

# COASTAL PERMIT ADMINISTRATOR STAFF REPORT- STANDARD CDP

# MAY 12, 2022 CDP\_2018-0007

<u>SUMMARY</u>		
OWNER/APPLICANT:	VAUGHN SCOTT 6601 HWY 20 UKIAH, CA 95482	
AGENT:	SPADE NATURAL RESOURCES CONSULTING PO BOX 1503 MENDOCINO, CA 95460	
REVISED REQUEST:	Standard Coastal Development Permit application to remove a 400-square-foot shed and resolve a code violation for development without prior authorization.	
LOCATION:	In the Coastal Zone, 3± miles north of the town of Manchester on the west side of State Route 1; located at 16200 S Hwy 1, Manchester; APN: 132-170-07.	
TOTAL ACREAGE:	12± Acres	
GENERAL PLAN:	Range Lands (RL160) Coastal Element Chapter 4.10	
ZONING:	Range Lands (RL160) Mendocino County Coastal Zoning Code (MCC)	
SUPERVISORIAL DISTRICT:	5 (Williams)	
ENVIRONMENTAL DETERMINATION:	Categorically Exempt	
APPEAL JURISDICTION:	Yes, Post LCP Certification Appeal Jurisdiction	
RECOMMENDATION:	APPROVE WITH CONDITIONS	
STAFF PLANNER:	JULIANA CHERRY	

## BACKGROUND

**REVISED PROJECT DESCRIPTION**: The revised proposal is to remove the shed from the property and thereby resolve any conflicts with Mendocino County Coastal Zoning Codes.

Following the January 2022 Coastal Permit Administrator Meeting where consideration of CDP\_2018-0007 was continued to May 12, 2022, the applicant filed a significantly revised proposal and on February 18, 2022, the revised application was distributed to agencies for comment. The existing 400-square-foot shed is located in the Range Lands District, where accessory structures would require a coastal development permit (noting that accessory structures *associated with an existing residential land use* may be exempt from the requirements of Chapter 20.532). As the shed is the sole structure on the property, construction, dismantling, and removing the shed does require an approved coastal development permit.

The January 2022 staff recommendation was to deny the request to authorize the shed, as it is currently located less than 50 feet from sensitive coastal resources and there are alternative locations on the twelveacre property that are more than 100-feet from environmentally sensitive habitat areas or ESHA. At that time, the application was incomplete as filed; and at the request of the applicant's agent, staff prepared a report for consideration by the Coastal Permit Administrator (See email with subject line "Scott Request for Hearing" dated August 10, 2020).

## APPLICANT'S REVISED STATEMENT: "Remove 400-square-foot shed (February 15, 2022)."

**RELATED APPLICATIONS**: No other applications are associated with the project site.

**SITE CHARACTERISTICS**: Aerial imagery show the property as fronting State Route 1 and extending west to the shore. The northern property boundary roughly follows an existing stream and, as one approaches the shore, the stream includes eroded slopes. From aerial imagery, there is an existing (unimproved) trail or road crossing the property from west to east (see attached). The property is entirely located within the mapped *Post LCP Certification Permit and Appeal Jurisdiction*; following the conclusion of any local action, the decision can be appealed to the California Coastal Commission. Shoreline access follows the strand along Manchester Beach (see attached *LCP Map 22 Mallo Pass Creek*). The northern portion of the property is mapped as riparian, woodland habitat; and the westerly portion of the property is mapped as dunes (see attached *LCP Habitats & Resources*). National Wetlands Inventory identifies the following with the parcel: estuarine and marine wetlands, riverine, and freshwater-emergent wetlands (see attached). Land characteristics include non-prime agricultural lands and lands subject to beach deposits and stream alluvium (See attached *LCP Land Capabilities & Natural Hazards*).

The property does not have an established principally permit use, i.e. a residence or agricultural activity. The project site and surrounding lands are classified as Marginal Water Resource areas on the *Coastal Ground Water Resources* map (attached). The property is located outside of the Irish Beach Water District boundaries; development would need to demonstrate on-site access to ground water. The property is within the designated Highly Scenic Area of Mendocino County's Coastal Zone. There is a variety of local soils, including Western Soils Classifications 105, 132, 139, and 126. The westerly portion of the lot that includes the shore is mapped as Zone V Flood Hazard Areas; other areas of the lot are considered areas of minimal flood hazard (Zone X). The farmland classifications are grazing and non-agriculture. The adjoining properties to the south are Prime Agricultural lands and participating in Williamson Act contacts (see attached *Lands in Williamson Act Contracts*). The area is a very low density, vegetated Wildland-Urban Interface Zone classification. The Redwood Coast Fire Protection District boundaries include the project site. The San Andreas Fault Zone bisects the lot, as shown on the *Earthquake Hazard Zones* map (attached).

**SURROUNDING LAND USE AND ZONING:** As Table 1 demonstrates the project site has similarities to the surrounding general plan classification, zoning district, and parcel sizes (See *Zoning Display Map, General Plan Classifications*, and *Adjacent Parcels*).

Table 1. Surrounding Land Use Classifications, Zoning Districts, Lot Sizes, and Land Uses				
	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	RL160	RL	20.5	Agriculture
EAST	RL160	RL	60.4	Agriculture
SOUTH	RL160	RL	112	Agriculture
WEST	Ocean	Ocean	Ocean	Passive Recreation

## PUBLIC SERVICES:

Access:	MANCHESTER STATE BEACH
Fire District:	REDWOOD COAST FIRE PROTECTION DISTRICT
Water District:	NONE
Sewer District:	NONE

## LOCAL COASTAL PROGRAM CONSISTENCY

The proposal to resolve a code violation, by dismantling and removing 400-square-foot shed, would establish use of the property consistent with the goals and policies of Mendocino County Local Coastal Program, as detailed below.

LAND USE AND ZONING: The subject parcel is classified as *Range Lands* (RL). Coastal Element Section 2.2 describes the intent of the RL classification. Permitted uses in the RL classification include grazing and

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forage for livestock, raising of crops, wildlife habitat improvement; one single-family dwelling per legally created parcel; harvesting of firewood for the residents personal use; and home occupations.

MCC Chapter 20.368 implements the intent of this classification's goals and policies. MCC Chapter 20.456 lists the types of allowed residential and agricultural accessory uses in the Range Land District, including accessory uses like storage of vehicles and sheds. Accessory uses, like a shed, are allowed in the RL District, but a coastal development permit is required when a principally permitted use has yet to be established, which is the case at 16200 S Hwy 1, Manchester. Therefore, the property owner requests a coastal development permit to dismantle and remove the existing shed from the property and resolve the conflict with Mendocino County Coastal Zoning Code.

Note: Mendocino County does allow temporary camping on private property subject to MCC Section 20.460.030 and in specified circumstances camping is exempt.

MCC Section 20.460.030 – Camping.

"The use of real property, by the owner or nonpaying guests thereof, for temporary camping may be permitted upon issuance of a coastal development administrative permit in compliance with the following provisions:

(A) Location. Temporary camping may be permitted only in the RR, RMR, AG, RL, FL and TP zoning districts.

(B) Duration. The maximum time limit for temporary camping shall not exceed sixty (60) days in any six (6) month period.

(C) Intensity. Not more than thirty (30) individuals or more than ten (10) tents or recreational vehicles may be on a site at any one time. Tents or recreational vehicles etc. shall not be blocked up or placed upon any permanent foundation and shall not be connected to any utility such as water, gas or electricity. Tents or recreational vehicles etc. not in use shall be removed from the site.

(D) Exclusions. Temporary camping utilizing six (6) or less tents or recreational vehicles for fourteen (14) days or less in any six (6) month period shall be exempt from the provisions of this section."

As proposed, the dismantling and removal of the existing shed would establish a land use consistent with Mendocino County Coastal Element goals and policies and its implementation measures, as specified in MCC Chapter 20.368 Range Land District.

**GRADING, EROSION AND RUNOFF:** Staff recommends that the requirements of MCC Chapter 20.492 would be sufficient. No grading or construction is planned (See Question 16, Coastal Zone – Site and Project Description Questionnaire).

**HABITATS AND NATURAL RESOURCES:** MCC Chapter 20.496 shall apply to all development proposed in the Coastal Zone unless and until it can be demonstrated to the approving authority that the projects will not degrade an environmentally sensitive habitat or resource area and shall be compatible with the continuance of such areas. The project site is mapped with a variety of potential sensitive habitat areas, including dunes, riparian, stream and emergent wetlands. Spade Natural Resources Consulting prepared a <u>Wildlife Scoping Survey</u>, Botanical Survey, Point Arena Mountain Beaver Survey, and Wetland <u>Delineation Report</u> dated January 25, 2019. It's Figure 3 *Special status plants, vegetation alliances and other special status areas map* depicts areas within the twelve-acre property that are more than 100-feet from sensitive habitat. Figure 3 locates the existing shed as within (or directly adjacent to) a willow thicket and riparian environmentally sensitive habitat area. The report includes recommendations to reduce the ESHA buffer from 100-feet to 50-feet, but the report fails to establish that there is no other feasible location for development (See MCC Section 20.496.020(A)(4)(b) *et al*). Based on the report findings, staff recommends acknowledging the identified sensitive habitat areas and requiring the property owner to observe the recommended avoidance measures when dismantling the shed and removing construction materials from the property (See recommended Condition #11).

MCC Section 20.496.020(A) states, "A buffer area shall be established adjacent to all environmentally sensitive habitat areas." The following are sensitive habitat areas identified in the 2019 report:

- Point Arena Mountain Beaver Habitat, including Coastal Thimbleberry Bramble
- Sitka Willow Thickets, Arroyo Willow Thickets, and Coastal Due Willow Thickets
- Coastal Blackberry Bramble
- Douglas Iris Patch may be considered a coastal terrace prairie
- Non-native grassland may be considered habitat for Coastal Bluff Morning Glory
- Northern Coastal Bluff Scrub habitat for Mendocino coast Indian Paintbrush
- Western Rush Marsh, a Coastal Act wetland
- Coastal Terrace Prairie Wetland, a Coastal Act wetland
- Monterey Cypress Stand
- Pacific Silverweed Marsh, a Coastal Act wetland
- Soft Rush Marsh, a Coastal Act wetland
- Slough Sedge Sward, a Coastal Act wetland

On February 11, 2022, the project was referred to agencies for comment including California Coastal Commission and California Department of Fish & Wildlife. No response has been received and a response is not anticipated. As the revised application proposes to remove the shed from the property, staff believes that the identified ESHA will not be disturbed further.

The revised application complies with the intent and purpose of MCC Chapter 20.496, including protecting environmentally sensitive habitat and other designated resource areas, which constitute significant public resources, for both the wildlife inhabiting them as well as the enjoyment of present and future populations.

**HAZARDS MANAGEMENT:** Hazards associated with this site were previously described in staff's January 13, 2022 report (See page 4 of original staff report). As the revised application proposes to remove existing development from the site, it is likely that the application satisfies *Coastal Element Chapter 3.4 Hazard Management* goals and policies and does not conflict with MCC Chapter 20.500. Staff recommends that Coastal Permit Administrator determine that the project avoids threats from geologic, fire, flood or other hazards (See recommended Finding No. 3).

**VISUAL RESOURCES:** MCC Chapter 20.504 shall apply to those areas identified as highly scenic areas as defined by the Mendocino Coastal Element and identified on the Coastal Land Use Maps. The property is mapped as a "Highly Scenic Area" (attached). As proposed, the revised project would remove a visual impact. Mendocino County Coastal Zoning Code requires property owners to first obtain a coastal development permit prior to storing or stockpiling construction materials or storing vehicles on-site. In accordance with MCC Section 20.5040.010 and to establish that removing the shed would restore and enhance visual quality of the area, all material associated with the shed should be removed from the property (See recommended Condition #9).

**ARCHAEOLOGICAL RESOURCES:** As the revised application does not propose any ground disturbance, comments were not requested from the Northwest Information Center at Sonoma State University nor Mendocino County Archaeological Commission. Comments were requested from local tribes on February 11, 2022, and no response has been received. Staff recommends that an often adopted condition, the "Discovery Clause," would be sufficient to support County goals intended to protect cultural resources (See recommended Condition #8).

**AGRICULTURAL LANDS:** The January 13, 2022 Staff Report identifies that the project site and surrounding lots are within the RL District, where Agricultural Use Types are allowed and that MCC Chapter 20.508 applies (See page 5). On February 12, 2022, comments were requested from the Agricultural Commissioner and the Farm Advisor; no response has been received nor are they anticipated. Dismantling and removing the shed from the property does not convert the land to a non-agricultural land use. Recommended findings clarify that future use of the land would be compatible with the continued agricultural use of contiguous lands to the south and the grazing lands would not be converted to non-agricultural uses (See recommended Findings).

**GROUNDWATER RESOURCES:** The proposed project would not require access to public works or private facilities. As proposed, MCC Sections 20.516.015(A) and (B) does not apply. Comments were requested from the Division of Environmental Health; no response has been received and none is anticipated.

**TRANSPORTATION AND CIRCULATION:** MCC Section 20.516.015(C) applies to all new development. As proposed, the project would not significantly change traffic patterns along State Route 1 or in the Manchester area, generally. On February 11, 2022, comments were requested from California Department of Transportation and no response has been received. The property owner may be required to improve the road approach onto State Route 1, which would require an Encroachment Permit from California Department of Transportation (See recommended Condition #4). A coastal development permit or permit amendment is also required prior to grading and paving, including construction of road approach or grading adjacent to sensitive habitat areas.

**PUBLIC ACCESS:** *LCP Map 22: Mallo Pass Creek* exhibit identifies shore access along Manchester Beach and Irish Gulch Shoreline Access north of the project site. Coastal Element Appendix 13 lists several trails associated with Manchester Beach, including trails #81, #82, #83, and #84 that are approximate to the project site and having access to Manchester State Park. The application does not conflict with Coastal Element Chapter 3.6 Shoreline Access and Trailway/Bikeway System or its implementation, as specified in MCC Chapter 20.528.

# **ENVIRONMENTAL DETERMINATION**

The Secretary for Resources has found that certain classes of projects have been determined not to have a significant effect on the environment, and are therefore exempt from the requirement for the preparation of environmental documents. The revised project was determined to meet the criteria for a Categorical Exemption from the California Environmental Quality Act (CEQA) under California Code of Regulations Section 15301(I)(4). Demolition and removal of individual small structures, including appurtenant structures like garages and carports may be categorically exempt. A shed is similar to a garage or carport.

## **RECOMMENDED FINDINGS**

Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Coastal Zoning Code (MCC), the Coastal Permit Administrator approves dismantling and removing the shed from the property located at 16200 S Hwy 1, Manchester (APN: 132-170-07), adopts the following findings in support of this decision, and recommends the property owner resolve the violation to the satisfaction of Mendocino County Code Enforcement Division.

# FINDINGS:

- 1. Pursuant with MCC Section 20.532.095(A)(1), the proposed conforms with the certified Local Coastal Program as it proposes to remove an unauthorized shed located within an environmentally sensitive habitat area buffer (and the application demonstrates that there are other feasible on-site locations for development); and
- 2. Pursuant with MCC Section 20.532.095(A)(2), removing the shed from the property does not require access to utilities, access roads, drainage and other necessary facilities; and
- 3. Pursuant with MCC Section 20.532.095(A)(3), in the Range Lands District accessory uses, like a shed or storing vehicles, are allowed either after obtaining a coastal development or when accessory to a principally permitted use; as no permit has been obtained, removing the shed will resolve a violation of local codes and lessen or eliminate potential conflicts with County goals, policies, and implementation measures including those associated environmentally sensitive habitat areas, hazards, visual resources; and as proposed the project does satisfy other provisions of Division II; and
- 4. Pursuant with MCC Section 20.532.095(A)(4), the proposed development, if completed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act and is determined to be Categorically Exempt from further environmental review; and

- 5. Pursuant with MCC Section 20.532.095(A)(5), the project is not anticipated to have any adverse impact on any known archaeological or paleontological resources, as it is unlikely that the ground will be disturbed when the 400-square-foot shed is dismantled and removed from the property and Condition 8 is in place when archaeological sites or artifacts are discovered; therefore, the project satisfies MCC Section 22.12 regarding protection of cultural resources; and
- 6. Pursuant with MCC Section 20.532.095(A)(6), other public services, including but not limited to, solid waste and public roadway capacity have been considered; for example, removing a shed from the property is unlikely to affect State Route 1 capacity and the project does not require solid waste treatment or access to groundwater; therefore, MCC Chapter 20.516 implementation measures are not applicable to the proposed; and
- 7. Pursuant with MCC Section 20.532.095(B)(1), Coastal Element Appendix 13 lists four public access routes nearby; therefore, public access policies as implemented by MCC Chapter 20.528 *Coastal Access Regulations and Open Space Easements* are satisfied; and
- 8. Pursuant with MCC Section 20.532.100(A)(1), removing unauthorized development less than 50-feet from an environmentally sensitive habitat area, especially when there are other feasible less environmentally damaging alternative locations on-site, satisfies MCC Chapter 20.496 *Environmentally Sensitive Habitat and Other Resource Areas* regulations; and when dismantling and removing the shed, the applicant proposes to follow the avoidance measures recommended by the surveying biologist, Spade Natural Resources Consulting; and
- 9. Pursuant with MCC Section 20.532.100(A)(2), removing unauthorized development is compatible with the long-term protection resources lands, such as Range Lands; and
- 10. Pursuant with MCC Section 20.532.100(B)(1), the recommended avoidance measures will protect the environmentally sensitive habitat areas; no new roads, wells, septic or leach fields are proposed; the project maintains views from beaches, public trails (including the four nearby trails), roads and views from public viewing areas, or other recreational areas including Manchester State Park; removing unauthorized development ensures the preservation of the rural character of the site and maximizes preservation of prime agricultural soils; and land uses, including temporary camping that is excluded pursuant with MCC Section 20.460.030(D), are compatible and would maintain productivity of on-site and adjacent agricultural lands; and
- 11. Pursuant with MCC Section 20.532.100(B)(2), no conversion of land under Williamson Act Contract to non-agricultural use is proposed as the property is not under contract; and
- 12. Pursuant with MCC Section 20.532.100(B)(3), no conversion of grazing land to non-agricultural use is proposed.

## CONDITIONS OF APPROVAL:

- 1. This action shall become final on the 11<sup>th</sup> 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 two years after the effective date except where construction and or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress toward completion of the project must be continuous.
- 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. Within one-year of the effective date of this permit, the shed and all material associated with the structure, shall be removed from the property.
  - a. Within 30-days of the effective date of this permit, the property owner shall apply for a building permit to demolish the shed.
  - b. Prior to the conclusion of the initial effective period of this permit, the property owner shall demonstrate to Mendocino County Code Enforcement staff that violations have been resolved to the satisfaction of Mendocino County.
- 10. In accordance with MCC Chapters 20.456, 20.472, and 20.532 and prior to storing vehicles on site, the property owner shall obtain a coastal development permit or permit amendment.
- 11. The property owner shall observe the avoidance measures and procedures detailed in Section 6.2 of the <u>Wildlife Scoping Survey</u>, <u>Botanical Survey</u>, <u>Point Arena Mountain Beaver Survey</u>, and <u>Wetland</u> <u>Delineation Report</u> prepared by Spade Natural Resources Consulting and dated January 25, 2019, including:
  - a. Report subsection 6.2.1 Seasonal pre-construction special status plant survey;
  - b. Report subsection 6.2.2 Point Arena Mountain Beaver;
  - c. Report subsection 6.2.3 Special Status Birds and Bats; and
  - d. Report subsection 6.2.4 Special Status Amphibians.

# COASTAL PERMIT ADMINISTRATOR STAFF REPORT FOR STANDARD COASTAL DEVELOPMENT PERMIT

April 8, 2022

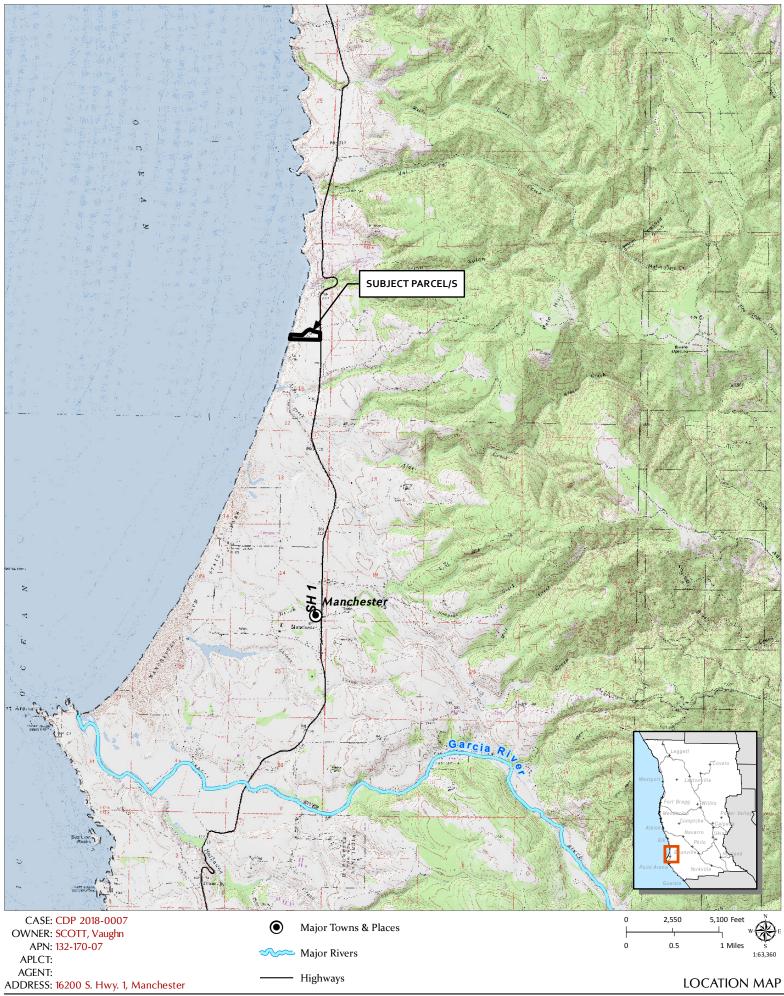
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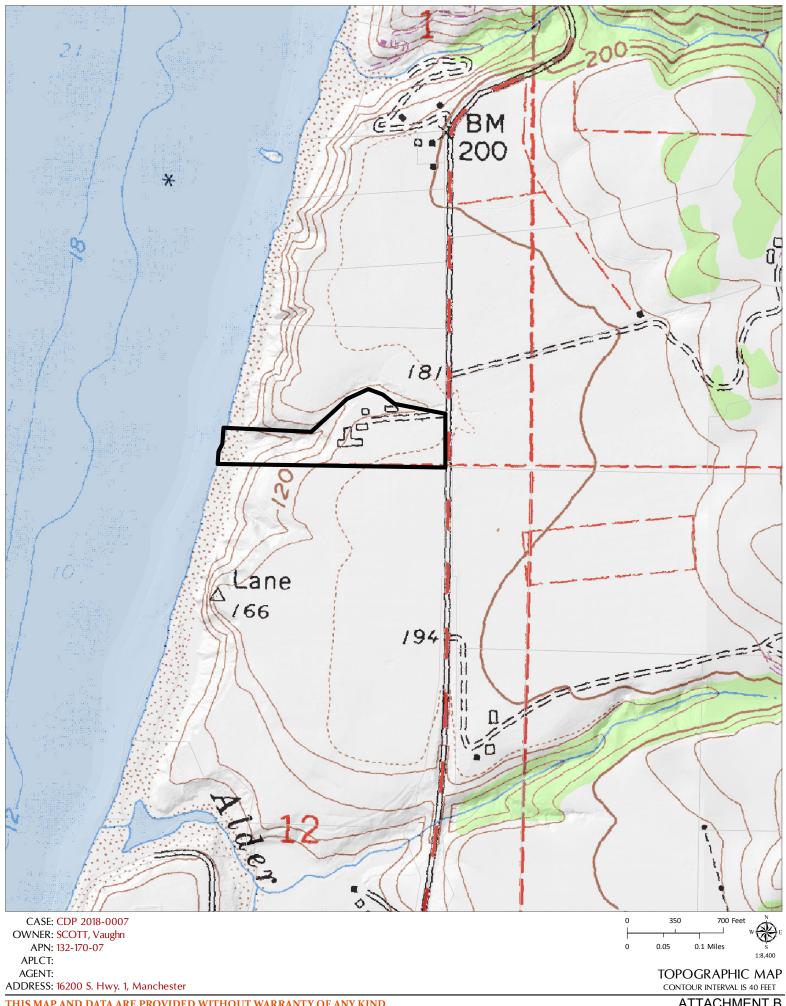
JULIANA CI PLANNER III

Appeal Period: 10 Days Appeal Fee: \$2,620.00

# **ATTACHMENTS:**

- A. Location Map
- B. Topographical Map
- C. Aerial Imagery
- D. Site Plan
- E. Elevation Drawings
- F. Zoning Display Map
- G. General Plan Classifications
- H. LCP Map 22 Mallo Pass Creek
- I. LCP Habitats & Resources
- J. LCP Land Capabilities & Natural Hazards
- K. Appealable Areas
- L. Adjacent Parcels
- M. Fire Hazard Zones & Responsibility Areas
- N. Wildland-Urban Interface Zones
- O. Highly Scenic & Tree Removal Areas
- P. Coastal Ground Water Resources
- Q. Special Flood Hazard Areas
- R. Wetlands
- S. Water Districts
- T. Local Soils
- U. Important Farmland
- V. Lands in Williamson Act Contracts
- W. Earthquake Hazard Zones
- X. Misc Districts



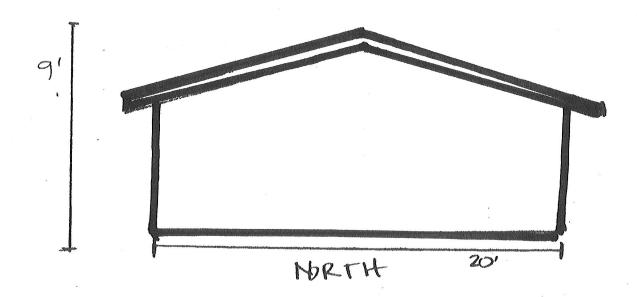


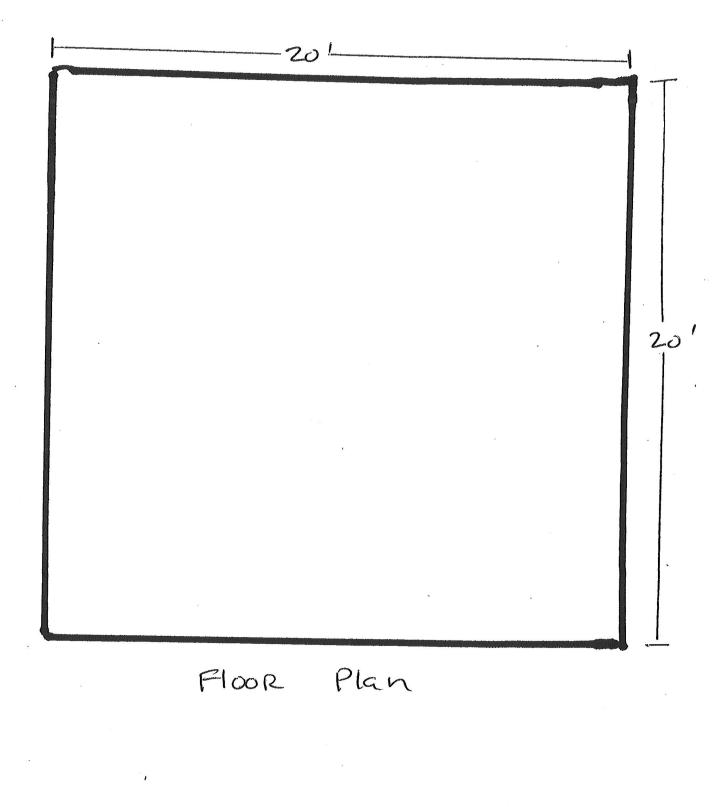


CDP\_2018-0007 Application



ATTACHMENT D





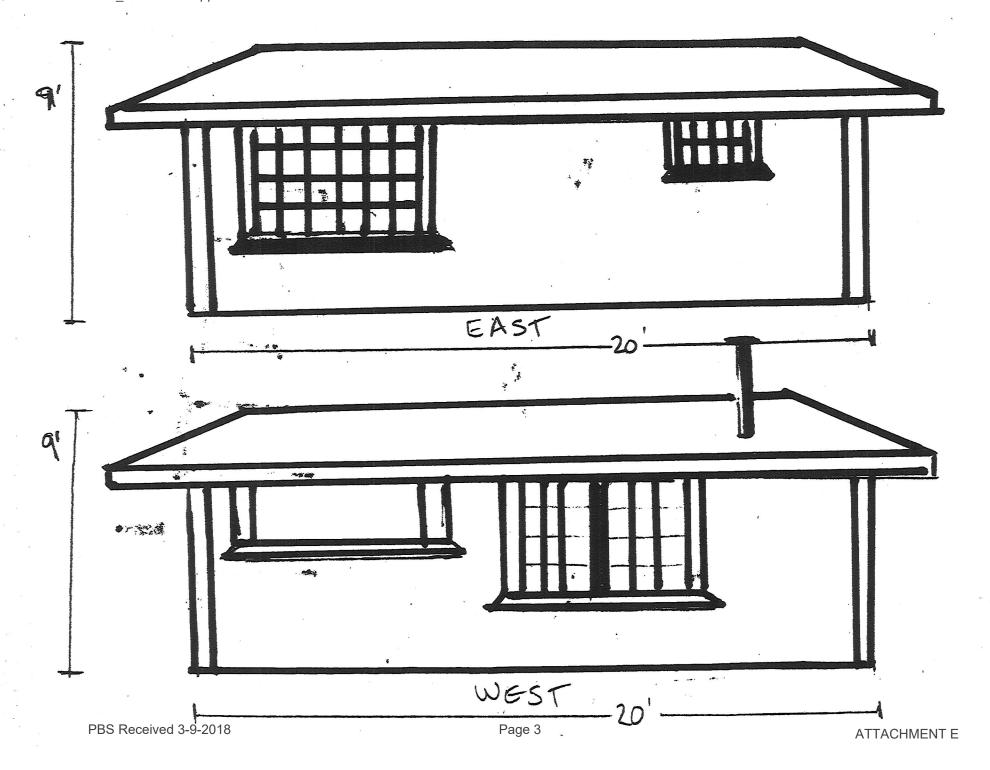
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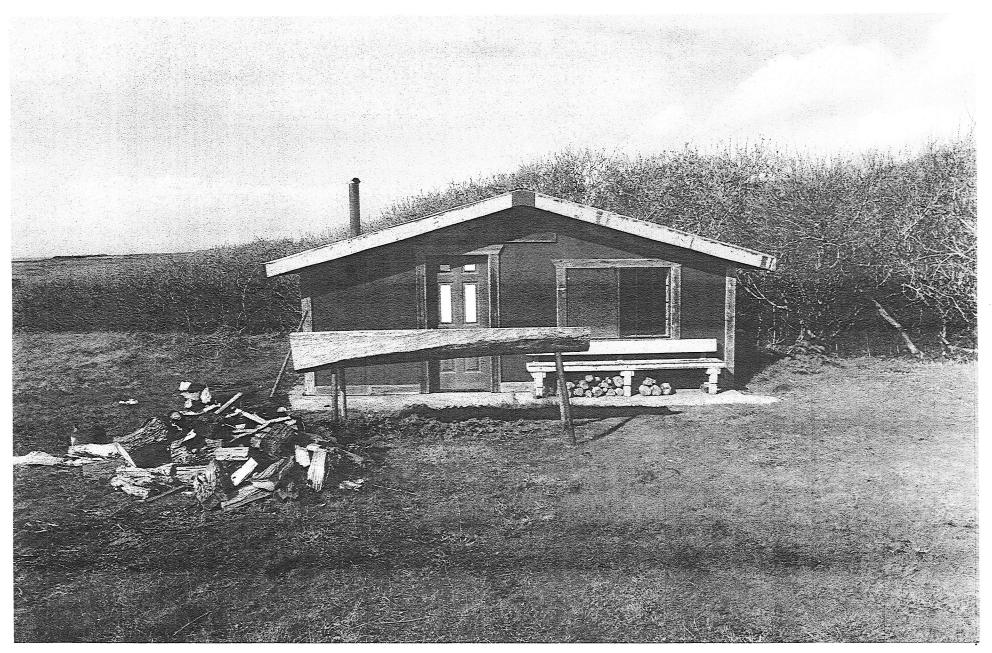
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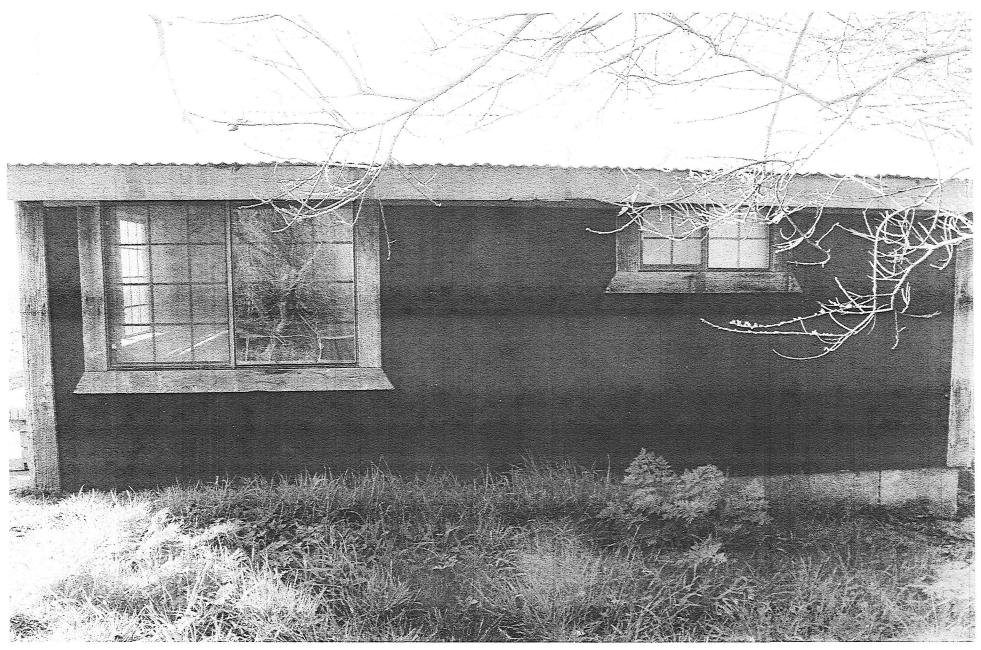
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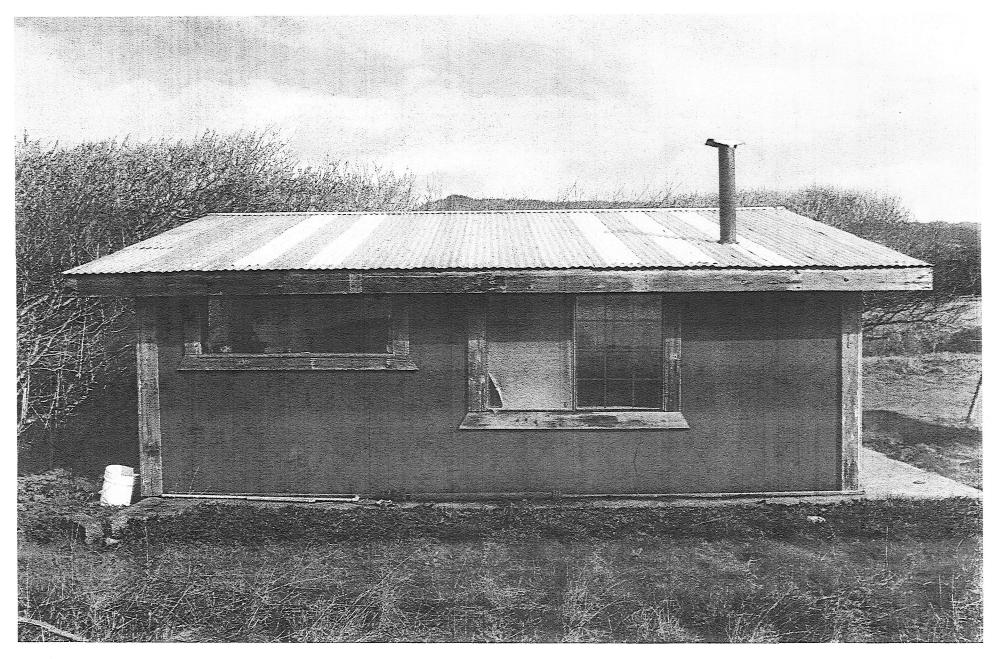




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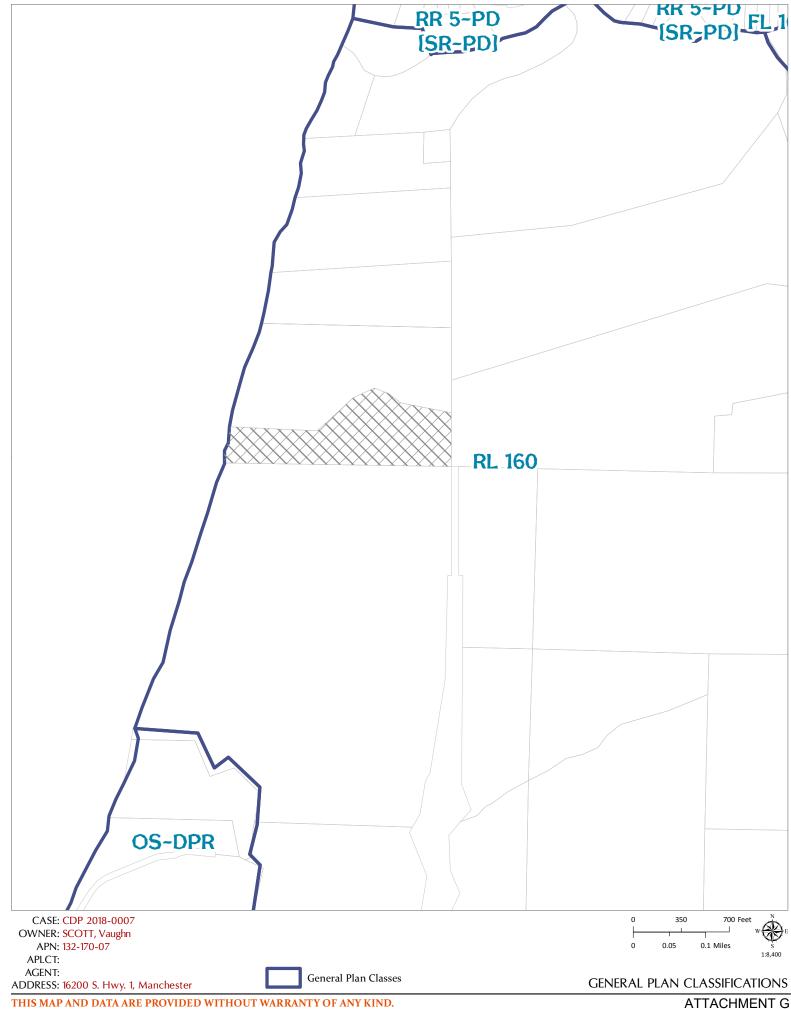
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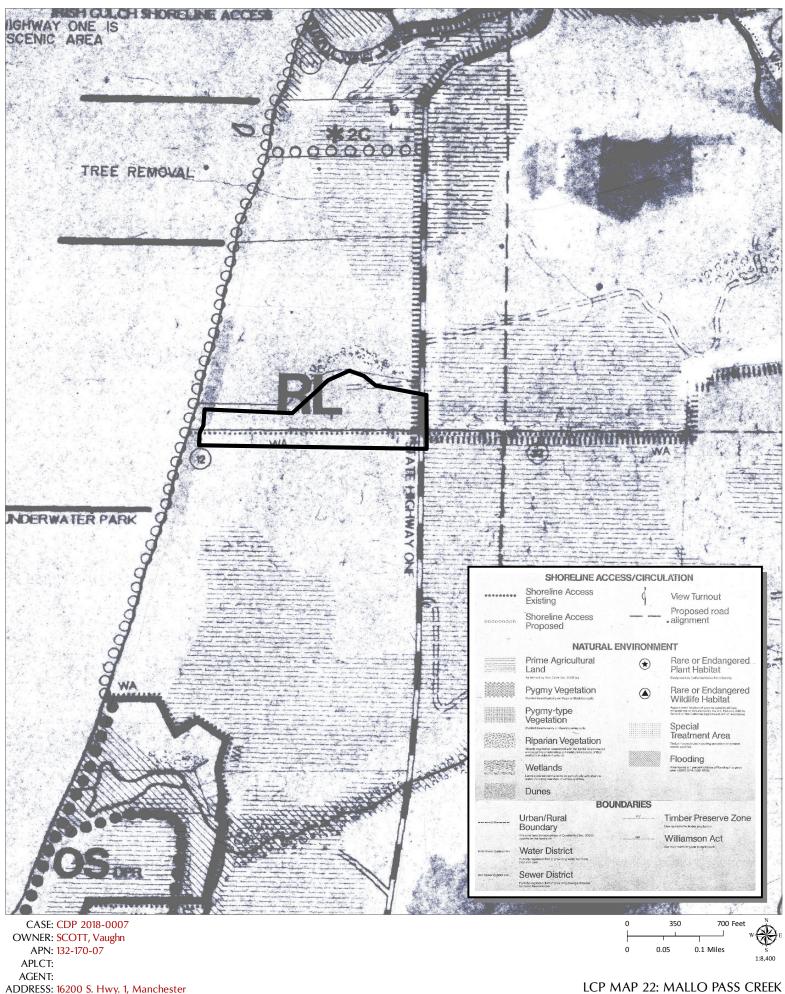
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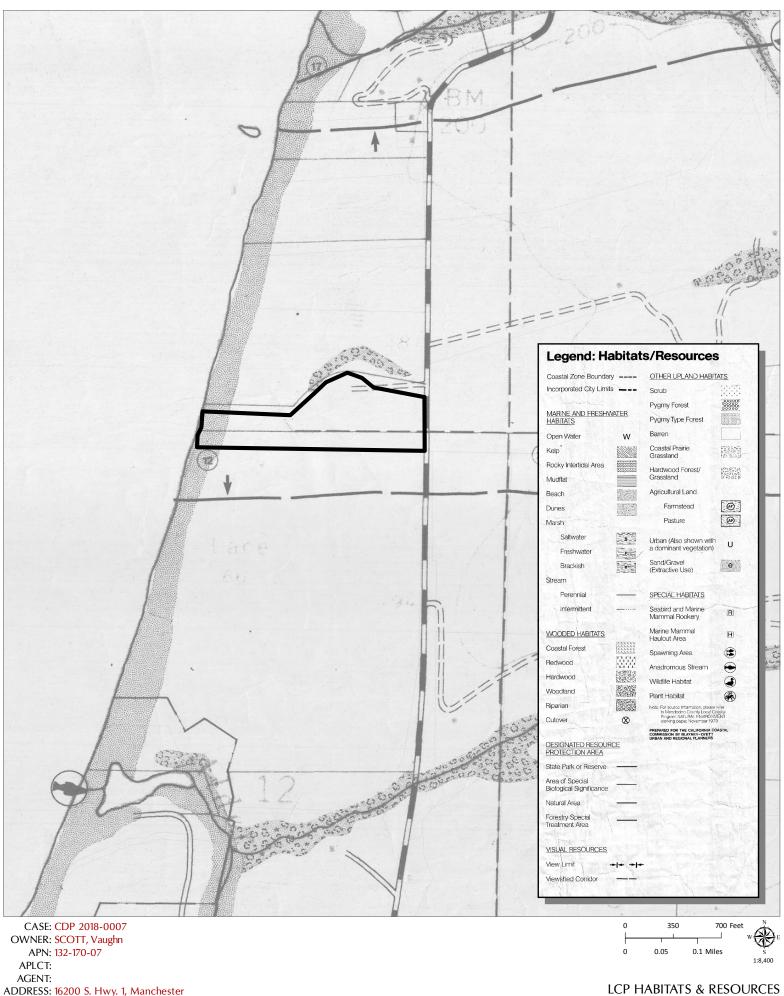
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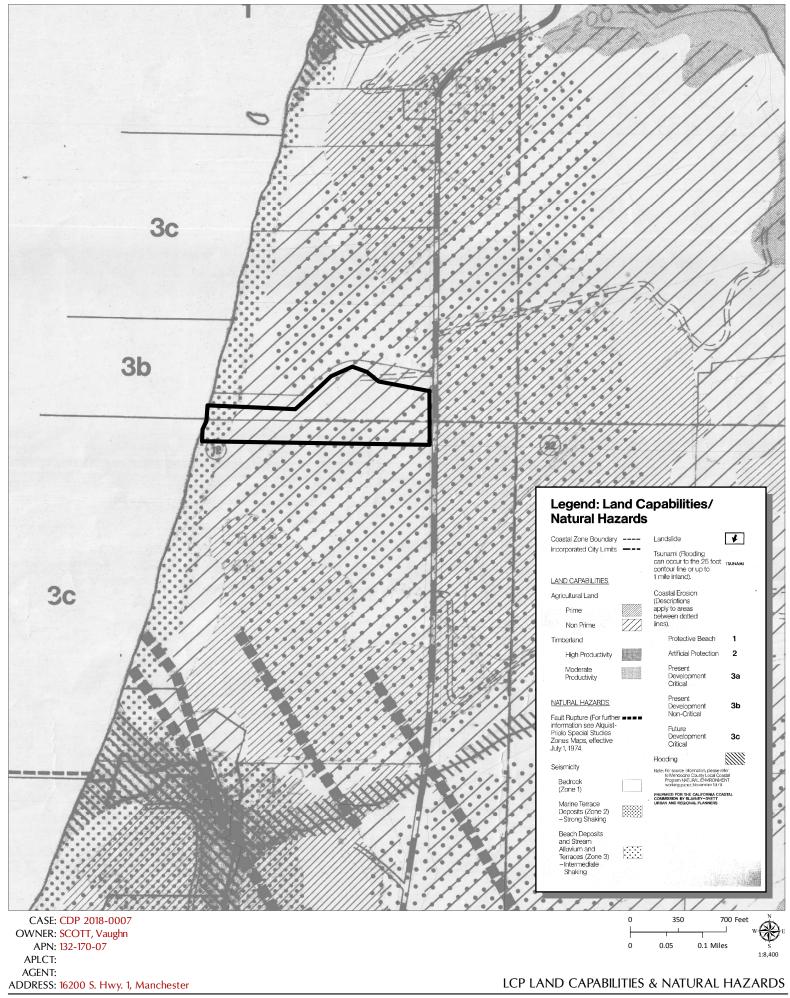


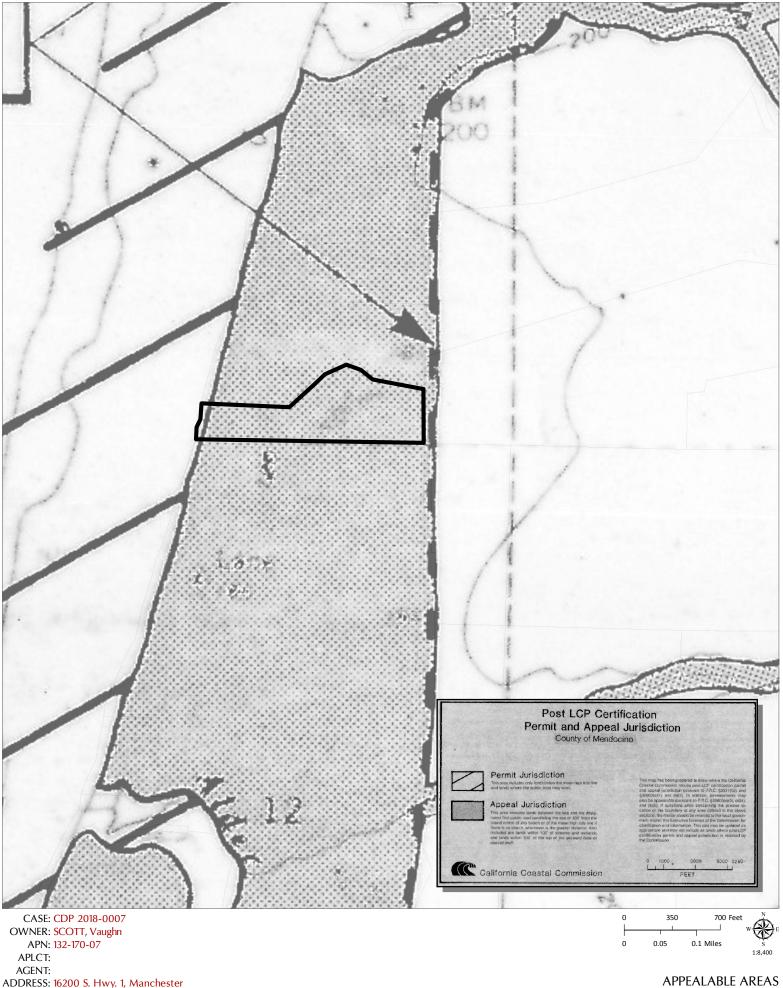


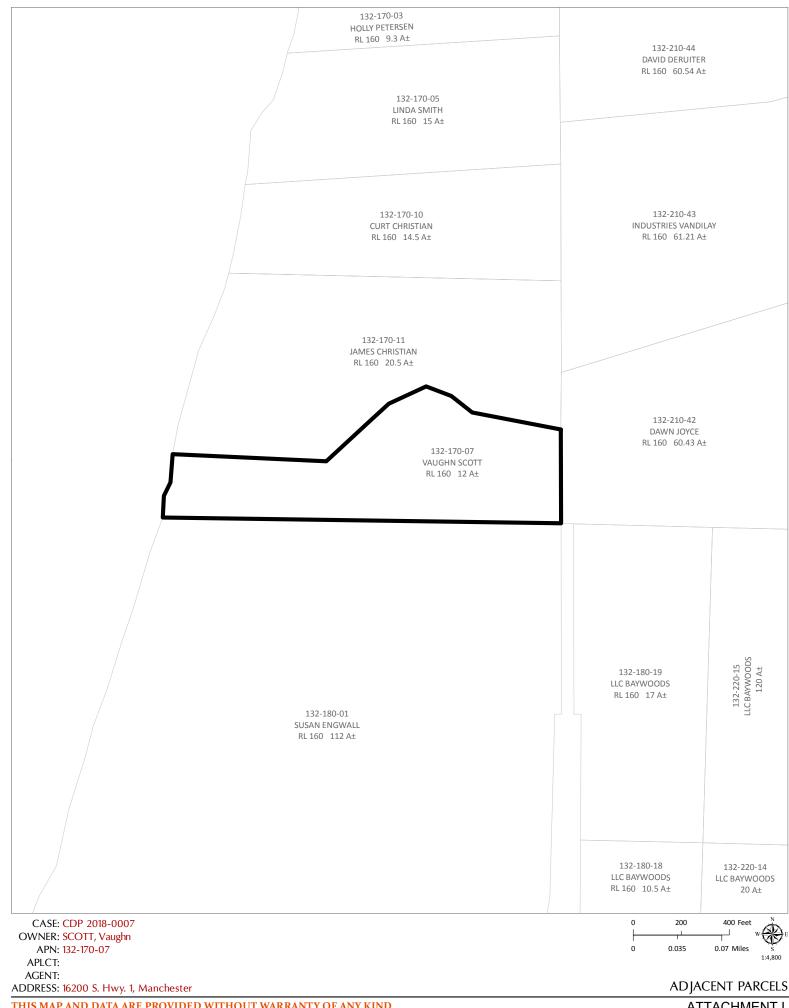
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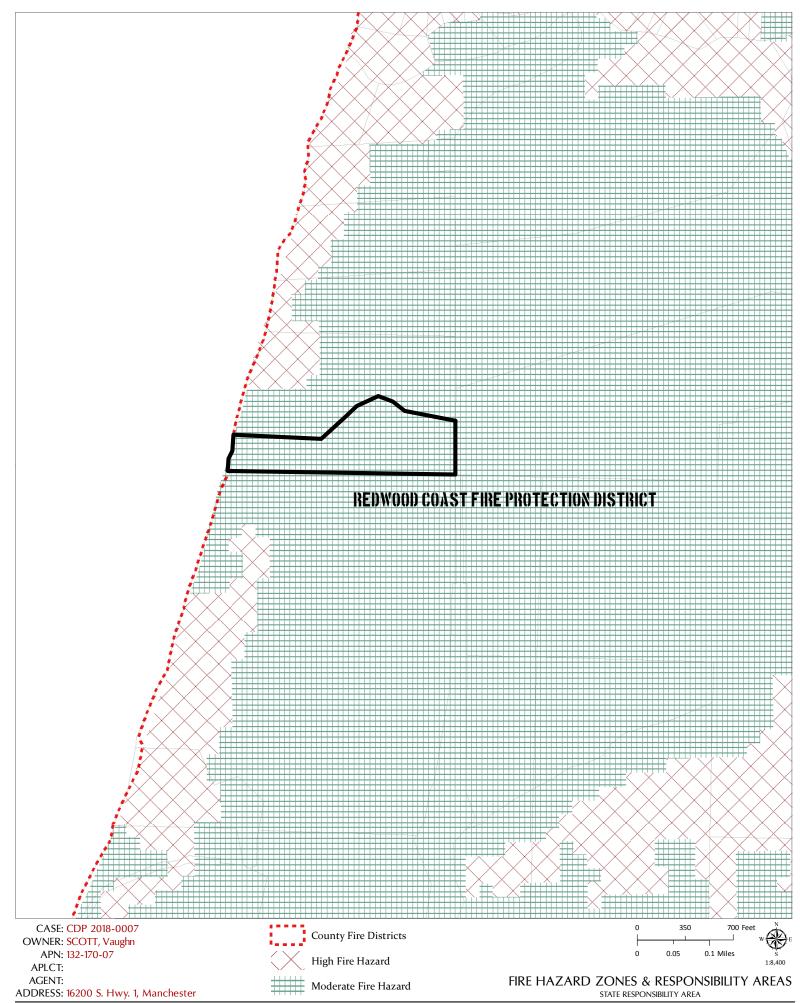


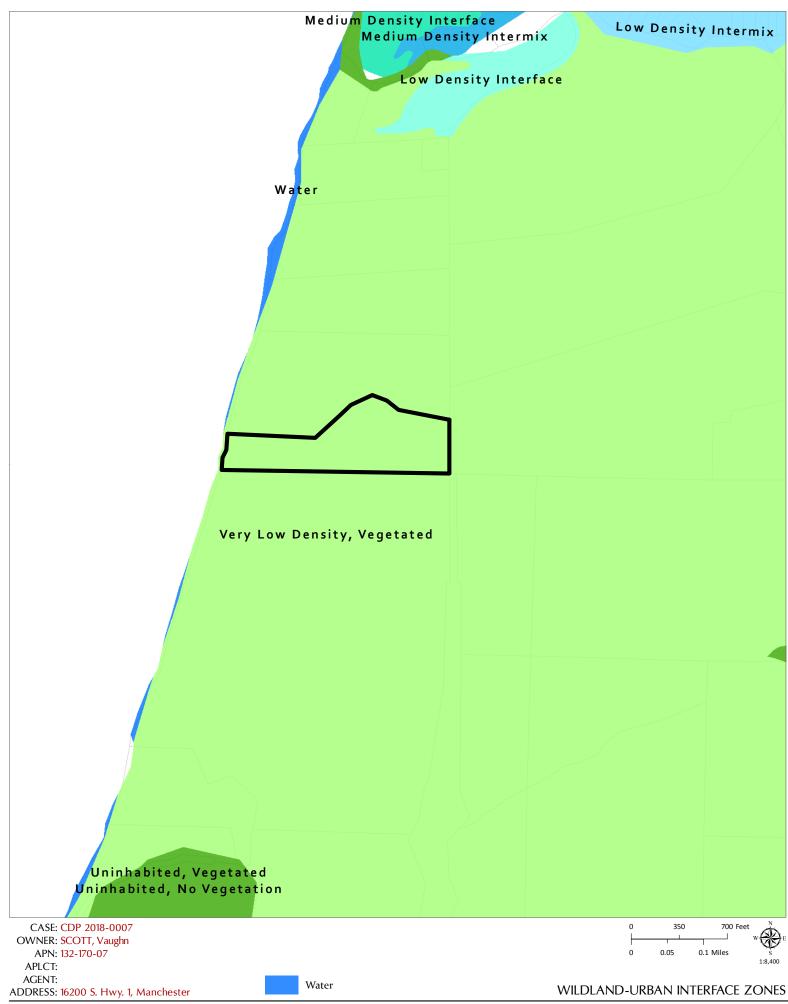


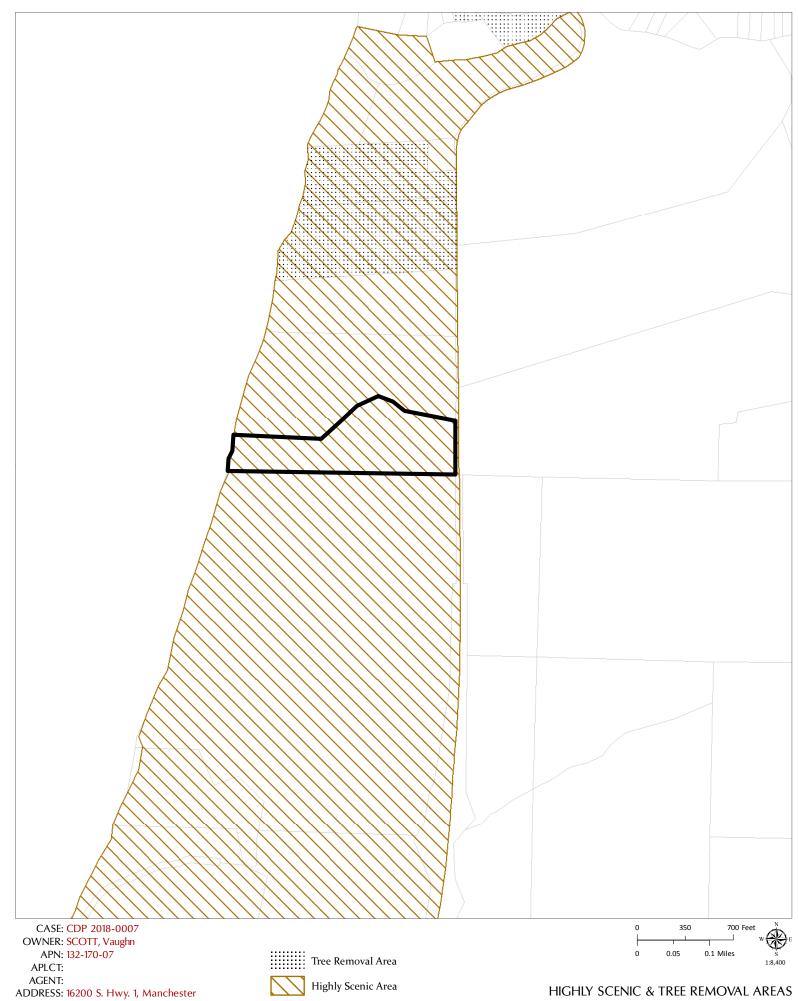


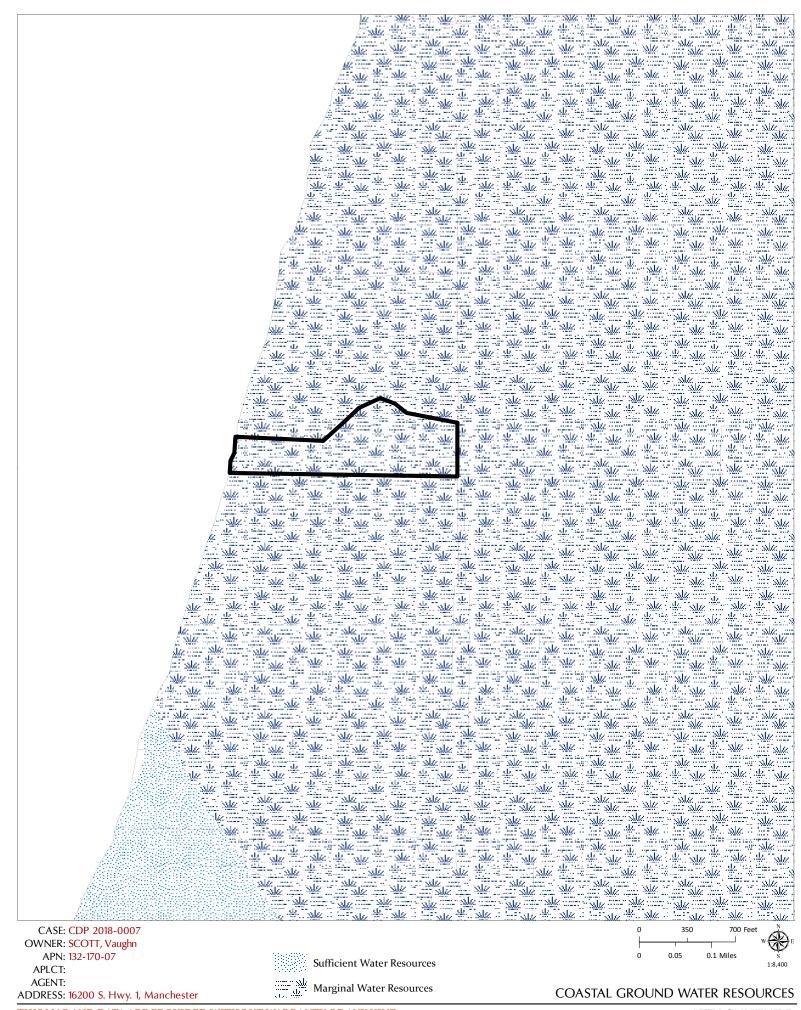


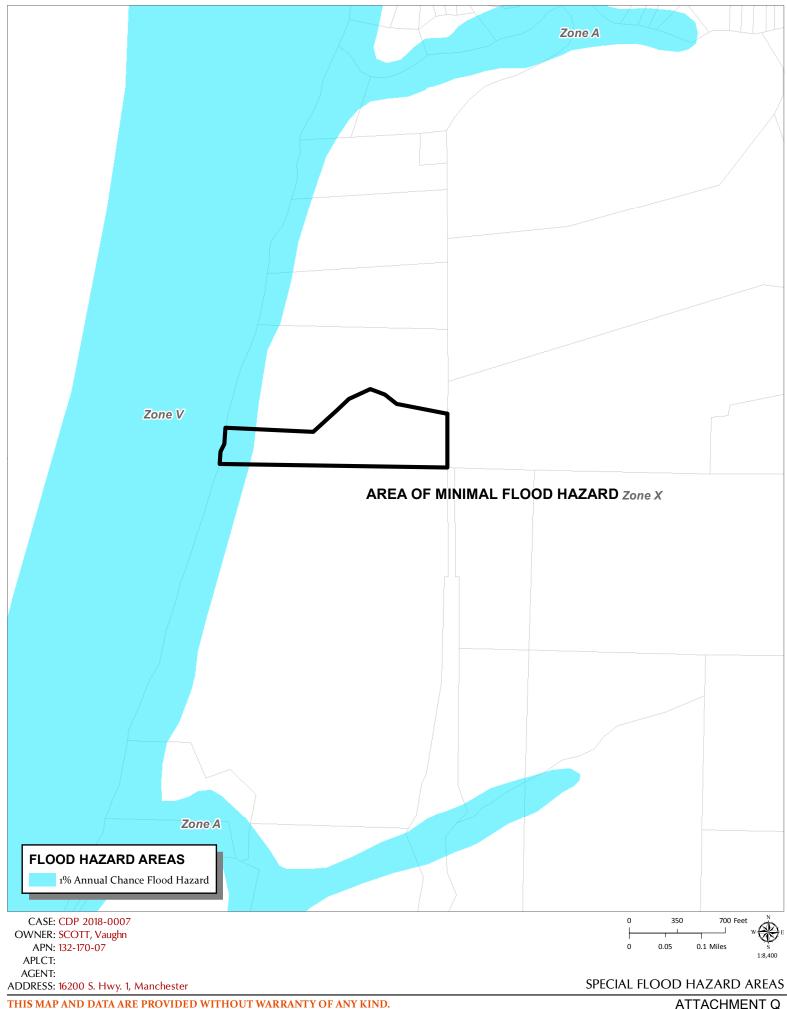




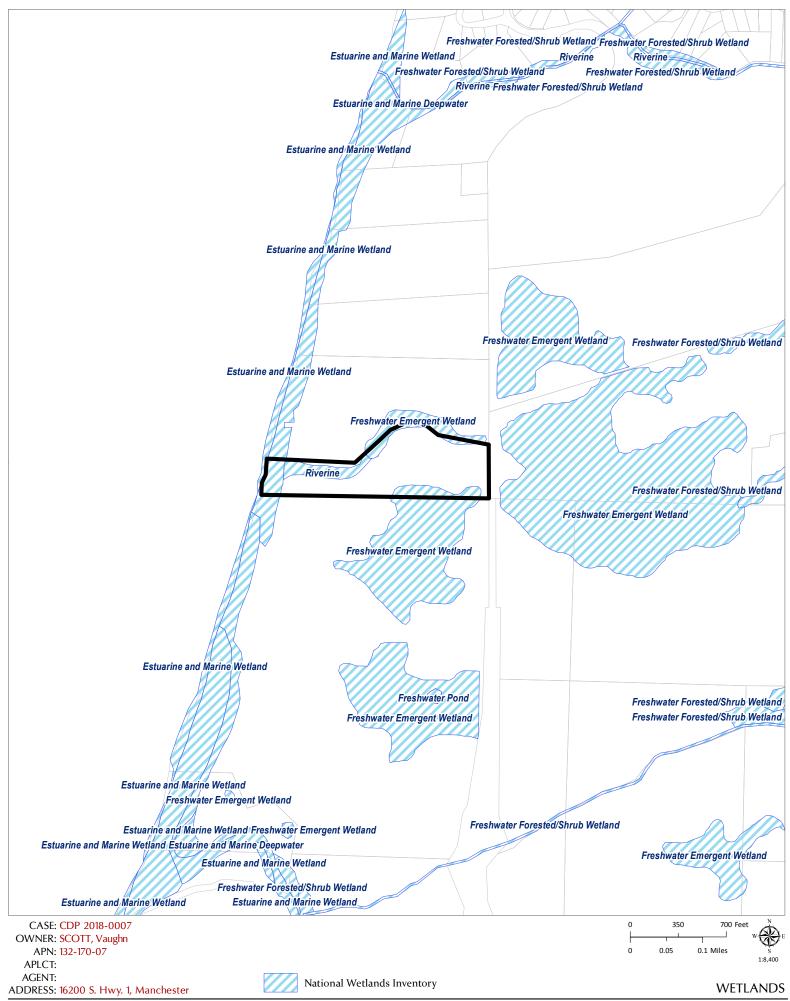


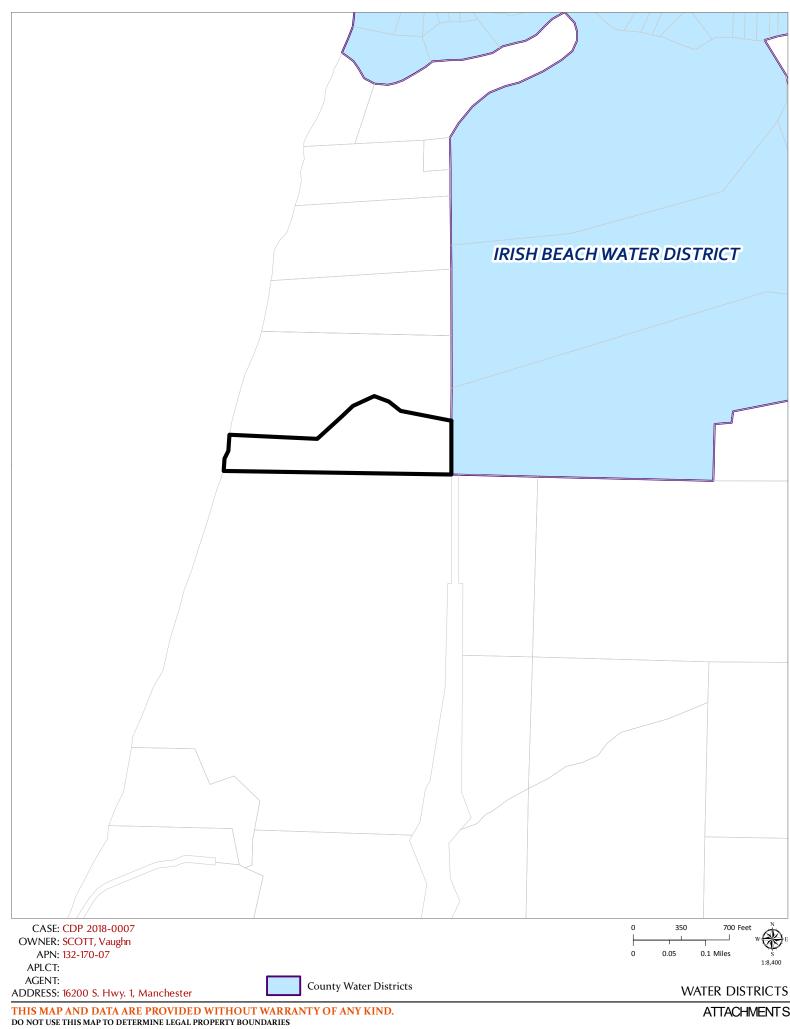


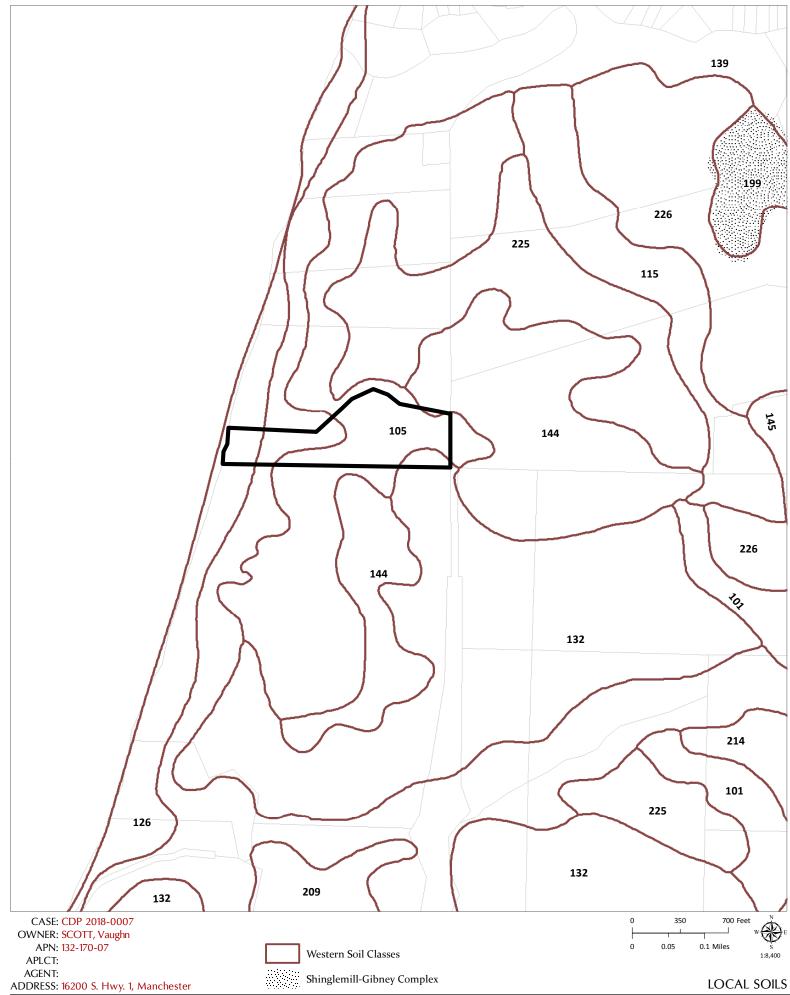




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ATTACHMENT T

