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DEPARTMENT OF PLANNING AND BUILDING SERVICES
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MEMORANDUM

DATE: FEBRUARY 24, 2022

TO: COASTAL PERMIT ADMINISTRATOR

FROM: PLANNER JULIANA CHERRY

SUBJECT: CDP_2017-0033 REVISIONS TO CONDITIONS #10.D, #16, #17 AND #22

BACKGROUND: On January 21, 2022, PBS published and distributed a draft mitigated negative declaration and staff recommendations to approve coastal development permit CDP_2017-0033. The meeting notice was posted on-site February 10, 2022.

On January 26, 2022, Architect Robert Schlosser, the applicant's agent, suggested clarifications to the scope of the project, as roof-mounted solar panels are part of the project, but were not mentioned in the staff report. Included with the application materials are elevation drawings and site plans depicting where solar would be installed. Mr. Schlosser also suggested Condition #17, regarding exterior light, has been satisfied; therefore, staff recommends modifying the condition to reference MCC Sec. 20.504.025. See Staff Report Section 6 for additional analysis regarding this recommendation.

On February 10, California Department of Fish & Wildlife (CDFW) spoke with Planning Staff about the applicant's Incidental Take Permit (ITP) that has been pending approval following adoption of the mitigated negative declaration. Condition #22, as presented in the staff report, may be too specific and inadvertently cause further amendments to adopted conditions following approval of the ITP. Therefore, the applicant and staff suggest the Coastal Permit Administrator adopt broader language requiring the property owner to obtain an ITP within the initial effective period of the coastal development permit.

On February 23, California Coastal Commission (Commission) emailed Planning Staff suggested revisions to Conditions #10.d (Deed Restriction) and #16 (Shoreline Protective Devices). Yesterday morning, these comments were posted on the Coastal Permit Administrator meeting webpage here: <https://www.mendocinocounty.org/home/showpublisheddocument/49458>

SUMMARY: 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 roof-mounted solar, 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).

Staff recommends approving the project with clarifications to Conditions #10.d, # 16, #17, and #22. See attached.

PROJECT FINDINGS AND CONDITIONS REVISIONS

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 roof-mounted solar, 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.

REVISIONS TO 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. [Coastal Commission requests deleting recommended Condition No. 16. If deleted subsequent condition numbers would be updated, beginning with Condition No. 17.] 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 riggut 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., riggut 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 [draft Incidental Take Permit Application](#) report Section 9 prepared by Rincon Consultants and dated April

2021). Prior to the conclusion of the initial effective period of this permit, the property owner shall obtain final approval of an Incidental Take Permit from California Department of Fish and Wildlife. The property owner shall comply with all requirements of said permit. When conflicts between the following mitigation measures and ITP are identified, the more restrictive measures shall be implemented, after consultation with the Coastal Permit Administrator or their designee:

- 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