



**COUNTY OF MENDOCINO**  
**DEPARTMENT OF PLANNING AND BUILDING SERVICES**  
860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482  
120 WEST FIR STREET • FT. BRAGG • CALIFORNIA • 95437

IGNACIO 'NASH' GONZALEZ, INTERIM DIRECTOR  
JULIA KROG, ASSISTANT DIRECTOR  
TELEPHONE: 707-234-6650  
FAX: 707-463-5709  
FB PHONE: 707-964-5379  
FB FAX: 707-961-2427  
[pbs@mendocinocounty.org](mailto:pbs@mendocinocounty.org)  
[www.mendocinocounty.org/pbs](http://www.mendocinocounty.org/pbs)

## MEMORANDUM

DATE: JUNE 22, 2021

TO: HONORABLE BOARD OF SUPERVISORS

FROM: MARK CLISER, PLANNER II, PLANNING AND BUILDING SERVICES

SUBJECT: APPEAL OF ARCHAEOLOGICAL COMMISSION REQUEST FOR ARCHAEOLOGICAL SURVEY FOR MINOR SUBDIVISION MS\_2020-0006

On April 22, 2021 James Ronco (Agent), on behalf of Vance Ricks (Applicant) and Jack Rafter, LLC (Owner) filed an appeal of the decision by the Archaeological Commission's action to request an Archaeological Survey for Minor Subdivision application MS\_2020-0006. The application requests a Minor Subdivision of one legal 6 acre parcel, comprised of APNs 167-190-08 and 167-230-03, in order to create two (2) separate legal parcels of 2.1± acres and 3.9± acres. The project is located 4.5± miles north of Ukiah City center, lying on the east side of North State Street (CR 104), 0.3± north of its intersection with Pomo Lane (CR 228A), located at 4681 North State Street, Ukiah, approximately 440 feet west of the Russian River.

### **ARCHEOLOGICAL COMMISSION FIELD INVENTORY REQUIREMENT**

Mendocino County Code section 22.12.050 contains the County's procedures for requiring an archeological field inventory (commonly referred to as an archeological study) for projects requiring review under the California Environmental Quality Act ("CEQA"). As part of the preparation of any initial study pursuant to CEQA, projects are referred to the California Historical Resources Information System ("CHRIS", known as the "N.I.C." at or the Northwest Information Center of the California Archaeological Sites Inventory, Department of Anthropology, Sonoma State University, at the time of the adoption of the ordinance). CHRIS performs a literature review regarding potential archeological sensitivity for the project, and provides a written recommendation to the County. This recommendation specifies the need for an archeological survey or other actions. Under the ordinance, if CHRIS recommends no further survey or action, the project applicant shall be relieved of further consideration of archeological resources pursuant to CEQA.

CHRIS reviews that recommend an archeological survey or other actions are scheduled for review by the Archeological Commission. Notice of the review is provided to project applicants. CHRIS recommendations may be approved, modified, or overturned by the Archeological Commission, depending on the introduction of additional information from CHRIS, the Commission itself, the Department of Planning and Building Services, the applicant or the public.

Mendocino County Code section 22.12.060 contains procedures and requirements for archeological surveys and impact mitigations, if necessary. Should an archeological survey identify no archeological resources, the applicant shall be relieved of further consideration of archeological resources pursuant to CEQA. If archeological resources are identified, the final report is subject to review by the Archeological Commission, which may approve, modify or overturn the report, depending on the introduction of additional information from CHRIS, the Commission itself, the Department of Planning and Building Services, the applicant or the public.

## **CHRONOLOGY AND ARCHAEOLOGICAL COMMISSION ACTIONS**

The application for the Minor Subdivision was submitted on December 3, 2020 and deemed complete on December 15, 2020. On December 31, 2020 Staff sent referral packets to responsible agencies for comments. A site visit was conducted on January 5, 2021. On January 14, 2021 Staff received comments from California Historical Resources Information System (CHRIS) regarding archaeological sites. The comments stated, in part, that "based on an evaluation of the environmental setting and features associated with known sites, Native American resources in this part of Mendocino County have been found near oak woodland, as well as near a variety of plant and animal resources. Sites are also found near watercourses, particularly where there is access to salmon fishing spots." CHRIS recommended that "a qualified archaeologist conduct further archival and field study of the project area to identify cultural resources."

The project was heard at the March 10, 2021 hearing by the Archaeological Commission. In attendance at the hearing were Commissioner William Cull, archaeological representative, Commissioner Lois Lockhart, alternative representative, and Commissioner Benjamin MacBean, museum representative. All three Commissioners requested an archaeological survey be conducted at the Project Site. Discussion was opened to the Project Agent, James Ronco, who described the project and material presented to the Commission (Attachment F). Mr. Ronco pointed out that a 40 foot cliff separates the subject parcel from the river, making access to the river by Native Americans impractical. The Commission's decision for a survey remained based on the project's proximity to the Russian River and it being undeveloped. Due to Staff error, the Commission did not receive the above mentioned materials provided by the Applicant and the Applicant requested the project be continued to the April 14, 2021 Archaeological Commission meeting.

The Archaeological Commission's review of the project continued at its April 14, 2021, meeting. Applicant provided materials were distributed to the Commissioners and discussion was opened to James Ronco. Mr. Ronco first discussed aerial photographs of the site from 1952 (Attachments G & H) and pointed out that the site had once been an orchard and open field. Mr. Ronco then discussed the 1912 State Highway Map (Attachment I) which shows the property featured a pasture, a corn field, and a single house. Mr. Ronco argued that these maps demonstrate that as far back as 1912 there was a pasture on the project site and no indication that there was any type of Native habitation on the site. He pointed out that the site is a considerable distance from the confluence of the Russian River and York Creek (approximately 0.7 miles), and that access from the project site to the Russian River is separated by a 40 foot bluff. Mr. Ronco also provided a map of Pomo Indian villages and trails indicating there was no type of village or trail near the project site (Attachment J).

Following the Applicant's presentation and discussion Commissioner Cull stated that, based on the location and the area having been undeveloped and that there had been habitation of indigenous people along the Russian River dating back as far as 15,000 years, an archaeological survey be conducted. Commissioner Cull made a motion that the project conduct an archaeological survey. The motion was seconded by Commissioners MacBean and Lockhart. The motion carried 3 to 0 with the representative from the Department of Planning and Building Services abstaining.

## **APPEALS OF ARCHEOLOGICAL COMMISSION ACTIONS**

The Applicant's appeal is attached as Attachment N, alleging various procedural and substantive concerns regarding the Commission's action.

Mendocino County Code section 22.12.040 simply provides that actions of the Commission are appealable only to the Board of Supervisors. Given this wording, the scope of the Board's authority in this appeal is de novo, meaning it can review the entire matter that was before the Commission and determine whether or not an archeological study should be required for this minor subdivision application.

## **RECOMMENDED MOTION**

The Board of Supervisors is provided with two (2) options in this matter.

Option 1: Deny the appeal of the Archaeological Commission's determination requesting an archaeological survey for the Minor Subdivision (MS\_2020-0006) of one (1) legal parcel in order to create two (2) separate parcels by way of the Minor Subdivision; or

Option 2: Uphold the appeal and determination that an archaeological survey is not warranted based in part on the action of the Archaeological Commission's comments requesting an archaeological survey without discussion or acknowledgment of the evidence provided by the property owner and their agent.

## **ATTACHMENTS:**

- A. Application
- B. Tentative Map
- C. CHRIS comments
- D. Location Map
- E. Aerial Map
- F. Applicant Statement
- G. Applicant 1952 Aerial Photograph 1
- H. Applicant 1952 Aerial Photograph 2
- I. Applicant 1952 Aerial Photograph 3
- J. 1912 State Highway Map
- K. Map of the Pomo (provided by Applicant)
- L. Archaeological Commission action sheet from March 10, 2021 hearing
- M. Archaeological Commission action sheet from April 10, 2021 hearing
- N. Appeal filed by Applicant