



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
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January 10, 2024

PUBLIC HEARING NOTICE OF PENDING ACTION
STANDARD COASTAL DEVELOPMENT PERMIT

The Mendocino County Coastal Permit Administrator, at a regular meeting to be held on Thursday, January 25, 2024, at 10:00 a.m. or as soon thereafter as the item may be heard, will conduct a public hearing on the below described project that is located in the Coastal Zone. This meeting will take place at the Planning & Building Services Conference Room, located at 860 North Bush Street, Ukiah and virtual attendance will be available via Zoom Meetings are live streamed and available for viewing online on the Mendocino County YouTube page, at <https://www.youtube.com/MendocinoCountyVideo>. In lieu of personal attendance the public may participate digitally in meetings by sending comments to pbscommissions@mendocinocounty.gov or via telecomment. The telecomment form may be found at: <https://www.mendocinocounty.gov/government/planning-building-services/meeting-agendas>. The meeting is available for viewing on the Mendocino County YouTube page at, <https://www.youtube.com/MendocinoCountyVideo>

CASE#: CDP_2019-0016

DATE FILED: 4/22/2019

OWNER/APPLICANT: FRANCO OLIVIERI

AGENT: TERESA SPADE, SPADE NATURAL RESOURCES CONSULTING

REQUEST: After-the-fact Standard Coastal Development Permit request to construct 341 linear feet of a 5-foot-tall fence.

ENVIRONMENTAL DETERMINATION: CATEGORICALLY EXEMPT

LOCATION: In the Coastal Zone, 1.25 ± miles north of Gualala town center, on the west side of Old Coast Highway (CR 513), 800 ± feet south of its intersection with State Route 1 (SR 1), located at 37960 Old Coast Highway, Gualala; APN: 145-121-06.

SUPERVISORIAL DISTRICT: 5 (Williams)

STAFF PLANNER: JESSIE WALDMAN

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

As you are an adjacent property owner and/or interested party, you are invited to submit comments, at or prior to the hearing; all correspondence should contain reference to the above noted case number. Written comments should be submitted by mail to the Department of Planning and Building Services Commission Staff, at 860 North Bush Street, Ukiah or 120 W Fir Street, Fort Bragg, California, or by e-mail to pbscommissions@mendocinocounty.gov no later than January 24, 2024. Individuals wishing to address the Coastal Permit Administrator during the public hearing under Public Expression are welcome to do so via e-mail at pbscommissions@mendocinocounty.gov, or telecomment, in lieu of personal attendance.

All public comment will be made available to the Coastal Permit Administrator, staff, and the general public as they are received and processed by the Clerk, and can be viewed as attachments under its respective case number listed at: <https://www.mendocinocounty.gov/government/planning-building-services/meeting-agendas/coastal-permit-administrator>

The decision of the Coastal Permit Administrator shall be final unless a written appeal is submitted to the Board of Supervisors with a filing fee within 10 calendar days thereafter. If appealed, the decision of the Board of Supervisors to approve the project shall be final unless appealed to the Coastal Commission in writing within 10 working days following Coastal Commission receipt of a Notice of Final Action on this project. If you challenge the above case in court, you may be limited to raising only those issues described in this notice or that you or someone else raised at the public hearing, or in written correspondence delivered to the Coastal Permit Administrator at or prior to, the public hearing.

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

Additional information regarding the above noted item may be obtained by calling the Department of Planning and Building Services at 234-6650, Monday through Friday, 8:00 a.m. through 5:00 p.m.

JULIA KROG, Director of Planning and Building Services



SUMMARY

OWNER/APPLICANT: FRANCO OLIVIERI
333 WESTBROOK PL
COSTA MESA, CA 92626

AGENT: TERESA SPADE, SPADE NATURAL
RESOURCES CONSULTING
PO BOX 1503
MENDOCINO, CA 95460

REQUEST: After-the-fact Standard Coastal Development Permit for
an unpermitted constructed 5-foot-tall fence,
approximately 341 linear feet in length.

LOCATION: In the Coastal Zone, 1.25± miles north of Gualala town
center, on the west side of Old Coast Highway (CR 513),
800 ± feet south of its intersection with State Route 1
(SR 1), located at 37960 Old Coast Highway, Gualala,
APN: 145-121-06.

TOTAL ACREAGE: 0.4± Acres

GENERAL PLAN: General Plan. Coastal Element Chapter 2.2 Rural
Residential, RR5(1)(U), 5-acre minimum with an
alternate density of 1-acre minimum, RR:5(1)

ZONING: Rural Residential, 5-acre minimum or alternate density
of 1-acre minimum, (RR5(1) Mendocino County Code,
Division II Chapter 20.376

SUPERVISORIAL DISTRICT: 5 (Williams)

ENVIRONMENTAL DETERMINATION: CATEGORICALLY EXEMPT

RECOMMENDATION: APPROVE WITH CONDITIONS

STAFF PLANNER: JESSIE WALDMAN

BACKGROUND

PROJECT DESCRIPTION: A Standard Coastal Development Permit request to for the after-the-fact construction of 341 linear feet of a 5-foot-tall fence. The fencing was constructed prior to obtaining a Coastal Development Permit. As the parcel is located on a Bluff top parcel, any development within 50 feet of a bluff top edge or more than 10 percent of development, the issuance of a Coastal Development Permit is required, pursuant to Mendocino County Code (MCC) Chapter 20.532 and California Code of Regulations, Title 14, Division 5.5, Chapter 6 Subchapter 6, § 13250 (Improvements to Existing Single-Family Residences). The location of the after-the-fact fencing runs along the northern and easterly property boundary lines, as shown on the *Site Plan* map. The after-the-fact fence is constructed of wood post, concrete footings and wire mesh screening, as shown on the *Elevations* map.

APPLICANT'S STATEMENT: *After the fact permission for a residential fence in a bluff top property. The site contains an existing single-family residence, a legal non-conforming second residence, and a garage.*

RELATED APPLICATIONS ON-SITE:

- IC_2018-0546 - Fence built on bluff top parcel

NEIGHBORING PROPERTIES:

- APN: 145-122-11 - CDP_2003-0030 (SFR, Garage); CCC-4-MCW-03-052, CCC-A-MEN-03-055; CDMS_1995-0022
- APN: 145-121-05 - CDP_1994-003 (Rebuild SFR)

SITE CHARACTERISTICS: The project site is located on a bluff top next to the Pacific Ocean, on the west side of Old Coast Highway (CR 513), approximately 800 feet south of the intersection of Old Coast Highway (CR 513) with State Route 1 (SR 1), as shown on the *Aerial Imagery* and the *LCP Land Use Map 31: Gualala* map. The project site is surrounded by neighboring single-family residences, as shown on the *Aerial Imagery* maps. The site's topography is mixed between relatively flat land and bluff tops to the Pacific Ocean and the site is 100± feet above sea level, as shown on the *Topographic Map*. The *Local Coastal Plan Map for Land Capabilities and Natural Hazards* designates the parcel as "Bedrock (Zone 1)". The site is located within the Gualala Municipal Advisory Council (GMAC) district. The subject site has an established water connection with North Gualala Water Company (NGWC) and an established sewer connection with Gualala Community Services District (GCSD); however, the project does not propose to increase water or sewer usage. The attached *LCP Habitats and Resources* map is designated as "Barren" and does not show any sensitive resources being located on the subject parcel. Portions of the parcel, including the location of the fence, are located less than 300 feet from a bluff top edge and west of the first public road, State Route 1 (SR 1), as shown on the *Appealable Areas* map. The site is mapped as a "Moderate Fire Hazard" area and is located within a State Responsibility Area and South Coast Fire Protection District, as shown on the *Fire Hazard Zones and Responsibility Areas* map. The site is mapped on the attached *Ground Water Resources* map as being located within a Critical Water Area. The attached *Estimated Slope* map shows estimated slopes range between 15 and 72 degrees. Soils present on the parcel are 225—Windyhollow loam (0-5% slopes), as shown on the *Local Soils Map*.

The subject parcel is developed and is considered legal non-conforming as the existing legal development consists of a single-family residence, constructed in 1943, and a second residence with a detached garage, constructed in 1956.

As part of the original application submitted for the after-the-fact fence project, supplemental studies were provided by the Applicant, which are kept on file with the Mendocino County Department of Planning & Building Services, and include the following:

- Biological Survey, prepared by Spade Natural Resource Consulting, dated March 24, 2016
- Biological Survey Update, prepared by WRA Environmental Consultants, dated July 22, 2022
- Geotechnical Assessment, prepared by Thomas Cochrane, dated August 23, 2022

PUBLIC SERVICES:

Access: Old Stage Road (CR 513)
Fire District: South Coast Fire Protection District (LRA); CAL FIRE (SRA)
Water District: North Gualala Water Company (NGWC)
Sewer District: Gualala Community Services District (GCSD)
School District: Point Arena Joint High School; Arena Union Elementary

SURROUNDING LAND USE AND ZONING: As listed on Table 1 below, the surrounding lands are classified and zoned Rural Residential (RR) and are developed with residential uses, as shown on the *Aerial Imagery*, *Zoning Display* and *General Plan Classifications* maps. The after-the-fact fencing is

accessory to the existing development on the parcel and is consistent with the surrounding land uses and development.

	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	Rural Residential (RR5(RR1))	Rural Residential (RR5(RR1))	0.5 ± Acres	Residential
EAST	Rural Residential (RR5(RR1))	Rural Residential (RR5(RR1))	1.5 ± Acres	Residential
SOUTH	Rural Residential (RR5(RR1))	Rural Residential (RR5(RR1))	1.2 ± Acres	Residential
WEST	Pacific Ocean	Pacific Ocean	Pacific Ocean	Pacific Ocean

AGENCY COMMENTS: Multiple project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their comments are discussed immediately following Table 2.

REFERRAL AGENCY	Referral Date 10/19/2022
Archaeological Commission	Comments
Assessor's Office	No Response
Building Division (FB)	No Response
(CAL FIRE) (Land Use)	No Response
CALTRANS	No Response
California Coastal Commission (CCC)	No Response
California Department of Fish & Wildlife Services (CDFW)	No Response
California Native Plant Society	No Response
Cloverdale Rancheria	No Response
Mendocino County Department of Transportation (MC DOT)	Comments
Environmental Health (EH)(FB)	No Comment
Gualala Municipal Advisory Council (GMAC)	No Response
North Gualala Water Company (NGWC)	No Response
Planning Division (Ukiah)	No Response
Redwood Valley Rancheria	No Response
Sherwood Valley Band of Pomo Indians	No Response
South Coast Fire District Response	No Response
Sonoma State University (SSU)	Comments

LOCAL COASTAL PROGRAM CONSISTENCY

The after-the-fact fence project is consistent with the goals and policies of the Local Coastal Program, General Plan, and Zoning Code as detailed below:

- 1. Land Use:** The project site is located within the boundaries of the Local Coastal Program (LCP) area and is shown on the *LCP Land Use Map 31: Gualala* map. The subject parcel is classified as Rural Residential (RR) by the Mendocino County General Plan, as shown on the *General Plan Classifications* map. The RR classification, per Mendocino County Coastal Element Chapter 2.2:

...is intended to encourage local small scale food production (farming) in areas which are not well suited for large scale commercial agriculture, defined by present or potential use, location, mini-climate, slope, exposure, etc. The Rural Residential classification is not intended to be a growth area and residences should be located as to create minimal impact on agricultural viability.

Mendocino County Coastal Element Policy 4.12-1 Coastal Element Policies: Anchor Bay – Gualala classification states:

New residential and visitor accommodation development within the Anchor Bay-Gualala Planning Area shall be dependent upon approval by the County Health Department for septic waste disposal systems installed in accordance with Regional Water Quality Control Board Basin Standards. Installation of individual septic disposal systems shall be carefully monitored by the County Health Department and the Regional Water Quality Control Board to determine the cumulative impact upon coastal resources of all development within the Anchor Bay-Gualala area.

The requested Coastal Development Permit addressing the after-the-fact fence as an accessory to the existing permitted development is consistent with principally permitted uses and ancillary development with the Rural Residential Land Use classifications, per Mendocino County Coastal Element Chapter 2.2.

The constructed after-the-fact 5-foot-tall, approximately 341 linear foot long, fencing project is consistent with allowed residential development and allowed accessory uses associated with residential development per Mendocino County Coastal Element Chapter 2.2 and Chapter 4.12.

Zoning: The project site is located within a Rural Residential (RR) district, as shown on the *Zoning Display Map*. The parcel's zoning designation (RR5(1)) requires a 5-acre minimum parcel size, which may be reduced to a 1-acre minimum with demonstration of adequate water for such a reduction. The established parcel is 0.4± acres in size and is considered legal non-conforming. The RR zoning district intent, per Mendocino County Code (MCC) Section 20.376.005, states:

... to encourage and preserve local small-scale farming in the Coastal Zone on lands which are not well-suited for large scale commercial agriculture. Residential uses should be located as to create minimal impact on the agricultural viability.

The minimum property setback requirements for the RR District, for this parcel, are 20 feet for each front and rear yard and 6 feet for each side, as shown on the *Site Plan*. A corridor preservation setback of 25 feet applies along Old Coast Highway (CR 513) resulting in a front yard setback of 45 feet from Old Coast Highway (CR 513) corridor centerline and/or 20 feet from the property line, whichever is greater.

Portions of the after-the-fact 5-foot-tall fence is located 10 feet from the front (east) parcel boundary line between the existing legal non-conforming second residence with a detached garage, constructed in 1956, as shown on the *Site Plan* map. Additional fencing is located 5 feet away from that same front parcel boundary line, south of the existing legal non-conforming second residence, as shown on the *Site Plan* map. Fencing is also located along the northern parcel boundary line, as shown on the *Site Plan* map.

Mendocino County Code (MCC) Chapter 20.444 allows for General Provisions and Exceptions, such as fences, specifically Section 20.444.015(E), which states:

Fences in rear or side yards not having street frontage may not exceed eight (8) feet (Fences over six feet require building permits). Fences and hedges in front yards and any rear or side yards having street frontage, where vehicle access is maintained, may not exceed three and one-half (3½) feet. The above fence height limitations shall apply to view obstructing fences such as board fences and picket fences. Fences for the containment of animals, such as barbed wire, chicken wire, hog wire, and similar loose-meshed wire fences or non-view-obscuring fences such as cyclone fences shall not be subject to the above fence height restrictions.

The proposed project, the after-the-fact request to construct a 5-foot-tall, approximately 341 linear foot long fence and is less than eight (8) feet tall, consistent with MCC Section 20.444.015(E). The Department of Transportation (DOT) regulations regarding setbacks, with respects to view obstructing fences, is discussed within the *Transportation, Utilities and Public Services* section of this staff report, with recommended conditions of approval.

Accessory uses are permitted in the Rural Residential zoning district, subject to the Accessory Use Regulations of MCC Chapter 20.456. As the subject site is located on a bluff top next to the Pacific Ocean, the development of fence is an accessory use allowed to serve a single-family residence. As such, the issuance of a Coastal Development Permit is required, pursuant to MCC Section 20.532.020(C) and California Code of Regulations, Title 14, Division 5.5, Chapter 6 Subchapter 6, § 13250(b)(4) (Improvements to Existing Single-Family Residences).

The proposed project, the after-the-fact request to construct a 5-foot-tall, approximately 341 linear foot long fence, at the existing developed parcel, is consistent with the intent for the RR zoning, Accessory Uses and General Provisions and Exceptions regulations districts.

The existing legal non-conforming second residence with a detached garage, constructed in 1956, is located within the 20-foot front yard setback therefore considered non-conforming structures, pursuant to MCC Chapter 20.480. MCC Section 20.480.010 regulations, regarding Nonconforming Uses and Structures, states its purpose is as follows:

To allow for the continued utilization of lawfully existing improvements and uses made nonconforming by the adoption of the Coastal Element of the Mendocino County General Plan and this Division, where the use is compatible with adjacent land uses and where it is not feasible to replace the activity with a conforming land use.

(A) A nonconforming use is a use of a structure or land which was lawfully established and maintained prior to the adoption of this Division but which does not conform with the use regulations for the zone in which it is located.

(B) A nonconforming structure is a structure which was lawfully erected prior to the effective date of the application of these regulations but which, under this Division, does not conform with the standards of yard spaces, height of structures, distance between structures, parking, etc., prescribed in the regulations for the zone in which the structure is located.

MCC Section 20.480.025 regarding Expansion or Reduction of Nonconforming Uses allows existing legal nonconforming uses, such as fences, to be expanded or reduced to a use of lesser intensity, subject to the following findings:

(A) Existing legal nonconforming uses conforming with Section 20.480.010 may be expanded or reduced to a use of lesser intensity through the issuance of a Coastal Development Use Permit provided the following findings are made:

(1) That it is not reasonably economically or physically feasible to make the use of the property compatible with the applicable general plan designation; and

(2) That the use is, and, after expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated; and

(3) That the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in that location; and

(4) The expansion is found consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan.

(B) A legal nonconforming mobile home may be replaced by a new mobile home without a use permit if no use permit was required for the original installation.

Staff finds that the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing does not increase the density of the existing residential use and is incidental and subordinate infrastructure on the parcel, nor does the after-the-fact fencing decrease nor increase the intensity of the legal non-conforming uses on the subject parcel, pursuant to MCC Chapter 20.480.

Therefore, the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing locations are allowable and consistent with MCC Sections 20.444.015(E), 20.480.010 and 20.480.025(A).

As currently proposed, the after-the-fact 5-foot-tall, approximately 341 linear foot long fence is an accessory use, supporting the single-family residence and legal non-conforming second residence and garage, and is consistent with the development standards of MCC Division II of Title 20.

- 2. Visual Resources:** The site is not mapped as a Highly Scenic Area; therefore, the proposed after-the-fact fence project is subject to only to Policy 3.5-1 of the Coastal Element, which states:

“The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas...”

The proposed after-the-fact 5-foot-tall, approximately 341 linear foot long fencing was constructed with wood posts, concrete footings, and wooden slats with wire mesh screening, as shown on the *Elevations* map. No additional exterior lighting is proposed within this project.

Without added conditions, the proposed after-the-fact 5-foot-tall, approximately 341 linear foot long fence does not increase view obstruction from nearby public areas, is visually compatible with the character of surrounding areas and is consistent with Mendocino County Coastal Element Policies 3.5-1 and MCC Chapters 20.488 and 20.504 regulations for parcels to be developed along the ocean and scenic coastal areas.

- 3. Grading, Erosion, and Runoff:** Per the application, no grading was necessary to facilitate the construction of the fencing. Minor ground disturbance was required to accommodate the fence construction, specifically the fence posts. A Geotechnical Assessment, prepared by Thomas Cochrane, dated August 23, 2022, stated the fence posts are five feet apart and set in concrete footings, does not alter the existing drainage of the parcel. Cochrane’s assessment determined the fence and does not increase erosion at the bluff edge caused by drainage or installing of wooden fence posts.

Without added conditions, the after-the-fact 5-foot-tall, approximately 341 linear foot long fence is consistent with the Local Coastal Program policies related to grading, erosion and runoff protection policies of the Coastal Element Chapter 3.4 and will be consistent with MCC Section 18.70.027 and MCC Chapter 20.492 regulations.

- 4. Habitats and Natural Resources:** Coastal Element Chapter 3.1 and MCC Chapter 20.496 Environmentally Sensitive Habitat and Other Resource Areas address protections to be granted to Environmentally Sensitive Habitat Areas (ESHA). MCC states that development having the potential to impact an ESHA shall be subject to a biological survey, prepared by a qualified biologist, to determine the extent of sensitive resources, to document potential negative impacts, and to recommend appropriate mitigation measures.

Multiple supplemental studies were submitted as part of the application for the after-the-fact fence, including a Biological Survey, prepared by Spade Natural Resource Consulting (SNRC), dated March 24, 2016, and a Biological Survey Update, prepared by WRA Environmental Consultants (WRA), dated July 22, 2022. Both studies determined that little to no impact to Environmentally Sensitive Habitat Areas (ESHA) occurred as a result of the after-the-fact fence, as shown on both *SNRC and WRA ESHA Maps and Photographs* maps. WRA's Biological Survey Update states that the fence installation created highly localized and minimal impact at each fence post location, approximately one (1) square foot area per post, and that no impact to special status plant or animal habitat occurred at time of the fence construction. WRA added that only one (1) special status plant species, the coastal bluff morning-glory (*Calystegia purpurata* var. *saxicola*), which is located on the coastal bluff face beyond the bluff top edge. The after-the-fact 5-foot-tall, approximately 341 linear foot long fence is approximately 47 feet away from the nearest noted special status plant species. As shown on the *WRA ESHA Maps and Photographs* map.

The project was referred the California Coastal Commission (Commission) and California Department of Fish and Wildlife (CDFW). No response has been submitted in response to this proposed after-the-fact fence project.

Without added conditions, the after-the-fact 5-foot-tall, approximately 341 linear foot long fence does not significantly impact sensitive habitats or resources and is consistent with the Local Coastal Program policies related to Chapter 3.1 and MCC Chapter 20.496 regulations.

- 5. Hazards Management:** Chapter 3.4 of the Mendocino County Coastal Element and MCC Chapter 20.500 regulations address Hazards Management within the Coastal Zone. While portions of the land, for example the shoreline, are subject to flooding and tsunamis, the proposed area for development is atop a coastal bluff approximately 100 vertical feet above the shore.

Seawalls, breakwaters, and other structures altering natural shoreline processes or retaining walls are not proposed. It is the policy of the California Coastal Commission and Mendocino County to require recordation of a deed restriction as a condition of development on blufftop parcels, prohibiting the construction of seawalls and requiring that permitted improvements be removed from the property if threatened by bluff retreat. The restriction requires that the landowner be responsible for any clean-up associated with portions of the development that might fall onto a beach or into the ocean. In accordance with a staff memorandum dated June 1, 2004, **Condition 9** is recommended requiring the property owner to record a deed restriction prior to the issuance of this Coastal Development Permit.

The property is in an area of "Moderate Fire Hazard" severity rating, as shown on the *Fire Hazard Zones & Responsibility Areas* map. Fire protection services are provided by the California Department of Forestry and Fire Protection (CAL FIRE) and the South Coast Fire Protection District (SCFD). No State Fire Safe Regulations Application Form for the project was submitted by the Applicant to CAL FIRE, as no new structures are being proposed on the parcel. The after-the-fact fence was referred to both fire protection agencies and neither agency responded.

Condition 5 is recommended requiring the applicant to secure all necessary permits for the proposed after-the-fact fence project from County, State and Federal agencies having jurisdiction ensures any Hazards Management protection policies or plan would be addressed.

With added conditions, the after-the-fact 5-foot-tall, approximately 341 linear foot long fence is consistent with the Local Coastal Program policies related to Chapter 3.4 and MCC Chapter 20.500 regulations for hazard areas, including geologic hazards (faults, bluffs, tsunamis, landslides, and erosion), fire and flood hazards.

- 6. Groundwater Resources:** The project site is designated on the Mendocino County Coastal Groundwater Study Map as a "Critical Water Resources Bedrock", as shown on the *Ground Water Resources* map. The after-the-fact fencing project includes the installation of fencing at the eastern

and northern parcel boundary lines, which does not increase demands on the established water company and sewer district. The subject site has an established water connection with North Gualala Water Company (NGWC) and an established sewer connection with Gualala Community Services District. The project was referred both service agencies, as well as the Mendocino County Division of Environmental Health (DEH) and the California Coastal Commission (Commission). No response has been submitted in response to this proposed after-the-fact fence project.

Without added conditions, the after-the-fact 5-foot-tall, approximately 341 linear foot long fence is consistent with the Local Coastal Program policies related to groundwater resources and DEH requirements, including Coastal Element Policy 3.8 and MCC Chapter 20.516 regulations.

- 7. Archaeological/Cultural Resources:** The after-the-fact 5-foot-tall, approximately 341 linear foot long fence was referred to Northwest Information Center at Sonoma State University (SSU) and Mendocino County Archaeological Commission (ARCH). ARCH requested the project be heard by the ARCH Commission depending on SSU responses. SSU responded stating that no further study for Archaeological resources is recommended. Staff notes that **Condition 8** advises the property owners of a "Discovery Clause," which prescribes the procedures subsequent to the discovery of any cultural resources during construction activities associated with the project.

The project was referred to three local tribes for review and comment, including the Sherwood Valley Rancheria, Redwood Valley Rancheria, and the Cloverdale Rancheria. As of this date, no response has been received from the three above mentioned local tribes.

With added conditions, Staff finds the after-the-fact 5-foot-tall, approximately 341 linear foot long fence is consistent with Mendocino County policies for the protection of the paleontological and archaeological resources, including MCC Chapter 22.12.090.

- 8. Transportation, Utilities and Public Services:** The after-the-fact 5-foot-tall, approximately 341 linear foot long fence does not require the expansion of public works. The project established new fencing along Old Coast Highway (CR 513). On-site electrical utilities are supplied either by PG&E or on-site solar. Sewer connection is established with Gualala Community Services District (GCSD). Water connection is established with North Gualala Water Company (NGWC). The project does not contribute to the increase water or sewer usage or additional traffic on local and regional roadways.

No "State Fire Safe Regulations Application Form" for the project was submitted by the Applicant to CAL FIRE, as no new structures are being proposed on the parcel. The after-the-fact fence was referred to CAL FIRE, NGWC and GCSD, where these agencies did not respond. **Conditions 5** is recommended for the applicant to secure all necessary permits for the after-the-fact fencing project from County, State and Federal agencies having jurisdiction ensures any public works or private facility protection policies or plans will be addressed.

The project was referred to Mendocino County Department of Transportation (MC DOT). MC DOT responded with recommended conditions regarding fence setback and height restriction. **Condition 10** is recommended to ensure any transportation protection policy or plan would be addressed.

With added conditions, Staff finds the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing project is consistent with Mendocino County policies for transportation, utilities and public services protection including MCC Chapter 20.516 regulations and Coastal Element Policy 3.8.

- 9. Public Access:** The project site is located west of State Route 1, however the site is not designated as a potential public access trail location, as shown on *LCP Land Use Maps 31: Gualala* map. Existing public access to the shore is located approximately 1.2 miles north at Cooks Beach Shoreline Access and Bourns Landing Blufftop Access, just south of Glennen Gulch. The after-the-fact fencing project did not impact any existing or proposed public access.

Without added conditions, Staff finds the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing project is consistent with Mendocino County Coastal Element policies for Coastal Shoreline Access Element Section 3.6 and Land Use Planning Area Section 4.12 and is consistent with MCC Chapter 20.528 regulations.

ENVIRONMENTAL DETERMINATION

The Secretary for Resources has found that certain classes or 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 after-the-fact 5-foot-tall, approximately 341 linear foot long fencing project meets the criteria for a Categorical Exemption from the California Environmental Quality Act (CEQA) under Title 14, division 6, Chapter 3, Article 19, Section 15303, Class 3(e), *new construction of small structures, such as accessory (appurtenant) structures including ... fences.*

PROJECT FINDINGS AND CONDITIONS

Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, the Coastal Permit Administrator approves the after-the-fact construction of 341 linear feet of 5-foot-tall fencing and adopts the following findings and conditions.

FINDINGS:

1. Pursuant to 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 Local Coastal Program, including policies identified in the Coastal Element Chapter 2.2 (Rural Residential Land Use Classification), Chapter 3.1 (Habitats and Natural Resources), Chapter 3.4 (Hazards Management), Chapter 3.5 (Visual Resources, Special Communities and Archaeological Resources) and Chapter 3.6 (Shoreline Access and Trail/Bikeway System), Chapter 3.8 (Transportation, Utilities and Public Services) and Chapter 4.12 (Iversen Road To Sonoma County Line Planning Area). The after-the-fact 5-foot-tall, approximately 341 linear foot long fence added to a developed parcel with an existing single-family residence is a principally permitted use, within the Rural Residential land use classification, and is an accessory use type permitted with the principally permitted uses, does not conflict with and is consistent with the intent of the Rural Residential Classifications; and
2. Pursuant to MCC Section 20.532.095(A)(2), the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing does not increase the parcel's demand for utilities or other such facilities and is consistent with the Local Coastal Plan. The project is required to fulfill all pertinent requirements of all necessary permits for the proposed after-the-fact fencing project from County, State and Federal agencies having jurisdiction.; and
3. Pursuant to MCC Section 20.532.095(A)(3), the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing is consistent with the purpose and intent of the Rural Residential zoning district and Accessory Use regulations, as well as all other provisions of Division II of Title 20 of the Mendocino County Code. The Rural Residential district is intended to encourage and preserve local small-scale farming in the Coastal Zone on lands which are not well-suited for large scale commercial agriculture. Residential uses should be located as to create minimal impact on the agricultural viability. The after-the-fact 5-foot-tall, approximately 341 linear foot long fencing preserves the integrity of the Rural Residential (RR) zoning district by allowing accessory development to the principally permitted uses in the RR zoning district. The after-the-fact 5-foot-tall, approximately 341 linear foot long fencing is allowed as an accessory use type to the principally permitted residential uses. The after-the-fact 5-foot-tall, approximately 341 linear foot long fencing does not significantly impact agricultural viability of the lot and conforms to all other applicable regulations of the Rural Residential zoning district, including setbacks, height limit, and lot coverage. The after-the-fact 5-foot-tall, approximately 341 linear foot long fencing does not increase the density of the existing residential use and is incidental and subordinate infrastructure on the parcel, nor does the after-the-fact fencing decrease nor increase the intensity of the legal non-conforming uses on the subject parcel, conforms to all other

applicable regulations of the General Provisions and Exceptions Chapter 20.480. **Condition 10** is in place to ensure consistency with Mendocino County Department of Transportation (DOT) setback regulations; and

4. Pursuant to MCC Section 20.532.095(A)(4), the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. The after-the-fact fence is categorically exempt pursuant to Title 14, division 6, Chapter 3, Article 19, Section 15303, Class 3(e), *new construction of small structures, such as accessory (appurtenant) structures including ... fences*. Projects which are categorically exempt are those which have been determined by the California Natural Resources Secretary to not have a significant impact on the environment; and
5. Pursuant to MCC Section 20.532.095(A)(5), the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing does not have any adverse impact on any known archaeological or paleontological resources, and **Condition 8** is in place when archaeological sites or artifacts are discovered. The project was referred to three local tribes, including Cloverdale Rancheria, Redwood Valley Rancheria, and Sherwood Valley Rancheria, and no response from these tribes has been received at time of this staff report; and
6. Pursuant to MCC Section 20.532.095(A)(6), other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the existing permitted development on the parcel. The after-the-fact 5-foot-tall, approximately 341 linear foot long fencing does not affect demands on public services. Solid waste service is available either as curbside pick-up or at the South Coast Transfer Station (several miles away); and
7. Pursuant to MCC Section 20.532.095(B)(1), and being as the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing project is located between the first public road and the sea or the shoreline of any body of water, staff states that the additional finding can be made that the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing project is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.
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 (MCC).
3. To remain valid, progress towards completion of the project must be continuous. The Applicants have sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
4. 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.
5. This permit shall be subject to the securing all necessary permits for the after-the-fact 5-foot-tall, approximately 341 linear foot long fencing project from County, State and Federal agencies having jurisdiction.

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 Coastal Development Permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Coastal Code.
9. Prior to the issuance of this Coastal Development 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, which shall provide that:
 - a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards; and
 - b. The landowner 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 landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant; and
 - d. The landowner shall not construct any bluff or shoreline protective devices to protect the subject structures or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future; and
 - e. The landowner shall remove the subject structures when bluff retreat 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 fall to the beach or ocean before they can be removed from the blufftop, the landowner 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 landowners shall bear all costs associated with such removal; and

- f. 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.
10. Prior to issuance of this Coastal Development Permit, the applicant shall furnish a site plan indicating the 5-foot-tall, approximately 341 linear foot long fence locations to Planning and Building Services, per Mendocino County Department of Transportation (MC DOT) regulations and MCC Chapter 20.516. as follows:
- a. The 5-foot-tall, approximately 341 linear foot long fence shall be constructed outside County Right of Way (approximately 12.5 feet from center of CR 513); and
 - b. The height of the 5-foot-tall, approximately 341 linear foot long fence shall not obstruct sight distance of the driveway per Mendocino County Road Standard A53. (Assume 25 miles per hour.)
11. To record the Notice of Exemption, the applicant shall pay a fee of \$50.00 for the filing of the Notice of Exemption which 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 project action.

1-9-2024

DATE

JESSIE WALDMAN

JESSIE WALDMAN
PLANNER II

Appeal Period: 10 Days
Appeal Fee: \$2,674.00

ATTACHMENTS:

- A. Location Map
- B. Aerial Map
- C. Topographical Map
- D. Site Plan
- E. Elevations
- F. Zoning Map
- G. General Plan
- H. LCP Land Use Map 31: Gualala
- I. LCP Land Capabilities & Natural Hazards
- J. LCP Habitats and Resources
- K. Appealable areas
- L. Adjacent Parcels
- M. Fire Hazards Map
- N. Flood
- O. Wetland
- P. Ground Water Resource Area
- Q. Slope
- R. Soils
- S. Water District
- T. Supervisorial District
- U. SNRC ESHA Maps and Photographs
- V. WRA ESHA Maps and Photographs

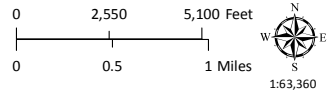


SUBJECT PARCEL/S



CASE: CDP 2019-0016
 OWNER: OLIVIERI, Franco
 APN: 145-121-06
 APLCT: Frank Olivieri
 AGENT: Teresa Spade
 ADDRESS: 37960 Old Coast Highway, Gualala

- Major Towns & Places
- Major Rivers
- California Counties
- Highways
- Coastal Zone Boundary
- Major Roads



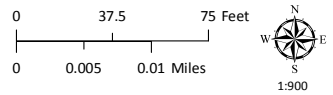
LOCATION MAP

MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019

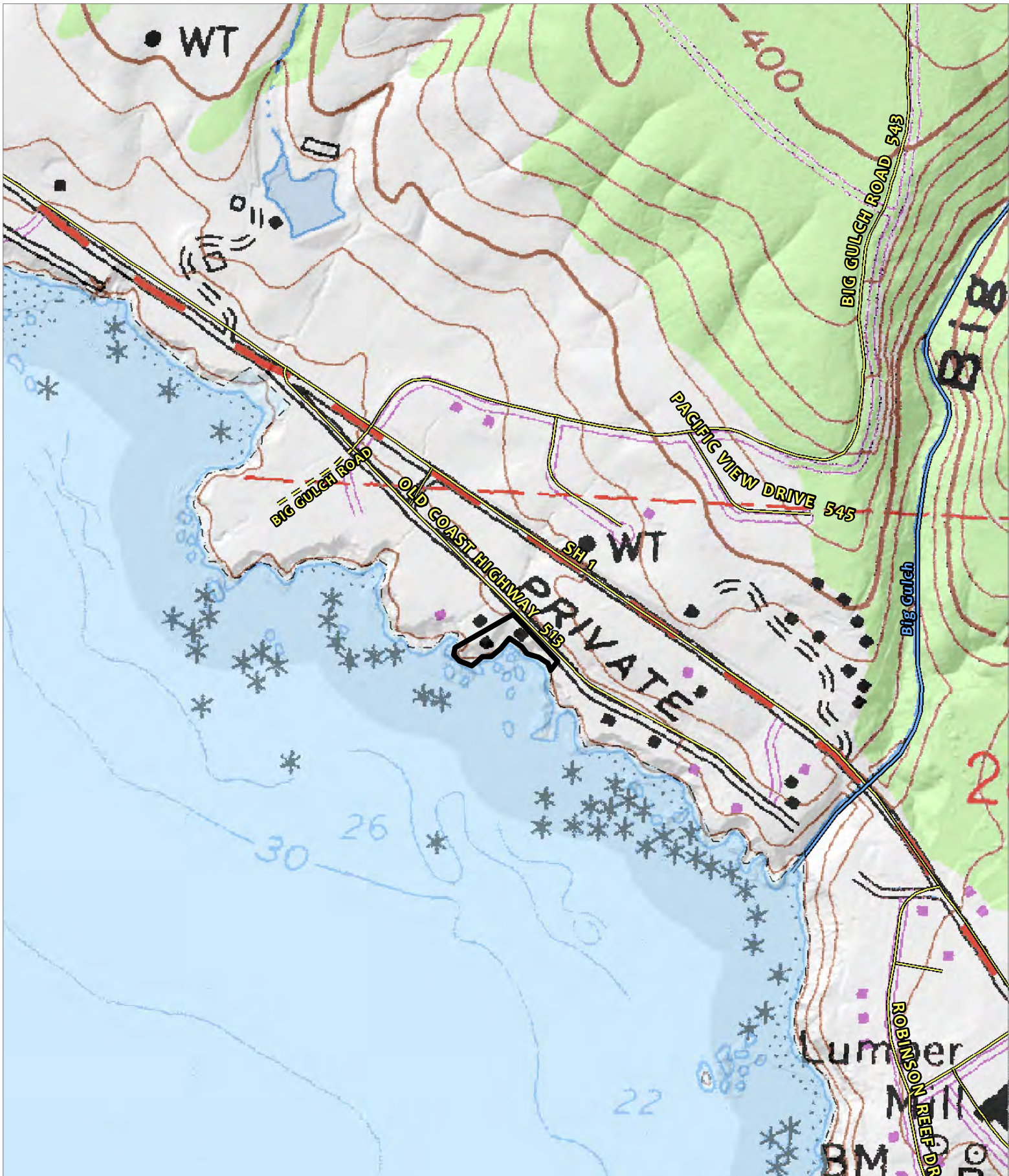


CASE: CDP 2019-0016
OWNER: OLIVIERI, Franco
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APLCT: Frank Olivieri
AGENT: Teresa Spade
ADDRESS: 37960 Old Coast Highway, Gualala





Public Roads

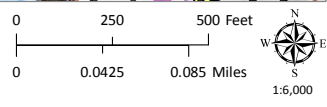


AERIAL IMAGERY

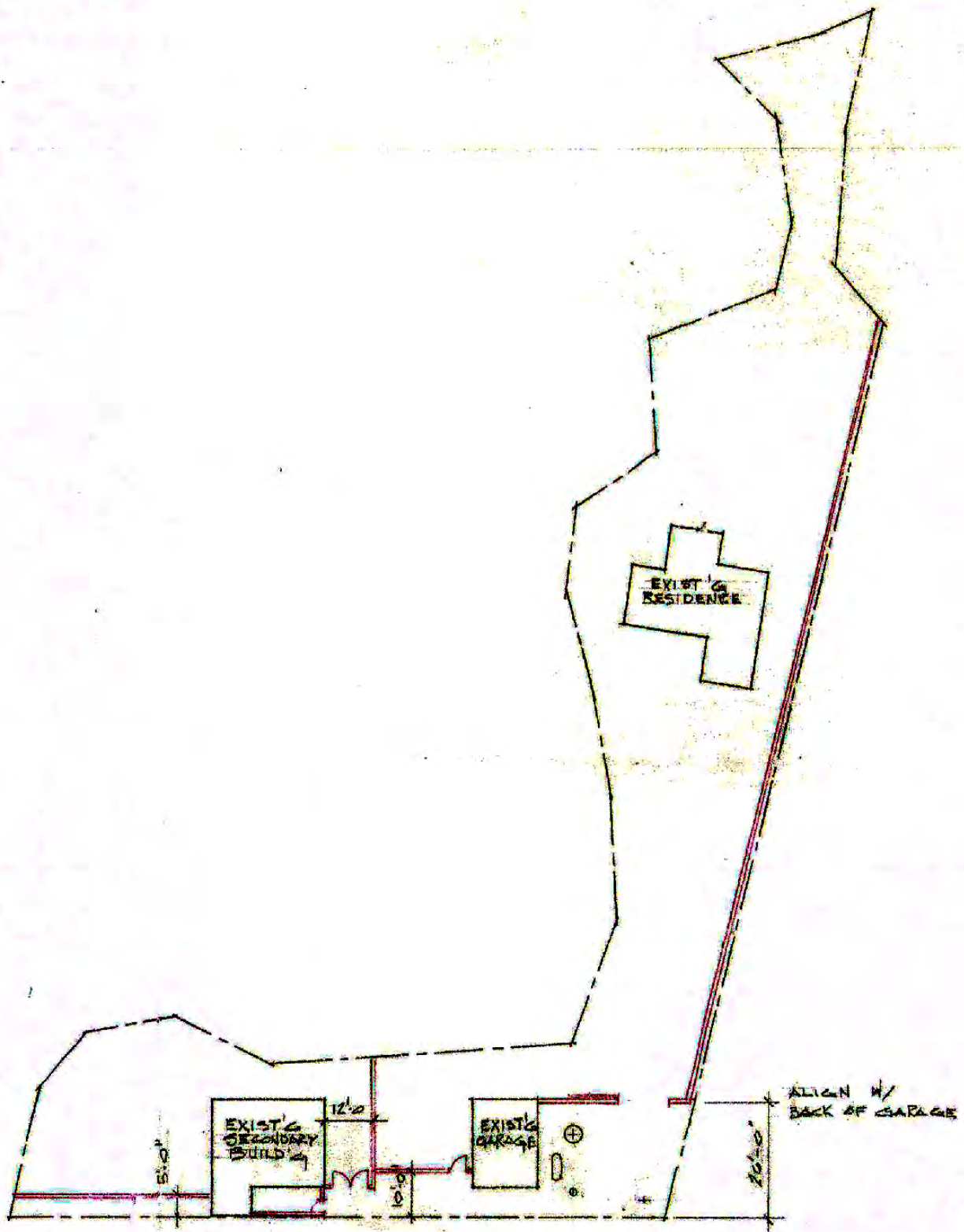


CASE: CDP 2019-0016
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-  Named Rivers
-  Driveways/Unnamed Roads
-  Public Roads
-  Private Roads



TOPOGRAPHIC MAP
 CONTOUR INTERVAL IS 40 FEET



37960 OLD COAST HWY

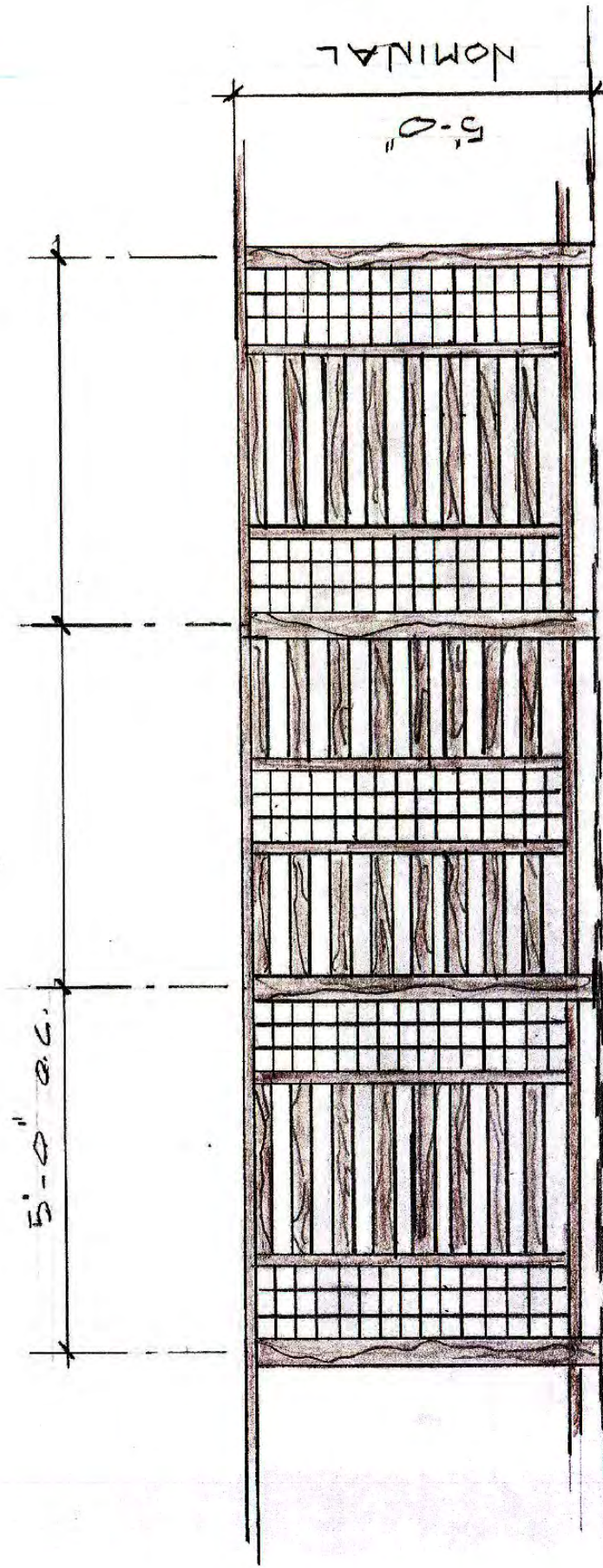
GUALALA, CA. 95445

OLIVIERI RESIDENCE

CASE: CDP 2019-0016
 OWNER: OLIVIERI, Franco
 APN: 145-121-06
 APLCT: Frank Olivieri
 AGENT: Teresa Spade
 ADDRESS: 37960 Old Coast Highway, Gualala

NO SCALE

SITE PLAN

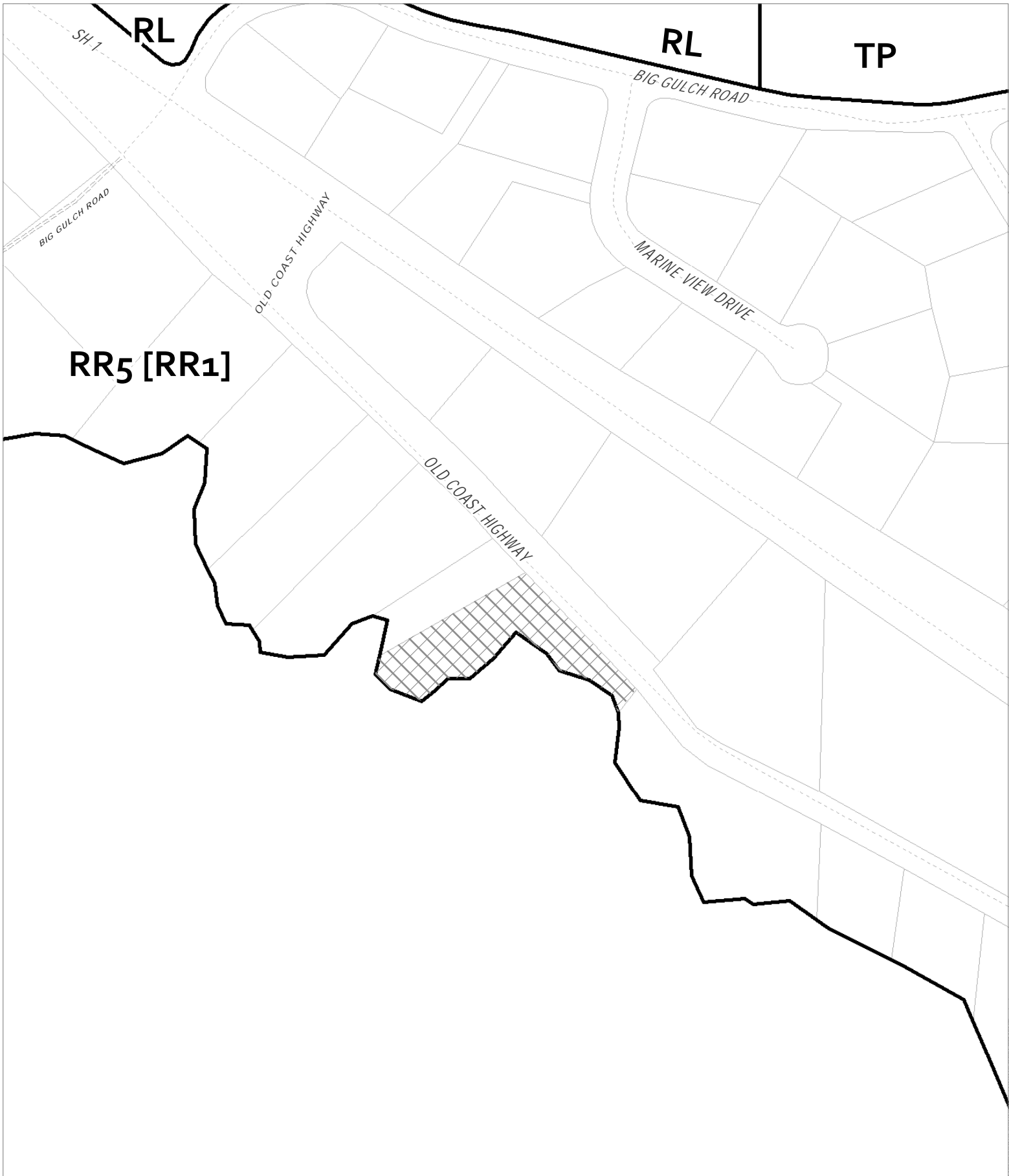


CASE: CDP 2019-0016
OWNER: OLIVIERI, Franco
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AGENT: Teresa Spade
ADDRESS: 37960 Old Coast Highway, Gualala



NO SCALE

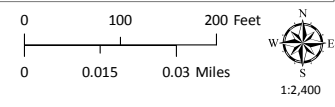
ELEVATIONS

MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019



CASE: CDP 2019-0016
 OWNER: OLIVIERI, Franco
 APN: 145-121-06
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 ADDRESS: 37960 Old Coast Highway, Gualala

 Zoning Districts
 Public Roads



ZONING DISPLAY MAP

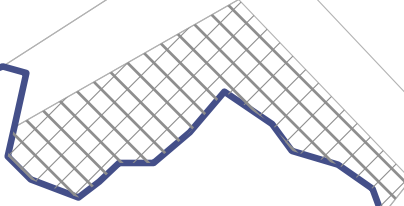
MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019

RL 160


RL 160

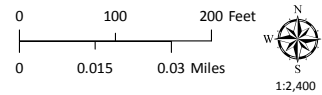
FL 160

RR 5 [RR 1]

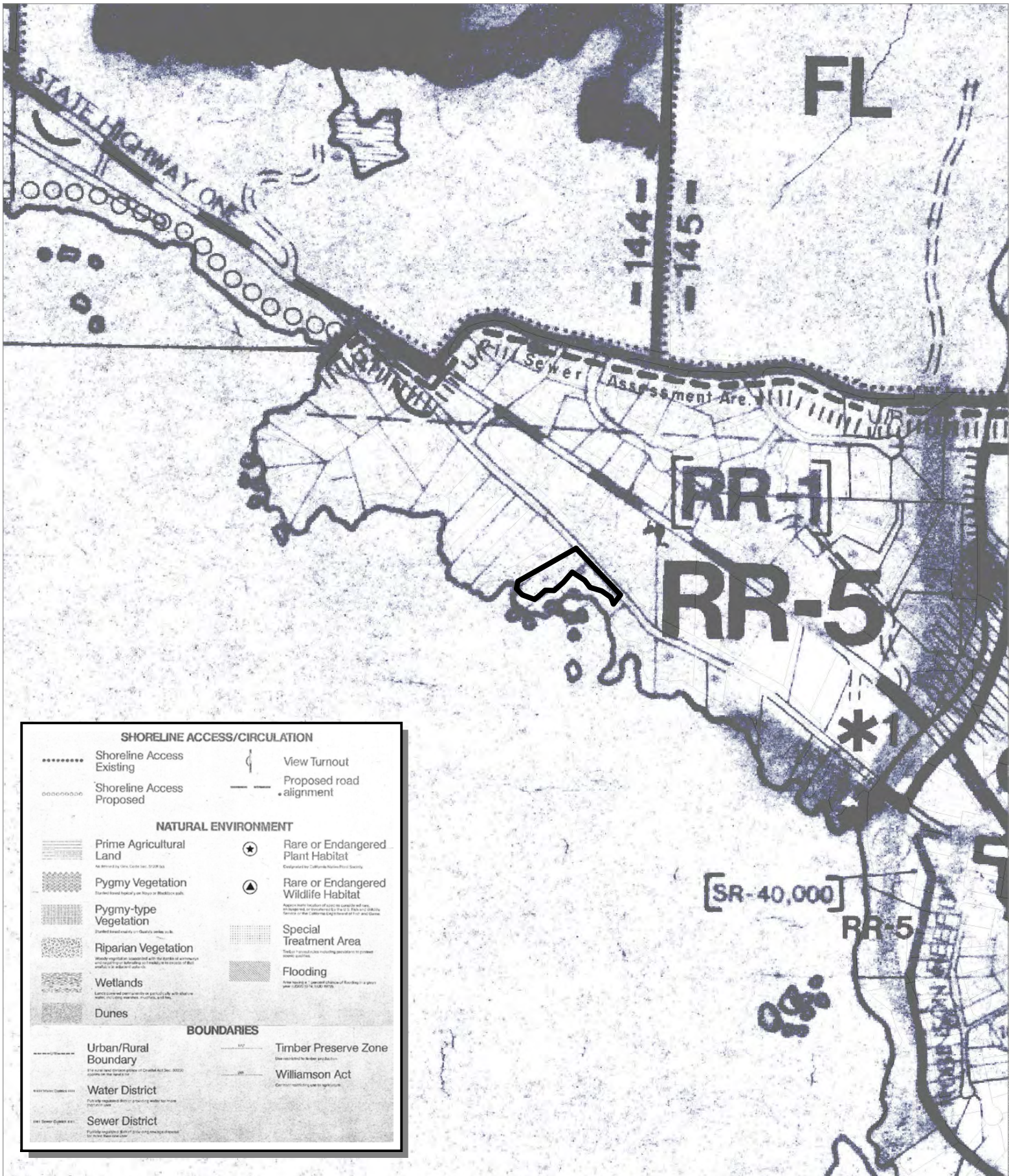


CASE: CDP 2019-0016
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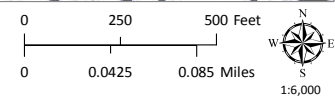
 General Plan Classes

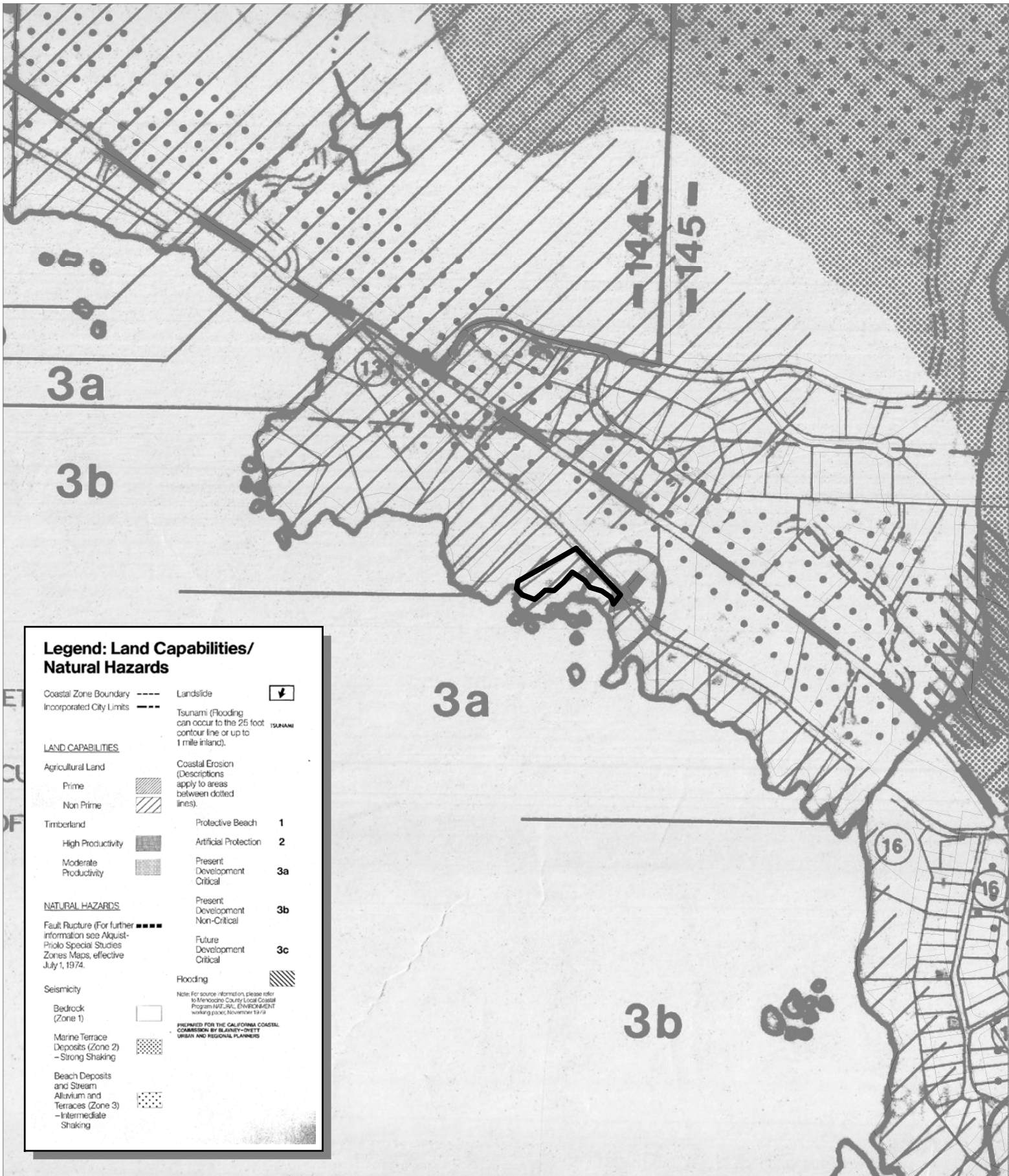


GENERAL PLAN CLASSIFICATIONS

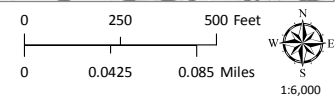


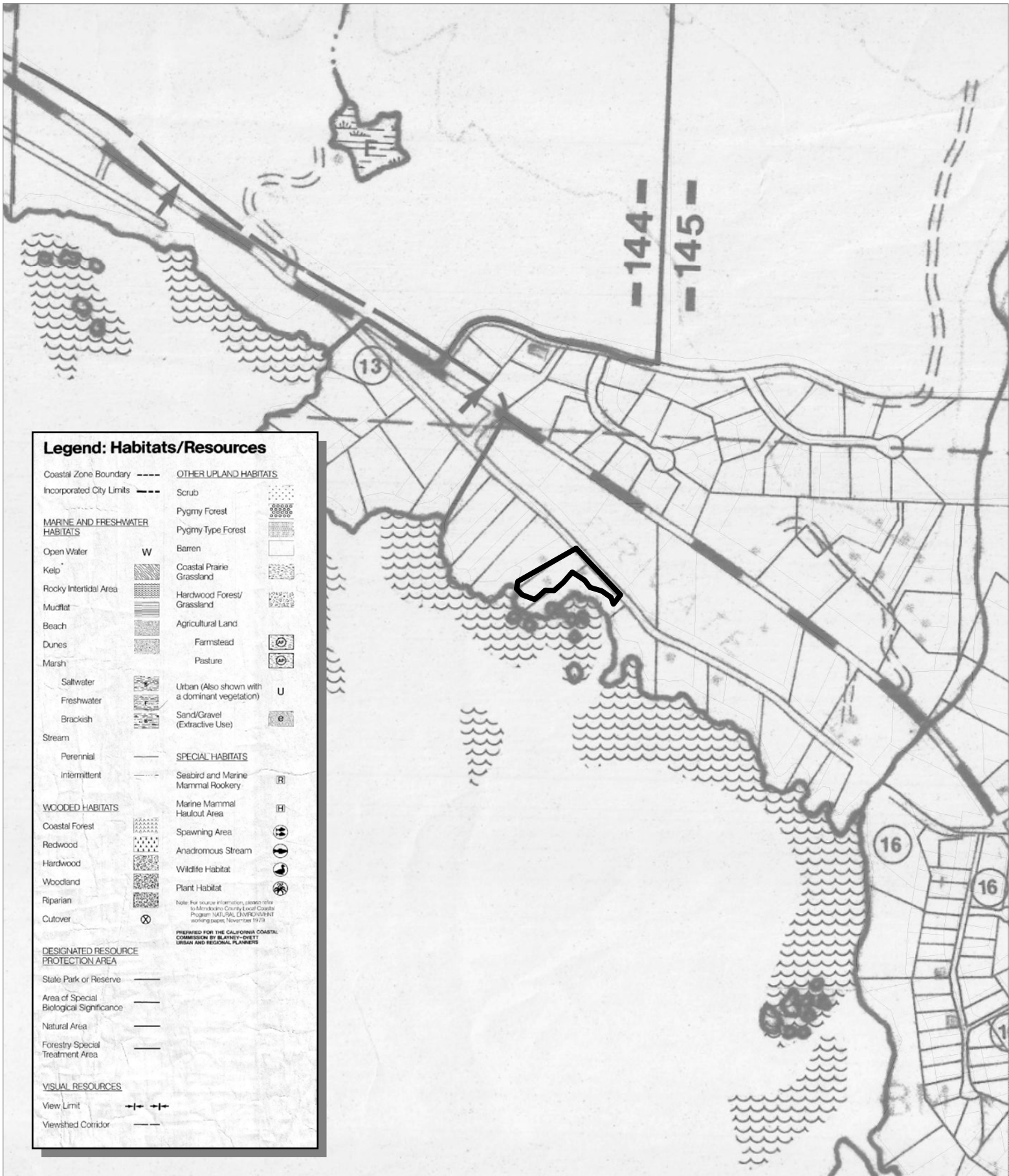
CASE: CDP 2019-0016
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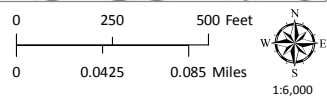
Legend: Habitats/Resources

- Coastal Zone Boundary - - - -
- Incorporated City Limits - - - -
- MARINE AND FRESHWATER HABITATS**
- Open Water W
- Kelp
- Rocky Intertidal Area
- Mudflat
- Beach
- Dunes
- Marsh
- Saltwater
- Freshwater
- Brackish
- Stream
- Perennial
- Intermittent
- WOODED HABITATS**
- Coastal Forest
- Redwood
- Hardwood
- Woodland
- Riparian
- Cutover
- DESIGNATED RESOURCE PROTECTION AREA**
- State Park or Reserve
- Area of Special Biological Significance
- Natural Area
- Forestry Special Treatment Area
- VISUAL RESOURCES**
- View Limit
- Viewshed Corridor
- OTHER UPLAND HABITATS**
- Scrub
- Pygmy Forest
- Pygmy Type Forest
- Barren
- Coastal Prairie Grassland
- Hardwood Forest/Grassland
- Agricultural Land
- Farmstead
- Pasture
- Urban (Also shown with a dominant vegetation) U
- Sand/Gravel (Extractive Use) e
- SPECIAL HABITATS**
- Seabird and Marine Mammal Rookery R
- Marine Mammal Haulout Area H
- Spawning Area
- Anadromous Stream
- Wildlife Habitat
- Plant Habitat

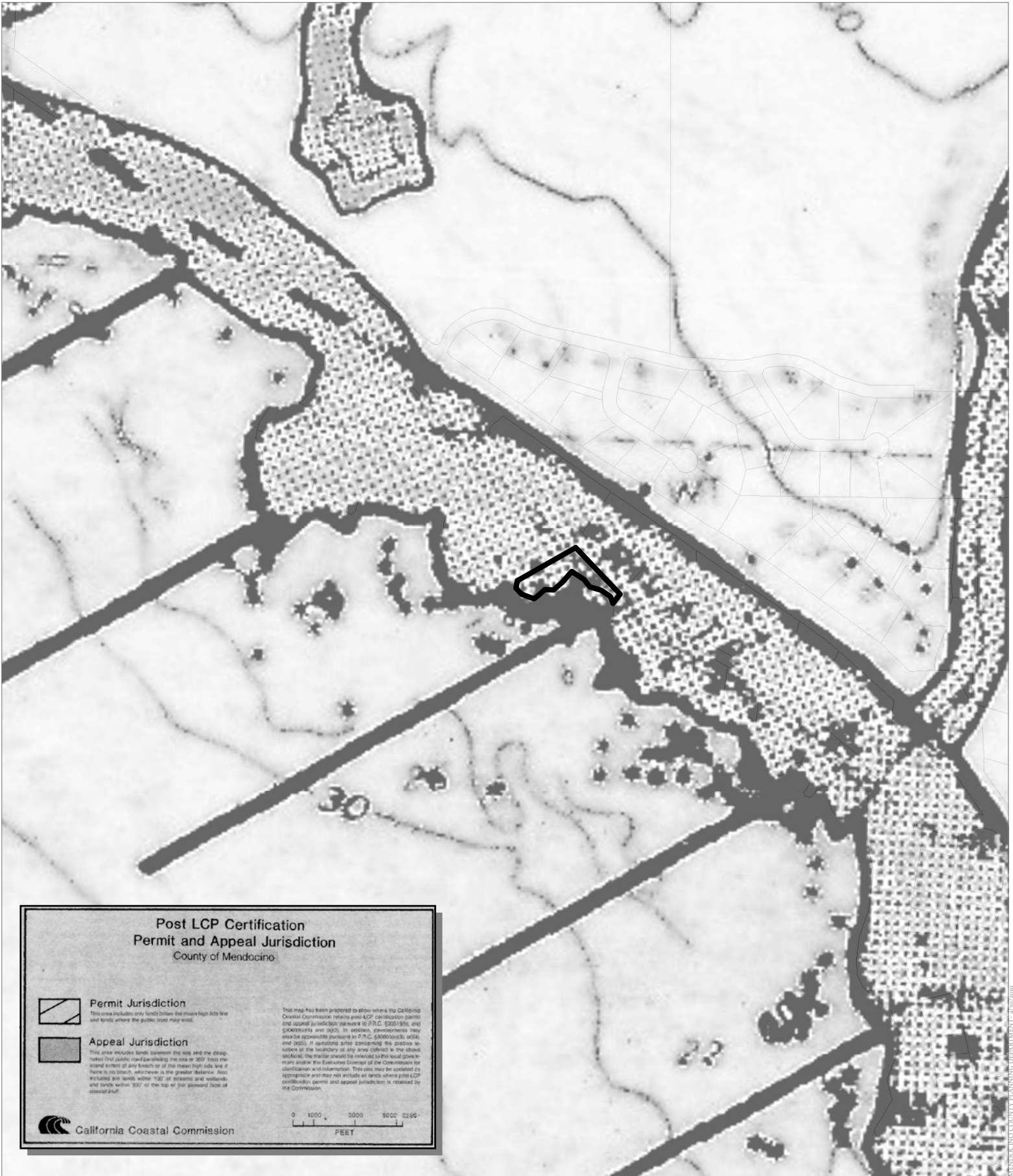
Note: For source information, please refer to Mendocino County Local Coastal Program NATURAL ENVIRONMENT appendix page November 1993.

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

CASE: CDP 2019-0016
 OWNER: OLIVIERI, Franco
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MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019



**Post LCP Certification
Permit and Appeal Jurisdiction
County of Mendocino**

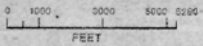


Permit Jurisdiction
This area includes only lands below the mean high tide line and lands where the public uses may exist.



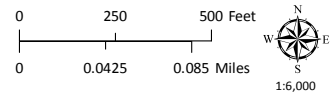
Appeal Jurisdiction
This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the seaward extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 150' of streams and waterways and lands within 300' of the sea at the seaward face of coastal dunes.

This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.L.C. 02001501, and 02000001 and 0202. In addition, developments may also be appealable pursuant to P.L.C. 03000001, 0014, and 0055. If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and interpretation. This also may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

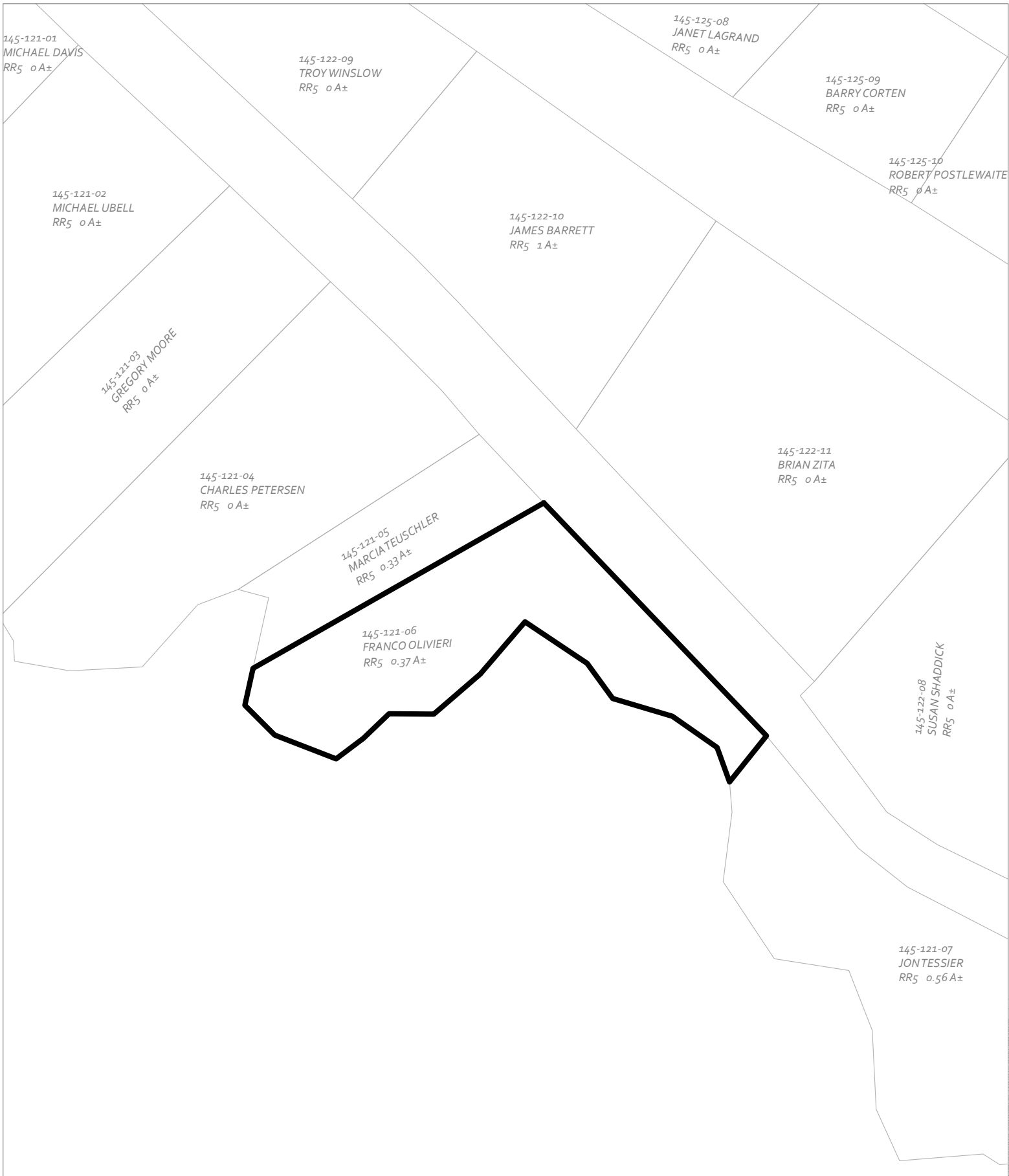


California Coastal Commission

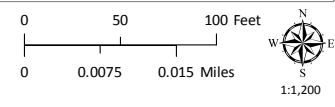
CASE: CDP 2019-0016
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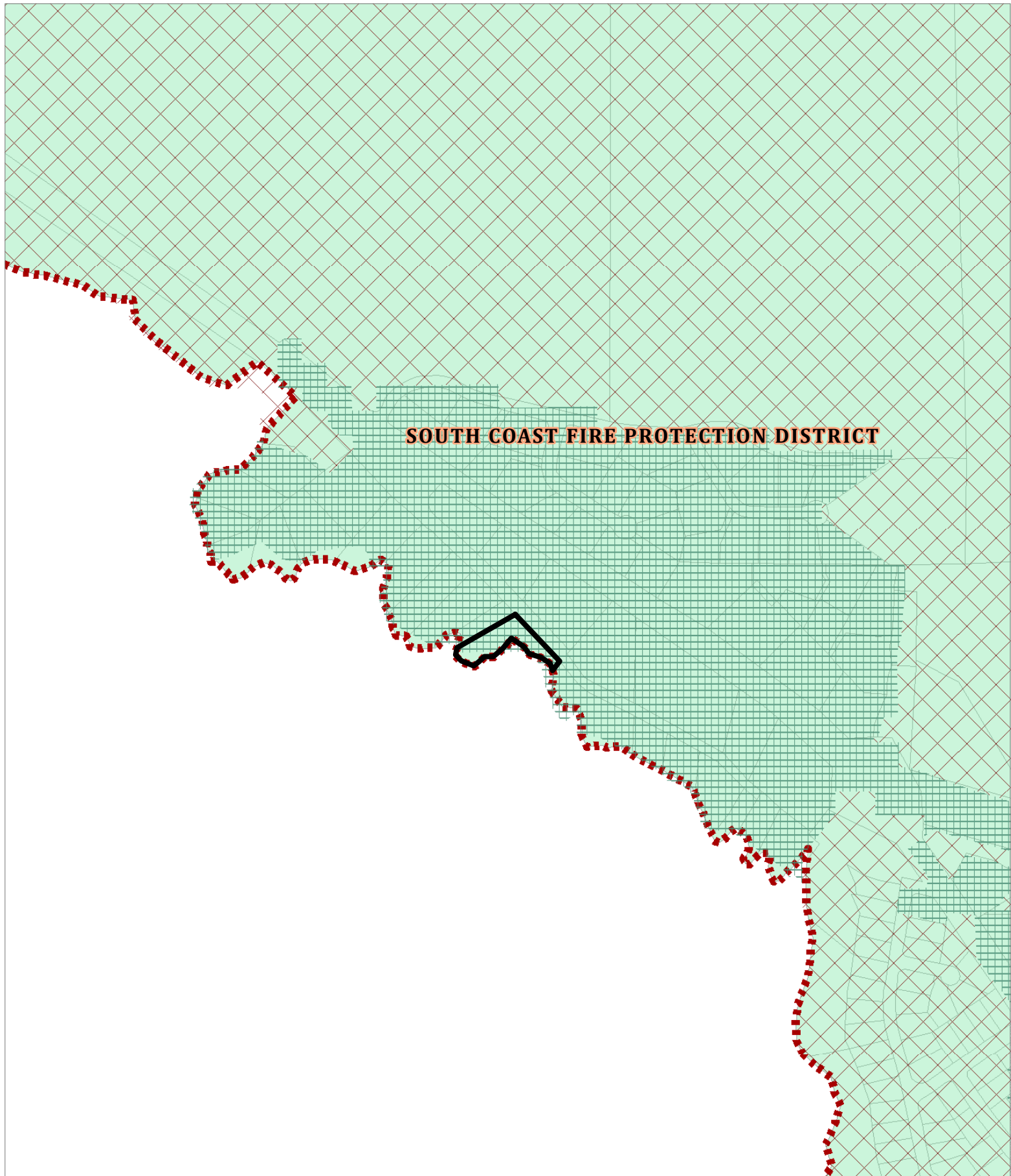
APPEALABLE AREAS



CASE: CDP 2019-0016
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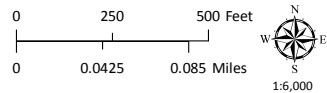
ADJACENT PARCELS



SOUTH COAST FIRE PROTECTION DISTRICT

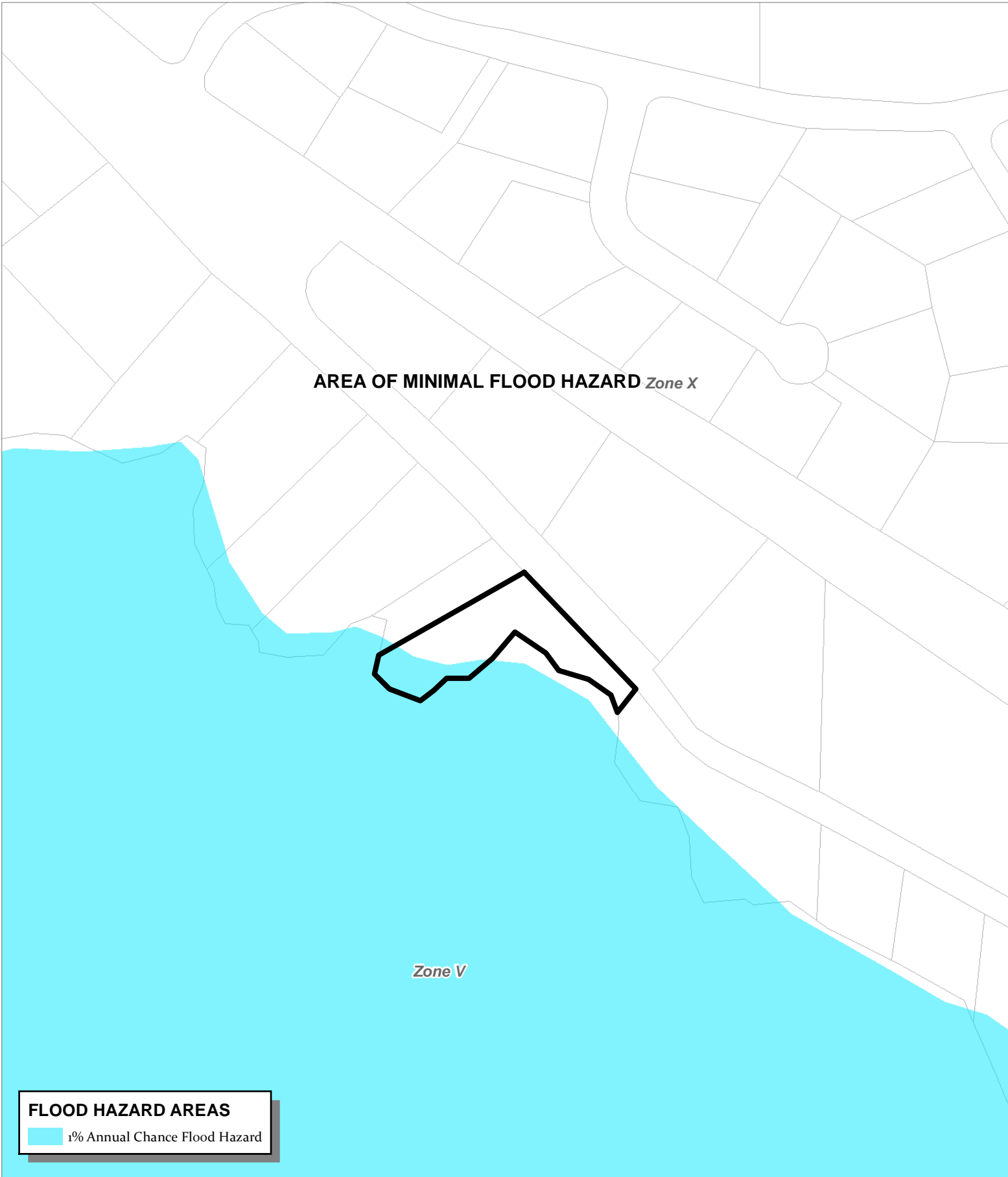
CASE: CDP 2019-0016
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-  High Fire Hazard
-  Moderate Fire Hazard
-  County Fire Districts



FIRE HAZARD ZONES & RESPONSIBILITY AREAS
 STATE RESPONSIBILITY AREA

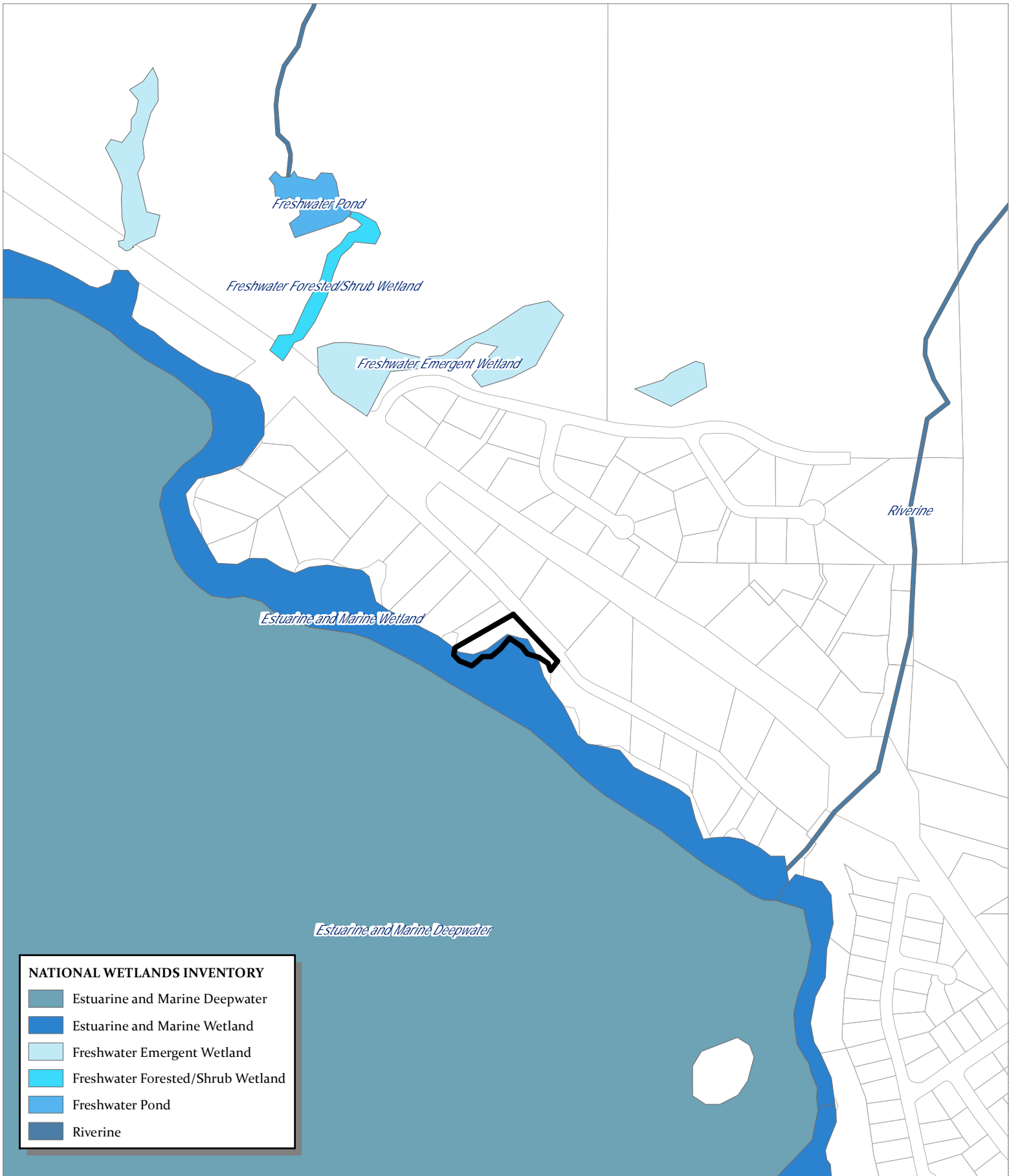
MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019



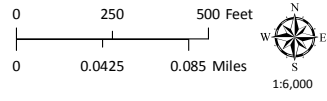
MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019

CASE: CDP 2019-0016
 OWNER: OLIVIERI, Franco
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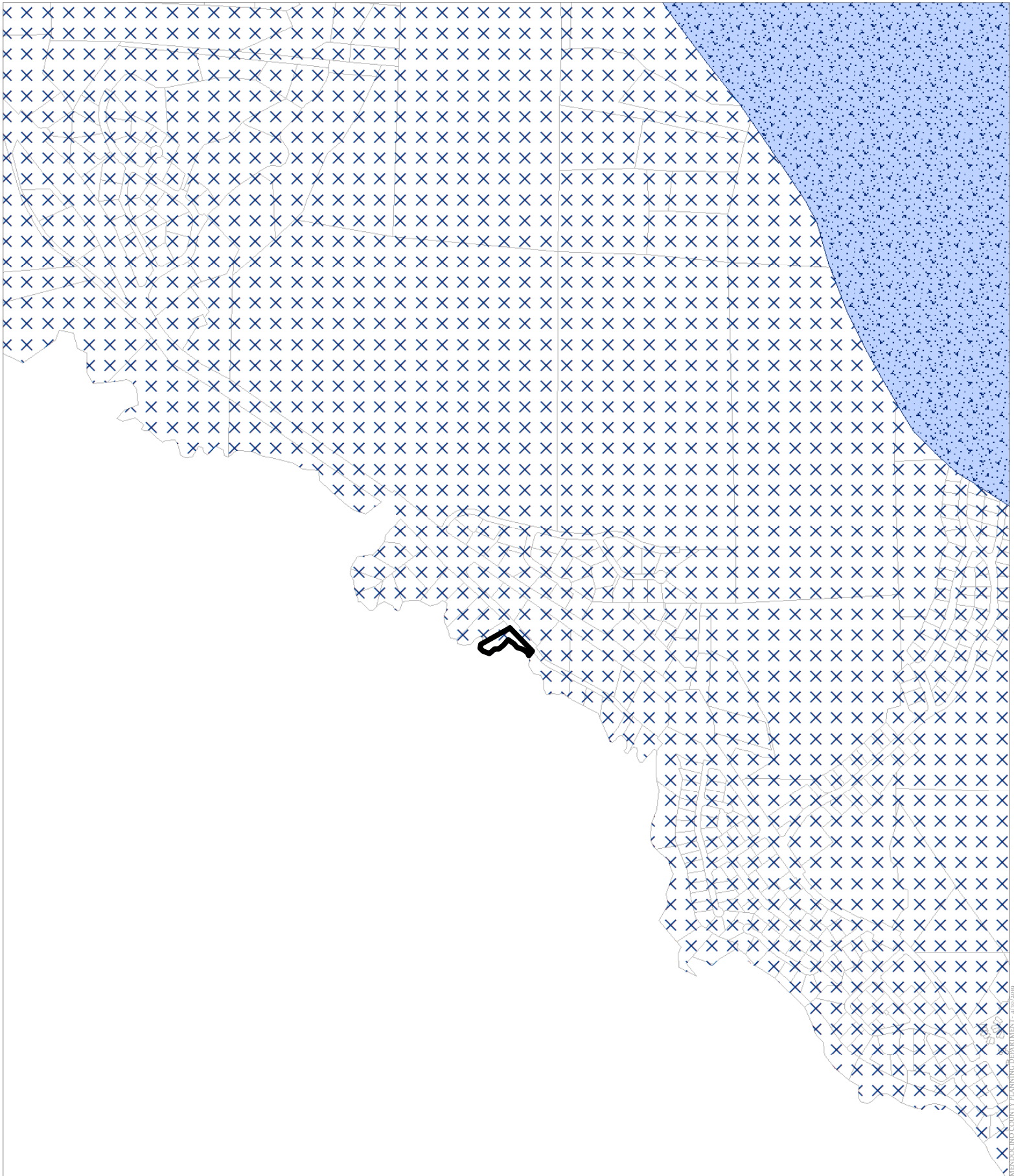
0 100 200 Feet
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 W E
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SPECIAL FLOOD HAZARD AREAS





CASE: CDP 2019-0016
 OWNER: OLIVIERI, Franco
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 APLCT: Frank Olivieri
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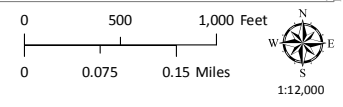


MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019



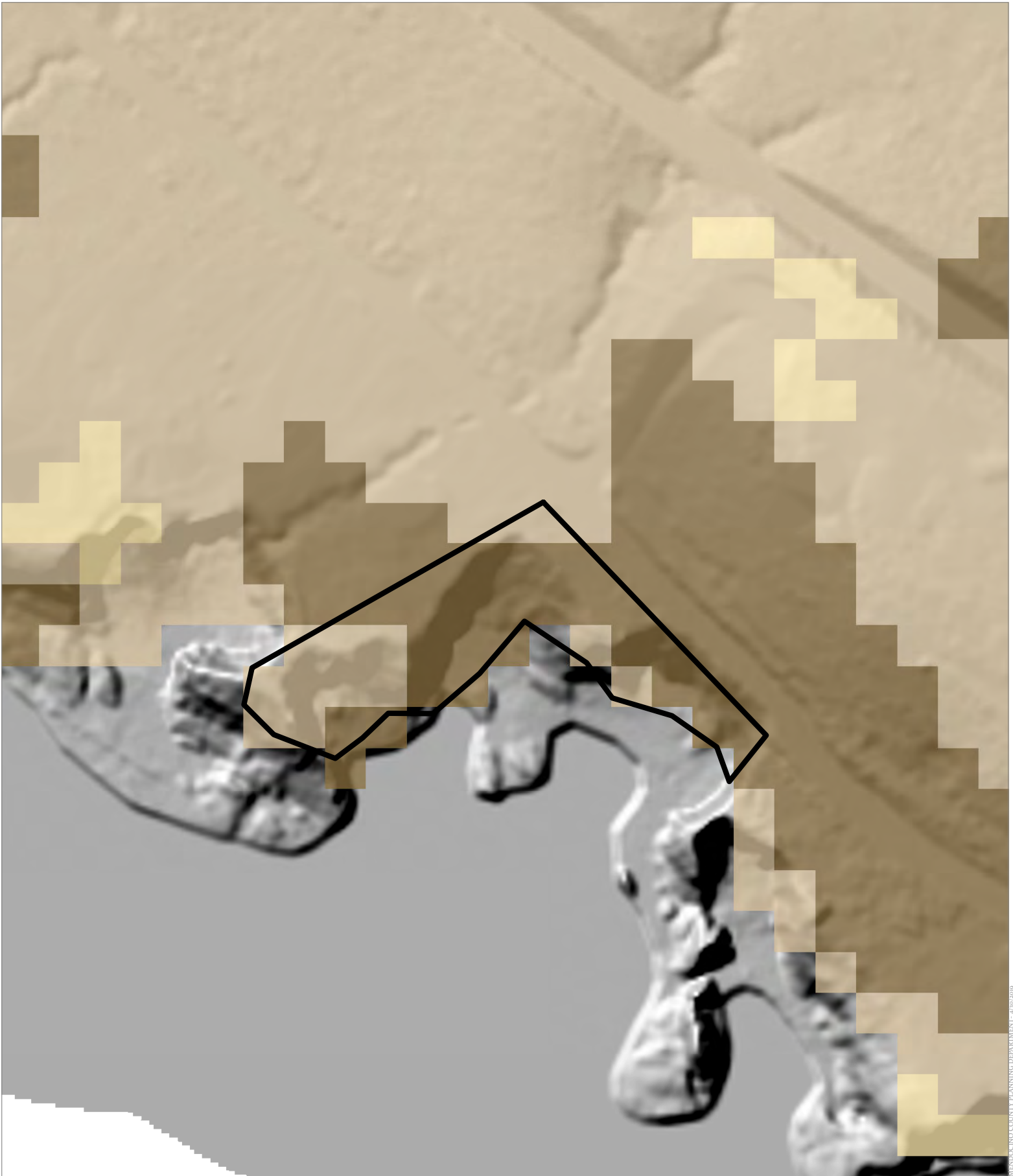
CASE: CDP 2019-0016
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-  Critical Water Areas
-  Critical Water Resources Bedrock

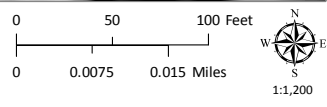
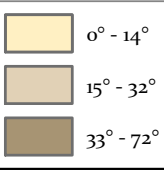


GROUND WATER RESOURCES

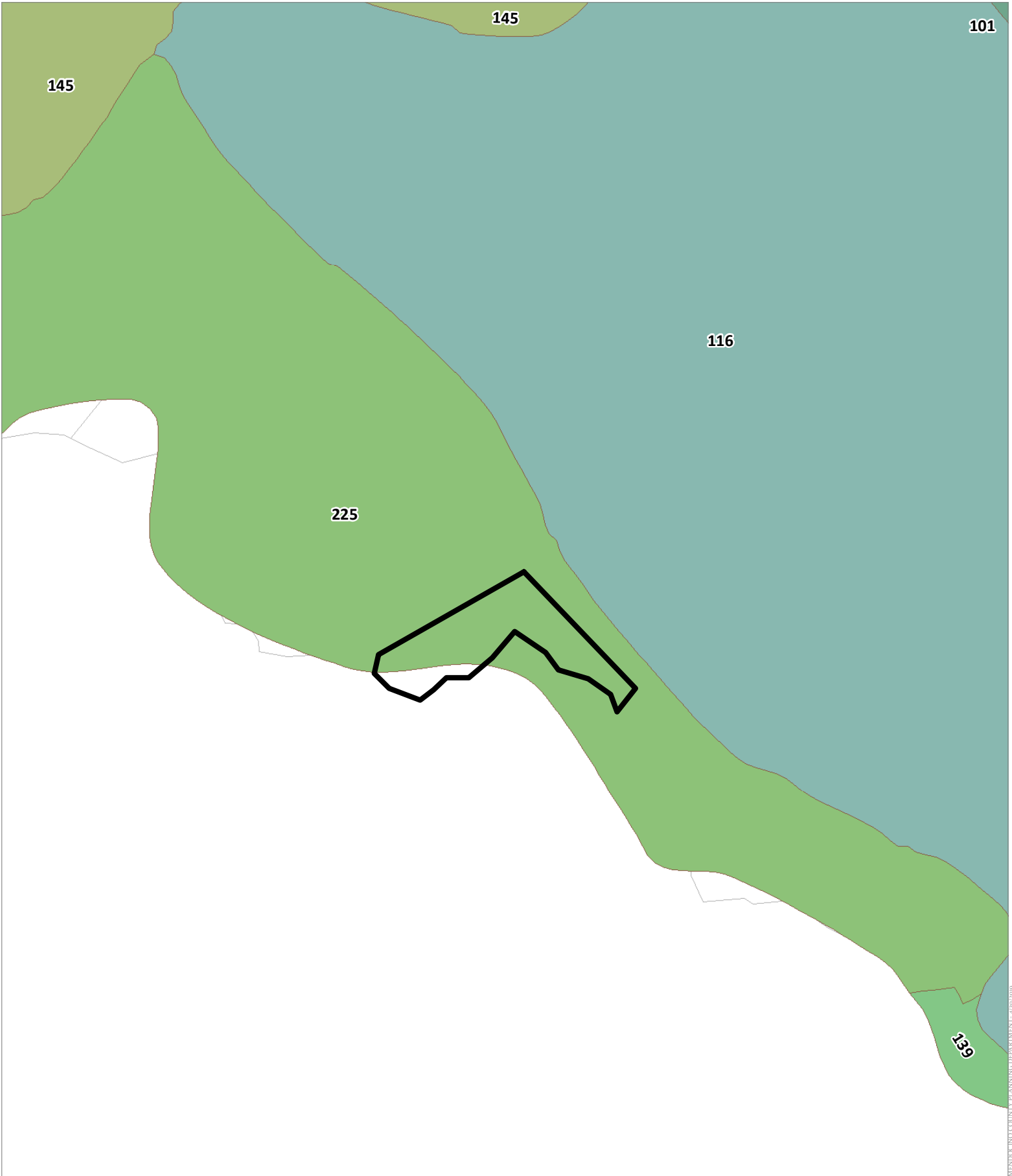
MENDOCINO COUNTY PLANNING DEPARTMENT - 4/20/2019



CASE: CDP 2019-0016
OWNER: OLIVIERI, Franco
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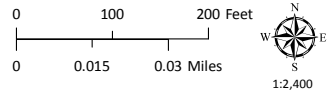


ESTIMATED SLOPE



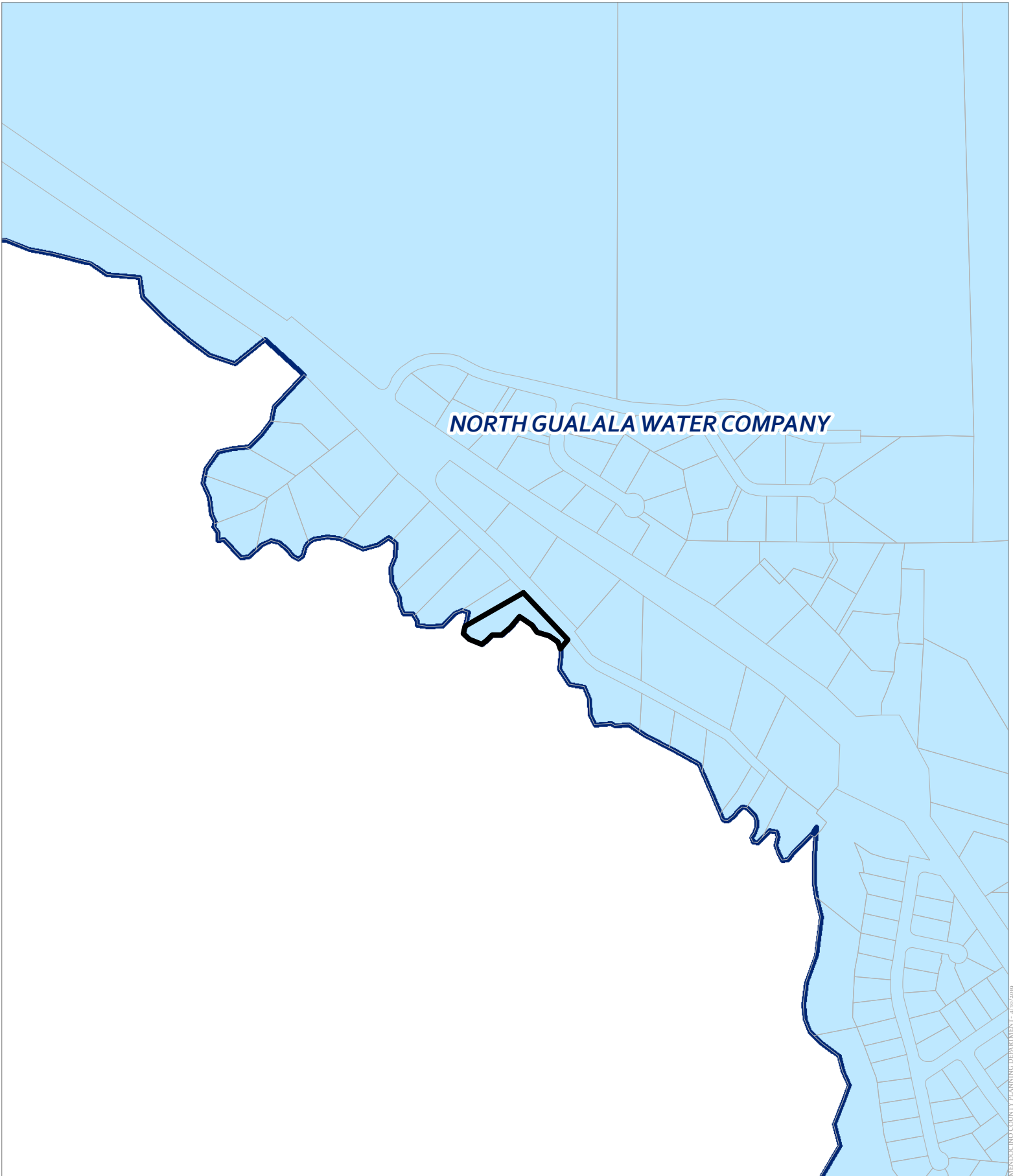
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 Western Study Soil Types




LOCAL SOILS

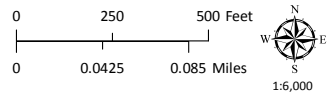
MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019

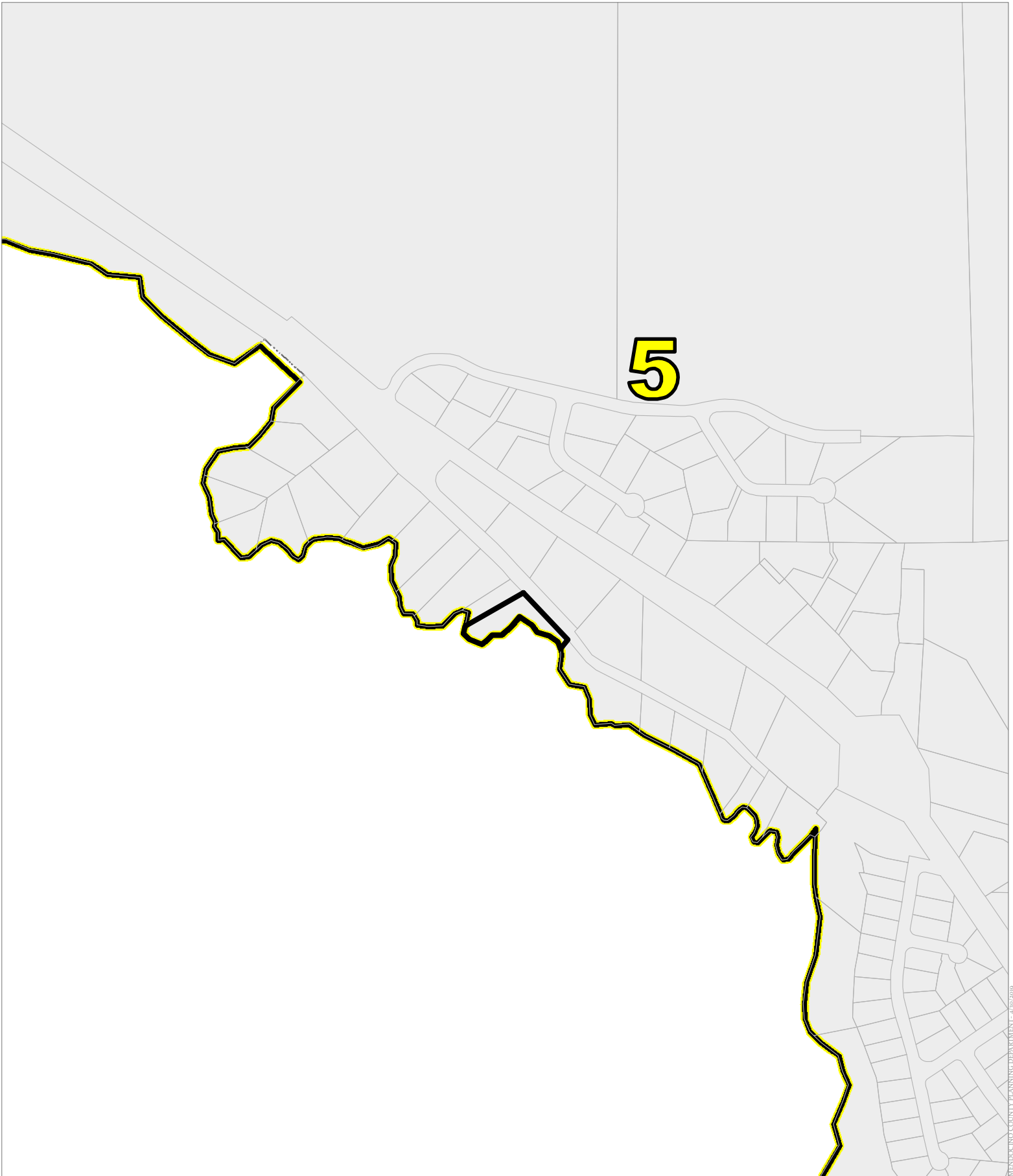


NORTH GUALALA WATER COMPANY



CASE: CDP 2019-0016
OWNER: OLIVIERI, Franco
APN: 145-121-06
APLCT: Frank Olivieri
AGENT: Teresa Spade
ADDRESS: 37960 Old Coast Highway, Gualala

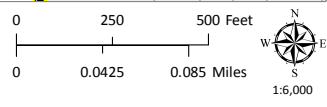
 County Water Districts





CASE: CDP 2019-0016
OWNER: OLIVIERI, Franco
APN: 145-121-06
APLCT: Frank Olivieri
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ADDRESS: 37960 Old Coast Highway, Gualala

-  Supervisorial Districts 2010
-  Gualala MAC



MENDOCINO COUNTY PLANNING DEPARTMENT - 4/30/2019

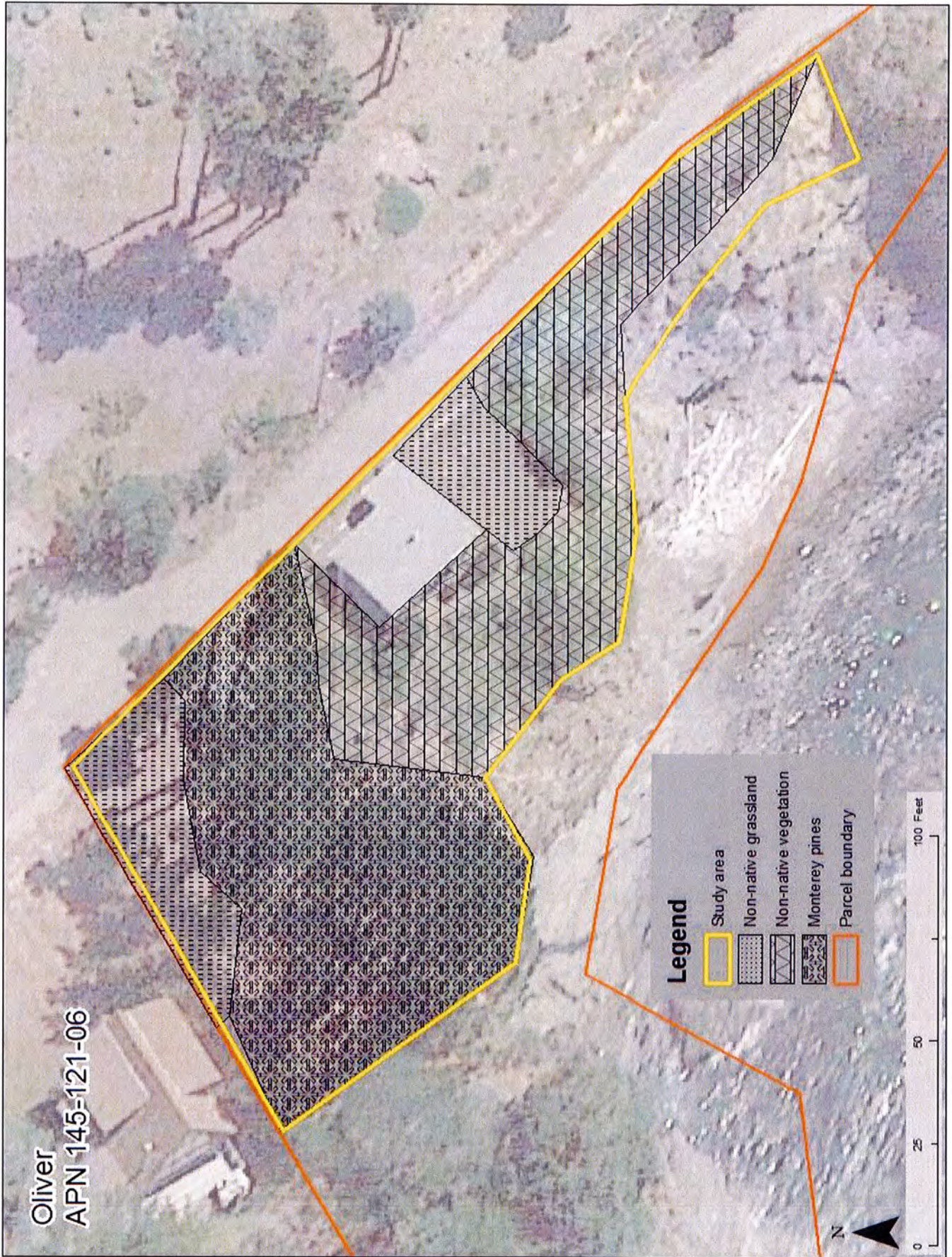


Figure 1. Study area for preliminary survey and nesting bird survey. Vegetation types within the study are depicted.



Figure 2. Landscaping and invasive vegetation along the bluff edge from the north looking south.



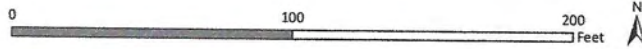
Figure 3. Landscaping and invasive vegetation along the bluff edge from the south looking north.



Sources: DigitalGlobe 2016 Aerial, WRA | Prepared By: aarthur, 7/19/2022

Figure A-2. Land Cover, Rare Plant, and Fence

37960 Old Coast Highway
Mendocino County, CA





Close-up of fence post contact with ground; note vegetation growing up to and cover surface expression of fence post footing; note no side cast soil, sediment migration, or erosion



Fence along northern boundary of subject property; note the planted California wax myrtle (*Morella californica*) and other species; note sunlight through the hog wire panels (i.e., insignificant shading impact)



Approximate location of terminal fence post (vertical red line) and location of coastal bluff morning-glory (*Calystegia purpurata* var. *saxicola*); note the distance and change in topography between the fence and plant



Entryway to primary residence of the subject property; note the height of the fence and gate, allowing for larger wildlife to traverse