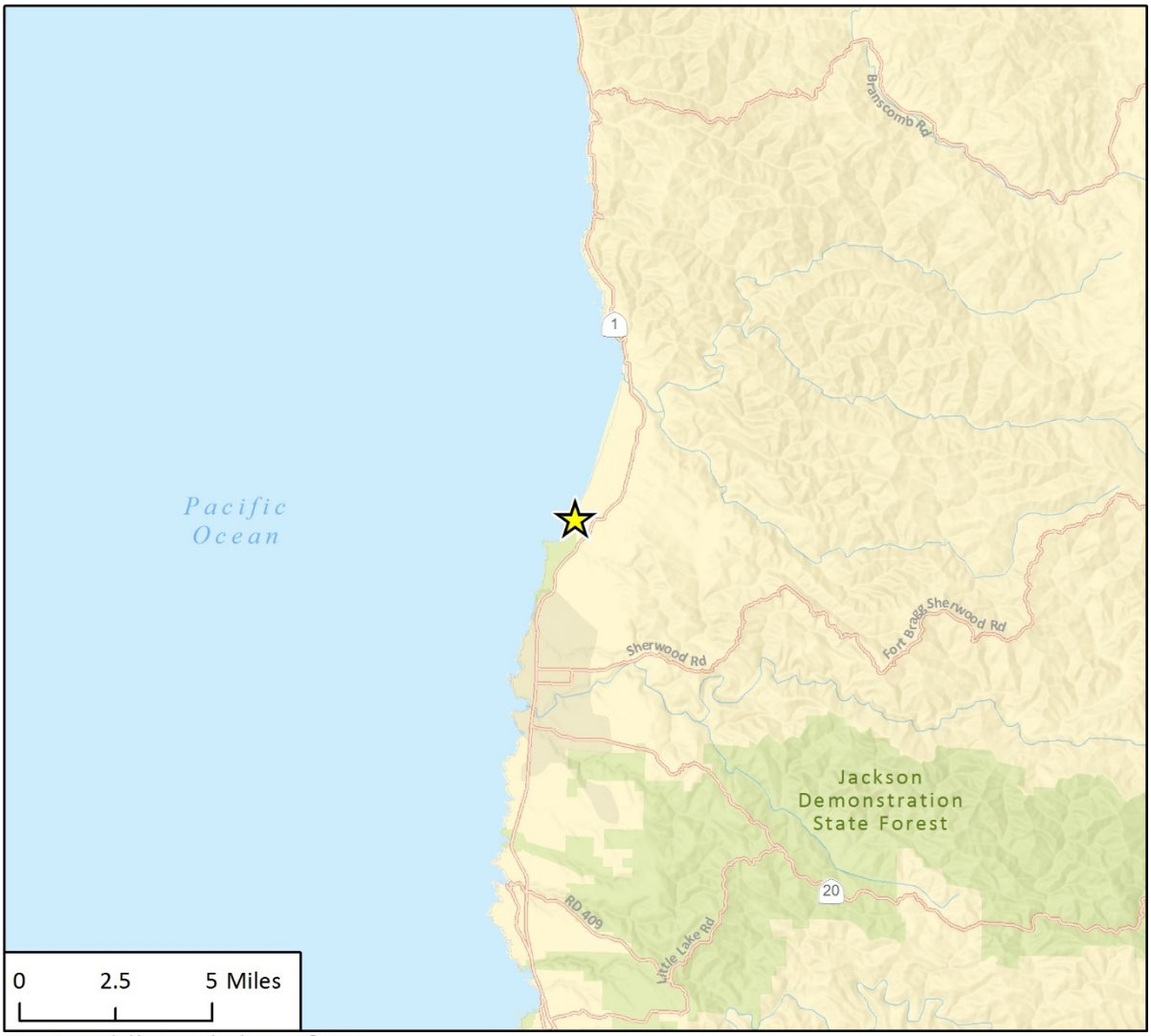
The purpose of the project is to build a single-family residential dwelling for private homeowner use. Plans for the proposed Project include construction of a two-story residence with a garage on the lower level and a short driveway at the southwest corner of the site providing access from Ward Avenue. The 4,880 square foot (sq. ft.) structure will be of wood-frame construction with a slab on grade floor. Development of the proposed Project, including grading, construction, landscaping, fencing and facilities improvements, will impact approximately 0.21-acre (9,148 sq. ft.) of the 0.92-acre (40,000 sq. ft.) parcel leaving approximately 0.708 acre (30,840 sq. ft.) of undeveloped area. Within the proposed impact areas, the Project considered in this application would permanently remove 0.02 acre of dune mat habitat and an additional 0.19 acre of restorable dune mat habitat currently consisting of non-native annual grasses and iceplant.

The proposed Project is scheduled to begin construction Summer 2021 and last approximately 6 months. The cost of the Project is approximately $450,000 and is the basis for the applicable permit fee.

5 Project Location

The Project is located within the community of Fort Bragg, Mendocino County, California. Specifically, it is located on the east side of Ward Avenue, approximately 3.5 miles north of the City of Fort Bragg (Figure 1). The Project site is designated Assessor's Parcel Number 069-141-44, an approximately 0.92-acre parcel located at 25600 Ward Avenue, Fort Bragg, California. The parcel is depicted within the *Fort Bragg, California* United States Geological Survey (USGS) 7.5-minute topographic quadrangles, in Section 19, Township 19N, Range 17W (Figure 2). The Project area is located at latitude 39.498839°N and longitude -123.788755°W (WGS-84 datum).

Figure 1 Project Vicinity



Imagery provided by Esri and its licensors © 2019.

Project Location

N

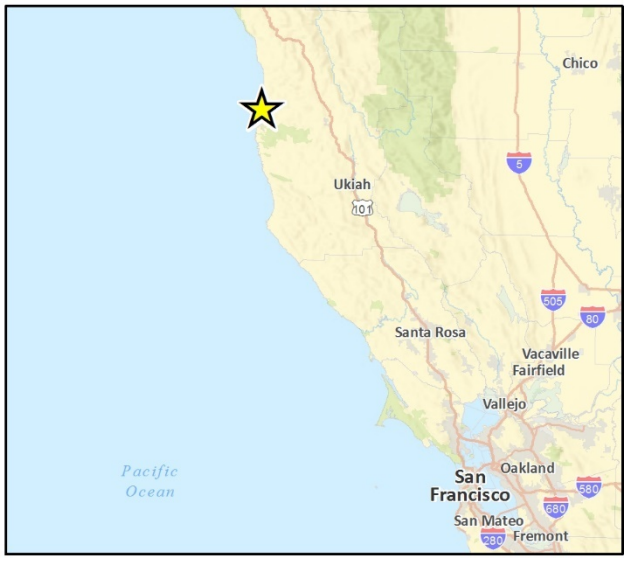


Fig 1 Project Vicinity

Figure 2 Project Location

6 Environmental Setting

The Project is located within the coastal zone north of the City of Fort Bragg and borders MacKerricher State Park. The region is largely composed from open coastline, coastal forests, state parks and other undeveloped land uses such as timber harvest lands.

6.1 Topography

The parcel is within the coastal zone approximately 350 feet east of the Pacific Ocean. The Project site elevations range from approximately 40 to 60 feet above mean sea level. The parcel is relatively flat and gently slopes westward.

6.2 Geology and Soils

According to the USDA Natural Resources Conservation Service (USDA NRCS) Web Soil Survey data for the Mendocino County, California (2020), two soil map units occur within the parcel: Duneland and Tropaquepts, 0 to 15 percent slopes.

Duneland

This is a soil type composed of sand that is characteristic of beaches and backslopes. Duneland consists of mounds and hills of loose sand blown from nearby beaches. Areas of this map unit are along the coast of the Pacific Ocean from the mouth of the Ten Mile River south to MacKerricher State Park and at Manchester Beach State Park. Elevation ranges from sea level to 150 feet. Most areas are active and shifting, but other areas have been partially stabilized by vegetation. Duneland exhibits no soil profile development. Permeability of the loose sand is very rapid. Available water capacity is low. The effective rooting depth is 60 inches or more.

Tropaquepts, 0 to 15 percent slopes

These are deep, very poorly drained soils on marine terraces at the heads of drainageways, along drainageways, or in shallow depressions. They formed in marine sediments. In some areas the vegetation is mainly dense stands of Mendocino cypress and Labrador tea. In other areas it is mainly perennial grasses, sedges, and wax myrtle.

A representative profile has a surface layer of dark gray clay loam about 7 inches thick. The upper 17 inches of the subsoil is light gray clay that has brownish yellow mottles. The lower 5 inches is gray sandy clay loam. The substratum to a depth of 63 inches or more is light brownish gray, light gray, and pale yellow loamy sand and sand. Included with these soils in mapping are small areas of Aborigine, Blacklock, Shinglemill, and Tregoning soils. These included soils make up about 20 percent of the total acreage of the unit. The percentage varies from one area to another. Permeability and available water capacity are extremely variable in the Tropaquepts. The effective rooting depth is limited by continuous saturation from December through April.

6.3 Vegetation Communities

Five vegetation communities were previously mapped within the parcel (Spade NRC 2016) (Figure 3). These communities include dune mat, dune rush, beach or shore pine forest, wax myrtle

scrub/coastal dune willow and non-native annual grassland. Areas previously mapped as dune rush were later determined to be dominated by Brewer's or salt rush (*Juncus breweri*) rather than San Francisco rush (*Juncus lescurii*) rush. Areas previously mapped as non-native grassland contain significant cover from iceplant (*Carpobrotus edulis*) in addition to annual grasses and are considered restorable dune mat.

An area along the eastern property line is mapped as Beach Pine (*Pinus contorta* ssp. *contorta*) Forest. This area of beach pine is east of and separated from the rest of the property by the wax myrtle and willow riparian area. Understory species include slough sedge (*Carex obnupta*) and Himalaya blackberry (*Rubus armeniacus*).

A riparian area is present in the vicinity of a drainage on the east side of the property. On the property, portions of the riparian area are dominated by wax myrtle (*Morella californica*), while other portions are dominated by dune willow (*Salix hookeriana*). Other associated species in the riparian zone are Scouler's willow (*Salix scouleriana*), slough sedge (*Carex obnupta*), sword fern (*Polystichum munitum*), California bee plant (*Scrophularia californica*) and California blackberry (*Rubus ursinus*).

Along the west side of the property, an area that contains fill soil is present. Most of the annual non-native grassland/iceplant (restorable dune mat) is located in this front area of fill soil, and in the center of the property there is a raised area that is also covered primarily by non-native grasses and iceplant. Dominant species include iceplant, ripgut brome (*Bromus diandrus*), and rattlesnake grass (*Briza maxima*).

In the dune mat habitat, which is characterized by the presence of sand verbena, characteristic species present include Bolander's goldenaster (*Heterotheca sessiflora* ssp. *bolanderi*), yellow sand verbena (*Abronia latifolia*), yarrow (*Achillea millefolium*), iceplant (*Carpobrotus edulis*), and coast buckwheat (*Eriogonum latifolium*).

Areas bordering the dune mat and wax myrtle/dune willow are dominated by salt rush. The salt rush community is dominated by Brewer's rush or salt rush and associated species include blue wild rye (*Elymus glaucus*).

Figure 3 Vegetation Communities

7 Species Take and Impact Analysis

7.1 Species Account

Howell's spineflower is a special-status plant species in the buckwheat family (Polygonaceae) that is designated as federally endangered and state Threatened under the California Native Plant Protection Act, and has been assigned to the California Rare Plant Rank (CRPR) 1B.2.

Howell's spineflower is a low-growing annual herb that occurs in coastal dunes, coastal prairie and coastal scrub in Mendocino County near Fort Bragg, and blooms from May through July (CDFW 2020). This special-status species has been documented from coastal dunes, coastal scrub and coastal prairie habitats in an area extending north approximately seven miles from the City of Fort Bragg to the Ten Mile River. The species is endemic to this area and populations have not been documented further than 0.5 mile from the Pacific Ocean. The majority (approximately 95%) of the known populations of this species occur within MacKerricher State Park (USFWS 2011).

Major threats to the species include loss of habitat from invasive plants including iceplant, ripgut brome and other non-native annual grasses. Both iceplant and ripgut brome are present in the project area. The species prefers vegetation gaps or sparsely-vegetated areas and has been shown to be capable of occupying open habitat following the removal of invasive species such as iceplant. Howell's spineflower has been shown to colonize areas in which iceplant has been pulled, if the remaining mulch is not too deep, and the species depends on regular disturbance. Other studies have shown that areas cleared of iceplant may be subsequently invaded by ripgut brome (USFWS 2011). Restoration efforts on the property should involve the long-term control of iceplant and non-native grasses (e.g., ripgut brome, brome fescue, rattlesnake grass, purple velvet grass, etc.) in order to maintain open dune mat habitat for the spineflower.

7.2 Onsite Population and Impact Assessment

As previously noted, a subpopulation of Howell's spineflower was observed on the parcel during the site assessments conducted by Spade NRC in 2016. Subsequent mapping and analysis in May and June 2019, conducted by Alison Gardner, documented Howell's spineflower occurring within approximately 0.09 acres of dune mat habitat (Figure 3). The onsite occupied Howell's spineflower population occurs primarily in the dune mat habitat with a small number of individuals found on the periphery of restorable dune community. Implementation of the proposed Project would result in permanent direct impacts to a small portion of the local population, and indirect impacts to individuals in close proximity to the development footprint.

The proposed project would result in direct permanent impacts to 0.21 acre of suitable habitat, including 0.02 acre of dune mat habitat and an additional 0.19 acre of restorable dune mat habitat currently consisting of non-native annual grasses and iceplant (see Table 1 and Figure 4). The proposed project would also result in direct temporary impacts to 0.003 acre of dune mat habitat and 0.002 acre of restorable dune mat habitat. We have assessed impacts by suitable habitat rather than by number of individuals because annual plant populations can fluctuate from year to year within areas of suitable habitat. Floristic surveys did not include estimates of population density of Howell's spineflower and are therefore not included in this analysis. However, based on the results of the June 2019 floristic survey, which documented a population of Howell's spineflower within

0.09 acre of dune mat habitat, construction activities would result in 0.003 acre of temporary impacts and 0.003 acre of permanent impacts to Howells' spineflower occupied habitat (Figure 3). Temporary and permanent impacts would each result in a 3.3% reduction in the onsite spineflower occupied habitat.

Figure 4 Impact Map

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In addition to direct impacts to the Howell's spineflower, indirect impacts could result from Project implementation due to increase abundance of invasive species. Iceplant is an invasive species known to occur within the Project area that rapidly colonizes and spreads to regions of recent ground disturbance. Without control, spread of iceplant may continue to encroach on the existing spineflower population.

The Project impact area affects only a small percentage of the onsite occupied habitat of this special status plant species documented within the parcel. The majority of the Howell's spineflower occupied habitat on site would not be removed. The remaining individuals and occupied habitat of the existing population will be avoided and preserved on site.

Table 1 Summary of Proposed Impacts by Vegetation Type

Vegetation Type	Project Area (Acres)	Proposed Permanent Impact Area (Acres)	Proposed Temporary Impact Area (Acres)
Dune Mat	0.20	0.02	0.003
Restorable Dune Mat	0.41	0.19	0.002
Dune Rush	0.12	-	
Shore Pine	0.013	-	
Wax Myrtle/Willow Riparian	0.17	-	
Total	0.92	0.21	0.005

8 Analysis of Whether Issuance of Incidental Take Permit Would Jeopardize the Continued Existence of the Species

As described above, Howell's spineflower is a low-growing annual herb that occurs in coastal dunes, coastal prairie and coastal scrub in Mendocino County near Fort Bragg (CDFW 2020). This special-status species has been documented from coastal dunes, coastal scrub and coastal prairie habitats in an area extending north approximately seven miles from the City of Fort Bragg to the Ten Mile River. The species is endemic to this area and populations have not been documented further than 0.5 mile from the Pacific Ocean. The majority (approximately 95%) of the known populations of this species are conserved within MacKerricher State Park (USFWS 2011).

Major threats to the species include loss of habitat from invasive plants including iceplant, ripgut brome and other annual grasses. Iceplant, ripgut brome and other invasive grasses are present in the project area and will be eradicated within the restorable dune mat habitat restoration area. The remaining existing population and occupied habitat of Howell's spineflower will be avoided and preserved on site and is expected to expand into the habitat restoration areas. Restoration efforts on the property include the long-term control of both iceplant and non-native grasses to maintain open dune mat habitat for the spineflower. With these mitigation measures, Howell's spineflower is expected to persist on site and would not be jeopardized by the proposed Project.

9 Proposed Measures to Minimize and Fully Mitigate the Impacts of the Proposed Taking

The proposed measures listed below are intended to avoid, minimize, and, if necessary, fully mitigate impacts to covered species to the maximum extent practicable.

MM-1. The applicant is proposing to fully mitigate impacts to Howell's spineflower by preserving 0.19 acre of dune mat habitat and restoring 0.13 acre restorable dune mat at a ratio of 5:1 for direct impacts to dune mat habitat and at a ratio of 0.1:1 for impacts to restorable dune mat habitat. Additionally, the applicant has agreed to restore the remaining 0.09 acre of on-site restorable dune mat habitat (for a total of 0.21 acre) to reduce the potential of introduction of non-native species and to increase the overall chance of restoration success.

MM-2. To minimize risk of introducing new invasive species to the property during construction, all equipment must be inspected and free of mud, seeds, and other vegetation debris prior to deployment at the Project site. Prior to accessing the property for work in the project footprint, all equipment will be inspected and cleaned if necessary.

MM-3. Prior to the start of construction-related activities, protective fencing will be installed around sensitive habitat clearly defining the limits of work within the Project site.

MM-4. The restoration area and remaining undeveloped portion of the Project site will be managed according to the terms outlined in the Project's Habitat Mitigation and Monitoring Plan and protected from future development in perpetuity by a Covenant and Environmental Restriction on Property or other appropriate deed restriction agreement.

10 A Description of the Funding Source for Implementation of the Minimization and Mitigation Measures

Black Diamond Holdings, as the Project applicant, will provide financial assurances to guarantee that an adequate level of funding is available to implement all mitigation measures identified in the California Endangered Species Act Section 2081 ITP. These funds will be used solely for implementation of the measures associated with the Project. CDFW will work with Black Diamond Holdings to determine which option for financial assurance best fits this project.

11 Certification

I certify that the information submitted in this application is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to civil and criminal penalties under the laws of the State of California.

XXXX, Black Diamond Holdings

_____

Date

12 References

California Department of Fish and Wildlife (CDFW). 2020. California Natural Diversity Database, Rarefind 5. https://wildlife.ca.gov/data/cnddb/maps-and-data.

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