



COASTAL PERMIT ADMINISTRATOR STAFF REPORT- ADMINISTRATIVE CDP

JULY 10, 2018
CDPM_2017-0007

SUMMARY

OWNER/APPLICANT:

ELIZABETH CROSS
PO BOX 276
GUALALA, CA 95445

REQUEST:

Administrative Coastal Development Permit Modification of CDP_2014-0004 to change the use of the approved barn to a single-family residence. The proposal also includes after-the-fact approval for two storage sheds. Associated improvements include a septic system and temporary occupancy of a travel trailer while constructing the primary dwelling.

LOCATION:

In the Coastal Zone, the site is located on the south side of Fish Rock Road (CR 122), 1.2± miles east of its intersection with Highway 1 (SH1), at 46051 Fish Rock Road (APN 143-110-32).

TOTAL ACREAGE:

4.2± acres

GENERAL PLAN:

Rural Residential (RR5(1), RR5-DL(RR-DL))

ZONING:

Rural Residential (RR5(1), RR5-DL(RR-DL), RR5-PD(RR-PD))

SUPERVISORIAL DISTRICT:

5

ENVIRONMENTAL DETERMINATION:

Mitigated Negative Declaration

RECOMMENDATION:

Approve with Conditions

STAFF PLANNER:

Julia Acker

BACKGROUND

PROJECT DESCRIPTION: An administrative Coastal Development Permit Modification of CDP_2014-0004 to change the use of the approved barn to a single-family residence. The proposal also includes after-the-fact approval for two storage sheds. Associated improvements include a septic system.

APPLICANT'S STATEMENT:

Home, 8 x 10 storage shed, 12 x 14 agricultural "dry" shed

RELATED APPLICATIONS:**On-Site**

- Minor Subdivision MS 35-88 was approved by the Planning Commission on December 15, 1988 for the purpose of creating three parcels containing 2.0, 2.9, and 2.9 acres for the subject property. Although approved by the Commission, the project was never completed and the application expired.
- Minor Subdivision MS 12-95 was submitted for processing but was subsequently withdrawn on January 8, 1996 and it was requested that the Planning Department reconsider a previous Certificate of Compliance Application, CC 171-78.

- Certificate of Compliance CC 171-78 was reconsidered by the Planning Department and it was determined that the property was eligible for two certificates of compliance and not one as originally determined. The basis for this determination was that the application was submitted and processed prior to the adoption of the "Amnesty Ordinance". Under the provisions of the ordinance the property owner at the time was permitted a one-time split of the property without benefit of a county approved division of land. Staff would note that the split of the subject property occurred in April of 1968 which was within the guidelines established for the Amnesty Ordinance.
- Coastal Development Boundary Line Adjustment #CDB 21-96 was approved May 24, 1996 to adjust 0.9± acres from APN 143-110-17 (historical parcel number) into APN: 143-110-18 (historical parcel number) and 0.34± acres from APN 143-110-19 (historical parcel number) into APN: 143-110-17 (historical parcel number). Building envelopes were provided for each parcel subject to the adjustment as it was noted that there was presence of sensitive habitat.
- Coastal Development Permit CDP_2014-0004 previously approved construction of a new 960 square foot barn with a maximum height of 15 feet above grade. Associated improvements include a 1,500 gallon water storage tank and well. This permit is the permit being amended under this project.
- ST22966 septic system sized for proposed residence.

Neighboring Property:

- Coastal Development Permit CDP 20-2013 and associated Variance V 5-2013 was approved on June 2, 2014 to allow construction of an approximately 1,915 square foot split level single family-residence and an approximately 480 square foot detached garage at 45771 Sunset Drive (APN: 143-110-26). The variance was to reduce the required yard setback for the garage to 6 feet where 20 feet is typically required. Building permits have been issued for the residence and garage but only the residence has received a final inspection at this time.

SITE CHARACTERISTICS: The 4.2 acre subject parcel is situated on the south side of Fish Rock Road, approximately 1.2 miles east of its intersection with Highway 1. The site is surrounded by residential development. The subject parcel is currently vacant with existing agricultural use.

Portions of the subject parcel are designated as having development limitations (a combining district of DL). All proposed improvements are located outside of the development limited portions of the parcel.

SURROUNDING LAND USE AND ZONING:

	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	RR5[DL](RR2[DL])	RR:L-5[DL](RR:L-2[DL])	4.2 Acres	Residential
EAST	RMR40	RMR:L-40	6.03 Acres	Residential
SOUTH	RR5(RR), RR5[DL](RR[DL])	RR:L-5(RR:L-1), RR:L-5[DL](RR:	2.37 Acres	Residential
WEST	RMR40, RMR40[DL]	RMR:L-40, RMR:L-40[DL]	51.8 Acres	Recreational Residential

PUBLIC SERVICES:

Access: FISH ROCK ROAD (CR 122)
 Fire District: SOUTH COAST FIRE
 Water District: NORTH GUALALA WATER COMPANY
 Sewer District: NONE
 School District: NONE

AGENCY COMMENTS: On December 15, 2017 project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. A summary of the submitted agency comments are listed below. Any comment that would trigger a project modification or denial is discussed in full in the following section.

REFERRAL AGENCIES	COMMENT
Department of Transportation	No Comment
Environmental Health-FB	Comments
Building Services-FBPBS	No Response
Assessor	No Response
County Water Agency	No Response
US Fish and Wildlife Service	No Response
Department of Forestry/CalFire	No Response
CA Dept. of Fish and Wildlife	Comments
California Coastal Commission	No Response
Gualala MAC	Comments
North Gualala Water Company	Comments
South Coast Fire District	No Response

LOCAL COASTAL PROGRAM CONSISTENCY: The proposed project is consistent with the goals and policies of the Local Coastal Program as detailed below.

1. Land Use: The subject parcel is classified as Rural Residential by the Coastal Element of the Mendocino County General Plan, which 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" (MCC Section 20.376.05). The principally permitted use designated for the Rural Residential land use classification is "one dwelling unit per existing parcel and associated utilities, light agriculture and home occupation" (Chapter 2.2 of the County of Mendocino General Plan).

The parcel is currently developed with two storage structures, which the applicant is seeking after-the-fact approval for under this application, with light agricultural use. The proposed residence is a principally permitted use of the parcel and the storage structures are considered accessory to the principal residential use and are therefore consistent with the Rural Residential classification of the Coastal Element of the Mendocino County General Plan.

2. Zoning: The subject parcel is zoned Rural Residential as shown on the Zoning Display Map. The intent of the Rural Residential zoning district is "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" (MCC Section 20.376.05). The applicant proposes to construct a single-family residence in the same location as the barn previously approved under CDP_2014-0004. In addition, the applicant requests after-the-fact approval for two existing storage structures on the property. The storage structures are considered accessory uses and are permitted in the Rural Residential zoning district, subject to the Accessory Use Regulations of the Coastal Zoning Code (MCC Section 20.456). The temporary occupancy of a travel trailer during construction is requested and is permissible as an allowable temporary use through the issuance of a Coastal Development Administrative Permit. A Condition of Approval is recommended to ensure the travel trailer is utilized in a manner consistent with the provisions of MCC Section 20.460.035 (c).

The subject property has been designated with a combining district of development limitations (DL). The intent of the development limitations combining district is for use "in conjunction with another land use classification on parcels or portions of parcels that according to available data have serious constraints that may prevent or seriously limit development. Such constraints include slopes over thirty (30) percent, erosion or landslide potential or other geophysical hazards" (MCC Section 20.416.005). The area of the parcel designated with the DL combining district averages between 60-70% slopes but the proposed development falls outside those areas and is not located within the portions of the parcel designated with a DL combining district.

Portions of the subject property have also been designated with a combining district of planned unit development (PD). The intent of the PD combining district is “to require sensitive development of selected sites where standard residential and commercial and industrial design would be inappropriate to the unique or highly visible nature of the site, and to encourage imaginative development incorporating cluster development and the maximization and preservation of open space and views from public roads. Development on parcels entirely within areas of pygmy vegetation shall be reviewed for mitigation measures to prevent impacts to this resource consistent with all applicable policies of the land use plan and development standards of this Division” (MCC Section 20.428.005). In the PD combining district a use permit is required for all development other than a single-family residence and accessory uses (MCC Section 20.428.010(A)). Due to the fact that the proposed project is a single-family residence and accessory improvements, the project is consistent with the requirements of the PD combining district.

The maximum dwelling density in the Rural Residential zoning district is one single-family dwelling per 5 acres. The parcel is designated with a variable density zoning classification therefore allowing an increase in dwelling density to one single-family dwelling per acre. The proposed development does not conflict with the dwelling density standards of the Rural Residential zoning district as the project proposes one single-family residence on an existing legal nonconforming 4.2 acre sized parcel.

The minimum required front, side, and rear yards in the Rural Residential zoning district for a parcel of this size are twenty (20) feet from all property boundaries (MCC Section 20.376.030 through Section 20.376.040). Due to the size of the subject parcel, greater than 1 acre in size, 30 foot setbacks are required as provided in the California Department of Forestry and Fire Protection (CalFire) recommendations for CDF 466-17. The proposed development is consistent with the yard setback requirements of the Rural Residential zoning district and CalFire requirements.

The maximum permitted building height for residential structures in the Rural Residential zoning district is 28 feet (MCC Section 20.376.045) and 35 feet for uninhabited accessory structures (MCC Section 20.376.045) such as the existing storage structures. All proposed structures comply with height limitations for the Rural Residential zoning district.

The maximum permitted lot coverage in the Rural Residential zoning district is 15 percent for a parcel of this size (MCC Section 20.376.065). The parcel is approximately 182,952 square feet, allowing for a lot coverage maximum of approximately 27,442 square feet. Including the existing driveway, proposed residence and accessory structures, the lot coverage on the parcel would be less than 9,000 square feet for a lot coverage percentage of approximately 5 percent. The proposed development is consistent with the lot coverage requirements of the Rural Residential zoning district.

3. Habitats and Natural Resources: As part of the previous Coastal Development Permit, CDP_2014-0004, Spade Natural Resources Consulting prepared a Biological Scoping and Botanical Survey Report, dated September 5, 2014, to determine the extent of any environmentally sensitive habitat areas (ESHA) that may be present on the subject parcel. At that time and for CDP_2014-0004 the only identified ESHA consisted of Mendocino cypress (*Hesperocyparis pygmaea*). A 50 foot buffer was recommended between the identified ESHA and all proposed development. A Reduced Buffer Analysis was included in the Survey Report and California Department of Fish and Wildlife (CDFW) concurred that a fifty (50) foot buffer would be appropriate to protect the identified ESHA from development related impacts.

With the current modification request to convert the previously approved barn to a single-family residence and obtain after-the-fact approval for two existing storage sheds, the application was referred to CDFW for comments on the proposed change. In an email response dated April 2, 2017, CDFW determined that despite previous review of the submitted Biological Scoping and Botanical Survey Report in 2014 that they now found the identified glossy leaf manzanita (*Arctostaphylos nummularia*) to constitute a sensitive habitat alliance and therefore an ESHA. With the inclusion of *Arctostaphylos (nummularia, sensitiva)* Shrubland Alliance, the developable portion of the site is considered to be 100% ESHA or its associated buffer.

Constraints on the parcel include that septic is only possible in a very limited area based upon the site evaluation conducted by Dave Miller for Septic Permit #ST22966 and unfortunately this location falls within the 50 foot buffer to the identified ESHA. Additionally, 2.3± acres of the 4.2± acre parcel (located west of the existing access road) are designated with a combining district of Development Limitations (DL) and

contain slopes of 60-70% with a creek located at the base of the slope. This area is unsuitable for development and would require substantially more disturbance of natural resources and would be more impactful than locating development to the east of the access road, as is presently proposed in this application. Finally, the change in determination from CDFW about what constitutes ESHA on the parcel has rendered all developable space outside of the DL designated portions of the parcel as either ESHA or its associated buffer.

There are several constraints on the subject parcel that already limited development to one particular area of the site and essentially have now led this project down the route of considering whether a regulatory taking would occur if the development were denied. In this case, prohibiting development within fifty feet of an ESHA would deprive the owner of all economic use of the property. There are no alternative development options where the project can be at least fifty feet from ESHA and/or outside of the portions of the parcel designated DL. Some factors courts examine to determine if a regulatory taking has occurred involve the presence of reasonable investment-backed expectations, the degree to which a regulation may interfere with those reasonable investment-backed expectations, and whether or not a regulation deprives an owner of all economic use of the property. Staff believes there was a reasonable investment-backed expectation at the time of purchase and that the scale of the residential development proposed is consistent with similar properties in the vicinity. Considering the property is zoned for residential development as a principally permitted use, and residential development exists on adjacent properties, a reasonable person would have believed that the property could have been developed with a single family residence.

It should also be noted that building envelopes were established at the time of the previous Coastal Development Boundary Line Adjustment CDB 21-96, which were provided to allow future development of residential uses to be located within that area. It was also noted under CDB 21-96 that the PD and DL designations have been applied to the subject property as a result of the topographical constraints and the riparian vegetation associated with the existing water course (Ferguson Gulch) which affects the westerly portions of both parcels. The proposed single-family residence, septic, and one of the existing sheds is located within this identified building envelope. The other shed is located adjacent to the pygmy habitat and under this permit that shed is required to be relocated to the building envelope area of the parcel.

The size of the proposed residence of less than 1,000 square feet is well within the size of scale of residences located on adjacent properties. As noted above for related applications on neighboring properties, a 1,900 square foot residence was approved on the parcel directly adjacent to this site. Additionally, the average square footage of development in the surrounding area is 2,350 square feet (all years) and 2,020 square feet (post LCP Certification in 1992). Therefore, it is clearly demonstrated that the proposed development is well within the size and scale of development on adjacent properties.

MCC Section 20.368.010 states the principally permitted use types in the RR district, which include: single family residential, vacation home rental, light agriculture, row and field crops, tree crops and passive recreation. Due to the prevalence of ESHA on the parcel, all principally permitted uses would require encroachment into a fifty foot ESHA buffer. The allowed agricultural uses would require additional site disturbance and clearing and are not a viable use of the property. Passive recreation use would be the only option that would be less impactful than the construction of a single family residence and possibly not require any activities meeting the definition of development under the Coastal Act. Passive recreation uses include sightseeing, hiking, scuba diving, swimming, sunbathing, jogging, surfing, fishing, bird watching, bicycling, horseback riding, boating, photography nature study and painting. These passive recreation uses do not afford the property owner an economically viable use.

Alternatives to the proposed development, including different projects and alternative locations, were considered and analyzed by a qualified professional, as required by MCC Sections 20.496.020(A)(4)(b) and 20.532.060(E). The proposed project is substantially smaller in scale than development existing on adjacent properties in the vicinity of this property. The proposed project is considered the most feasible, least environmentally damaging alternative. The resource area is not significantly degraded by the proposed development. The applicant has constructed the two subject sheds in between existing manzanita bushes and other native vegetation, and has kept the native plant communities as a natural landscaping. Additionally, the applicant has been diligently removing the non-native, invasive broom and acacia from the property. The ecological balance has been improved on the parcel. The development has been placed between existing native vegetation, and existing native vegetation has been left in place as landscaping. Conditions of Approval are recommended, which provide mitigation measures to be

implemented to reduce any potential impacts to the existing natural resources present on the parcel. Ground disturbing activities, such as vegetation removal and initiation of construction, are limited to the non-breeding season for birds (September to January). Vegetation removal activities are limited to the time period after young bats have matured and prior to the bat hibernation period (September 1 to October 31). Additionally, invasive non-native plant removal is recommended as a continued practice on the parcel to restore native plant communities.

In summary, the proposed project is not consistent with all LCP policies relating to ESHA; there are no other alternative locations on the site that would not impact identified ESHA. A least environmentally damaging alternative has been identified, which minimizes vegetation removal and mitigation measures are proposed to offset project impacts. MCC Section 20.496.020(A)(1) reads in part, "the buffer area shall be measured from the outside edge of Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width." The project is inconsistent with this LCP policy; however, no alternative exists on the parcel that could be found to be consistent with this LCP policy. Prohibiting development within fifty (50) feet of an ESHA would deprive the owner of all economic use of the property. The proposed mitigation measures will mitigate the impact of the proposed development, and restore and enhance ESHA located on the parcel.

4. Visual Resources and Special Treatment Areas: Protection of visual resources is a specific mandate of Section 30251 of the Coastal Act, and is subsequently addressed in Chapter 3.5 of General Plan's Coastal Element and implemented by MCC Chapter 20.504. The project is not located in an area that is designated Highly Scenic by the Local Coastal Program. Consequently, the project is not subject to Local Coastal Program Visual Resource policies relating to Highly Scenic Areas.

MCC Section 20.504.035 provides exterior lighting regulations intended to protect coastal visual resources. Exterior lighting is required to be within the zoning district's height limit regulations, and requires exterior lighting to be shielded and positioned in a manner that light and glare does not extend beyond the boundaries of the parcel. A condition of approval is recommended requiring the applicant to provide Planning and Building Services with an example of the proposed lighting at the time of building permit to ensure consistency with exterior lighting regulations.

5. Hazards Management: The Coastal Act mandates that new development shall reduce potential risks and avoid substantial alteration of natural landforms. Chapter 3.4 of the Mendocino County Coastal Element addresses Hazards Management within the Coastal Zone and MCC Section 20.500 (Hazard Areas) provides regulations for those areas. The following is a discussion of the major environmental hazards in the Coastal Zone and potential impacts with the subject project.

Seismic Activity: The property neither lies within, nor does it adjoin a mapped Alquist-Priolo Earthquake fault zone (Department of Conservation, Division of Mines and Geology 2015). The San Andreas fault is located approximately two miles to the northeast of the project site and is the nearest active fault. The site, like the rest of Mendocino County, is subject to strong ground shaking. Figure 3-12 of the Mendocino County General Plan indicates that the subject parcel is not located in a known area of soil liquefaction.

Landslides: The subject property has been designated with a combining district of development limitations (DL). The intent of the development limitations combining district is for use "in conjunction with another land use classification on parcels or portions of parcels that according to available data have serious constraints that may prevent or severely limit development including slope over 30 percent, erosion or landslide" (Chapter 2.2 The County of Mendocino General Plan). There are no translational/rotational or debris slides mapped on the subject parcel (Department of Conservation, Division of Mines and Geology 1984).

Flooding: There are no mapped 100-year flood zones on the subject parcel, and no conditions are necessary to ensure consistency with flood policy (Federal Emergency Management Agency 2011).

Fire: The project is located in an area that has a high fire hazard severity rating, as shown on the Fire Hazard Zones and Responsibility Areas map. The project application was referred to the South Coast Fire Protection District and California Department of Forestry and Fire Protection (CalFire) for comment. CalFire submitted recommended Conditions of Approval (CDF 446-17), for address standards, driveway standards, and defensible space standards. A Condition of Approval is recommended to achieve compliance with CalFire safety standards.

6. Grading, Erosion, and Run-Off: The proposed structure is located in a relatively flat area with Ferguson Gulch approximately 300 feet from the proposed developments down a steep slope. During the site visit for the 2014 CDP, the California Department of Fish and Wildlife noted that the access road to the parcel was in need of maintenance, with active erosion occurring above Ferguson Gulch. Best Management Practices shall be implemented during construction to prevent delivery of sediment into the watercourse, as recommended in a Condition of Approval.

7. Archaeological/Cultural Resources: The project was referred to the California Historic Resource Information System (CHRIS) to review for impacts on cultural resources, including archaeological or paleontological resources. In a letter dated October 24, 2014 (on file), CHRIS replied that there is a previous study on file, "Study 21882 (Van Bueren 1999), covering approximately 100% of the proposed project area, identified no archaeological resources. Further study for archaeological resources is not recommended." The applicant is still advised of the Mendocino County Archaeological Resources Ordinance, and specifically Section 22.12, commonly referred to as the "Discovery Clause."

8. Groundwater Resources: The project was referred to the Mendocino County Division of Environmental Health (DEH) to review impacts to water and septic. In a response dated March 27, 2018, the Division recommended a Condition of Approval requiring the applicant contact DEH for inspection of the system during installation. There is an approved Septic Permit #ST22966 which would service the proposed development.

The project site is located within a mapped Critical Water Resources in which the site's density may be increased only upon proof of public water or a positive hydrological report. The subject parcel currently maintains approval for an on-site well and also has an existing meter from North Gualala Water Company. The previously approved well would be utilized for the proposed development unless present disagreements between the California Department of Fish and Wildlife and North Gualala Water Company are resolved. Since no new parcels are proposed, additional water studies are not required per Mendocino County Code (MCC) Section 20.516.015(B).

9. Transportation/Circulation/Utilities: Chapter 3.8 of the Mendocino County General Plan Coastal Element addresses Transportation, Utilities and Public Services within the Coastal Zone. Coastal Element Policy 3.8-1 provides general guidelines for all development in the coastal zone, requiring that "Highway 1 capacity, availability of water and sewage disposal system and other known planning factors shall be considered when considering applications for development permits".

Access: The parcel is currently accessed by a private driveway from Fish Rock Road, and no additional access is proposed. Mendocino Department of Transportation reviewed the application and did not state concerns relating to access. A Condition of Approval is recommended to achieve compliance with CalFire driveway and safety standards.

Utilities: Electrical service will need to be extended approximately 8 feet onto the parcel. Connection to electric will be reviewed by the Building division during the building permit application process. The project site is located within a mapped Critical Water Resources in which the site's density may be increased only upon proof of public water or a positive hydrological report. The subject parcel currently maintains approval for an on-site well and also has an existing meter from North Gualala Water Company. There is an existing North Gualala Water Company meter located on the parcel; however, the proposed development would increase water demand on the parcel which is inconsistent with recommendations received from CDFW for the original project (CDP_2014-0004). The proposed project would be served by a previously approved well (authorized by CDP_2014-0004), as there are presently challenges limiting future development potential on parcels served by North Gualala Water Company. California Department of Fish and Wildlife provided the following response in 2014 with regards to any project that would increase water service provided by North Gualala Water Company.

*The application lists the source of water for the barn (and future single family residence) as the North Gualala Water Company (NGWC). The water source for the NGWC is the North Fork Gualala River. The North Fork Gualala River (NFG) supports coho salmon (*Oncorhynchus kisutch*) (state threatened, federal threatened), steelhead trout (*O. mykiss*) (federal threatened), and other sensitive aquatic resources.*

California Department of Fish and Wildlife (CDFW) staff have determined that water pumping by NGWC substantially diverts stream flow, and may impact listed and sensitive aquatic resources. Thus, diversion of water by the NGWC is a substantial water diversion subject to Fish and Game Code (FGC) §1602. CDFW has requested that NGWC notify for a Lake or Streambed Alteration Agreement (LSAA) pursuant to FGC §1602. As of this date, notification has not been received from NGWC. An LSAA would provide NGWC with minimum water bypass flow requirements and other protective measures necessary to allow for fish passage and otherwise safeguard listed and sensitive species.

The NGWC has not adequately responded to input from CDFW to bypass flow studies under the water right application process with the Division of Water Rights. Additional response to National Marine Fisheries Service (NMFS) may also be required under the water right process. Because the NGWC has not complied with the requirement to notify CDFW pursuant to FGC §1602 and has not completed its water right process, the impacts to fish and wildlife from the current water demand has not been fully analyzed. Adding more water service to a sensitive watershed with low-flow impairment may increase demand and could further add to impacts to listed and sensitive species.

Approval of any project which will allow for increased water usage by NGWC may potentially cause additional impacts to downstream aquatic species, including listed salmonids.¹

CDFW recommended a Condition of Approval for the subject parcel, as follows:

Applicant shall provide documentation from North Gualala Water Company verifying that:

- a. *NGWC has come into compliance with Fish and Game Code §1602, and*
- b. *NGWC can legally provide adequate water for the development without increasing diversion of water from the NFGR (e.g., water demand is not increased due to water conservation measures, rain catchment or other low-impact development measures),*

OR

- c. *Applicant shall provide evidence of another legal source of water to be utilized at the development site.*

Due to the issues surrounding water availability and comments received from the California Department of Fish and Wildlife, future development of the site that wishes to utilize North Gualala Water Company service may warrant documentation from North Gualala Water Company to establish that adequate water capacity exists and that the water service increase will be in compliance with Fish and Game Code §1602. As stated previously, a well will service the proposed development under this application.

North Gualala Water Company commented that the project will require installation of a Backflow Prevention Device should their service be utilized. Condition 12 is recommended to achieve compliance with recommendations provided by North Gualala Water Company. Again, the proposed project would be served by a proposed well if the challenges between CDFW and North Gualala Water Company are not resolved at the time of construction. Since no new parcels are proposed additional water studies are not required per Mendocino County Code (MCC) Section 20.516.015(B).

ENVIRONMENTAL DETERMINATION: Staff has completed an Initial Study for the project. As a result, adoption of a Mitigated Negative Declaration is recommended. Mitigation measures are recommended to reduce the potential environmental impacts of the project to less than significant levels. Staff finds that the project, as proposed, has a less than significant impact on the environment with mitigation measures incorporated and thus recommends adoption of a Mitigated Negative Declaration.

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 proposed project, and adopts the following findings and conditions.

¹ California Department of Fish and Wildlife (January 2015), CDP 4-2014 Recommendations.

FINDINGS:

1. The proposed development is in conformity with the certified Local Coastal Program. The intent of the RR Land Use designation is to promote small scale farming and residential land uses. The site has existing light agricultural use and the proposed residence and after-the-fact approval for the two existing sheds will help facilitate the continuation of the existing use; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities. The proposed residence will be provided with electricity and water service will continue to be supplied to the parcel either through the previously permitted well or North Gualala Water Company service and will be enhanced through the installation of a water storage tank previously authorized under CDP_2014-0004. There is existing access to the parcel, which is adequate to serve the proposed improvements; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district. The proposed residence is consistent with the existing agricultural use on the parcel. Similarly, the previously approved water storage tank and the sheds proposed for after-the-fact approval under this permit will enhance the existing agricultural operations by providing storage capacity on the site. Both structures are accessory uses which are consistent with the intent of the RR district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. An Initial Study and adoption of a Mitigated Negative Declaration is recommended; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource. The standard discovery clause is recommended as a condition of approval directing the applicant to cease work and contact the Director of Planning and Building Services if archaeological sites or artifacts are discovered during construction; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development. The proposed project will be served by a permitted septic system. The proposed improvements will not increase the amount of travel on the public roadway; and
7. The resource as identified will not be significantly degraded by the proposed development. There is no feasible less environmentally damaging alternative. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

CONDITIONS OF APPROVAL:

1. This action shall become final and effective 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 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.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Planning Commission.

4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. The applicant shall comply with those recommendations in the California Department of Forestry Conditions of Approval (CDF 466-17) or other alternatives acceptable to the Department of Forestry. Prior to the final inspection of the building permit, written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.
9. Best Management Practices shall be utilized during construction related activities to prevent delivery of sediment into the nearby watercourse, Ferguson Gulch.
10. 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 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 resource(s) in accordance with Section 22.12.090 of the Mendocino County Code.
11. ** To provide for the protection of natural resources, the following shall be required:
 - a. A 50 foot buffer shall be established around the stand of Mendocino Cypress (*Hesperocyparis pygmaea*). The only development permissible within the 50 foot buffer to the Mendocino Cypress is the septic system.
 - b. If significant vegetation removal or ground disturbance is to occur during rainy periods, or if disturbed areas are left unstabilized, silt fencing shall be installed between the project area and downslope areas in order to prevent erosion.
 - c. Sonoma Tree Vole. If Douglas fir or Bishop pine trees are to be removed to accommodate the development, as Sonoma Tree Vole survey shall occur within two weeks of tree removal activities. If tree voles are identified in the trees to be removed, protocols shall be followed for protection as required by the Department of Fish and Wildlife.
 - d. Special Status Birds. The clearing of vegetation and initiation of construction shall be limited to the non-breeding season between September and January. If work must occur outside the specified timeframe, Planning and Building Services shall be contacted to determine the appropriate procedure to insure special status birds are protected.
 - e. Special Status Bats. Vegetation removal shall be limited to between September 1 and October 31, after young have matured and prior to bat hibernation period. If work must occur outside the

specified timeframe, Planning and Building Services shall be contacted to determine the appropriate procedure to insure special status bats are protected.

- f. California Red-legged Frog. Prior to construction, project contractors will be trained by a qualified biologist in the identification of the California red-legged frog. Construction crews will begin each day with a visual search around all stacked or stored materials, as well as along any silt fences, to detect California red-legged frogs. If a California red-legged frog is detected, construction crews shall contact the U.S. Fish and Wildlife Service or a qualified biologist prior to re-initiating work.
- If a rain event occurs during the construction period, all construction-related activities will cease for a period of 48 hours after the rain stops. Prior to resuming construction activities, trained construction crew member(s) will examine the site for the presence of California red-legged frogs. If no California red-legged frogs are found, construction activities may resume.
- g. French Broom (*Genista monspessulana*), and acacia (*Acacia sp.*) shall be removed from all portions of the property to the greatest extent practicable.
- h. The use of rodenticides or other wildlife poisons shall be avoided.
- i. Landscaping on the lot shall not include any invasive plants and shall consist of native plants compatible with the adjacent plant communities.
- j. The shed located directly adjacent to the stand of Mendocino Cypress shall be relocated to a conforming location within the previously established building envelope resulting from CDB 21-96.
12. A Backflow Prevention Device shall be installed, to the satisfaction of North Gualala Water Company, prior to the water tank being made active or put online.
13. The applicant shall contact the Division of Environmental Health to obtain an inspection of the septic system during installation.
14. A Coastal Development Administrative Permit is hereby granted for temporary occupancy of the travel trailer while constructing the single-family residence, subject to the following conditions of approval:
 - a. The term of this administrative permit is valid for the period required to complete construction of the primary dwelling, but shall not exceed two years unless renewed. The administrative permit shall be effective on the effective date of CDPM_2017-0007 and shall expire two years henceforth.
 - b. A valid building permit for a permanent dwelling on the premises must be in effect.
 - c. Building and Health permits must be obtained prior to the set up and occupancy of the travel trailer.
 - d. All utility connections to the travel trailer shall be disconnected and the trailer shall be removed from the property or placed in dead storage per MCC Section 20.456.015(J) prior to the final building inspection or occupancy of the permanent dwelling, whichever comes first.
15. ** This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2330.75 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 appeal period. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to

pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition.

7-9-18
DATE

Julia Acker for
JULIA ACKER
SENIOR PLANNER

7-9-18
DATE

Ignacio Gonzalez
IGNACIO GONZALEZ
COASTAL PERMIT ADMINISTRATOR

Appeal Period: 10 Days
Appeal Fee: \$1616.00

ATTACHMENTS:

- A. Location Map
- B. Topographic Map
- C. Aerial Imagery
- D. Site Plan
- E. Revised Site Plan
- F. ESHA Site Plan from CDP_2014-0004
- G. Lower Floor Plan
- H. Upper Floor Plan
- I. Elevations
- J. Shed Elevations
- K. Zoning Display Map
- L. General Plan Classifications
- M. LCP Land Use Map 30: Anchor Bay
- N. LCP Land Capabilities & Natural Hazards
- O. LCP Habitats & Resources
- P. Adjacent Parcels
- Q. Fire Hazard Zones and Responsibility Areas
- R. Ground Water Resources
- S. Local Soils
- T. Wetlands
- U. Water Districts

Initial Study available online at: <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas>