Wynn COASTAL PLANNING & BIOLOGY
703 North Main Street, Fort Bragg CA 95437
ph: 707-964-2537 fx: 707-964-2622 www.WCPlan.com

SUBMITTAL

May 7, 2024

Planning and Building Services
860 N Bush Street
Ukiah, CA 95482
ATTN: Liam Crowley

RE: CDP_2023-0009 Response to Coastal Commission Commentary dated 3/15/24

Owner: James & Denise De Alba

Site: 33389 Pacific Way
Fort Bragg, CA 95437
APN: 017-320-51-00

Dear Liam:

Enclosed, please find an in-depth response to comments made by Coastal Commission staff in their letter to Mendocino County Planning & Building Services, dated March 15, 2024. This response specifically relates to the "Alternatives Analysis" section on page 5 of said letter.

Included with this submittal please find the following referenced supporting documentation:

1. Alternatives Analysis by WCPB Senior Biologist Asa Spade, dated May 3, 2024
2. Updated Site Plan by WCPB, revision date May 6, 2024

Thank you for your continued attention to this project. Please let me know if you have any questions or comments.

Sincerely,

Amy Wynn, Principal Planner

Meghan Durbin, Senior Planner

Encl: per above

CC: James & Denise De Alba (owners/applicants); file

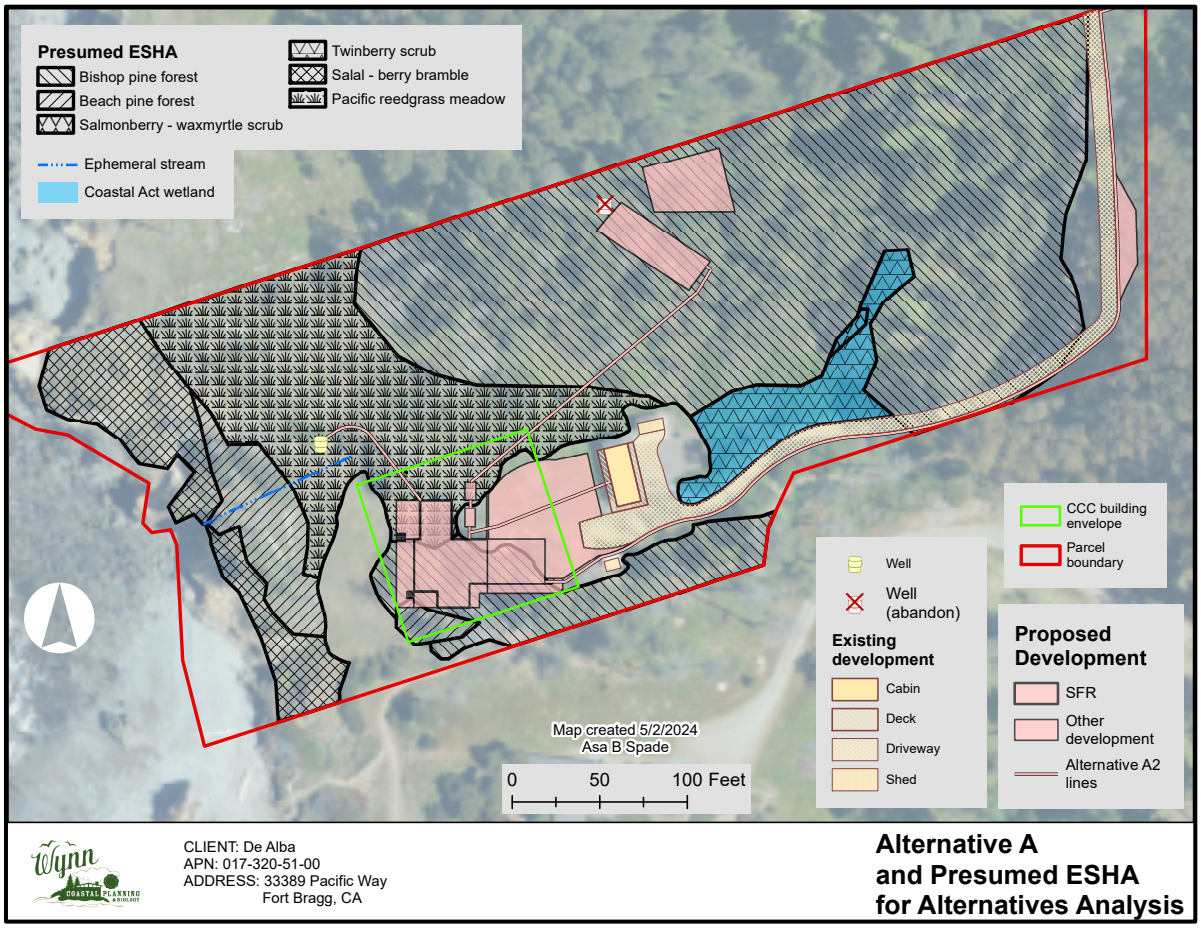
Alternatives Analysis Created

A Coastal Commission (CCC) commentary letter submitted to the Mendocino County Planning & Building Services (PBS) just before the County's Coastal Permit Administrator hearing for this item, dated March 15, 2024 expressed a difference of interpretation between CCC staff and PBS Staff.

As noted in the staff report by project planner, Liam Crowley, County staff determined that denial of the project would result in a regulatory taking of private property. CCC considers that particular county determination to be "premature and unsupported". A key contributing factor to that CCC opinion was the lack of an Alternatives Analysis.

As a result of these comments, the client consultant team at Wynn Coastal Planning & Biology developed a thorough analysis comparing the potential impact of 4 alternative design/location scenarios, to address the potential impact of the proposed project on ESHA. The analysis includes site plans illustrating the layout of the different alternatives as well as tables showing a side-by-side comparison of the amount of impact of each project, as measured in square feet.

The Alternatives Analysis created by WCPB quantified the specific impacts to natural resources, both directly and within standard 100' and 50' buffers, of the project as proposed as well as four alternative development layouts – moving development within the CCC approved building envelope, moving it slightly out of the envelope in different directions, and moving it to the far eastern portion of the parcel. The resulting conclusion was that *"there are tradeoffs to alternative locations, avoiding one resource often means locating development within or nearer another special status resource.".* **After consideration of the different tradeoffs, WCPB biologists and the applicants have determined that <u>Alternative A</u>, which keeps development within the CCC-approved building envelope, would be an acceptable project revision that would further minimize development within the 50-foot buffer to wetland/stream, though it would involve more impact to the special status plant communities.**



Alternatives Analysis – Response to Specific Requests/Suggestions

The March 15th commentary letter included reference to analyzing the "no project" alternative. This alternative can promptly be ruled out from consideration. It goes without saying that, were there no new development, there would be no new impact to ESHA. However, the metric to determine regulatory takings involves whether or not a financially backed reasonable expectation to develop a property exists. In this case the presence of an existing structure (a cabin) coupled with the record of CCC approval of a building envelope beyond the existing cabin, established a reasonable expectation to develop a residence of average size within the building envelope. This expectation was financially backed by a purchase price of $802,000 in January 2021, as well as over $9,000 of property taxes paid since purchase and over $100,000 paid to date in maintenance and the efforts to obtain a Coastal Development Permit.

Within their suggestion/request for an Alternatives Analysis, CCC staff stated "*Alternatives that should be considered include but are not limited to: (1) redeveloping the existing structure, (2) alternative house sizes, including an alternative house size that is no larger than the average house size of similarly-constrained property in the surrounding neighborhood, (3) alternative designs that minimize the footprint of the house (and any proposed J/ ADU) on the ground by utilizing the same footprint as the existing cabin and adding an upper story or stories, and (4) alternative floor plans that minimize encroachment into ESHA and ESHA buffer areas."*

In creating the Alternatives Analysis it was determined that those suggestions were infeasible or inappropriate for various reasons, as follows.

- ***(1) redeveloping the existing structure***
    - Redeveloping the existing cabin is cost prohibitive, would not be conducive to roof-mounted solar due to the roof orientation, and is outside of the approved building envelope.
    - While it is commonly presumed that adding on to an existing structure will result in a savings of time and money, doing so with a structure that is 70+ years old often gives way to extensive, unpredictable build complications. These complications frequently result in more time and money. As a matter of effectiveness and efficiency, redevelopment of the existing structure was ruled out early in the design process.
    - In addition to the infeasibility of redeveloping the cabin, the property owners desire to maintain the character of the structure and honor its existence as a functional remnant of the property's historic use. Particularly since it is a structure well suited for conversion to an ADU. Conversion of existing structures is an activity that is encouraged and embedded into the LCP code section regarding ADU development.
- ***(2) alternative house sizes, including an alternative house size that is no larger than the average house size of similarly-constrained property in the surrounding neighborhood***
    - It is effectively impossible to determine the average house size of similarly constrained property, because there are no similarly constrained properties in the immediate area that have been developed. That is not because there are no properties with the same amount of ESHA. That is because the interpretation of the definition of ESHA has been expanded significantly in recent years. Being of biological concern, one might think that interpretation is due to new or evolving science in the field. Not so. The interpretation is almost exclusively due to the emergence of the practice of plant communities being considered to be ESHA in recent years, when for decades prior they were not. There is not enough data from which to be able to extrapolate an average home size on a similarly constrained lot, much less identify a similarly constrained lot given today's interpretations of ESHA which push the boundaries of reason.
    - Prior to designing the proposed project, WCPB completed a neighborhood development comparison to assist the applicants in creating a project design that was similar in scale and character to other homes in the neighborhood.
    - With access to detailed project records, the first step in developing a takings analysis involves County staff reviewing nearby properties in order to select the most suitable properties to compare to the proposed project. Five (5) nearby parcels were selected to be included in the takings analysis within the staff report. Of those five, the most recent CDP approval occurred in June 2017, of an application submitted 3 years earlier, in March 2014. That permit (CDP_2014-0016) also featured development within less than the 100'

mandatory ESHA buffer width. The proposed single family residence was 1,832 square feet, 30 square feet larger than the proposed single family residence of the subject project.
    - CDP_2014-0016 is the closest available project on the most similarly constrained property for which there is data available. The approved house size on that project is already larger than the house size of the proposed project.
- ***(3) alternative designs that minimize the footprint of the house (and any proposed J/ ADU) on the ground by utilizing the same footprint as the existing cabin and adding an upper story or stories***
    - Built some time before 1954, the existing cabin would require substantial structural retrofitting, if even feasible, to bring the structure up to the modern building code required to support additional stories.
    - Designing a one-story SFR was intentional due to the fact that the proposed home is intended for living in after retirement. A multi-story dwelling would not be conducive to aging-in-place. Therefore, the concept of adding stories onto the existing structure was not explored in-depth as it would be physically dysfunctional for the applicants.
    - To suggest utilizing the same footprint as the existing cabin infers demolition of the structure. The cabin is a legally non-conforming structure. Therefore, it would be an extreme agency overreach, not to mention illegal, to require any property owner to remove a legally non-conforming structure.
    - Effort has been made to utilize the existing footprint and therefore reduce the amount of new development, as evidenced by the inclusion of converting the cabin to an ADU. Though ADUs can be up to 1200 square feet in size, the applicants are purposely leaving it much smaller (475 square feet), as existing in order to reduce the impact of site construction and ground disturbing activity.
- ***(4) alternative floor plans that minimize encroachment into ESHA and ESHA buffer areas***
    - Revisions to the floor plan would not result in a measurable effect on any encroachment into ESHA. The proposed floor plan already keeps the higher traffic areas of the home (garage/entry) on the east side of the home, in the area outside of ESHA.
    - The inclusion of decking, as proposed, will indirectly serve as a minimization of encroachment into ESHA since occupants and guests will be drawn to spend their time outdoors on the deck/patio rather than in the ESHA.

Revised Project Description and Site Plan

As an indirect result of creating the Alternatives Analysis, it was discovered that a turnout along the driveway, required by CalFire Fire Safe regulations, had been inadvertently left off the project site plan and biological mapping. Hence, please note the following change to the project description to include that necessary element:

> Construct a 1,802sf single-family residence with attached 836sf garage; 297sf of decks; roof mounted solar panels; septic system (primary and replacement); destroy one existing well and connect proposed single-family residence to western well through proposed trenching; trench to connect to PG&E; construct turnout along driveway per CalFire requirements; extend existing driveway and parking area by 2,942sf. Convert existing, legally non-conforming 475sf cabin to an ADU.

Coinciding with the revision to Alternative A and the revised project description, a revised site plan is also included in this submittal illustrating the location of the CalFire turnout and the change to the development footprint as reflected in Alternative A of the Alternatives Analysis.

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May 3, 2024

Jim & Denise De Alba
3785 Glen Haven Road
Soquel, CA 95073

RE: Alternatives Analysis for CDP #2023-0009 – response to CCC Commentary
33389 Pacific Way
Fort Bragg CA 95437
APN: 017-320-51

Dear Mr. & Mrs. De Alba:

This letter is written to provide additional information for Mendocino County Planning to address commentary dated March 15, 2024 by the California Coastal Commission's North Coast District Supervising Analyst on the Mendocino County Staff Report in advance of the Coastal Permit Administrator's March 28, 2024 hearing for this project.

The Coastal Commission Analyst's comments include a request for an Alternatives Analysis to evaluate whether the size, location and design of the home and ancillary developments are the least environmentally damaging alterative, as compared to other alternatives.

Consequently, an 'alternatives analysis' comparing the relative impact of the proposed project and four alternative configurations is presented below. Our analysis concludes that Alternative A to the proposed development is the least environmentally damaging alternative that meets the needs of the applicant and a regulatory takings analysis, upon guidance from WCPB Planners. It is my understanding that WCPB Planners have prepared a complement to WCPB Biology's Alternatives Analysis.

Please let us know if you have any questions or comments.

All the best,

Asa Spade, Senior Biologist
Wynn Coastal Planning & Biology

Encl: n/a

CC: file

1. PROJECT ALTERNATIVES

The proposed development will directly impact Bishop pine forest and Pacific reedgrass meadow presumed ESHAs. Because virtually all native plant communities occurring on the Mendocino coast are considered 'sensitive' natural communities the parcel is constrained, with no feasible alternative locations where development can occur that would avoid direct impact to all presumed ESHAs and their buffers. The site is limited by other types of setbacks, such as property line and geotechnical setbacks, and soils suitable for the installation on a septic system are limited. An existing rocked driveway serves as access from the northeastern corner of the parcel and a cabin with decks, a couple sheds, and a well are present near the center of the parcel. No alternative locations were considered for the development that is already present, nor for the primary leach field and designated replacement field because it was presumed that soils in other locations were not suitable to support use as septic leach fields. The proposed development is mapped in **Figure 1**. Four alternatives to the proposed project were considered and are mapped in **Figure 2** through **Figure 5**. The alternatives are described and discussed below. **Table 1** shows a comparison of how the proposed development and alternatives would directly impact and/or be within 50 and/or 100ft buffers the special status resources present. The table shows that there are tradeoffs to all alternative locations, avoiding one resource often means locating development within or nearer another special status resource.

Proposed Project
A building envelope was established when the parcel was created and then was modified to reflect a 50ft setback from the bluff edge and 15ft setback from the ephemeral stream many years before the parcel was purchased by the current owners. The proposed project is to build a new single-family residence (SFR) with decks within the existing CCC building envelope, and west of the existing cabin, which will be converted to use as an accessory dwelling unit (ADU). A driveway turnaround/patio will be installed between the SFR and ADU. There are two existing wells on the property: one each on the northern and on the western edge of the parcel. The well on the northern edge of the parcel is in a location near what was determined to be the best location for the installation of a primary leach field and for the designation of a replacement leach field. This well will therefore be abandoned, and the proposed development will connect to the existing well on the western portion of the of the property.

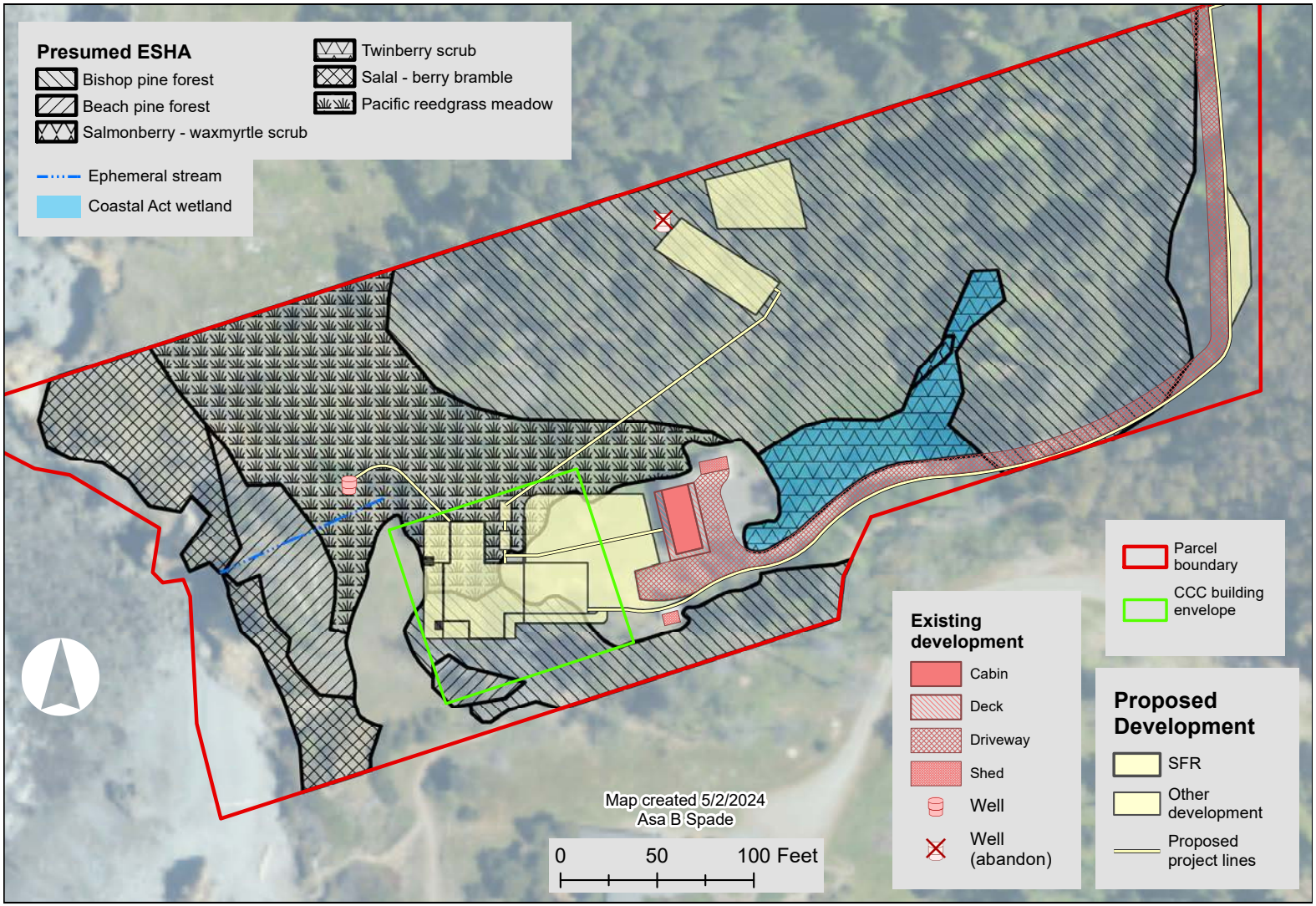
This configuration would result in some direct impact to Bishop pine forest and Pacific reedgrass meadow but would avoid direct impact to all other presumed ESHAs. A mitigation monitoring and reporting plan was created for this proposal specifying habitat enhancement that should effectively compensate for the impacts through enhancement of the remaining Bishop pine forest through invasive plant removal and understory plantings, and through the conversion of an area dominated by non-native grassland to a native Pacific reedgrass meadow.

Alternative A
Alternative A is similar to the proposed project in most ways, with all structures within the CCC building envelope but the structures are placed approximately 12ft further south and 5ft east as compared to the proposed project. This maximizes distance between the structures and the ephemeral stream while maintaining the angle at which the structures were designed. This configuration also reduces direct impact to Pacific reedgrass meadow but pushes the structure further into Bishop pine forest. Alternative A is the best design for minimizing development within the 50ft buffers to wetlands and the stream but has more direct impact to special status plant communities than the proposed project.

Alternative B
This alternative configuration would locate the SFR further north than the proposed project, outside of the CCC building envelope, which allows the approach to the garage to be more direct rather than looping around to the northern side of the garage. This configuration also maximizes the distance of development from the ephemeral stream and Coastal Act wetland presumed ESHAs by roughly centering the development between them. This configuration has the second least area of development within 50ft wetland and stream buffers, being roughly comparable to Alternative A. This alternative has the least amount of development within 50 and 100ft buffers around upland plant communities but has more direct impact to these communities than both Alternative C and the proposed development.

Alternative C
This alternative was an attempt to locate the development further west than the proposed development, outside of the CCC building envelope, in an area where non-native grassland is dominant. This alternative complies with the 15ft setback to the ephemeral stream addressed in the subdivision process. The SFR would comply with the 36ft setback to the bluff edge specified by the geotechnical report, rather than a 50ft setback to the top of bluff that would be consistent with the discussion in the creation of the CCC building envelope placement. This configuration would allow the owners to have the best ocean views. This configuration places the SFR furthest from the Coastal Act wetland twinberry scrub and salmonberry – wax myrtle scrub communities. Alternative C has the least direct impact to upland plant communities, though it is only a slight improvement over the proposed development in this regard.

Alternative D
This alternative explores the possibility of siting the single-family residence on the eastern side of the parcel. This location would be almost completely within Bishop pine forest presumed ESHA rather than taking advantage of the area west of the existing cabin which has already been impacted by past use of the property. This location would also not allow satisfactory use of the parcel with regard to ocean views from the SFR unless a significant number of trees west of the residence were removed. While the removal of trees between a residence and the ocean would require permitting and is not analyzed as a part of this alternatives analysis, it should be considered that after-the-fact removal of trees can be an unintended consequence of forcing a residence to be located further east on a bluff top parcel when a property owner had the investment-backed expectation to build closer to the bluff, and in this case within a building envelope prescribed by the Coastal Commission that is reflected in a recorded Deed Restriction.



CLIENT: De Alba
APN: 017-320-51-00
ADDRESS: 33389 Pacific Way
Fort Bragg, CA

Proposed Development and Presumed ESHA for Alternatives Analysis

Figure 1. Proposed project map.

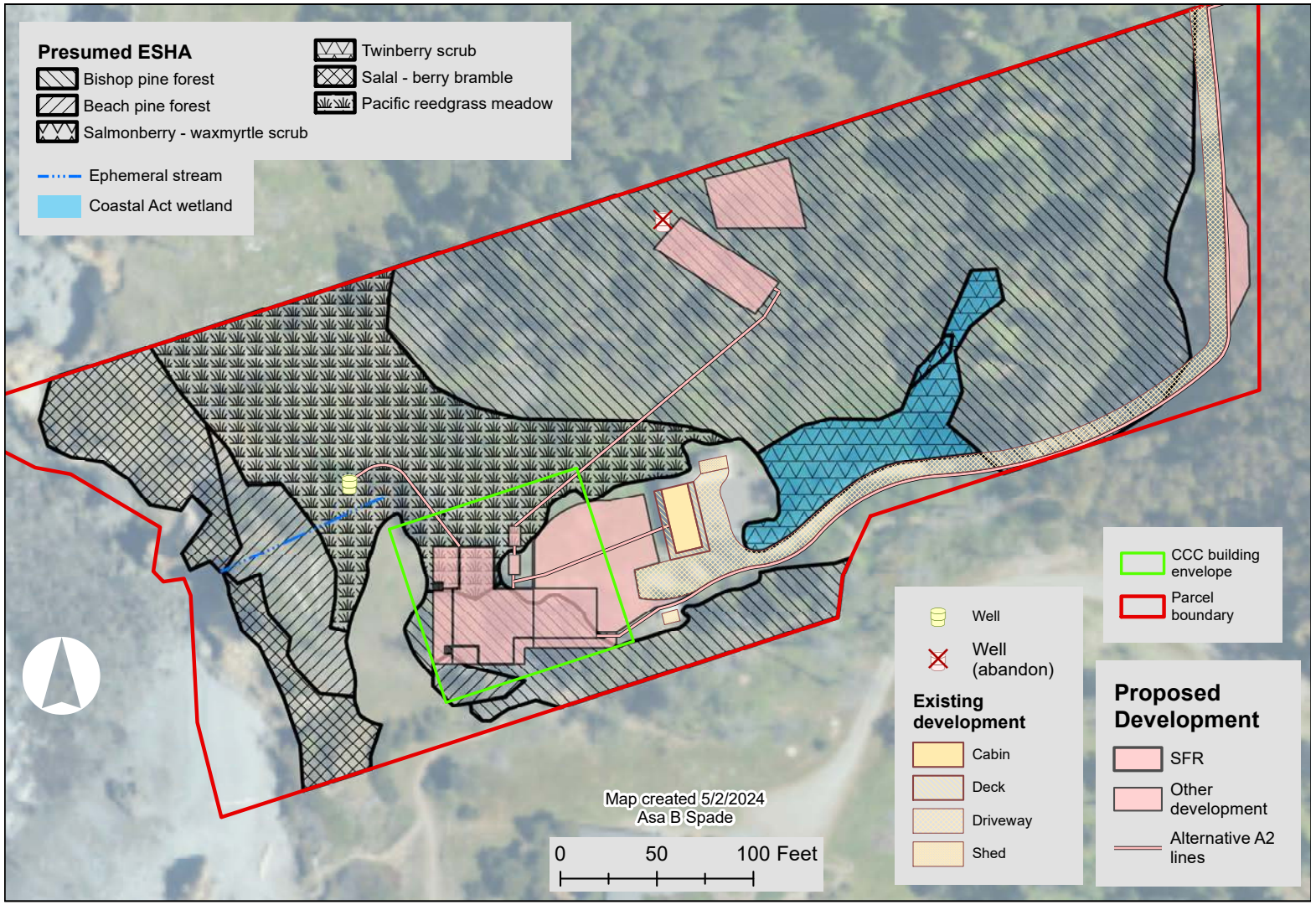


Figure 2. Alternative A development relative to presumed ESHAs.

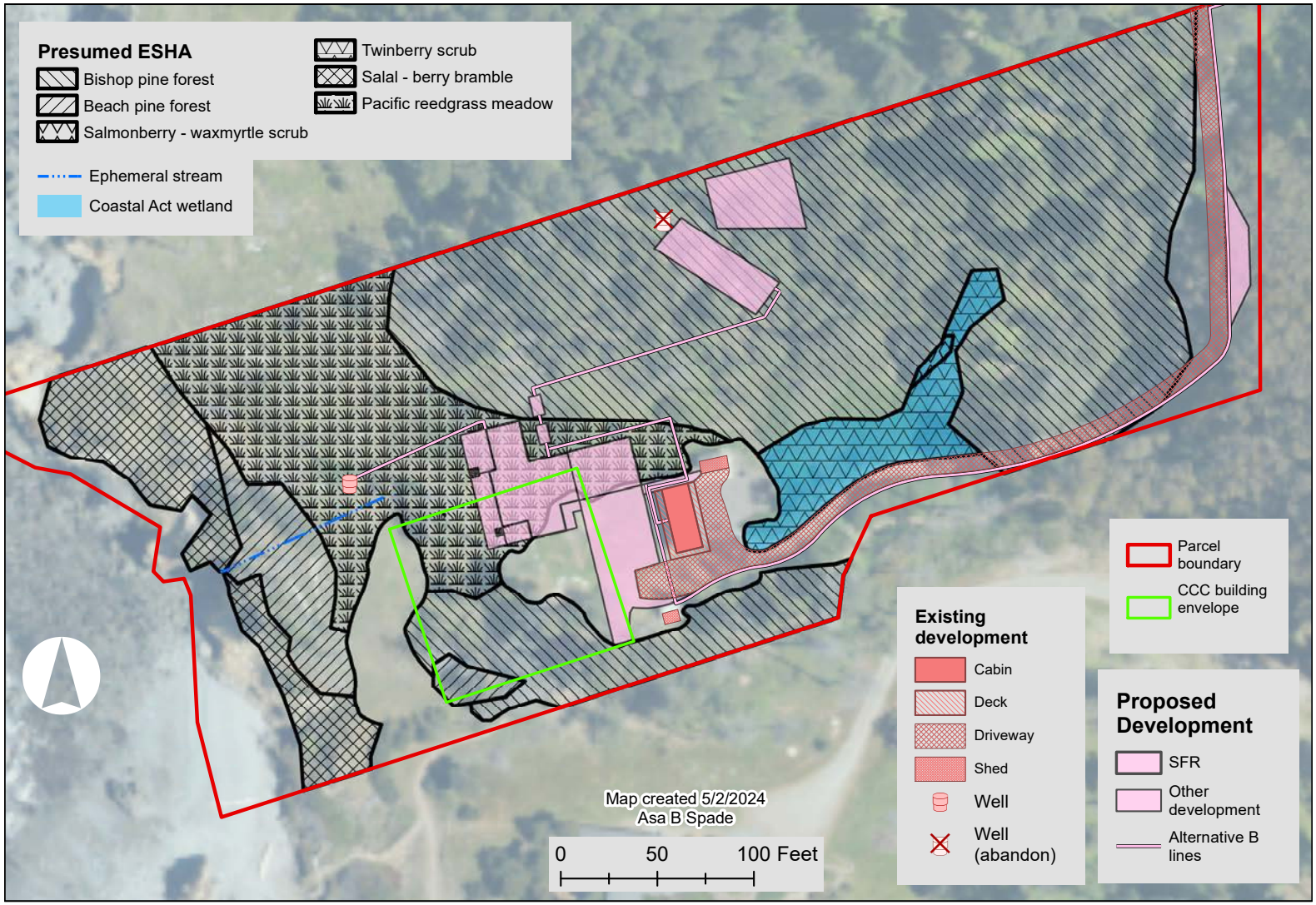


Figure 3. Alternative B development relative to presumed ESHA.

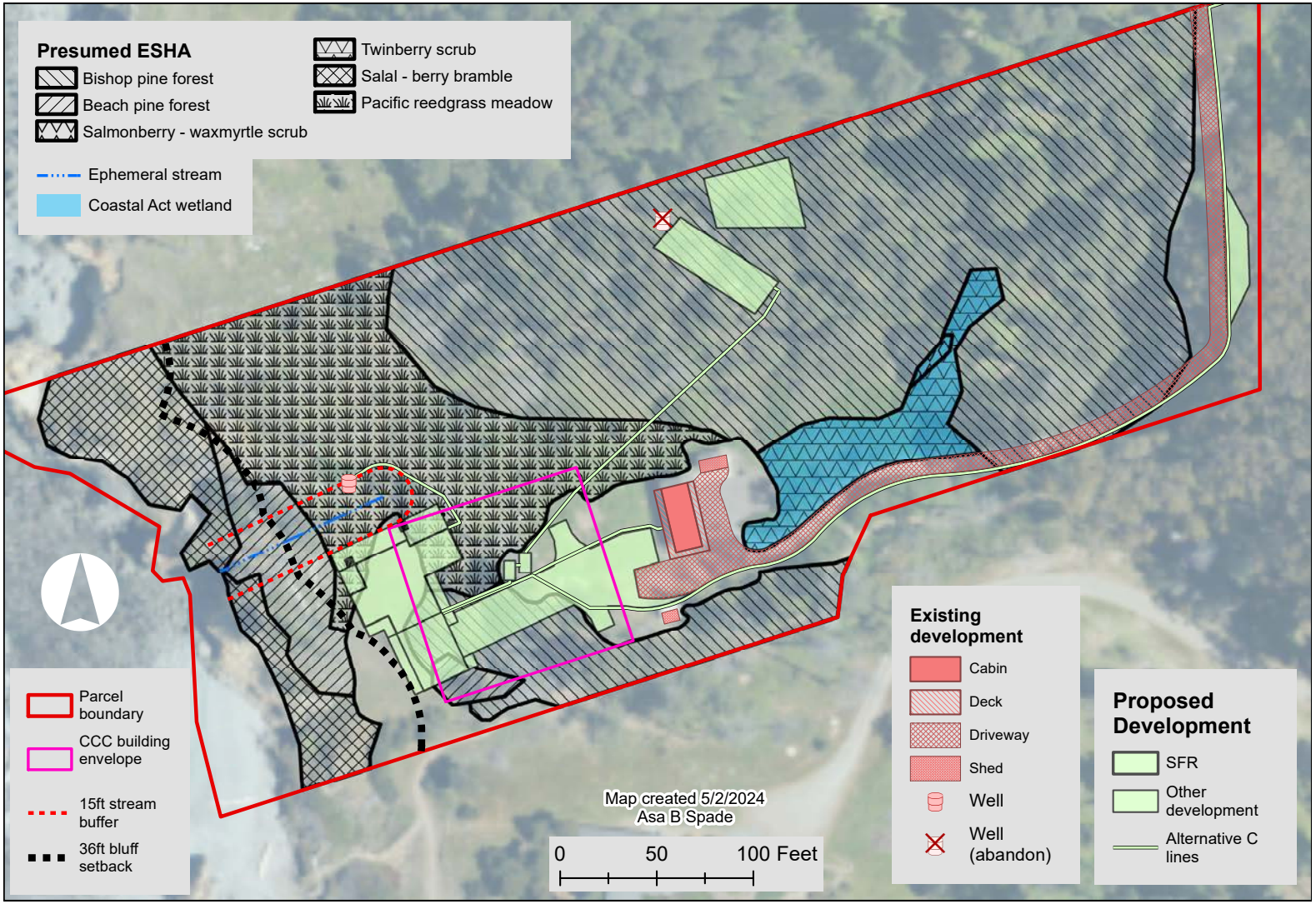


Figure 4. Alternative C development relative to presumed ESHA.

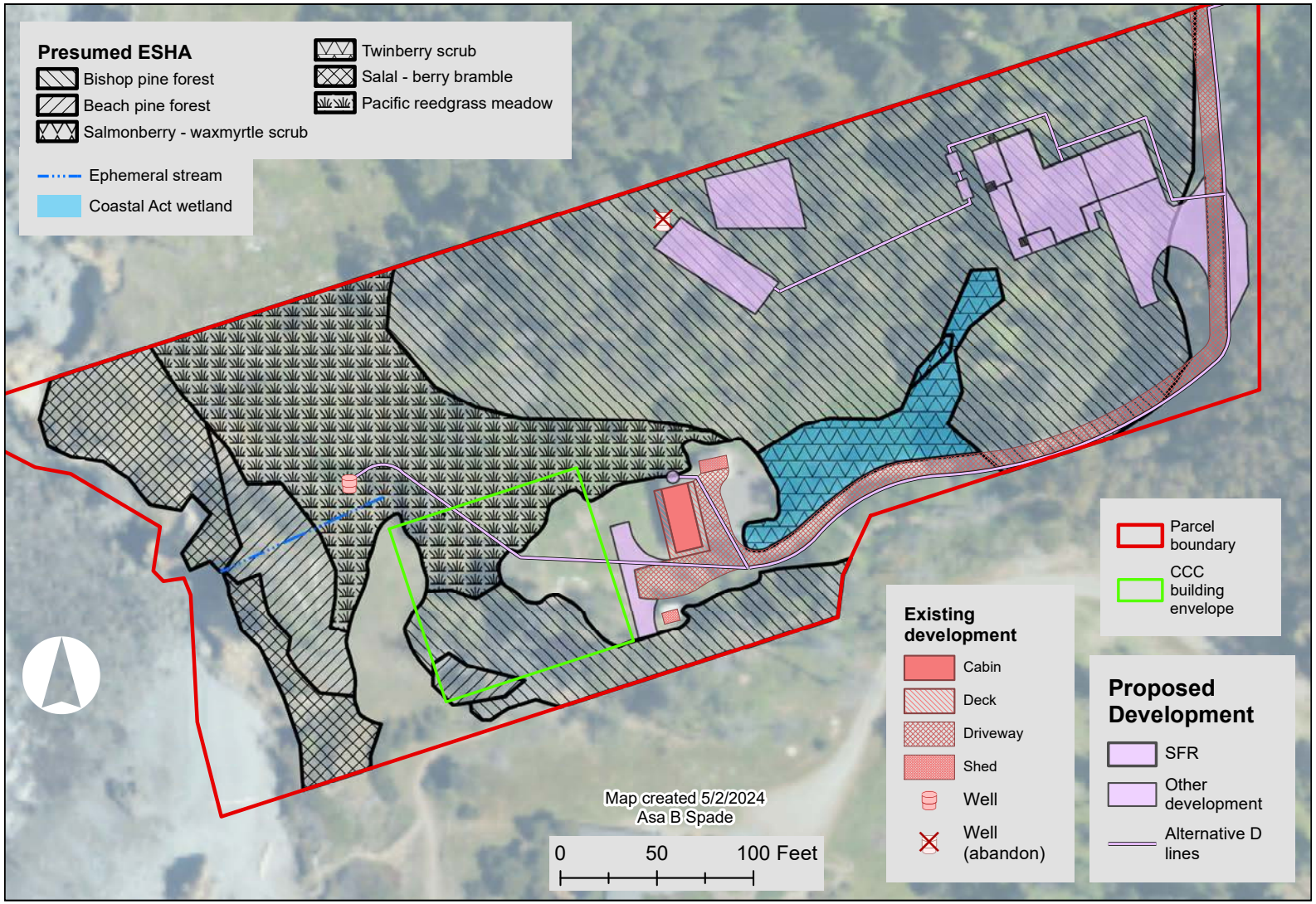


Figure 5. Alternative D development relative to presumed ESHA.

Table 1. Comparison of proposed project and project alternatives in relation to relevant presumed ESHAs. The square footage indicates how much development will be within ESHA and ESHA buffers. The lowest square footage in each category is highlighted.

Development Alternatives						
ESHA		**Proposed Project**	**Alternative A**	**Alternative B**	**Alternative C**	**Alternative D**
	Units	(square feet)	(square feet)	(square feet)	(square feet)	(square feet)
Ephemeral stream	Direct Impact	**0**	**0**	**0**	**0**	**0**
	Within 50ft Buffer	767	340	248	2197	**156**
	Within 100ft Buffer	4365	3528	3105	5722	**209**
Twinberry scrub (Coastal Act wetland)	Direct Impact	**0**	**0**	**0**	**0**	**0**
	Within 50ft Buffer	347	342	473	**333**	1889
	Within 100ft Buffer	4423	4651	4747	**3410**	7532
Salmonberry – wax myrtle scrub (Coastal Act wetland)	Direct Impact	**0**	**0**	**0**	**0**	**0**
	Within 50ft Buffer	**29**	**29**	**29**	**29**	30
	Within 100ft Buffer	**583**	**583**	**583**	**583**	3037
Pacific reedgrass meadow	Direct Impact	2082	1009	3535	1318	**189**
	Within 50ft Buffer	7020	6590	5785	7487	**751**
	Within 100ft Buffer	8794	8693	7660	9242	**2278**
Salal – berry bramble	Direct Impact	**0**	**0**	**0**	**0**	**0**
	Within 50ft Buffer	8	74	**0**	1435	**0**
	Within 100ft Buffer	2565	2924	**116**	3628	132
Beach pine forest	Direct Impact	**0**	42	**0**	187	**0**
	Within 50ft Buffer	2599	3601	129	5078	**101**
	Within 100ft Buffer	6855	6841	3694	7225	**911**
Bishop pine forest	Direct Impact	4465	5449	**3025**	4881	8137
	Within 50ft Buffer	11140	11091	**10090**	11668	10687
	Within 100ft Buffer	11245	11240	**10187**	11768	10782
Upland plant communities combined	Direct Impact	6442	6619	6568	**6394**	8447
	Within 50ft Buffer	11246	11281	**10210**	11786	10924
	Within 100ft Buffer	11246	11281	**10210**	11786	11014
Wetland and ephemeral stream combined	Direct Impact	**0**	**0**	**0**	**0**	**0**
	Within 50ft Buffer	1108	**685**	795	2568	2070
	Within 100ft Buffer	8409	7903	7598	**7369**	7733

Contributing Biologists

Asa B Spade graduated from Humboldt State University with a Bachelor of Science majoring in Environmental Science, with a concentration in Landscape Ecosystems as well as a minor in Botany. Since that time, he has been working in the natural resources field, first with Mendocino County Environmental Health and later with California State Parks and the Department of Fish and Game. He has been trained in Army Corps wetland delineation by the Coastal Training Program at Elkhorn Slough and in Advanced Wetland Delineation by the Wetland Science and Coastal Training Program. He has been trained in the environmental compliance process for wetland projects in San Francisco bay and outer coastal areas. In 2011 Asa completed training to survey for California red-legged frog held by Elkhorn Slough Coastal Program. In 2015 he attended a Townsend's big eared bat basal hollow habitat assessment and survey methods workshop taught by Michael Baker, Leila Harris, and Adam Hutchins. Asa has trained with the Carex Working Group in identifying grasses and sedges of Northern California as well as a CNPS sedge workshop taught by CA Fish and Wildlife staff biologist Gordon Leppig. In 2019, he completed a training for burrowing owls taught by Dr. Lynne Trulio through the Elkhorn Slough Coastal Training Program and completed foothill yellow legged frog training taught by David Cook and Jeff Alvarez. Asa conducted field work for the Classification and Mapping of Mendocino Cypress Woodland and Related Vegetation using CNPS/CDFW Rapid Assessment/Relevé protocol. In 2021 Asa completed training by Jeff Alverez and Jeff Wilcox on the eradication of bullfrogs within the range of California red-legged and foothill yellow legged frog. He is on the Fish and Wildlife Service approved list for Point Arena mountain beaver surveys and has done surveys for Behren's silverspot butterfly, Northern spotted owl, Sonoma tree vole, foothill yellow-legged frog and the California red-legged frog. He has contributed natural resources expertise to more than 200 coastal development projects in Mendocino County.

Lands of De Alba
Section 25, Township 18 North,
Range 18 West, Mount Diablo Meridian
Mendocino County, CA

General Notes

General Plan Designation:	RR 5 (2)
Zoning District:	RR:5
Urban/Rural:	Urban
Highly Scenic Area:	No
Proposed Land Use:	Convert existing cabin to ADU; CDP for SFR
Appealable to Coastal Commission:	Yes
Entitlement Permit Type:	CDP
Yard Setbacks:	20' front & rear & sides
CalFire Setbacks:	30'
Corridor Preservation Setback:	n/a
Height Limit:	28'
Environmental Constraints:	Yes
Potential Geologic Hazards:	Yes, 36' setback
Landscaping:	No
Water Source:	On-site well
Wastewater Disposal:	On-site septic
Tree Removal:	None

Lot Coverage Tabulation Gross Site Area:

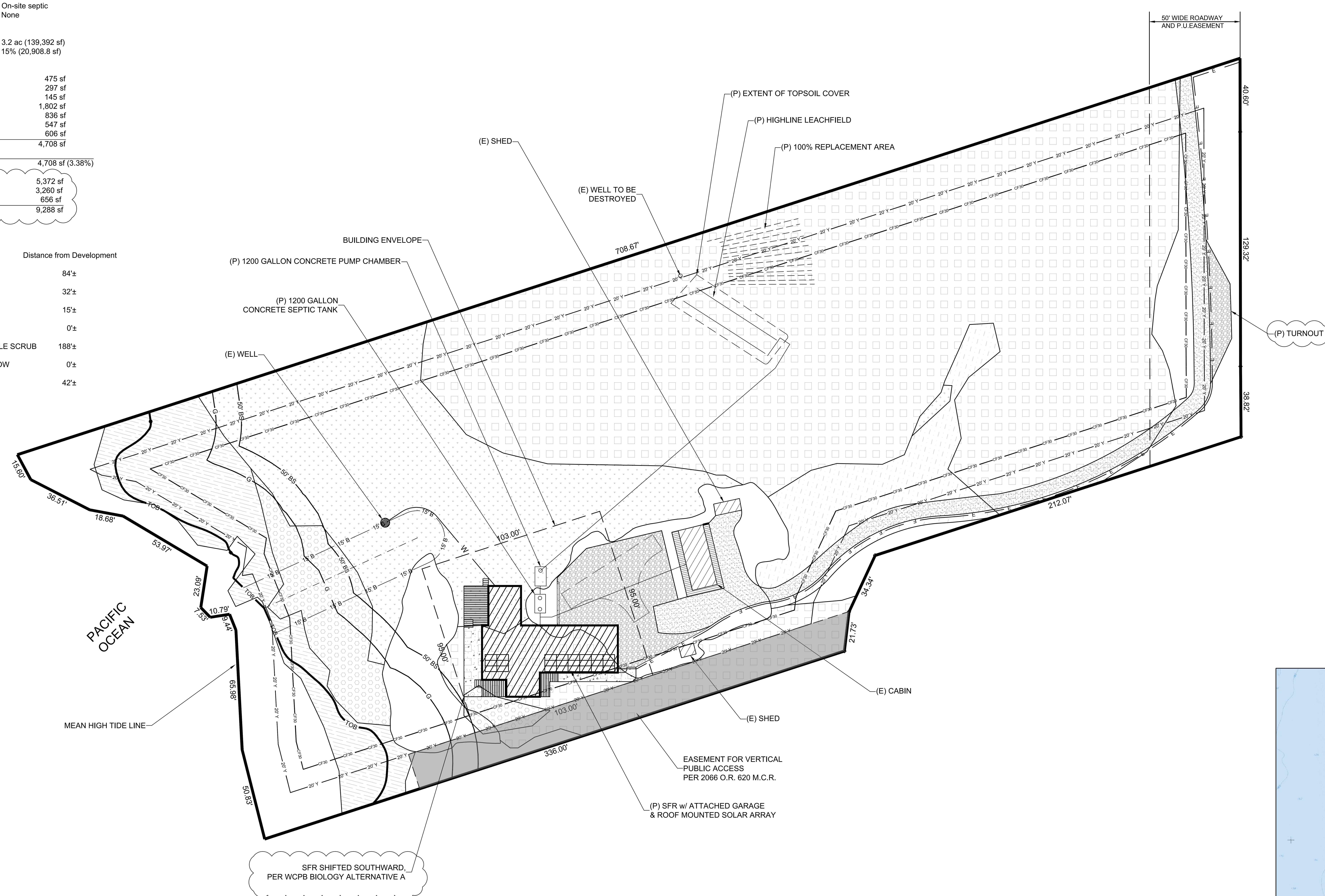
Gross Site Area:	3.2 ac (139,392 sf)
Maximum allowable lot coverage:	15% (20,908.8 sf)

Lot Coverage:

(E) Footprint - Cabin:	475 sf
(E) Footprint - Decks:	297 sf
(E) Footprint - Sheds:	145 sf
(P) Footprint - SFR:	1,802 sf
(P) Footprint - Attached Garage:	836 sf
(P) Footprint - Deck:	547 sf
(P) Footprint - Concrete Walk & Patio:	606 sf
Total Building Footprint:	4,708 sf
Total Lot Coverage (Footprint):	4,708 sf (3.38%)
(E) Driveway & Parking:	5,372 sf
(P) Driveway, Parking & Path:	3,260 sf
(P) Turnout:	656 sf
Total Driveway & Parking:	9,288 sf

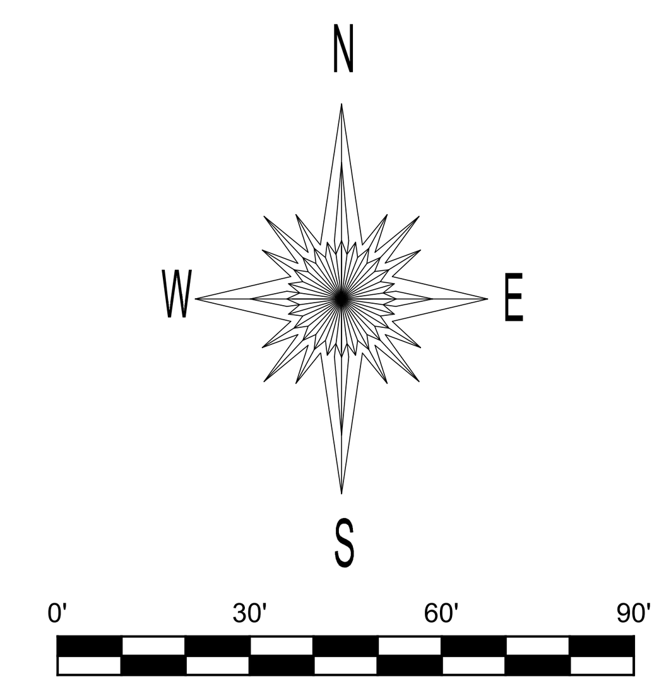
Sensitive Resources:

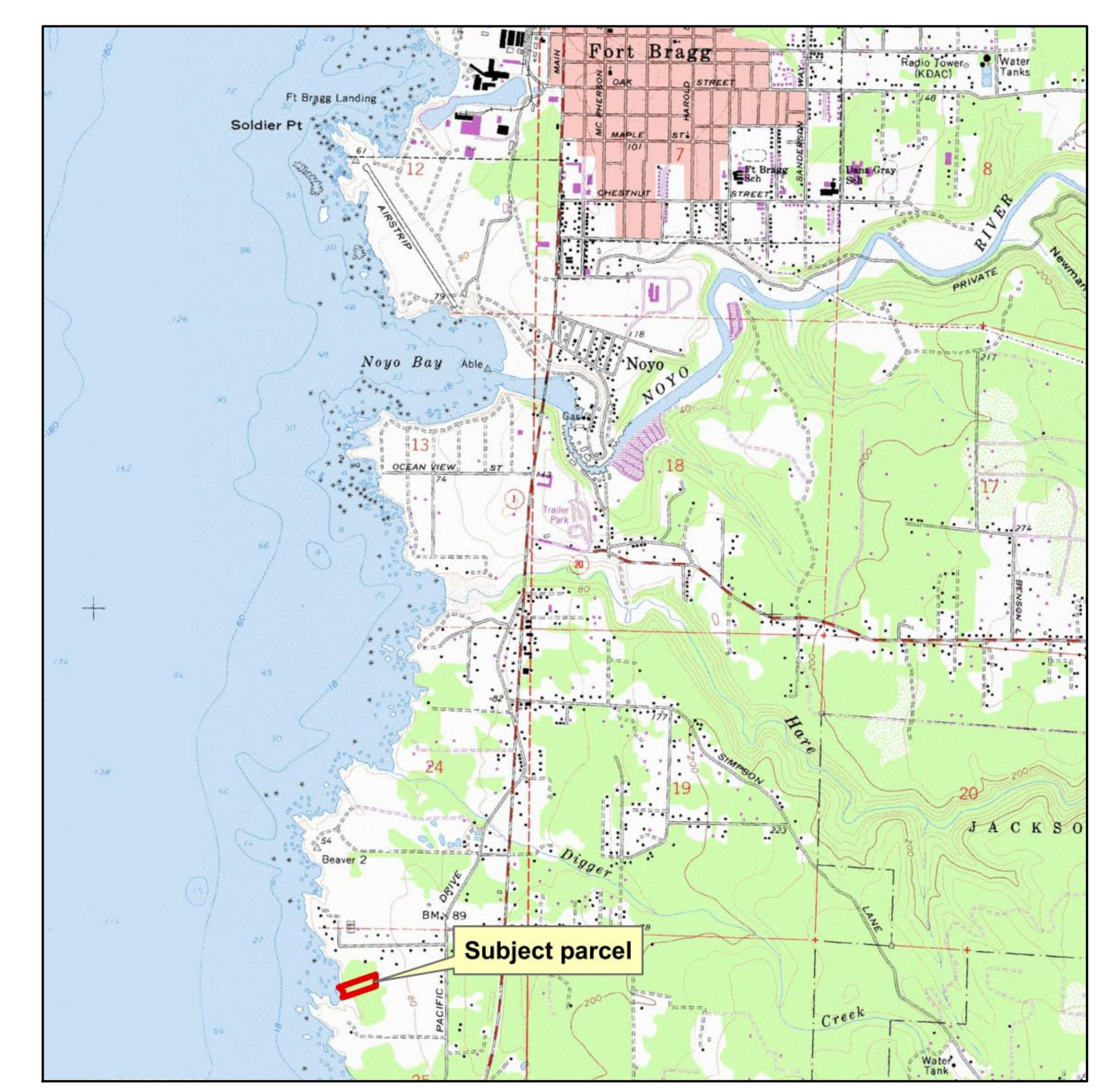
Legend	Type	Distance from Development
	TWINBERRY SCRUB	84'±
	STREAM	32'±
	BEACH PINE FOREST	15'±
	BISHOP PINE FOREST	0'±
	SALMONBERRY - WAX MYRTLE SCRUB	188'±
	PACIFIC REEDGRASS MEADOW	0'±
	SALAL - BERRY BRAMBLE	42'±



LEGEND:

	(E) GRAVEL DRIVEWAY
	(P) GRAVEL DRIVEWAY
15' B	15' BUFFER
50' B	50' BUFFER
100' B	100' BUFFER
CF30	CAL FIRE 30' YARD SETBACK
x x	(E) FENCE
20' Y	20' YARD SETBACK
TOB	APPROXIMATE TOP OF BLUFF
50' BS	50' BLUFF SETBACK
G	36' GEOTECHNICAL SETBACK
W	(P) WATER LINE TRENCH
E	(P) ELECTRICAL TRENCH
	EASEMENT FOR VERTICAL PUBLIC ACCESS PER 2066 O.R. 620 M.C.R.





Design review, not meant for construction.

Base on a map prepared by:
Forrest Francis, Land Surveyor
P. O. Box 1162
Mendocino, California 95460
Phone: (707) 937-9900 E-Mail: ffrancis@mcn.org
www.mendocinosurveyor.com

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ph: 707-964-2537 fx: 707-964-2622 www.WCPlan.com

De Alba
33389 Pacific Way
Fort Bragg, CA 95437

APN: 017-320-51-00
DRAWN BY: TH
DATE: 2/15/2023
SCALE: AS SHOWN
APPROVED BY: TJ

REVISION	BY	DATE
Response to CCC request Revised location CalFire Turnout	TH	5/6/24

SHEET 1 OF 1 SHEETS

SITE PLAN 1:30 1