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## **MEMORANDUM**

**DATE:** November 8, 2023  
**TO:** Coastal Permit Administrator  
**FROM:** Julia Krog, Director  
**SUBJECT:** Update Memorandum regarding Request for Revocation by the Coastal Permit Administrator of Boundary Line Adjustments #B\_2018-0068 and B\_2019-0054 (Moores)

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At the September 14, 2023 Coastal Permit Administrator hearing, Staff requested that the Coastal Permit Administrator continue the matter to a date certain of November 9, 2023 to allow Staff time to review and respond to the September 13, 2023 comment letter submitted by the Colin Morrow, attorney for the property owners, William and Tona Moores, regarding the proposed project (“Comment Letter”). The referenced Comment Letter is attached to this memorandum as Attachment A.

Staff has reviewed the Comment Letter in detail and finds that it does not present any new evidence or facts that would modify staff’s previously recommended action to the Coastal Permit Administrator. This memo will respond briefly to the points raised in the letter.

The Comment Letter asserts that the County lacks the legal and factual foundation for revocation of the subject Boundary Line Adjustments. Boundary Line Adjustments that are located within the Coastal Zone of Mendocino County are subject to obtainment of a Coastal Development Permit in addition to the standard review procedures and requirements under Mendocino County Code Section 17-17.5.

Lands, such as the subject parcels, that are located within the Coastal Zone and outside the Town of Mendocino are subject to Division II of Title 20 of Mendocino County Code (MCC). Pursuant to MCC section 20.532.010 any person proposing to undertake any development as defined in MCC section 20.308.035(D) shall obtain a Coastal Development Permit in accordance with the provisions of MCC Chapter 20.532. Pursuant to MCC section 20.532.015(E) “a coastal development standard permit must be secured for any other activity not specified above which is defined as a development in Section 20.308.035(D), including, but not limited to, land divisions, lot line adjustments and any other entitlement for use” (*emphasis added*). Coastal Boundary Line Adjustments are not given a separate application type or number but are processed under the boundary line adjustment application number assigned at the time of application.

The property owners obtained a Coastal Development Permit and Boundary Line Adjustment for B\_2018-0068 on June 13, 2019 and for B\_2019-0054 on June 11, 2020. Included in the materials provided with this agenda packet are the Coastal Permit Administrator’s approvals of these prior applications. Under MCC section 20.536.035 a Coastal Development Permit may be revoked or modified for cause as provided by the section including section 20.536.035(A)(1) that such permit was obtained or extended by fraud.

The Comment Letter asserts that the permit application was not extended by fraud. The application forms, Attachments B and C to this memorandum, submitted for both B\_2018-0068 and B\_2019-0054 were signed under an attestation that the Applicant and Owner signature on the form certifies “that the information submitted with this application is true and accurate”. Since the submitted application was for a boundary line adjustment, which can only occur between separate legal parcels, Mr. Moores was certifying that the parcels included in the adjustment request were in fact separate legal parcels. Further, the applications included map attachments which showed the existing and proposed parcel configurations of the purported separate legal parcels.

The Comment Letter asserts that Mr. Moores may not have been aware of, recalled, or understood the results of *Moores v. Board of Supervisors of Mendocino County* (2004) 122 Cal. App. 4th 883 (*Moores*).

Staff cannot attest to what Mr. Moores may be aware of, recall or understand, but bases our belief that Mr. Moores was knowledgeable of the results of *Moores* on the fact that he was the plaintiff.

The Comment Letter asserts that the Moores' have relied upon their vested rights and expended significant time, money and resources proceeding in reliance of County approvals. The Comment Letter notes the following costs and improvements: *A new groundwater well was drilled, roughly thirty thousand (30,000) gallons of water storage infrastructure have been installed upon the real property, de-brushing activities have been conducted in relation thereto, further permits have been obtained and paid for, and a litany of other regulatory and permitting activities relating thereto have consumed substantial time, money, and effort.*

In response to this statement in the Comment Letter, staff offers the following commentary. First, an invalid permit vests no rights, even if expenditures have been incurred in good faith reliance on the permit. *Pettit v. City of Fresno* (1973) 34 Cal.App.3d 813. In addition, there is no vested right when an agency is misled into issuing a permit by a developer. *Stokes v. Board of Permit Appeals* (1997) 52 Cal.App.4th 1348.

The improvements listed by Mr. Moores as completed appear to not have any bearing on whether the property in question is one legal parcel or multiple legal parcels. The improvements completed appear to relate to establishment of water wells. It is common in Mendocino County for a parcel to have multiple wells to support existing or proposed development, particularly if that site is to be developed with a visitor serving facility as indicated by the General Plan Amendment and Rezoning request currently on-file with the Department. Multiple parcels are not required to drill multiple wells.

Staff is concerned about the noted 30,000-gallon water storage tank(s) as we were unable to locate a record of a permit for that improvement, and an improvement of this magnitude would likely require both a Coastal Development Permit and a Building Permit. "De-brushing activities" were not clearly defined in the Comment Letter other than seeming to indicate it may relate to the possibly unpermitted water storage tank and permitted wells. Staff notes that major vegetation removal or harvesting of a certain magnitude would also require review and approval by the Department. Staff cannot speak to the unspecified "litany of other regulatory and permitting activities". Below staff has provided a timeline regarding permits submitted and/or obtained since approval of the Boundary Line Adjustments.

Timeline of Permits on properties since Boundary Line Adjustment Approval:

B\_2018-0068 approved on June 13, 2019.

On September 5, 2019, Mr. Moores applied for a General Plan Amendment and Rezoning, GP\_2019-0006/R\_2019-0008, over the property in question. The application requests the relocation of a visitor serving facility designation from a parcel located on the north end of the Irish Beach Subdivision to the subject property.

On October 21, 2019, Mr. Moores applied for a Categorical Exclusion, CE\_2019-0031, to drill a test well on APN 132-210-41. CE\_2019-0031 was granted on October 24, 2019.

On November 4, 2019, a water well permit, WW23575, was submitted and approved by Planning on November 6, 2019 as a test well only, as approved under CE\_2019-0031. This was a dry hole that did not produce water and the permit was closed out.

B\_2018-0068 was finalized on November 21, 2019.

On March 5, 2020, Mr. Moores applied for a Categorical Exclusion, CE\_2020-0006, to drill two test wells on APNs 132-210-39 and 132-210-61. CE\_2020-0006 was granted on June 10, 2020.

B\_2019-0054 approved on June 11, 2020.

On July 21, 2020, a water well permit, WW 23757, was submitted on APN 132-210-61.

On July 21, 2020, a water well permit, WW 23758, was submitted on APN 132-210-39 (at time of issuance APN 132-210-62).

B\_2019-0054 was finalized on August 28, 2020.

On September 14, 2020, water well permit WW 23757 was approved by Planning as a test well only on APN 132-210-61, as approved under CE\_2020-0006.

On September 21, 2020, Mr. Moores applied for a Categorical Exclusion, CE\_2020-0030, to drill a production well on APN 132-210-62. CE\_2020-0030 was granted on October 30, 2020.

On November 5, 2020, water well permit WW 23758 was approved by Planning for a well on APN 132-210-62, as approved under CE\_2020-0030.

On June 22, 2022, WW23757 and WW23758 were finalized.

On November 4, 2022, County staff sent letter to Mr. Moores informing him of intent to revoke the subject Boundary Line Adjustments.

September 13, 2023, initial hearing with the Coastal Permit Administrator on the revocation of the Boundary Line Adjustments. Hearing was continued to November 9, 2023.

Finally, the Comment Letter alleges that the revocation of the Boundary Line Adjustments would constitute a taking of private property. It is not clearly stated how revocation of boundary line adjustments would constitute either a physical or regulatory taking. Staff does note that the Moores would retain ownership of the land.

#### **Recommended Action**

Pursuant to Mendocino County Code section 20.536.035, Staff recommends that the Coastal Permit Administrator revoke Boundary Line Adjustments B\_2018-0068 and B\_2019-0054. Staff has prepared recommended findings of fact for the Coastal Permit Administrator to consider.

#### **Attachments:**

- A. September 13, 2023 Comment Letter from Colin Morrow
- B. B\_2018-0068 Application
- C. B\_2019-0054 Application
- D. Recommended Findings of Fact and Determination to Revoke Approval

# VANNUCCI MOMSEN MORROW

Attorneys at Law  
An Association of Sole Practitioners

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Mendocino, CA 95460  
Phone: 707.380.1070  
Email: cmorrow@vmm-law.com

September 13, 2023

## VIA EMAIL AND PERSONAL DELIVERY

Ignacio Gonzales  
Coastal Permit Administrator  
County of Mendocino Planning and Building Services  
860 N Bush St.  
Ukiah, CA 95482  
(pbs@mendocinocounty.org)

Re: Case Nos.: B 2018-0068 & B 2019-0054  
Hearing Date and Time: September 14, 2023 @ 11:00 AM  
Owners: William & Tona Moores

Dear Coastal Permit Administrator Gonzales:

### I. Introduction

I represent William and Tona Moores in relation to the above referenced matter. As the staff report in this matter correctly notes, the County of Mendocino approved two boundary line adjustments in the above referenced cases around June 13, 2019 and June 11, 2020 that benefitted by clients. These boundary line adjustments were finalized around November 21, 2019 and August 18, 2020, respectively

Roughly four years and three months after the first of these two boundary line adjustments were finalized, the County now seeks to unlawfully revoke the boundary line adjustments without right. In addition to the fact that the County lacks any legal or factual predicate for revoking said boundary line adjustments, the County is estopped from any revocation based upon the Moores having relied to their detriment upon their vested rights flowing from the County's approval. Should the boundary line adjustments be revoked, the County would be engaging in a taking of private property. When a state actor—such as the County—takes private property it must proceed in a particularized manner required by law and must pay the affected private property owners both reasonable compensation and the property owner's attorney's fees incurred in obtaining

Ignacio Gonzales  
Coastal Permit Administrator  
County of Mendocino Planning and Building Services  
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such just compensation.

## II. The County Lacks Both Legal And Factual Foundation for Any Revocation

The pertinent staff report relies upon Mendocino County Code section 20.536.035 to suggest that the County may revoke the relevant boundary line adjustments based upon a supposed “fraud.” This justification is both legally and factually defective.

Mendocino County Code section 20.536.035 does not authorize the revocation of any boundary line adjustments whatsoever. Section 20.536.035 is specifically cabined to—and only authorizes—the revocation of “coastal development permit[s].” Here, however, the approvals at issue are as to boundary line adjustments. Boundary line adjustments are governed by Mendocino County Code section 17-17.5, and nothing therein authorizes the revocation of a boundary line adjustment. Although the Mendocino County Code authorizes certain permits to be revoked, there is no authorization for the County to revoke a boundary line adjustment. This demonstrates that the Board of Supervisors understands how to craft such authorizing language, but has declined to authorize such actions in the case of boundary line adjustments. Under the Latin rule of statutory construction of *expressio unius est exclusio alterius*, when one or more things of a class are expressly mentioned others of the same class are excluded.

Even if the relied upon code section did hypothetically authorize a boundary line adjustment (though it does not), there is an absence of fraud to provide a factual predicate for any revocation. Fraud is ordinarily defined as requiring the combination of (1) a knowingly false representation, (2) made with an intent to deceive, with justifiable reliance by the listener, and resulting damages. (*Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 974; *Service by Medallion, Inc. v. Clorox Co.* (1996) 44 Cal.App.4th 1807, 1816.) “[A] cause of action for misrepresentation requires an affirmative statement, not an implied assertion.” (*RSB Vineyards, LLC v. Orsi* (2017) 15 Cal.App.5th 1089, 1102.) An opinion cannot constitute a fraudulent statement. (*Hauter v. Zogarts* (1975) 14 Cal.3d 104, 112.) Mere “opinions . . . are not a basis for relief on the ground of fraud.” (*Agnew v. Foell* (1952) 113 Cal.App.2d 575, 577 [“The law is well established that actionable misrepresentations must pertain to past or existing *material facts*.”] (*Cansino v. Bank of America* (2014) 224 Cal.App.4th 1462, 1469.)

The elements of fraud are absent multiple times over. The County has done nothing to show that Mr. Moores represented as a matter of fact that the parcels were separate legal parcels. Even if such a statement had been shown to be made—though no showing has been made—any such representations would have been mere implied legal opinions. The question of whether two parcels are legally separate is a question

Ignacio Gonzales  
Coastal Permit Administrator  
County of Mendocino Planning and Building Services  
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of law, and the County cannot read any lay interpretation of what is or is not a parcel as anything more than mere lay opinion. The County has also failed to show that the Moores were aware of, recalled, and understood the precise statements, holdings, and effects thereof in the nearly twenty year old case of *Moores v. Board of Supervisors of Mendocino County* (2004) 122 Cal.App.4th 883. The plain fact that the County—who was also a party to the action—did not itself recall and recognize any perceived relevance of the case is itself strong evidence that the Moores themselves were equally unknowing of what an arcane legal opinion did or did not say. And finally, any specter of fraud is lacking because the County has done nothing to show any reasonable reliance upon any representations from the Moores. The County is staffed with an office of multiple attorneys, a multitude of planners who are versed in land use and real property law, and a legion of support staff. They are not in the habit—and should not be in the habit—of merely taking applicants at their word. Their job is to review the merits of applications. If applicants were merely to be given blind trust the department would be surplusage. In sum, there is no fraud, nor has there ever been any fraud.

### **III. The Moores Have Relied Upon Their Vested Rights to Their Detriment**

“When a governmental agency issues a valid grant of authority or other permit, it represents to the developer that he or she may proceed with the work of improvement with the blessing and approval of the government. When the developer thereafter expends money, performs work, and incurs liabilities in reliance on the government's representations, the government is estopped to apply any subsequent change in the law if the change would prevent the developer from completing the work of improvement as approved.” (Miller & Starr, 7 Cal. Real Est. (4th Ed., Sept. 2023 Update), Ch. 21, § 21:26; see also *McCarthy v. California Tahoe Regional Planning Agency* (1982) 129 Cal.App.3d 222, 229-230.)

Roughly four years and three months ago, the County gave the Moores an affirmative blessing that the Moores boundary line adjustment was proper. Based thereon, the Moores have expended significant time, money, and resources proceeding in reliance upon the County's approvals. A new groundwater well was drilled, roughly thirty thousand (30,000) gallons of water storage infrastructure have been installed upon the real property, de-brushing activities have been conducted in relation thereto, further permits have been obtained and paid for, and a litany of other regulatory and permitting activities relating thereto have consumed substantial time, money, and effort. Put another way, the Moores have likely spent at least six figures in reliance upon the County's affirmative approval of their boundary line adjustments.

The Moores possess vested rights, and the County cannot revoke these vested rights.

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County of Mendocino Planning and Building Services  
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#### **IV. Any Revocation of the Boundary Line Adjustment Would Constitute a Taking Without Just Compensation and Would Not Be Proceeding in a Manner Required by Law**

Were the County to proceed with the proposed revocation, it would be affecting a taking of private property. The Fifth Amendment to the United States Constitution requires that “private property [shall not] be taken for public use, without just compensation.” (U.S. Const., Amend. V.) Under the California Constitution, “[p]rivate property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner.” (Cal. Const., Art. I, § 19.) “Because the California Constitution requires compensation for damage as well as a taking, the California clause ‘protects a somewhat broader range of property values’ than does the corresponding federal provision.” (*San Remo Hotel L.P. v. City and County of San Francisco* (2002) 27 Cal.4th 643, 664, quoting *Hensler v. City of Glendale* (1994) 8 Cal.4th 1, 9.) “A property owner has an actionable Fifth Amendment takings claim when the government takes his property without paying for it.” (*Knick v. Township of Scott, Pennsylvania* (2019) 139 S.Ct. 2162, 2167.)

Here, a revocation of the pertinent boundary line adjustments by the County would constitute a taking. Moreover, it would be an impermissible taking because it would not be for a “public use” as is constitutionally required. The County would also not be proceeding in a manner required by law because it would not be following the determination of necessity and pre-condemnation offer procedures required by California statute. (See, e.g., Code Civ. Proc. § 1240.030 *et seq.* & Gov. Code § 7267.1 *et seq.*)

Even if it were a permissible taking—and effectuated in a manner required by law—the Moores would still be entitled to litigate the question of just compensation and would be entitled to not just their just compensation, but their “reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred.” (Code Civ. Proc. § 1036.) Here, in light of the projects that the Moores would no longer be able to pursue due to such a taking, their diminution in value could be in the tens of millions of dollars, and they are likely to incur a million-plus dollars in attorney’s fees that the County will need to reimburse them for. Insofar as the County already has a structural deficit of roughly ten million dollars a year, this is a war of choice and adventure that the County simply cannot afford.

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Coastal Permit Administrator  
County of Mendocino Planning and Building Services  
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**V. Conclusion**

For the reasons stated above, William and Tona Moores respectfully pray that the Coastal Permit Administrator deny the requested revocation in full and with prejudice.

Respectfully submitted,



Colin W. Morrow  
Attorney for William & Tona Moores



ATTACHMENT B



Planning and Building Services

Case No:	132018-0068
CalFire No:	
Date Filed:	12-4-18
Fee:	1586.00
Receipt No:	PBS-024418
Received By:	EG

APPLICATION FORM

APPLICANT Name: AT&T Mobility Phone: (916) 755-1326

Mailing Address: 5001 Executive Parkway City: San Ramon State/Zip: CA 94583 email: js7845@att.com

PROPERTY OWNER Name: William & Tona Moores Phone: (707) 357-4501

Mailing Address: 3880 Sleepy Hollow Drive City: Santa Rosa State/Zip: CA 95404 email: irishbeachrealty@gmail.com

AGENT Name: Jared Kearsley Phone: (916) 755-1326

Mailing Address: 600 Coolidge Drive, Suite 100 City: Folsom State/Zip: CA 95630 email: jared.kearsley@epicwireless.net

Assessor's Parcel Number(s)	Parcel Owner(s)	Street Address	Acreage Adjusted	
			Before	After
132-210-40-00	William & Tona Moores	None Assigned	29.59	25.58
132-210-41-00	William & Tona Moores	None Assigned	27.15	31.16

Briefly describe the proposed parcel adjustments: (Acreage to be adjusted from Assessor's Parcel Number into Assessor's Parcel Number, etc.): This application proposes to adjust 4.01 Acres from APN 132-210-40-00 into APN 132-210-41-00.

I certify that the information submitted with this application is true and accurate.

Signatures and dates for Applicant, Owner, and County.

DEC 04 2018

**ATTACHMENT B**

**Project Description Questionnaire  
For Boundary Line Adjustments  
Located In the Coastal Zone**

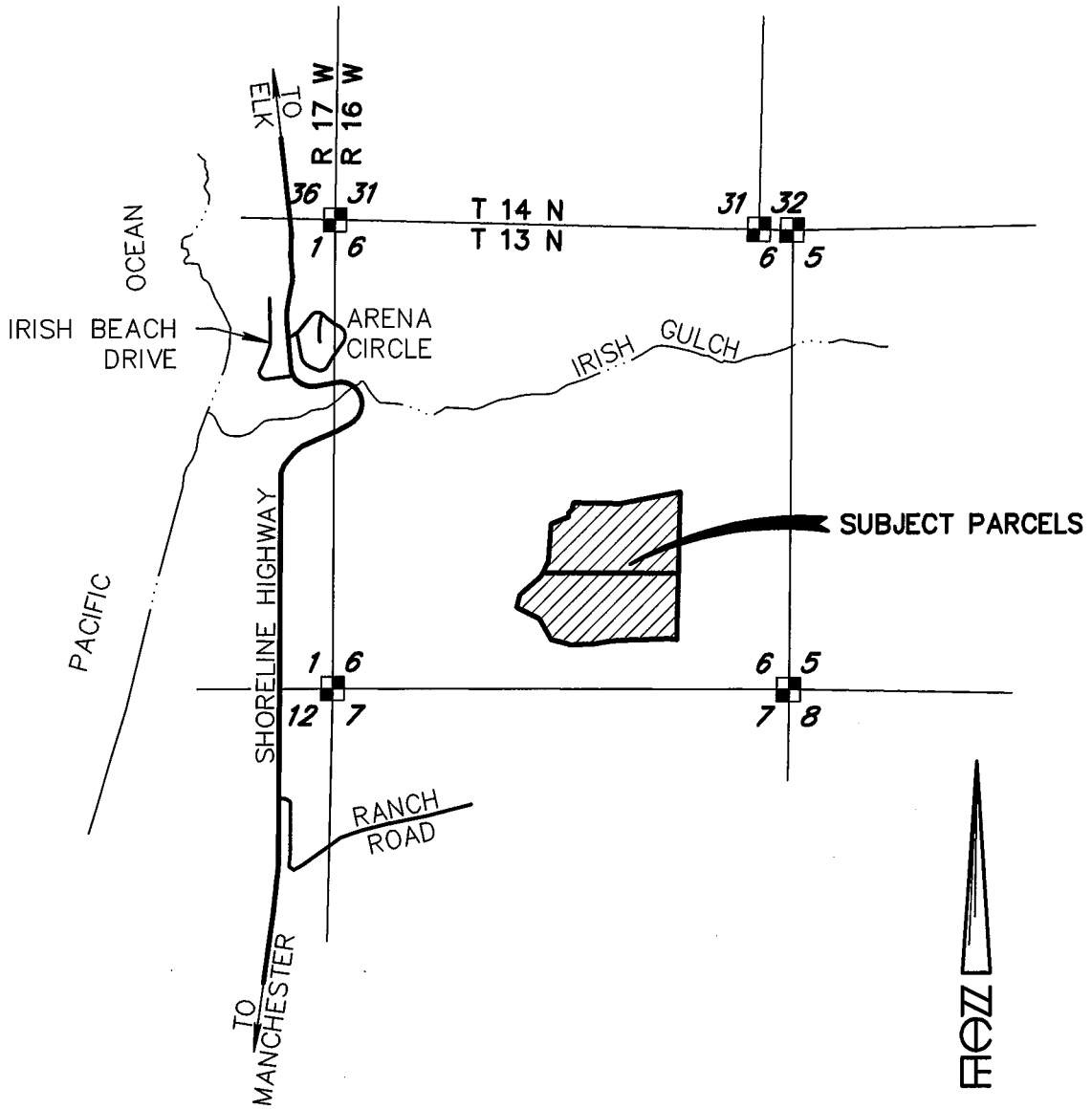
The purpose of this questionnaire is to provide additional information related to the Coastal Zone concerning your application to the Department of Planning and Building Services and other agencies who will be reviewing your project proposal. Please remember that the clearer the picture that you give us of your project and the site, the easier it will be to promptly process your application. Please answer all questions.

<b>Present Use Of Property</b>		
1. Are there existing structures on the property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, describe below, and identify the use of each structure on the map to be submitted with your application.		
<hr/> <hr/> <hr/> <hr/> <hr/>		
2. Will any existing structures be demolished? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Will any existing structures be removed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes to either question, describe the type of development to be demolished or removed, including the relocation site, if applicable?		
<hr/> <hr/> <hr/> <hr/> <hr/>		
3. Lot area (within property lines): <u>56.74</u> <input type="checkbox"/> square feet <input checked="" type="checkbox"/> acres.		
4. Lot Coverage:		
<u>LOT 1</u>	Existing	Proposed after Adjustment
Building Coverage	<u>0</u> sq ft	<u>0</u> sq ft
Paved Area	<u>0</u> sq ft	<u>0</u> sq ft
Landscaped Area	<u>0</u> sq ft	<u>0</u> sq ft
Unimproved Area	<u>1,288,940</u> sq ft	<u>1,114,265</u> sq ft
<b>TOTAL:</b>	<u>1,288,940</u> sq ft	<u>1,114,265</u> sq ft
<u>LOT 2</u>	Existing	Proposed after Adjustment
Building Coverage	<u>0</u> sq ft	<u>0</u> sq ft
Paved Area	<u>0</u> sq ft	<u>0</u> sq ft
Landscaped Area	<u>0</u> sq ft	<u>0</u> sq ft
Unimproved Area	<u>1,182,654</u> sq ft	<u>1,357,330</u> sq ft
<b>TOTAL:</b>	<u>1,182,654</u> sq ft	<u>1,357,330</u> sq ft
(If more than two lots are being adjusted, submit the above information for each additional lot on an attached sheet.)		
5. Parking will be provided as follows:		
LOT 1	Existing Spaces <u>0</u>	Proposed Spaces <u>0</u>
LOT 2	Existing Spaces <u>0</u>	Proposed Spaces <u>0</u>
(If more than two lots are being adjusted, submit the above information for each additional lot on an attached sheet.)		

ATTACHMENT B

<p>6. Is any grading or road construction planned? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, grading and drainage plans may be required. Also, describe the terrain to be traversed (e.g., steep, moderate slope, flat, etc.):</p> <hr/> <hr/>
<p>For grading or road construction, complete the following:</p> <p>(A) Amount of cut: _____ cubic yards (B) Amount of fill: _____ cubic yards (C) Maximum height of fill slope: _____ feet (D) Maximum height of cut slope: _____ feet (E) Amount of import or export: _____ cubic yards (F) Location of borrow or disposal site: _____</p>
<p>7. Will the proposed development convert land currently or previously used for agriculture to another use? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, how many acres will be converted? _____ acres. (An agricultural economic feasibility study may be required.)</p>
<p>8. Will the alteration of parcel boundaries create any new building sites which are visible from State Highway 1 or other scenic route? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>9. Will the alteration of parcel boundaries create any new building sites which are visible from a park, beach or other recreational area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

If you need more room to answer any question, please attach additional sheets.



**LOCATION MAP**

SCALE: 1" = 2000'

OWNER INFORMATION:

**WILLIAM M. & TONA E. MORRES**  
**3880 SLEEPY HOLLOW DRIVE**  
**SANTA ROSA, CA 95404**  
**(707) 357-4501**

Mendocino County

DEC 04 2018

Planning & Building Services



PLANNING & BUILDING SERVICES



CONSULTANT

ENGINEERING SUPERVISOR:

NEVADA CITY ENGINEERING, INC.  
5818 COSTA STREET, SUITE 101, NEVADA CITY, CALIFORNIA 95959  
LIC# 00000000

ATTACHMENT B

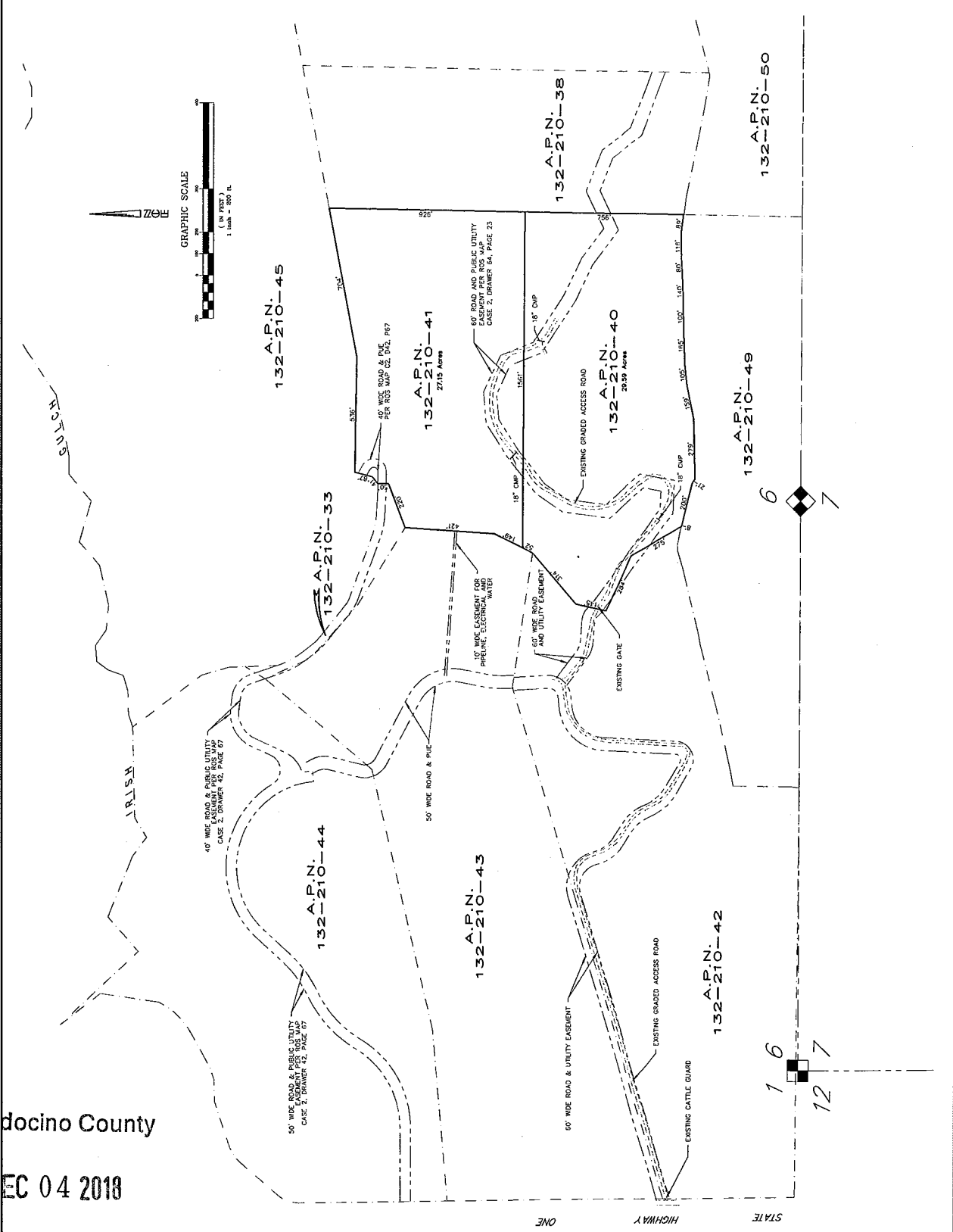
REVISION	DATE BY:	DESCRIPTION
1	ROOM	SUBMITAL
	CSB	

SITE INFORMATION:  
OWNER INFORMATION:  
WILLIAM M. & TONA E. MORRIS  
3800 W. BUCKLEBERRY AVENUE  
SANTA ROSA, CA 95404  
(707) 357-4801

PROPERTY INFORMATION:  
PTN: 50-210-40 & 132-210-41  
MENDOCINO COUNTY

Existing Parcel Configuration

TENTATIVE BOUNDARY LINE ADJUSTMENT  
SHEET 1



Mendocino County

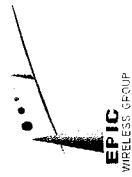
DEC 04 2018

Planning & Building Services

BOUNDARY SHOWN IS BASED ON RECORD INFORMATION AND FIELD INVESTIGATION. THIS IS NOT A BOUNDARY SURVEY. PROPERTY LINES SHOWN ARE APPROXIMATE.



AS E DEVELOPMENT



CONSULTING

ENGINEERING SURVEYING  
PLANNING



9818 COPPER AVENUE, SUITE 100  
RENO, NEVADA 89502

ATTACHMENT B

LOCATIONS

REVISION	DATE (BY)	DESCRIPTION
1		ISSUED FOR PERMITTING
		SUBMITTAL
		FOR

SITE INFORMATION

OWNER INFORMATION  
WILLIAM M. & TONIA E. MORRIS  
3800 W. WILSON AVENUE  
SANTA ROSA, CA 95404  
(707) 877-4601

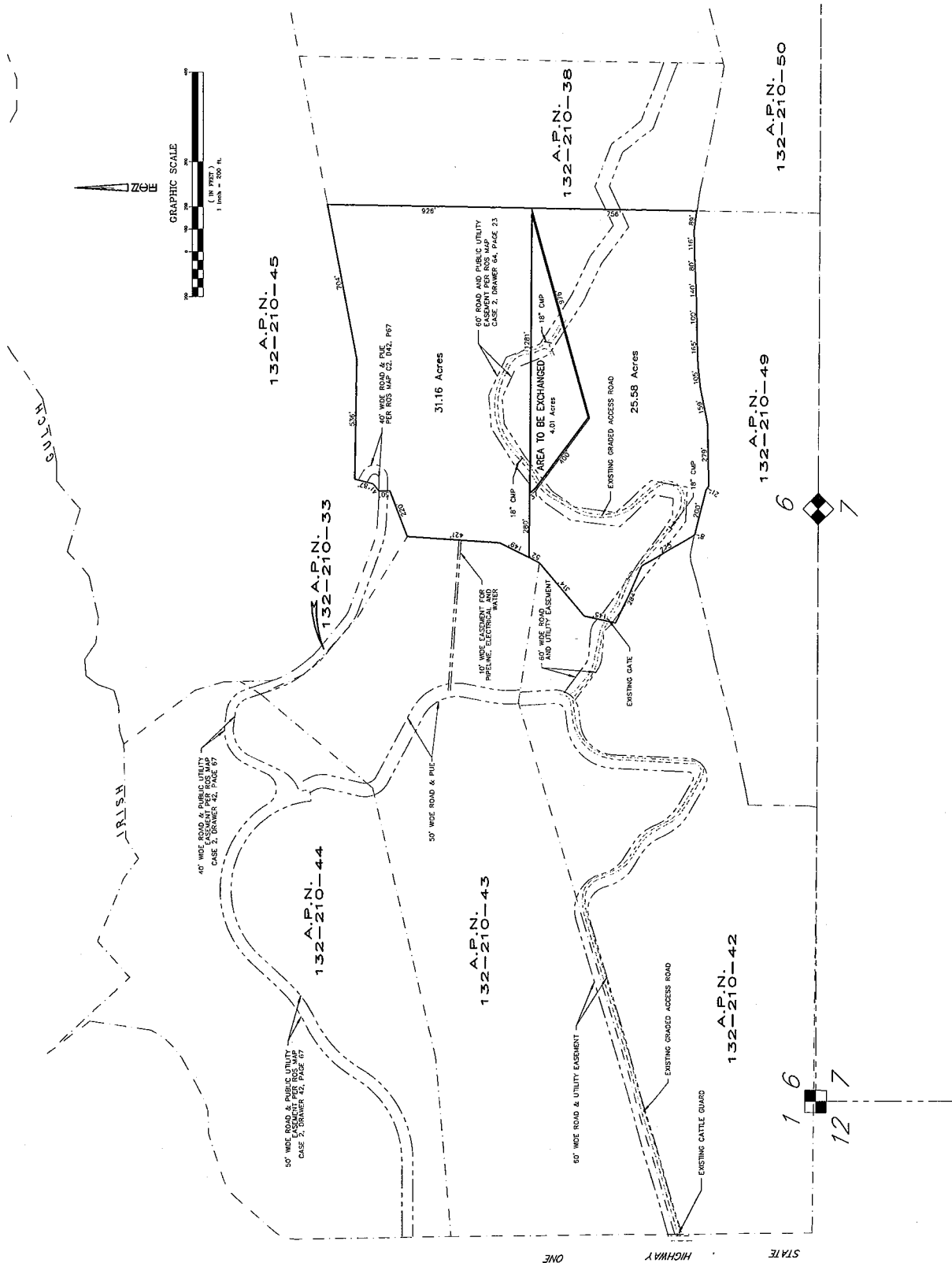
PROPERTY INFORMATION  
PTN SEC 5, T13 N, R16 W, MDBM  
APN: 132-210-40 & 132-210-41  
MENDOCINO COUNTY

SHEET TITLE

Proposed Parcel  
Configuration

TENTATIVE BOUNDARY LINE  
ADJUSTMENT

SHEET 2



GRAPHIC SCALE  
( IN FEET )  
1 inch = 200 ft.



ATTACHMENT B

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BOUNDARY SHOWN IS BASED ON RECORD INFORMATION AND FOUND MONUMENTATION.  
THIS IS NOT A BOUNDARY SURVEY. PROPERTY LINES SHOWN ARE APPROXIMATE.



PLANNING & BUILDING SERVICES

CASE NO: 2019-0054  
 DATE FILED: \_\_\_\_\_  
 FEE: \$3,656-  
 RECEIPT NO: \_\_\_\_\_  
 RECEIVED BY: \_\_\_\_\_  
 Office Use Only

**BOUNDARY LINE ADJUSTMENT APPLICATION FORM**

**APPLICANT**

Name: WILLIAM TIONA MOORES Phone: 707-357-4561  
 Mailing Address: 3880 Sleepy Hollow  
 City: Santa Rosa, Ca State/Zip: 95404 Email: Irish Beach Realty@gmail.com

**PROPERTY OWNER**

Name: SAME FOR ALL 3 Parcels - above Phone: Same  
 Mailing Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State/Zip: \_\_\_\_\_ Email: \_\_\_\_\_

**AGENT**

Name: None Phone: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State/Zip: \_\_\_\_\_ Email: \_\_\_\_\_

LOT NO.	ASSESSOR'S PARCEL NUMBERS	PARCEL OWNER/S	STREET ADDRESS	LOT ACREAGE BEFORE / AFTER	
	132-210-40	ALL MOORES	Above	25.9 <sup>+</sup>	19.00 <sup>+</sup>
	132-210-38			27.33	33.13
	132-210-37			28.85	34.9

BRIEFLY DESCRIBE THE PROPOSED PARCEL ADJUSTMENTS: (ACREAGE TO BE ADJUSTED FROM ASSESSOR'S PARCEL NUMBER INTO ASSESSOR'S PARCEL NUMBER, ETC.)

See "PRE" + "POST" BLA MAPS ATTACHED + ABOVE SIZES OF PARCELS

I certify that the information submitted with this application is true and accurate.

William M. Moore 9/6/19 Tiona E. Moore 9/6/19  
 Signature of Applicant/Agent Date Signature of Owner Date

**Indemnification And Hold Harmless**

ORDINANCE NO. 3780, adopted by the Board of Supervisors on June 4, 1991, requires applicants for discretionary land use approvals, to sign the following Indemnification Agreement. Failure to sign this agreement will result in the application being considered incomplete and withheld from further processing.

**Indemnification Agreement**

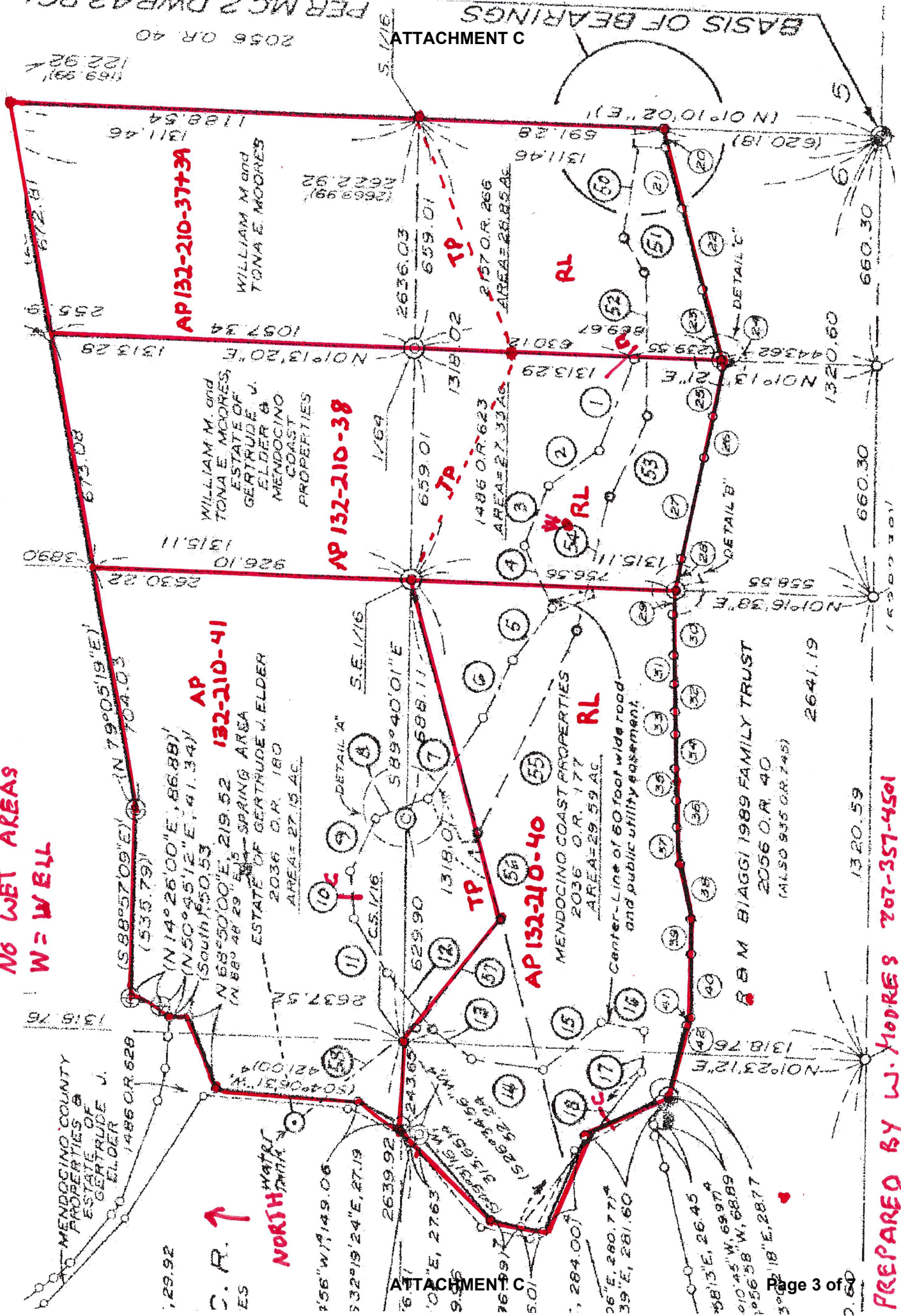
As part of this application, applicant agrees to defend, indemnify, release and hold harmless the County of Mendocino, its agents, officers, attorneys, employees, boards and commissions, as more particularly set forth in Mendocino County Code Section 1.04.120, from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application or adoption of the environmental document which accompanies it. The indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the County, its agents, officers, attorneys, employees, boards and commissions.

9/6/19  
Date

William M. Moore  
Applicant  
Toni E. Moore

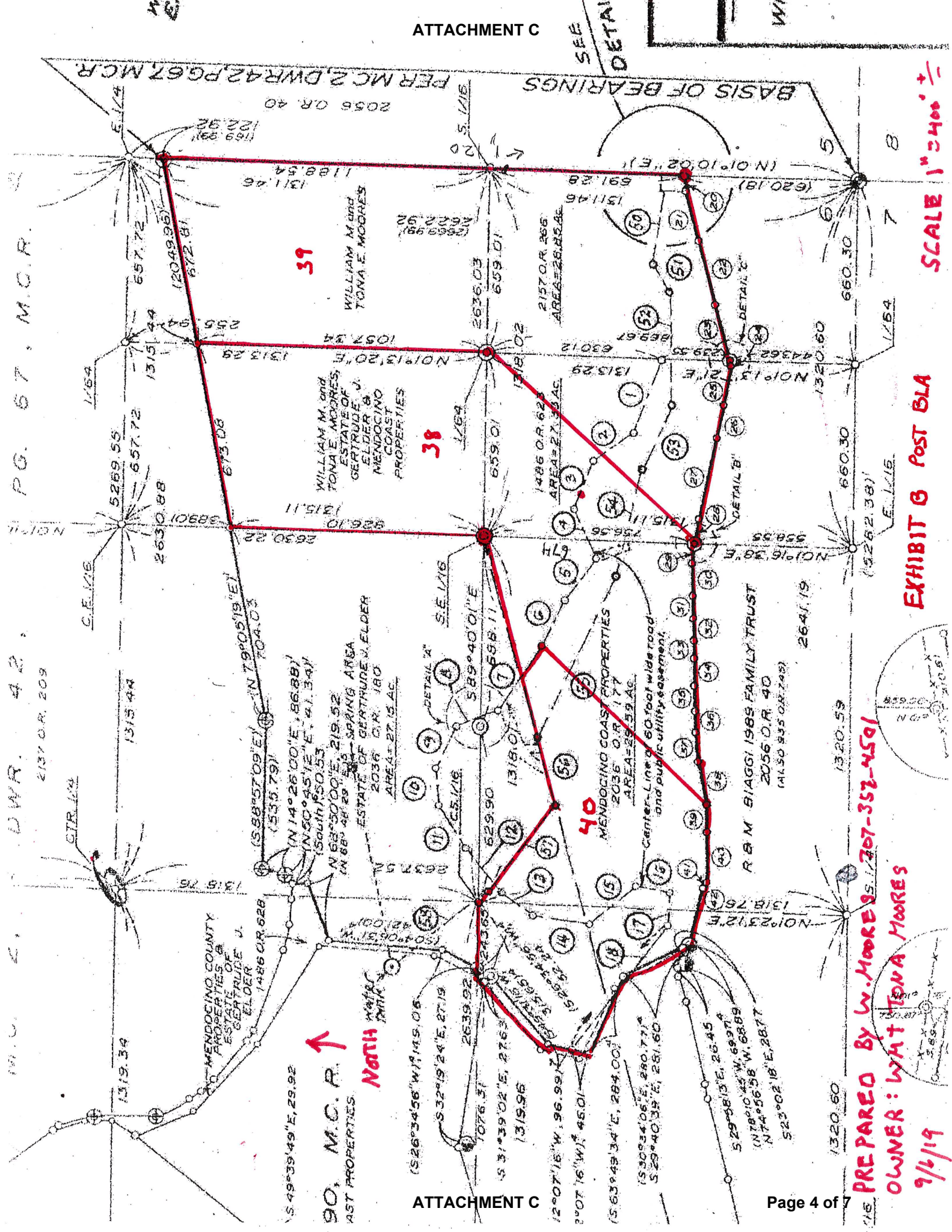


**C = CULVERTS 3 EACH**  
**M6 = WET AREAS**  
**W = WELL**



**EXHIBIT A EXISTING**

**PREPARED BY W. MOORES 707-357-4501**  
**OWNER: WM TONA MOORES**  
 9/6/19



**SURVEYOR'S**

This map correctly shows the me or under my direction and requirements of the request of William M. Moore et al.

*William K. Dodge*  
 WILLIAM K. DODGE  
 Surveyor  
 Expiration Date: June 30, 2018

**CENTERLINE OF A 16 FT. WIDE UNDERGROUND WATER PIPE LINE, POWER AND TELEPHONE EASEMENT**

- 50 = N 80°04'57"W, 253.25
- 51 = S 62°49'44"W, 116.70
- 52 = S 88°48'32"W, 396.91
- 53 = N 67°01'45"W, 234.56
- 54 = N 77°05'57"W, 394.83
- 55 = N 64°02'00"W, 660.21
- 56 = S 74°17'26"W, 250.00
- 57 = N 52°47'32"W, 399.77
- 58 = N 37°47'23"W, 431.07

NOTE: The westerly terminus of line 59 is the center of a 12 ft. diameter circular concrete water tank and a 42 ft. diameter circular water tank easement for maintenance purposes.

**COUNTY RECORD**  
 Filed this 31 day of  
 Map Case 2, Draw  
 request of WILLIAM M.

MARSHA A. YOUNG  
 County Recorder

By: *William K. Dodge*

**Record**  
 OF  
 WILLIAM M. and  
 ESTATE of  
 MENDOCINO  
 BEING A PART  
 T. 13 N.,  
 COUNTY OF MENDOCINO  
 MARCH 15, 1997  
 JOB No. 6390

**CENTERLINE OF A 60 FT. WIDE ROAD AND PUBLIC UTILITY EASEMENT.**

- 1 = N 68°48'10"W, 297.67
- 2 = N 36°06'20"W, 172.81
- 3 = N 69°30'50"W, 183.53
- 4 = S 64°15'40"W, 198.01
- 5 = N 52°49'10"W, 188.09
- 6 = N 64°16'50"W, 188.51
- 7 = N 56°39'20"W, 273.77
- 8 = N 21°12'00"W, 161.34
- 9 = N 64°53'20"W, 167.75
- 10 = S 85°03'00"W, 132.83
- 11 = S 57°20'50"W, 178.72
- 12 = S 51°36'10"W, 207.27
- 13 = S 34°38'00"W, 138.78
- 14 = S 07°46'00"W, 205.70
- 15 = S 40°29'40"E, 217.06
- 16 = S 10°16'50"W, 125.62
- 17 = N 87°33'00"W, 117.95
- 18 = N 53°11'56"W, 565.32

**A PORTION OF THE SOUTHERLY PROPERTY LINE OF THE LANDS OF MENDOCINO COAST PROPERTIES & MOORES ET AL.**

- 29 = N 80°15'18"E, 53.09
- 30 = N 74°29'23"E, 184.93
- 31 = N 74°57'37"E, 238.79
- 32 = N 75°01'49"E, 209.45
- 33 = N 75°01'49"E, 12.95
- 34 = S 80°21'22"E, 146.61
- 35 = S 78°38'25"E, 135.72
- 36 = S 78°25'08"E, 295.06
- 37 = S 82°53'28"E, 87.99
- 38 = S 82°53'28"E, 78.75
- 39 = N 88°43'06"E, 115.96
- 40 = N 86°53'38"E, 80.18
- 41 = N 88°40'06"E, 78.80
- 42 = N 87°05'29"E, 61.68
- 43 = N 89°02'00"E, 99.94
- 44 = N 88°10'07"E, 89.45
- 45 = N 88°00'03"E, 75.75
- 46 = N 83°54'43"E, 104.70
- 47 = N 78°43'52"E, 159.05
- 48 = N 88°50'00"E, 93.11
- 49 = N 88°28'11"E, 185.71
- 50 = S 54°26'58"E, 210.3
- 51 = S 75°51'30"E, 274.02

**William K. Dodge, INC.**  
 Licensed Land Surveyor, L.S. 3184  
 607 Fort Bragg, CA 95437  
 (707) 964-5331



ALL DEVELOPMENT



CONSULTANT

ENGINEERING PLANNING SURVEYING

NEVADA CITY ENGINEERING, INC.

3928 COOTE STREET, PASADENA, CA 91107-1000

# ATTACHMENT C

LEGEND

REVISION	DATE / BY	DESCRIPTION
1	10/20/17	SUBMITTAL

SITE INFORMATION

OWNER INFORMATION: WILLIAM M. & TONA E. MORRIS, 3000 S. SANTA ROSA, CA 91404, (714) 387-4801

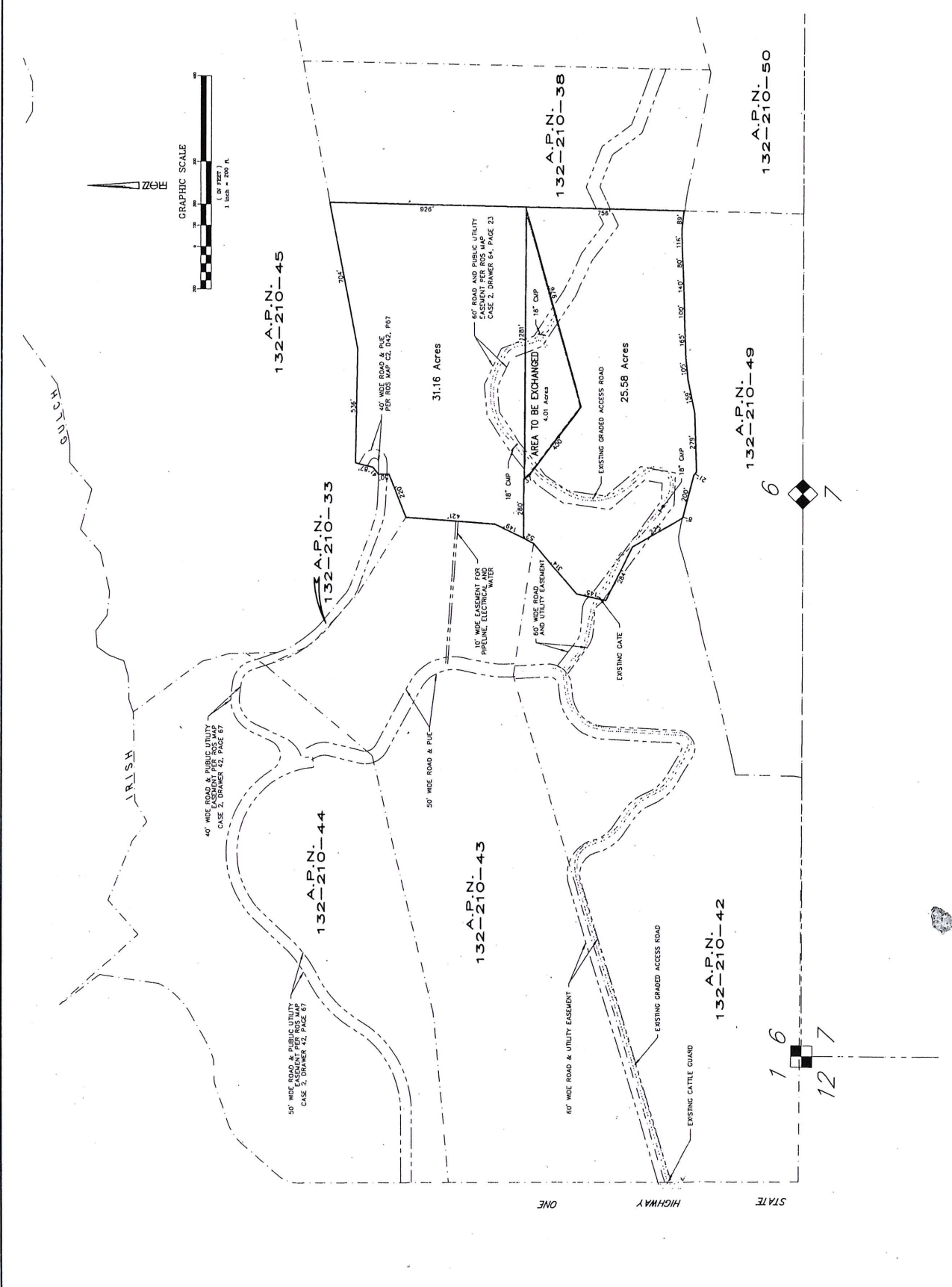
PROPERTY INFORMATION: PTN SEC 6, T 13 N, R 16 W, MDBM APN: 132-210-40 & 132-210-41 MENDOCINO COUNTY

SHEET TITLE

## Proposed Parcel Configuration

TENTATIVE BOUNDARY LINE ADJUSTMENT

### SHEET 2



BOUNDARY SHOWN IS BASED ON RECORD INFORMATION AND ROUND DOCUMENTATION. THIS IS NOT A BOUNDARY SURVEY. PROPERTY LINES SHOWN ARE APPROXIMATE.

WM

**SURVEYOR'S**

This map correctly shows the me or under my direction and requirements of the request of William M.

**A PORTION OF THE SOUTHERLY PROPERTY LINE OF THE LANDS OF MENDOCINO COAST PROPERTIES & MOORES ET AL.**

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STANLEY TOWNSEND  
County of Mendocino.

By: *Arthur W. Colvin*  
ARTHUR W. COLVIN,  
Deputy County Surveyor  
Expiration Date: Marc

COUNTY RECORDER  
Filed this 31 day of  
Map Case 2, Draw  
request of WILLIAM

MARSHA A. YOUNG  
County Recorder

By: *William K. Dodge*

Record  
OF  
WILLIAM M. and  
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JOB No. 6390

*William K. Dodge* INC.  
Registered Land Surveyor, L.S. 3184  
Box 607, Fort Bragg, CA 95437  
(707) 964-5531



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**FINDINGS OF FACT AND**  
**DETERMINATION TO REVOKE APPROVAL**

NOVEMBER 9, 2023

**Revocation of Boundary Line Adjustments #B\_2018-0068 and B\_2019-0054 (the "Project")**

---

1. Pursuant to Mendocino County Code (MCC) section 20.532.010, any person proposing to undertake any development as defined in MCC section 20.308.035(D) shall obtain a Coastal Development Permit in accordance with the provisions of MCC Chapter 20.532. Pursuant to MCC section 20.532.015(E) "a coastal development standard permit must be secured for any other activity not specified above which is defined as a development in Section 20.308.035(D), including, but not limited to, land divisions, lot line adjustments and any other entitlement for use" (emphasis added).
2. Boundary line adjustments within the Coastal Zone and subject to the above-referenced MCC section are assigned a "B" case number and not separately assigned a coastal development permit number and are approved pursuant to the provisions of Chapter 20.532.
3. The Coastal Permit Administrator approved Boundary Line Adjustment B\_2018-0068 on June 13, 2019 reconfiguring two (2) assessor parcel numbers (APNs), at that time known as APNs 132-210-40 and 132-210-41. The Boundary Line Adjustment was finalized on November 21, 2019.
4. The Coastal Permit Administrator approved Boundary Line Adjustment B\_2019-0054 on June 11, 2020 reconfiguring the boundaries between three (3) assessor parcel numbers and merging a fourth assessor parcel number (then APNs 132-210-37, 132-210-38, 132-210-39, and 132-210-61 (resulting APN from B\_2018-0068)). The Boundary Line Adjustment was finalized on August 28, 2020.
5. Both Boundary Line Adjustment B\_2018-0068 and Boundary Line Adjustment B\_2019-0054 contained final findings consistent with the requirements of MCC Chapter 20.532 and referred to the ability for the approvals to be appealed pursuant to MCC section 20.544.015, which is for appeals of decisions of the Coastal Permit Administrator.
6. Under MCC section 20.536.035, a Coastal Development Permit may be revoked or modified for cause as provided by the section including section 20.536.035(A)(1) that such permit was obtained or extended by fraud.
7. Subsequent to the finalization of the two above referenced Boundary Line Adjustments, staff conducted research on the parcel history of the above referenced assessor parcel numbers as part of the processing of a General Plan Amendment and Rezoning request for these sites (GP\_2019-0006/R\_2019-0008). This research located documents referencing a court case between the property owner, William and Tona Moores ("Property Owner"), and Mendocino County that explicitly dealt with several of the parcels at issue in the General Plan Amendment and Rezoning request.
8. *Moores v. Board of Supervisors of Mendocino County* (2004) 122 Cal. App. 4th 883 (*Moores*), involved an action by the Property Owner seeking to set aside the determination of the County that property then-identified as Assessor's Parcel Numbers (APNs) 132-210-37, -38, -39, -40, and -41 had been merged by operation of law into a single legal parcel pursuant to the County's merger ordinance. The case affirmed the determination of the County and confirmed that the five referenced APNs had been merged by operation of law as of 1981.
9. The applications for Boundary Line Adjustments #B\_2018-0068 and B\_2019-0054 submitted by the Property Owner involved adjusting the boundaries of several of the APNs that were the subject of the

*Moores* case. These applications are attached to the Staff Memorandum dated November 8, 2023 as Attachments B and C. The applications included maps showing certain APNs as they existed and as they were proposed to be adjusted. The application forms submitted for both B\_2018-0068 and B\_2019-0054 were signed under an attestation that the Applicant and Property Owner signature on the form certifies “that the information submitted with this application is true and accurate”.

10. The submitted applications were for boundary line adjustments, which can only occur between separate legal parcels. A legal parcel is not the same as an APN, which exists only for assessment purposes and is established by the County Assessor’s office. Boundary line adjustments are reviewed and approved by the Department of Planning and Building Services pursuant to the County’s subdivision regulations and for parcels within the County’s Coastal Zone, pursuant to the County’s Coastal zoning regulations. As such, the applications necessarily asserted that the APNs on the application maps were separate legal parcels and the Property Owner certified that the information submitted with the application is true and accurate.
11. Pursuant to MCC section 20.536.035(A)(1) the Coastal Permit Administrator finds that the permits were obtained or extended by fraud. Given the result of *Moores* there were no boundaries to adjust, since these APNs were not separate legal parcels but a single legal parcel that had been merged by operation of law in 1981. In subsequently applying for boundary line adjustments, the Property Owner attested to the information in the applications was true and accurate. However, given the outcome of the *Moores* case, the maps and assertions of the applications that there were legal parcel boundaries to adjust, these applications were demonstrably false,
12. In written materials presented to the Coastal Permit Administrator, counsel for the Property Owner has argued that there has been no showing that the Property Owner was aware of, recalled or understood the precise meanings of the *Moores* case which bears his name and thus did not make any attempt to commit fraud in making the applications. The Coastal Permit Administrator does not find it credible that a party to an action which was appealed from a County determination to the County Planning Commission, the County Board of Supervisors, the Superior Court and the Appellate Court, over a course of multiple calendar years would simply not be aware of or remember the case which applies to the specific APNs that are the subject to the boundary line adjustments. In addition, the position of the County that was affirmed at every level of the appeal was not arcane or difficult to understand: the subject APNs had been merged by operation of law as of 1981. Lastly, the County’s approval of the previous boundary line adjustments was contrary to law, as there were no separate legal boundaries to adjust and a boundary line adjustment cannot create additional parcels.
13. Notification of intent to revoke the Boundary Line Adjustments was sent to the Property Owner on November 4, 2022.
14. A Notice of Public Hearing regarding the revocation of the Project was provided in accordance with MCC section 20.536.015.
15. In accordance with the applicable provisions of law, the Coastal Permit Administrator held a Public Hearing on September 14, 2023, at which time the Coastal Permit Administrator continued said hearing to November 9, 2023.
16. In accordance with the applicable provisions of law, the Coastal Permit Administrator held a Public Hearing on November 9, 2023, at which time the Coastal Permit Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project.
17. Based on the evidence in the record and the above findings, the Coastal Permit Administrator hereby revokes Boundary Line Adjustments B\_2018-0068 and B\_2019-0054 finding that such permits were obtained or extended by fraud.
18. Pursuant to MCC Section 20.544.015, this decision may be appealed to the Mendocino County Board of Supervisors by filing a notice of appeal in writing with the Clerk of the Board within ten (10) calendar days after the date of this decision, which notice of appeal shall be accompanied by a fee.