COASTAL PERMIT ADMINISTRATOR STAFF REPORT- STANDARD CDP

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CDP_2022-0029

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PROJECT SUMMARY

OWNER/ APPLICANT:	Barbara Fishelson PO Box 1623 Mendocino, CA 95460
REQUEST:	Standard Coastal Development Permit to construct a driveway, a parking area, a 1,218 square foot single-family residence, install a culvert, a septic system, replace a well pump, and implement a Mitigation Monitoring and Reporting Plan (MMRP).
LOCATION:	In the Coastal Zone, 1.8± miles north of Mendocino town center, lying on the south side of Sea Pines Lane (private), 0.2± miles east of its intersection with State Route 1 (SR1), located at 12825 Sea Pines Lane, Mendocino; APN: 118-210-29.
TOTAL ACREAGE:	10± Acres
GENERAL PLAN:	Rural Residential – 10-acre minimum – Planned Development (RR10:PD) General Plan (Chapter 7 – Coastal Element)
ZONING:	Rural Residential – 10-acre minimum – Planned Development (RR10: PD) Mendocino County Code Title 20, Division II
CODE REFERENCE:	Coastal Residential Use – Single-family residence Mendocino County Code (MCC) Section 20.376.010
APPEALABLE	Yes
SUPERVISORIAL DISTRICT:	District 4
ENVIRONMENTAL DETERMINATION:	Mitigated Negative Declaration
RECOMMENDATION:	Approve with Conditions

PROJECT BACKGROUND & INFORMATION

PROJECT DESCRIPTION: Standard Coastal Development Permit to construct a driveway, a parking area for four vehicles, a 1,218 square foot single-family residence, install a culvert at the driveway approach, a septic system, replace a well pump, and implement a Mitigation Monitoring and Reporting Plan (MMRP). Additionally, the project anticipates temporarily installing a water tank, generator, and portable water pump for supplemental watering vegetation in proposed mitigation site. Pursuant to California Public Resources Code Section 4291, thirty feet of defensible space from the proposed development is required by the State of California Department of Forestry and Fire Protection Agency (CAL FIRE) to act as a barrier to slow or halt the progress of fire. The proposed project includes clearing a total of 0.75± acre of vegetation for the building envelope.

The subject parcel was created in 1990 by a minor subdivision (MS 65-89), which was approved by the County of Mendocino Planning Commission. The landowner subsequently applied for a Coastal Development Permit (CDP) from the California Coastal Commission (CDP No. 1-92-215), as the property is located in the Coastal Zone. A modification (LCP 92-141) to the minor subdivision (MS 65-89) included Special Condition of Approval #1 that stated, "a note shall be placed on the parcel map stating that development be confined to the building envelopes, given the building envelopes were carefully marked to avoid disturbance on rare plant communities".[1] The proposed development would be constructed within the previously authorized building envelope. The CDP (No. 1-92-215) request included dividing a 147± acre parcel into four parcels, drilling wells on each parcel, and clearing trees from a portion of each parcel's established building envelope. The CDP proposed a 2± acre building envelope and a 0.6± acre clearing area which included approximately ten (10) northern Bishop pines and six (6) Douglas fir, and six (6) tan oak trees.[2]

The proposed driveway would require the removal of twelve (12) trees greater than four inches in diameter at breast height (DBH) including nine (9) tan oak (*Notholithocarpus densiflorus*), two (2) northern Bishop pines (*Pinus muricata*), and one (1) Douglas fir (*Pseudotsuga menziesii*) (See Table 2 for each tree species and its associated DBH). The proposed single-family residence would require the removal of approximately sixty (60) trees, including four (4) dead trees, forty (40) tan oak, eight (8) northern Bishop pine, and thirteen (13) grand fir (*Abies grandis*). Dark Gulch Environmental Consulting on April 4, 2024, concluded one habitat alliance *Pinus muricata – Notholitocarpus densiflorus – Vaccinium ovatum* would be impacted by the proposed development.

Considering the proposed development, including the CAL FIRE defensible space requirement, would necessitate the clearing 0.75± acre of natural vegetation, a 0.75± acre area has been identified on the subject parcel for enhancement and restoration to offset impacts to the northern Bishop pine forest. The project includes a Mitigation, Monitoring, and Reporting Plan, which has been incorporated into the Conditions of Approval.

SITE CHARACTERISTICS: The project site is located within the Coastal Zone, 1.8± miles north of Mendocino town center, lying on the south side of Sea Pines Lane (private), 0.2± miles east of its intersection with State Route 1 (SR1), located at 12825 Sea Pines Lane, Mendocino. The 10± acre parcel is undeveloped with the exception of the permitted well (WW10551). Elevations on the subject parcel range from 371 feet above mean sea level (amsl) at the eastern boundary to 313 feet amsl at the western boundary, with slopes ranging between 0 to 32 percent[3]. The parcel is densely forested and contains several Environmentally Sensitive Habitat Areas (ESHAs) and special status biological resources. Much of the parcel is a mature Bishop pine forest - 20 percent of which are dead. The only young Bishop pine trees are found along the side of Sea Pines Lane. A riparian area in the southwestern portion of the parcel supports red alder, though the red alder is not dense enough to merit a designation of red alder forest alliance[4]. All riparian vegetation is considered an ESHA. A deed restriction has been recorded to prevent encroachment into the riparian area on site.

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[1] LCP 92-141 Local Coastal Program Consistency Review Form. September 29, 1992.
[2] California Coastal Commission. Coastal Development Permit No. 1-92-215. March 18, 1993.
[3] Slope Map.
[4] Kim Obermeyer and Alison Gardner. Biological Scoping Survey Report. December 14, 2023. Updated January 8, 2024.

Sea Pines Lane is an existing 60-foot-wide roadway and public utilities easement that intersects with State Route 1 (SR1) and runs adjacent to the subject parcel. As part of the application submitted for the proposed project, supplemental studies were provided by the landowner, which are kept on file with the Mendocino County Department of Planning & Building Services, and include the following:

- Biological Scoping Survey Report, prepared by Kim Obermeyer and Alison Gardner, December 14, 2023 (Updated: January 8, 2024).
- Botanical Survey, prepared by Alison Gardner, December 12, 2023 (Updated: January 8, 2024).
- Biological Survey Memorandum and Mitigation Monitoring and Reporting Plan, prepared by Dark Gulch Environmental Consulting, April 5, 2024.
- CAL FIRE File #46-22. State Fire Regulations Application.

Public Services:
Access: Sea Pines Lane (private) via State Route 1 (SR 1)
Water District: None
Sewer District: None
Fire District: Mendocino Fire Protection District

RELATED APPLICATIONS: The following applications have occurred on the subject parcel or on the surrounding properties and are relevant to the proposed project. All projects listed below have already been approved, unless otherwise stated.

Subject Parcel Projects:
- **MS 65-89:** Minor subdivision to divide a 147.71-acre parcel into four parcels, expand access easement to comply with Caltrans standards. Approved. 09/20/1990.
- **California Coastal Commission 1-92-215 (CDP 1-92-215):** Divide a 147.71-acre parcel into four parcels (three 10-acre parcels and one approximately 117-acre parcel), drill four wells, and clear portions of building envelopes. Finaled 03/18/1993.
- **California Coastal Commission 1-92-215 Amendment:** construct a 16 foot-wide 1,000-foot cul-de-sac access road starting at the northeast corner of Parcel 2, then running east across Parcel 3, and just inside the west boundary of Parcel 4. Finaled 09/17/1992.
- **LCP 92-141:** Modification of Conditions for MS 65-89. Approved. 09/17/1992.

Adjacent Parcel Projects:
- **F-8128:** 3,591 square-foot Single-family residence, 1,260 square-foot garage, associated structures located at 12700 Sea Pines Lane
- **N/A:** 2,381 square-foot single-family residence and associated structures, located at 13025 Sea Pines Lane.
- 3,376 square-foot single-family residence, 874 square-foot garage, and associated structures, located at 13101 Sea Pines Lane

AGENCY COMMENTS: On January 11, 2023, and October 10, 2023, project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their submitted recommended conditions are discussed in this staff report and contained in Conditions of Approval. A summary of the submitted agency comments are listed below.

TABLE 1: Referral Agency Responses

REFERRAL AGENCIES	COMMENT
Air Quality Management	No Response
Mendocino County Assessor	Comments
Building Inspection – Fort Bragg	No Comments
Department of Transportation	Comments
Division of Environmental Health – Fort Bragg	No Comments
Planning – Fort Bragg	Comments
Mendocino Fire Protection District	No Response
Mendocino Unified School District	No Response

Northwest Information Center	Comments
CAL FIRE – Land Use	Comments
CAL FIRE – Resource Management	No Comment
California Department of Fish and Wildlife	Comments
California Coastal Commission	Comments
County Addressor	No Comments
Cloverdale Rancheria	No Response
Redwood Valley Rancheria	No Response
Sherwood Valley Band of Pomo Indians	Comments

Building Inspection – Fort Bragg: "A building permit will be required for this project. Both single-family residence and grading will be the scope of work permitted."

Department of Transportation: "Our encroachment permits office performed a permit search and discovered that the road approach was constructed to multifamily standards in the 1990s to serve 7± parcels. The access to this parcel is within controlled access right of way and the existing Sea Pines Way must be used to access this parcel. No new driveways to State Route 1 would be permitted for the parcel. No encroachment permit is required for this request".

Planning – Fort Bragg: Adjacent properties contain single-family residences.

Northwest Information Center: "The subject area has a low possibility of containing unrecorded archaeological sites and did not recommend further studies. As such, an archaeological study was not requested. A Condition of Approval is included that requires the Landowner to contact the Sherwood Valley Band of Pomo Indians prior to any ground disturbance and allow for on-site cultural monitoring if deemed necessary to the Tribe."

Sherwood Valley Band of Pomo Indians: Following a phone call on October 16, 2020, the Tribe will accept Northwest Information Center's response and not require monitoring for this project. "However, as this proposed project moves forward, the Tribe is requesting in the event of an inadvertent discovery that the Sherwood Tribe be contacted immediately, and work stopped until tribal cultural monitor is on site. The absence of specific site information does not indicate the absence of cultural resources in any project area. Sherwood Valley is the MLD's of the area. The Tribal contact is Valerie Stanley, Sherwood Valley THPO at svrthpo@sherwoodband.com".

CAL FIRE: "the proposed development describes tree removal in association with the construction of a single-family residence, The information included also indicates that this development will occur in an area that would meet the definition of timberland as per the California Forest Practice Rules. The removal of commercial tree species for the purpose described in the proposal would constitute timber operations and would require a permit from CAL FIRE. Commercial tree species includes Douglas fir, grand fir, tan oak, Northern Bishop pine, etc."[5] A condition of approval is included that requires the applicant to obtain permits for the removal of commercial trees and to hire a licensed timber operator.

California Coastal Commission (CCC): Following a virtual meeting with CCC, CDFW, and County staff on September 26, 2024, regarding the project details, ESHA constraints, and proposed mitigation measures, the CCC staff provided recommendations on October 9, 2024. The following recommendations include, requesting the applicant provide an ESHA map that depicts the ESHA constraints and proposed building envelope, mitigation area, area of disturbance, cluster the development to the smallest footprint feasible, deed restrict the remainder of the property for open space, delineate approved building envelope around the residence with symbolic fencing, require applicant to provide a landscaping and fuels management plan, require applicant to provide a Final Mitigation and Monitoring Plan, and require applicant to adhere to appropriate pre- and post-construction related best management practices to protect water quality and surrounding environmentally sensitive habitat areas. CCC recommends the installation of symbolic fencing prior to construction to minimize traffic and trampling of sensitive natural communities outside the building envelope. Further discussion of CCC comments and recommendations are included in

[5] Board of Forestry and Fire Protection. Commercial Species Trees List.

the Environmentally Sensitive Habitat and Other Areas section of this report and included as conditions of approval.

California Department of Fish and Wildlife (CDFW): On November 3, 2023, CDFW responded to the first project referral and requested a revision of the biological reports from 2023. The revisions requested were to include dates the property was surveyed by biologists, recommends the project include measures to avoid or minimize impacts to nesting birds or bats through seasonal avoidance, the biological report should utilize the online Manual of Vegetation to identify any potential Sensitive Natural Communities, and requested more information on the sensitive natural communities the project would potentially impact. In addition, after approximately 10 hours of consultation with CDFW and County staff and of site visits, CDFW provided a summary of consultation on September 26, 2024, which shall be incorporated into the Environmentally Sensitive Habitat and Other Areas section of this Staff Report.

On October 9, 2024, CDFW provided the following comments and recommendations as Trustee Agency role to assist the County as Lead Agency in assessing and mitigating potential impacts to natural resources:

1. CDFW concurs with comments and recommendations provided by the Coastal Commission including submission of a fuels management plan, and conditions of approval requiring low-profile symbolic fencing be installed, deed restriction, and future development restrictions. CDFW would recommend the site plan be updated to indicate the locations and extent of the symbolic fencing and the fuels management area.

2. Invasive species management – if not already incorporated into the conditions of approval, non-native, invasive species should be targeted for removal for a period no less than 10 years property-wide, not just in the mitigation area.

3. A final Mitigation and Monitoring Plan that includes the means and methods for preparation of the mitigation site, success criteria/performance measures, and provides adaptive management or corrective actions if the mitigation area does not meet its success/performance criteria (plant survivability and/or percent cover requirements). The plan should also include annual monitoring and reporting requirements and establish photo vantage points. first year's monitoring report should include an as-built map indicating the location of planting/transplanted trees and shrubs, describe the erosion control measures. This plan should be submitted to the County and CDFW for review and comment prior to initiating the restoration work.

PROJECT ANALYSIS

LOCAL COASTAL PROGRAM CONSISTENCY: The property is located within Mendocino County's Local Coastal Program boundaries. With the recommended conditions, the proposed development is consistent with the goals and policies of the Local Coastal Program, General Plan, and Zoning Codes as detailed below:

Land Use: The site is classified as Rural Residential (RR). The Mendocino County General Plan Coastal Element states the Rural Residential classification 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."

The proposed development to construct a 1,218 square foot residence and appurtenant utilities are principally permitted within the RR land use classification and would have minimal impact on agricultural viability. The project site is located within the Jug Handle Creek to Russian Gulch Planning Area (includes Caspar). The intent of the plan is to comply with Coastal Act policies channeling development to already developed areas, preserving the quality of the landscape, and retaining agricultural land. The minor subdivision (CDP 1-92-215) that created the subject parcel provided fire access routes, installed wells, and

established building envelopes on each parcel with the intention of planning for future developments. The project, as proposed, to construct a single-family residence and appurtenant structures is consistent with the RR land use classification, per Mendocino County Coastal Element Chapter 2.2.

Zoning: The project site is located in the Rural Residential District (RR:10) as outlined in the Mendocino County Zoning Code (MCC) Chapter 20.376.[6] The Rural Residential district, per MCC Section 20.376.005, 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 proposed 1,218 square-foot single-family residence and appurtenant structures are a principally permitted use within the Rural Residential Zoning District. The subject parcel is not located within a highly scenic area. The proposed project would create a minimal impact on the agricultural viability within the RR District. Pursuant to Mendocino County Code (MCC) Chapter 20.376, the proposed development conforms to the maximum lot coverage and all front, rear, and side yard minimum distances, and the broader intent of the zoning district.

Grading, Erosion, and Runoff: The purpose of MCC Chapter 20.492 Grading, Erosion, and Runoff is:

> "The approving authority shall review all permit applications for coastal developments to determine the extent of project related impacts due to grading, erosion, and runoff. The approving authority shall determine the extent to which the following standards should apply to specific projects, and the extent to which additional studies and/or mitigation are required, specifically development projects within Development Limitations Combining Districts."

The subject parcel is relatively flat and will require minimal grading. The proposed earthwork involves 20 cubic yards of cut and no fill. The project description requests to excavate 18-inch footings for the house foundation, with the material being added back around the house to aid drainage. Condition of Approval No. 28 requires the implementation of Best Management Practices (BMPs) prior to construction and post-construction to protect adjacent habitats. Additionally, a deed restriction has been recorded to protect the onsite riparian ESHA and its 50-foot buffer. BMPs and conditions of approval have been included to ensure project complies with MCC Chapter 20.492 and 20.500 policies.

Environmentally Sensitive Habitat and Other Resource Areas: The LCP Habitats and Resources map indicates that the western portion of the parcel contains Riparian Wooded Habitats and a Perennial Stream that flows east to west adjacent to the southwestern property line. The project, as proposed, would construct a driveway from Sea Pines Lane, a 1,218 square-foot single-family residence, a parking area for four cars, replace a well pump, and install a septic system.

The subject parcel was created in 1990 by a minor subdivision (MS 65-89) and approved by the County of Mendocino Planning Commission. The landowner subsequently applied for a Coastal Development Permit (CDP) from the California Coastal Commission (CDP No. 1-92-215), as the property is located in the Coastal Zone. A modification (LCP 92-141) to the minor subdivision (MS 65-89) included Special Condition of Approval No. 1 that stated, "a note shall be placed on the parcel map stating that development be confined to the building envelopes, given the building envelopes were carefully marked to avoid disturbance on rare plant communities".[7] The proposed development would be constructed within the previously authorized building envelope. The CDP (No. 1-92-215) request included dividing a 147± acre parcel into four parcels, drilling wells on each parcel, and clearing trees from a portion of each parcel's established building envelope. The project (CDP 1-92-215) established a 0.6± acre tree clearance area and a 2± acre building envelope on the subject parcel. The property is equipped with an existing well which the minor subdivision anticipated and intended for residential uses on the parcel. A Botanical Survey was included in the CDP application and identified the vegetation in the established building envelope which included approximately ten (10) northern Bishop pines, six (6) large senescent Douglas fir trees, and six (6) tan oak

[6] Zoning Map.
[7] LCP 92-141 Local Coastal Program Consistency Review Form. September 29, 1992.

trees.[8]

Pursuant to Section 30231 of the Coastal Act, Special Condition #1.B on the CDP 1-92-215 Staff Report required a deed restriction be recorded providing an open space area over a riparian habitat and its 50 foot buffer area. The intent of the deed restriction was to leave sufficient room for suitable building sites on each of the parcels that would take into consideration the recommended riparian and buffer areas. The tentative map attached to the approved CDP No. 1-92-215 indicates that the deeded riparian open space area and the area to the southeast of the riparian consists of approximately four (4) acres (See Attachment N).

Pursuant to CAL FIRE fire safety requirements, the project includes clearing 0.15± acres of vegetation around the residence for defensible space. In total, the proposed development would be sited within a 0.75± acre area adjacent to the existing well, the furthest distance from the deeded riparian open space area, and within the previously authorized building envelope.

Three biological studies were prepared for the proposed project (from 2022 to 2024—spanning multiple years) to identify sensitive natural communities on the parcel and to provide recommendations to avoid and reduce potential impacts on sensitive resources. The Botanical Survey conducted by Allison Gardner in August 2023 identified rare plants and habitats that are considered Environmentally Sensitive Habitat Areas (ESHAs) including the California harebell (*Capanula californica*) located within the riparian area and the Pacific pea (*Lathyrus palustris)* located in the northeastern corner of the parcel, and Bolander's reedgrass (*Calamagrostis bolanderi*) and is located along the side of Sea Pines Lane.[9] The Biological Scoping Report conducted by Kim Obermeyer in August 2023 identified the presence and boundaries of sensitive coastal resources (wetlands, natural communities, special-status plants and animals, etc.) that are considered ESHA, which includes, a northern Bishop pine forest (*Pinus muricata*), a riparian area (*Rhododendron columbianum – western Labrador – tea thickets)*, and fringed false hellebore (*Veratrum fimbriatum)* and swamp harebell (*Eastwoodiella californica*). The northern Bishop pine trees present on the property are senescent and mature with no young trees.[10] Due to discrepancies between these reports, County staff requested pre-consultation with the California Department of Fish and Wildlife (CDFW).

Mendocino County Code Chapter 20.496 requires that a sufficient buffer be established around all identified ESHA. Due to the presence of ESHA on the site, County and CDFW staff conducted a site visit with the landowner on January 30, 2024, to discuss the potential building envelope and driveway to be sited to avoid and minimize tree and vegetation to the extent feasible. Upon arrival, the building site and driveway were not identified, and the project details were not clear. The biological studies conducted by Kim Obermeyer and Allison Gardner identified ESHAs onsite but did not identify the building envelope nor the proposed developments potential impacts. County and CDFW staff requested that the landowner identify and flag the building envelope features and address the potential environmental impacts of the proposed development.

Following the January 30 site visit, the landowner collaborated with Dark Gulch Environmental Consulting to identify a building envelope and driveway in such a way that would avoid and minimize impacts to trees and surrounding sensitive natural communities. Dark Gulch Environmental Consulting prepared a Biological Scoping Memorandum (Memo) and a tentative Mitigation, Monitoring, and Reporting Plan (MMRP) in April 2024. The Memo identified a building envelope no greater than 0.75 acre including the driveway, the potential environmental impacts, and mitigation measures that would offset impacts to the northern Bishop pine natural community. There is no location on the parcel where development would not occur within 50 feet of the identified northern Bishop pine forest. The driveway path was selected to minimize the removal of large trees and the proposed homesite is circular in nature with a radius of 98 feet.[11]

A second site visit was conducted by CDFW staff, County staff, the landowner, and a Dark Gulch Biologist on April 5, 2024, to review the proposed building envelope location and discuss the proposed mitigation plan. The proposed driveway would require the removal of twelve (12) trees including nine (9) tan oak (*Notholithocarpus densiflorus*), two (2) northern Bishop pines, and one (1) Douglas fir (*Pseudotsuga menziesii*). The proposed single-family residence would require the removal of approximately sixty (60)

[8] California Coastal Commission Staff Report Application 1-92-215. Exhibit 4.E.
[9] Gardner, Alison. Botanical Survey. January 2024.
[10] Obermeyer, Kim. Biological Scoping Report. January 2024.
[11] Dark Gulch Environmental Consulting. Biological Scoping Memorandum and Mitigation, Monitoring, and Restoration Plan. April 2024.

trees, including four (4) dead trees, forty (40) tan oak, eight (8) northern Bishop pines, and thirteen (13) grand fir trees (*Abies grandis*). The understory's shrub cover is dominated by huckleberry (50%) and immature tan oaks (20%).[12] The forb/herb layer's cover is dominated by Salal (*Gaultheria shallon)* (65%).

According to the Memo prepared by Dark Gulch, the only habitat alliance impacted by the proposed development would be *Pinus muricata – Notholitocarpus densiflorus – Vaccinium ovatum* which has global and state rankings of G3/S3.2. In total, ten (10) senescent and mature northern Bishop pines would be removed for the proposed development. A total of ten (10) northern Bishop pines, including one (1) with a 7-nch DBH, one (1) with a 16-inch DBH and eight (8) with an 18-inch or greater DBH, will be removed (see Table 2 below). The northern Bishop pine forest on the subject parcel is struggling, with signs of decline and no evidence of new growth. Additionally, the 2024 updated Biological Scoping Report noted that the biologist found no evidence of northern Bishop pine regeneration and observed very few saplings.

TABLE 2: Proposed Tree Removal

	Tree Species	Diameter at Breast Height (DBH)				Total Number of Trees
		0-5 inches	6-12 inches	12-18 inches	Greater Than 18 inches	
Driveway	Tan oak (*Notholithocarpus densiflorus)*	2	3	1	3	9
	Northern Bishop pine (*Pinus Muricata)*				2	2
	Douglas fir (Pseudotsuga menziesii)				1	1
House Site (septic and fire safety clearance)	Dead					4
	Tan oak (*Notholithocarpus densiflorus)*	5	10	14	11	40
	Northern Bishop pine (*Pinus Muricata)*	0	1	2	5	8
	Douglas fir (Pseudotsuga menziesii)	0	0	0	0	0
	Grand fir (*Abies grandis)*	3	2	3	5	13
Total						73

In the CDP Staff Report (CDP 1-92-215), tree removal was proposed for the established building envelope and clearing area. The landowner consulted with Black Shamrock Construction and Engineering to investigate the established building envelope and clearance area (totaling 2.75± acre) for signs of tree removal. No evidence of tree removal was found.[13] Therefore, the clearance area was not cleared following the approval of the minor subdivision in 1992.

To account for the 0.75± acre vegetation removal, the project proposes a 3:1 mitigation ratio of the northern Bishop pine. This will involve restoring 0.75± acre area dominated by eucalyptus, located adjacent to the riparian open space area. The dense eucalyptus duff in the understory has created a non-native invasive species monoculture that threatens the deeded riparian open space. The MMRP proposes to remove smaller eucalyptus trees and duff at the western edge. Once that area is cleared of the smaller understory, the large eucalyptus trees would be felled one at a time, with caution to not impact other native species in the area. All large stumps would be left in place and the brush and duff would be stacked on top of the stumps and tarped. All stacked brush would be burned cautiously during the following winter to avoid disturbing topsoil and minimize the risk of fire danger. All large timber would be off hauled. Dark Gulch Staff are investigating sustainable methods for disposing the eucalyptus trees. Once cleared of non-native, invasive species, the 0.75± acre site would be revegetated utilizing native tree and shrub species harvested from within the building envelope and native seed would be cast to aid in revegetation of the native herbaceous layer and to prevent erosion.

[12] Ibid.
[13] Ibid.

Prior to the clearing of the building site, tree saplings, shrubs, perennial bulbs, and other native herbaceous species would be harvested and transplanted into pots with native soil and kept onsite, creating a nursery area to maintain these plants until the mitigation site is ready for planting. Removal of invasive species will be conducted on an annual basis for a minimum of ten (10) years, or until such time as the mitigation planting has the same species composition (density and diversity) as was removed within the building envelope. Invasive plant species would be targeted for removal for a minimum of ten (10) years. The tentative MMRP requires the landowner to submit an annual monitoring report to the County. This reporting must continue until the mitigation site achieves the same species composition and density cover as the original building envelope.

The project anticipates placing a temporary 1,000-gallon water tank, generator, and/or portable water pumps at the mitigation site for easy access to water when rain is not available. The water tank, generator, and/or portable water pumps would be located adjacent to the road and proposed symbolic fencing. The placement of the water tank, generator, and/or portable water pumps would be located greater than 100 feet from any ESHA and would not require base rock. The water tank, generator, and/or portable water pumps would be placed temporarily until mitigation site consists of all transplanted native shrubs, trees, and herbs.

Alternative projects to the proposed development were considered including agricultural and passive recreational opportunities and conditional uses in the district. Staff has determined these various options to be infeasible either due to their potential for greater impact to identified resources and transportation and/or the economic feasibility of the alternatives. The subject parcel was purchased with the understanding that residential use is a principally permitted use for this parcel and expectations were set due previous landownership on the adjacent parcel to the northeast. In 2007, the landowner developed the adjacent parcel to the northeast with a 2,381 square-foot single-family residence and associated structures (CDP 4-07). Given that each developed parcel on Sea Pines Lane contains a single-family residence, the landowner anticipated building a single-family residence as well. In addition, the expectation to build a single-family residence on the subject property was established due to the presence of single-family residences on all adjacent properties and an existing well onsite.

Sea Pines Lane provides access to eleven (11) parcels. The developed parcels within and adjacent to Sea Pines Lane contain single-family residences that range in size from 1,797 square feet (13201 Sea Pines Lane) to 3,926 square feet.[14] The proposed single-family residence would be 1,218 square feet, making it the smallest residence on Sea Pines Lane. Alternative projects for the proposed development were also considered including different designs that included a more sprawling footprint. Originally the applicant proposed clearing an area for ground-based solar array in addition to the single-family residence and associated structures. However, after the site visit with County and CDFW Staff, the applicant agreed to remove the proposed clearance for the ground-based solar array and instead would consider installing roof-mounted solar panels in the future.

Alternative locations are limited due to the deeded open space riparian area, the location of the existing well, and the presence of other ESHAs. CDFW and County staff were consulted by the landowner and their Biologist with an alternative location (Alternative A). Alternative A would be located within the proposed mitigation site in the southern portion of the parcel, siting development adjacent to the deed open space and riparian area. However, developing in this location could result in direct or indirect impacts to the open space through incidental encroachment. Alternative A would be located approximately 40 feet to the north of the riparian area, and greater than 500 feet from the existing well. Alternative A would require trenching approximately a tenth of an acre through the property, including through the northern Bishop pine forest (ESHA) and within 100 feet of the Pacific pea and California harebell ESHAs for water connection to the well.

Repeated maintenance would need to occur and further disturb the ESHAs. Alternative A would result in greater negative impact on all ESHAs, due to repeat maintenance of water and well infrastructure overtime. The proposed project location impacts identified ESHA yet enables the landowner to develop a residence that is similar in scale to residences on adjacent properties in the same vicinity and zone as the project site

[14] Attachment R.

and would enable restoration to occur adjacent to the riparian area that would enhance the sensitive natural community and the riparian area. The proposed project that would remove ten (10) mature Bishop pine trees and promote a healthier forest and is considered a safer alternative as well as the least impactful to ESHA.

Alternative B would be to reduce the single-family residence in size or reconfigure the house design. The proposed 1,218 square-foot single-family residence would be significantly smaller than houses on adjacent parcels. Pursuant to MCC Section 20.376.045, the single-family residence would be limited to be 28 feet above natural grade and reconfiguring the design of the proposed development would be restrictive and could impose undue hardships.

Alternative C would be no project and would ultimately deprive the owner of all use of the property. Staff evaluated if denial of the project would result in an unconstitutional taking of private property, which is addressed further in detail in the Takings Analysis section of this Staff Report.

When the parcel was created in 1990, no ESHAs were identified onsite. The northern Bishop pine forest was recognized as a rare habitat statewide in 1995.[15] Pursuant to LCP Policy 3.1-7, there is no location on the parcel where development would not impact ESHA. The proposed project has been designed to consolidate development and sited to avoid ESHA vegetation removal and other impacts as much as possible. The proposed project would remove the non-native invasive species and replant a 3:1 ratio of northern Bishop pine trees and other native vegetation. The project, as proposed, would have the least impact on the forest.

Pursuant to California Public Resources Code Coastal Act Section (§) 30250(a) the proposed development would be situated within close proximity to the existing well. The proposed development would also be located within the previously authorized building envelope. The project, as proposed, to construct a 1,218 square-foot residence, a driveway, parking area, and install a septic system adjacent to the existing well would be consistent with Coastal Act §30250(a).

The proposed project is not consistent with all LCP policies relating to ESHA, despite the identification of the least environmentally damaging alternative, the lack of feasible alternatives on site, the proposed mitigation measures to offset project impacts, and siting development to minimize vegetation removal. As stated above, Section 20.532.100(A)(1) reads in part, “no development shall be allowed in an ESHA.” 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 an ESHA would deprive the owner of all use of the property.

In addition, County Staff recommends a deed restriction on the 0.75± acre mitigation area to prohibit future development in the ESHAs. On September 26, 2024, CDFW provided a summary of extensive consultation and stated, “This CDP proposes to develop within Sensitive Natural Communities designated as ESHA under the local coastal plan. However, the site has some unusual considerations, which we’ve discussed since our first site visit on 1/30/2024. The property appears to be undergoing a forest transition from a northern Bishop pine association to a grand fir association, with minimal natural regeneration of northern Bishop pine but abundant grand fir saplings. On the western/southern end, a large stand of invasive eucalyptus is present. While development in this area could be ideal, its proximity to a riparian zone and a deed-restricted area risks encroachment and would require significant site disturbance for infrastructure installation and maintenance. The proposed development plan clusters construction near a pre-existing well and septic system in the eastern portion, within a Sensitive Natural Community, aligning with a previously authorized building envelope.

Since January 2023, the applicant has adjusted development several times to avoid and minimize impacts, to the greatest extent feasible, to Sensitive Natural Communities by siting the driveway to avoid trees, mature shrubs (*V. ovatum, N. densiflorus, and A. columbiana*), and rare plants by clustered development close as allowable to existing infrastructure (the well) and proposed to mitigate impacts to the Sensitive Natural Communities at a 1:1 ratio. The applicant has worked with the County and incorporate

[15] Sawyer, J. O., and T. Keeler-Wolf. 1995. A manual of California vegetation. California Native Plant Society, Sacramento, CA.

recommendations from CDFW (supplied through the County) to develop mitigation that is appropriate with monitoring, reporting, and success criteria that are measurable and achievable.

As mentioned above, there are some indications that the forest is in transition between forest types and without intervention the invasive eucalyptus grove would most likely persist and spread, resulting in reduced habitat health of the adjacent riparian and open space areas. The proposed mitigation area would be planted with northern Bishop pine trees (from stock acquired locally at a nursery like Jughandle Farms), grand fir trees and other native shrubs (mentioned above) harvested from the home and driveway site and monitored and maintained to prevent the introduction or spread of non-native invasive species. The mitigation area, which is adjacent to the other deed restriction area, would also be protected in perpetuity under a deed restriction and add to the area already conserved, providing an additional wildland buffer to the riparian area. It is CDFW's understanding that the property is 10 acres in size and if the CDP is approved, the deed restriction open space areas increase to approximately half the property size (5 acres).

Based on the above, CDFW recognizes the challenges of developing this property. Removing the invasive eucalyptus grove and restoring it to a native forest association will most likely result in improved habitat quality in this area and the adjacent riparian and open space areas. It is more mitigation that I've previously seen proposed by CDP applicants. The monitoring and reporting will be a critical component of the project's implementation. If the CDP and mitigation is implemented as proposed and is successful, CDFW concurs with the County that the impacts will be offset by the mitigation, improve the overall forest health, and prevent future, incidental encroachment into the riparian area and areas protected by the deed restriction."

Condition of Approval No. 28 requires that Best Management Practices are implemented pre-and post-construction to protect water quality and the surrounding ESHAs. Condition of Approval No. 29 requires the landowner to execute and record a deed restriction that includes a map that indicates the building envelope, mitigation site, and environmentally sensitive habitat areas. Condition of Approval No. 30 requires the landowner to provide a Final Fuel Modification Plan and Landscaping Plan. The Fuel Modification Plan shall minimize impacts to sensitive habitat and shall prioritize treatment as follows: (a) dead, dying, and diseased material, (b), invasive species, (c) non-sensitive native species, and (d) sensitive native plant species if and only if vegetation management of such species is critical to meeting fuel modification goals. For (c) and (d), to the maximum extent feasible, vegetation treatment should be conducted in a manner that maintains the assemblage of species present for the vegetation type as classified under the Manual of California Vegetation. The Fuel Modifications Plan shall include details regarding the types, sizes, species, and location of plant materials to be removed, and how often vegetation thinning, and maintenance activities are to occur.

Condition of Approval No.23 requires that a biological consultant clearly delineates the boundaries of the project area with fencing, stakes, or flags. Condition of Approval No.24 requires the biological consultant clearly delineates the boundaries of the deeded riparian area with posted signs, posting stakes, flags, and/or rope to act as a visual reminder not to encroach. Orange construction fencing paired with straw wattles shall be installed between the wetland and riparian buffer areas and the proposed development. Condition of Approval No.31 requires the landowner submit a Final Mitigation, Monitoring, and Reporting Plan (MMRP) prior to the issuance of any building permit reliant upon this CDP for the northern Bishop pine forest in order to offset impacts from the project request.

All comments and recommendations from the California Coastal Commission have been addressed in this analysis and incorporated into the conditions of approval below.

Hazards Areas: The project site is located east of State Route 1 (SR1). The LCP Land Capabilities map indicates the eastern portion of the parcel contains "Beach Deposits and Stream Alluvium and Terraces (Zone 3)" which indicates the parcel would experience intermediate seismic shaking. The parcel is located in an area classified as "High Fire Hazard".[16] Fire protection services are provided by the Mendocino Fire Protection District and California Department of Forestry and Fire Prevention (CAL FIRE).

The project was referred to CAL FIRE and the Mendocino Fire Protection District. CAL FIRE responded with "the proposed development describes tree removal in association with the construction of a single-

[16] Fire Hazard Zones & Responsibility Areas Map.

family residence, The information included also indicates that this development will occur in an area that would meet the definition of timberland as per the California Forest Practice Rules. The removal of commercial tree species for the purpose described in the proposal would constitute timber operations and would require a permit from CAL FIRE. Commercial tree species includes Douglas Fir, Grand Fir, Tan oak, Bishop Pine, etc."[17] Condition of Approval No.34 requires the landowner to obtain permits for the removal of commercial trees and to hire a licensed timber operator.

Mapping does not associate the project site with any of the following: significant flood plains, faults, bluffs, landslides, or erosion hazards. With the inclusion of standard conditions requiring the landowner to obtain all necessary permits from local, State, and federal agencies, the project would be consistent with MCC Chapter 20.500 Hazard Areas.

Visual Resources and Special Treatment Areas: Pursuant to California Coastal Act Section 30251, scenic and visual resources of the coastal zone shall be protected, requiring that all development be sited and designed to protect scenic coastal areas and be compatible with surrounding areas. Although the project site is adjacent to SR 1, it is located to the east side of the highway, not in an area designated by the Mendocino County LCP as being highly scenic. Public views would not be impaired following the proposed development. The project site is highly vegetated and is not visible from SR 1. In addition, MCC Section 20.504.035 places limitations on lighting which may intrude onto Highly Scenic Areas. To ensure that light intrusion does not occur, conditions of approval have been included, requiring all lighting associated with the project be shielded or otherwise kept from shining beyond the property lines of the subject parcel.

Special Treatment Areas are timberlands designated by the California Coastal Commission where stringent timber harvesting regulations are imposed by the California Department of Forestry (CDF) to protect special scenic and natural qualities. The project was referred to the Department of Forestry and Fire Protection (CAL FIRE) and on October 12, 2023, CAL FIRE responded stating that this development will occur in an area that would meet the definition of "timberland" as per the California Forest Practice Rules. In California, anyone who conducts timber operations on timberland must be a licensed as a timber operator (LTO) by the California Department of Forestry and Fire Protection (CAL FIRE) per Public Resources Code (PRC) § 4571 and must obtain a permit to cut that timber from CAL FIRE per PRC § 4581. A condition of approval was incorporated to require landowner obtain all required permits from CAL FIRE. The project, as proposed, is consistent with Visual Resources and Special Treatment Areas.

Transportation, Utilities, and Public Services: The project site contains an existing well. The project would install a septic system, replace a well pump, and construct a driveway to Sea Pines Lane. The project would contribute minimally to new sources of traffic on local and regional roadways. Sea Pines Lane was constructed to multifamily standards in the 1990s to serve at least seven (7) parcels.[18] The parcel is accessed via a controlled access right of way. The project was referred to California Department of Transportation (Caltrans) as access to Sea Pines Lane (Private) is taken directly off State Highway 1. No comments were received. In addition, the project was referred to Mendocino County Department of Transportation. As of November 1, 2024, no comments were received.

Archaeological and Cultural Resources: On January 11, 2023, the proposed project was referred to the Northwest Information Center for review regarding potential archaeological sensitivity within the Area of Potential Environmental Impact. On January 25, 2022, a response was received, recommending no further survey. On June 12, 2024, the project was sent to the Archaeological Commission which accepted the Northwest Information Center response letter and recommended the Discovery Clause be implemented as a condition of approval.

The project was referred to Cloverdale Rancheria, Redwood Valley Rancheria, and Sherwood Valley Band of Pomo Indians. On October 17, 2023, Sherwood Valley Band of Pomo Indians responded and stated, "the Tribe will accept NWIC's response and not require monitoring for this project. However, as this proposed project moves forward the Tribe is requesting in the event of an inadvertent discovery that the Sherwood Tribe be contacted immediately, and work stopped until tribal appointed cultural monitor is on

[17] Board of Forestry and Fire Protection. Commercial Species Trees List.
[18] Subdivision Application

site. The absence of specific site information does not indicate the absence of cultural resources in any project area". Cloverdale Rancheria and Redwood Valley Rancheria have not responded.

An additional condition of approval is recommended that would require the Sherwood Valley Band of Pomo Indians be immediately notified in the event of an inadvertent discovery. With the incorporation of the Discovery Clause in the conditions of approval, the project would be consistent with the archaeological resource policies of Coastal Element Chapter 3.5 and MCC Chapter 22.12.

Takings Analysis: The Fifth Amendment of the United States Constitution provides that private property shall not "be taken for public use, without just compensation." Article 1, section 19 of the California Constitution provides that "private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court, for the owner". The California Coastal Act Section 30010 addresses takings and states the following:

> *"The legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States."*

The Fifth Amendment is used to require compensation for other kinds of government actions, including regulating the use of property and the physical occupation of a property. Considering this is not a physical taking of the property, the County of Mendocino Planning and Building Division's actions here would be evaluated under the standards for a regulatory taking. A regulatory taking occurs when a government regulation limits the use of private property to such an extent that it effectively deprives the owner of the property's economically viable use or value.

The United States Supreme Court has identified two types of regulatory takings including, the *Penn Central Transportation Company v. New York City (1973)* court case, the United States Supreme Court laid out a three-part ad hoc test to consider whether a regulatory taking had occurred. The three-part ad hoc test includes, (1) the economic impact of the regulation on the claimant, (2) the extent to which the regulation has interfered with distinct investment-backed expectations and (3) the character of governmental action.[19] To assist the County of Mendocino Planning and Building Division with determining whether a taking would occur, the landowner provided a "Takings Information" document (available at the Mendocino County Planning & Building Services Division).

Despite the identification of the least environmentally damaging alternative, the proposed project is not consistent with MCC Section 20.496.020 (A)(1), which 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 proposed project would be situated within a 50-foot buffer and would remove ten (10) senescent and mature northern Bishop pine trees (ESHA). Prohibiting development within fifty (50) 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 (50) feet from an ESHA, as the entire site is northern Bishop pine forest or its associated buffer, with the addition of Pacific pea (ESHA), a riparian and vegetation (ESHA), and California harebell (ESHA).

The proposed single-family residence would be located the farthest distance possible outside of the deeded riparian open space easement and other ESHA buffers. The proposed septic system would be situated greater than 100 feet from the existing well and would adhere to all regulations. All other project alternatives would have a greater negative impact due to encroachment into ESHA buffers. Dark Gulch Consulting determined that the proposed project is situated in the least impactful location. If all avoidance and mitigation measures presented in the biological studies are adhered to, the project would have a less than significant impact on the environment overall. The project proposes to mitigate northern Bishop pine trees at a 3:1 ratio by restoring a 0.75± acre area adjacent to the riparian open space area, which is dominated by eucalyptus. The dense eucalyptus duff in the understory has created a non-native invasive species

[19] Steven J. Eagle, *Penn Central and Its Reluctant Muftis*, 66 BAYLOR L. REV. 1 (2014).

monoculture that threatens the deeded riparian open space. Thus, the project would remove invasive species and would improve the sensitive natural community of the entire parcel.

The proposed project location impacts identified ESHA yet enables the landowner to develop a residence that is similar in scale to residences on adjacent properties in the same vicinity and zone as the project site and would enable restoration to occur adjacent to the riparian area that would enhance the sensitive natural community and the riparian area. The proposed project that would remove ten (10) mature Bishop pine trees and promote a healthier forest, is considered a safer alternative, as well as the least impactful to ESHA.

Attached to this Staff Report is the response from the Applicant related to the Takings Analysis question and includes an outline of the cost the applicant has incurred since purchasing the site in an effort to develop the property. The landowner purchased the parcel on October 19, 2021, where the fair market value at that time was approximately $206,512.00. The subject parcel was created in 1993 following the approval of a Minor Subdivision (MS 65-89). The purchase price of $300,000 for approximately ten (10) acres of vacant land is a substantial investment. The landowner has spent approximately $346,055 to purchase the property, design the residence and septic system, prepare surveys and studies, and complete permits necessary for future development of the site. The costs associated with the ownership of the property on an annualized basis for the last three calendar years include property taxes, property assessments, debt service, and operation and management costs. The largest expenditures were related to land cost (e.g. purchase of land).

The parcel is undeveloped with the exception of an existing well to the northeast portion of the property. The subject property contains a 60-foot-wide non-exclusive roadway and public utilities easement on the northeast edge of the parcel. In addition, an open space easement was recorded on the southern portion of the parcel to protect a riparian ESHA that flows east to west and its 50-foot buffer, accounting for approximately four (4) out of ten (10) acres.

Alternative projects to the proposed development were considered, as discussed in further detail below. Alternative A would be located within the proposed mitigation site in the southern portion of the parcel, siting development adjacent to the deeded riparian open space area. However, developing in this location could result in direct or indirect impacts to the open space through incidental encroachment. Alternative A would be located approximately 40 feet to the north of the riparian area, and greater than 500 feet from the existing well. Alternative A would require trenching approximately a tenth of an acre through the property, including through the northern Bishop pine forest (ESHA) and within 100 feet of the Pacific pea and California harebell ESHAs for water connection to the well. Over time, repeated maintenance would be necessary, resulting in ongoing disturbances and greater impacts on all ESHAs. Additionally, any alternative location would likely have a comparable or greater impact on ESHAs or be insufficient to adequately support the proposed development.

Alternative B would be to reduce the single-family residence in size or reconfigure the house design. The proposed 1,218 square-foot single-family residence would be significantly smaller than residences on adjacent parcels. However, reconfiguring the house would still create an impact on ESHA buffers. Reducing the size of the residence would impose undue hardships on the landowner. Pursuant to MCC Section 20.376.045, the single-family residence would be limited at 28 feet above natural grade and reconfiguring the design of the proposed development would be restrictive and could impose undue hardships.

Alternative C would be no project and would ultimately deprive the owner of all use of the property. The subject parcel includes an existing well, which the minor subdivision (MS 65-89) anticipated for use in residential development. 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.

MCC Section 20.368.010 states the principally permitted use types in the Rural Residential zoning 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 except for passive recreation would require encroachment within an ESHA. The allowed agricultural uses

would require substantial site disturbance and clearing and are not a viable way to use 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 do not afford the property owner an economically viable use.

In order to assess if the landowner's expectation to build a single-family residence on approximately ten (10) acres was similar to comparable single-family residences in the area. Attachment R demonstrates the proposed development would be significantly smaller than the average square footage single-family residence in the neighborhood. The parcels analyzed were located within the Sea Pines Lane neighborhood, with three-fourths created by the same minor subdivision as the subject parcel. The average size of a single-family residence home in the Sea Pines Lane neighborhood is 2,946 square feet. The proposed development is much smaller than the average square footage of development in the area over all years reviewed.

Staff believes, at the time of original purchase, there was a reasonable investment-backed expectation to 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 contains an existing well, 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. The landowner, unaware of changes in environmental regulations, relied on a 1991 Botanical Report[20] stating no ESHA were present on the parcel. Since then, the northern Bishop pine forest has been recognized as a rare habitat statewide (1995)[21], a change the landowner did not anticipate.

Additionally, the proposed project to construct a driveway from Sea Pines Lane, a 1,218 square-foot single-family residence, a parking area for four cars, replace a well pump, and to install a septic system would be situated entirely in the same location as the previously authorized building envelope (MS 65-89). The proposed project is considered the most feasible, least environmentally damaging alternative that avoids sensitive plant ESHA and related ESHA buffer requirements that satisfies the investment backed expectation of the owner. Given the purchase price of the property and additional costs incurred, staff finds that a reasonable investment-backed expectation to build a single-family residence exists.

Denial of the project would significantly interfere with investment-backed expectations. Denial of a principal permitted use would significantly restrict economic use of the property. Staff also concludes that denial would contradict prior establishment of the building envelope, clearing area, and well. Although denial would deprive the owner of all economically viable use, it would appear to meet the factors established in Penn Central. As such, Staff recommends that the project be approved to avoid a possible regulatory taking and ensure compliance with the California and U.S Constitutional requirements, as provided in Coastal Act Section 3001. As noted in the Environmentally Sensitive Habitats and Other Areas section, conditions of approval are recommended to minimize potential impacts to ESHA. No other LCP inconsistencies were found.

ENVIRONMENTAL DETERMINATION: Pursuant to Title 14, Division 6, Chapter 3, Article 19, Section 15063 of California Environmental Quality Act (CEQA) Guidelines, the lead agency shall conduct an Initial Study to determine if the project may have a significant effect on the environment. Based on the available project information present at the time of this evaluation, the potential environmental impacts identified in the Mitigated Negative Declaration, see Exhibit A, the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project. As conditioned, there are no other feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts, either individually or cumulatively, that the activity may have an impact on the environment. Therefore, adopting a Mitigated Negative Declaration is recommended.

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[20] California Coastal Commission. Coastal Development Permit No. 1-92-215. 1993.

[21] Sawyer, J. O., and T. Keeler-Wolf. 1995. A manual of California vegetation. California Native Plant Society, Sacramento, CA.

PROJECT FINDINGS & CONDITIONS OF APPROVAL

Staff recommends, pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, that the Coastal Permit Administrator approve the proposed project, adopts a Mitigated Negative Declaration, and adopt the following findings and conditions.

FINDINGS:

1. Pursuant to MCC Section 20.532.095(A)(1), the proposed project to clear 0.75± acres of vegetation, grade a driveway, construct a single-family residence and associated structures is in conformity with the certified local coastal program. Principal permitted within the Rural residential classification includes residential and associated utilities. The RR classification does not intend to be a growth area, and residences should be located as to create minimal impact on agricultural viability. The proposed development is principally permitted and intends to create a minimal impact on agricultural viability. Though the proposed development is a principal permitted use within the RR district, all requisite findings pursuant to MCC Section 20.532.100(A) cannot be made because the Project may result in degradation of ESHA. However, it has been determined that denial of the Project considering this inconsistency could result in a regulatory taking. As such, staff recommends that some residential development be allowed to avoid a taking. To the maximum extent feasible, the Project is in conformity with other local coastal program regulations as discussed in the staff report; and

2. Pursuant to MCC Section 20.532.095(A)(2), the proposed development to clear 0.75± acres of vegetation, grade a driveway, construct a single-family residence and associated structures will be provided with adequate utilities, access roads, drainage, and other necessary facilities. The project site is accessed by Sea Pines Lane (private) via SR1 and contains an existing well (WW10551). The project, as proposed, includes installing a septic tank, replacing a well pump, constructing a single-family residence and associated structures. Therefore, the proposed project would be served with adequate utilities, access roads, drainage, and other necessary facilities; and

3. Pursuant to MCC Section 20.532.095(A)(3), the proposed development to clear 0.75± acres of vegetation, grade a driveway, construct a single-family residence and associated structures is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserve the integrity of the zoning district. Single-family residences and associated structures are a principally permitted use within the Rural Residential Zoning District. The project, as proposed, would create a minimal impact on agricultural viability; and

4. Pursuant to MCC Section 20.532.095(A)(4), the proposed development to clear 0.75± acres of vegetation, grade a driveway, construct a single-family residence and associated structures if completed 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. The subdivision (Application No. 1-92-215) that created the subject parcel established a building envelope area within each newly created parcel. The project site is situated within said building envelope. The proposed project includes clearing vegetation and ten (10) environmentally sensitive trees, grading a driveway, and constructing a single-family residence and associated structures. The project proposes a Mitigation and Monitoring Plan that would remove invasive species, create a mitigation area, and enhance the sensitive natural community. Large Eucalyptus trees, which are invasive species, would be felled in the proposed mitigation area. The mitigation area would be revegetated with native species appropriate to the natural community. Prior to the issuance of any building permit associated with this CDP, the landowner shall provide a Final Mitigation, Monitoring, and Reporting Program to the California Department of Fish and Wildlife and County of Mendocino Planning Department for approval; and

5. Pursuant to MCC Section 20.532.095(A)(5), the proposed development to clear 0.75± acres of vegetation, grade a driveway, construct a single-family residence and associated structures will not have any adverse impacts on any known archaeological or paleontological resource. On October 10, 2023, the project was referred to Northwest Information Center (NWIC) and the Archaeological Commission. NWIC responded stating that although the general vicinity has sensitivity for archaeological resources, the proposed project has a low possibility of containing unrecorded

archaeological sites and no further study is recommended. The project was sent to the Archaeological Commission on June 12, 2024, which did not recommend additional information but to add the Discovery Clause as a condition of approval.

The project was referred to Cloverdale Rancheria, Sherwood Valley Band of Pomo Indians, and Redwood Valley Rancheria. As of May 16, 2024, Cloverdale Rancheria and Redwood Valley Rancheria have not responded. On January 17, 2023, a response from the Sherwood Valley Band of Pomo Indians was received. The Tribe noted that they may formally request on-site cultural monitoring during ground disturbing activities as cultural resources could be affected or uncovered during construction. Conditions of Approval have been included that requires the Landowner contact the Sherwood Valley Band of Pomo Indians prior to ground disturbing activities and allow a cultural monitor to be onsite for said activities if deemed necessary by the Tribe. Additionally, the Discovery Clause applies to all ground disturbance in Mendocino County and has been included as a Condition of Approval; 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 proposed development to clear 0.75± acres of vegetation, grade a driveway, construct a single-family residence and associated structures. The proposed project would be accessed by a driveway on Sea Pines Lane via SR 1. The subject parcel would be serviced by a solid waste removal company. The minor subdivision that created this parcel considered public roadway capacity for future developments. Special Condition #4 required the road approach onto State Route 1 from the subdivided lands shall be improved to appropriate standards as determined by the California Department of Transportation (Caltrans) and under an encroachment permit issued from that agency[22] ; and

7. Pursuant to MCC Section 20.532.100(A)(1)(a), the proposed development may significantly degrade identified ESHA. However, the proposed project would remove 0.75± acre of the northern Bishop pine forest and restore a 0.75± acre mitigation area at a 3:1 ratio. The proposed project location impacts identified ESHA yet enables the landowner to develop a residence that is similar in scale to residences on adjacent properties in the same vicinity and zone as the project site and would enable restoration to occur adjacent to the riparian area that would enhance the sensitive natural community and the riparian area. As such, staff recommends that some residential development be allowed to avoid a taking. To the maximum extent feasible, the Project is in conformity with other local coastal program regulations with adoption of recommended conditions of approval, including restoration measures, success criteria, implementation standards, and reporting requirements; and

8. Pursuant to MCC Section 20.532.100(A)(1), Dark Gulch Consulting determined that the proposed project is situated in the least impactful location. If all avoidance and mitigation measures presented in the Tentative and Final Mitigation, Monitoring, and Reporting Plan, the project should have a less than significant impact on the environment overall. There is no feasibly less environmentally damaging alternative. ESHA encompasses nearly the entire subject parcel which provides constraints for development. However, with the incorporation of the conditions of approval and mitigation measures, the proposed project would not significantly degrade the northern Bishop pine forest. Alternatively, the subject parcel anticipates benefiting from the project which includes the Mitigation, Monitoring, and Reporting Plan (MMRP). The MMRP would offset impacts to the northern Bishop pine forest and offer habitat enhancement. Therefore, with the incorporated conditions of approval and mitigation measures, the proposed project would avoid impacts to ESHA and would promote regeneration and active management of identified communities.

CONDITIONS OF APPROVAL AND MITIGATION MEASURES (as indicated by ""):**

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 California Coastal Commission has expired and no appeal has been filed with the California 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/or use of the

[22] LCP-1992-141. Minor Subdivision Modification.

property in reliance on such permit has been initiated prior to its expiration. Such permit vesting shall include approved permits associated with this project (i.e. building permits, septic permits, well permits, etc.) and physical construction in reliance of such permits, or a business license demonstrating establishment of a use proposed under this project.

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. To remain valid, progress towards completion of the project must be continuous. The Landowners 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 of all necessary permits for the proposed development 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 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. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filling 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 $2,966.75 or current fee shall be payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within five (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 ensure timely compliance with this condition.**

9. Discovery Clause: If any archaeological sites or artifacts are discovered during site excavation or construction activities, the property owner 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 resources in accordance with Section 22.12.090 of the Mendocino County Code. Sherwood Valley is the Most Likely Descendants (MLD's) of the area. The Tribal contact

is Valerie Stanley, Sherwood Valley THPO at svrthpo@sherwoodband.com.

10. ****BIO-1: Protection of Bird Nesting Habitat Areas.** Removal of vegetation and construction activity near trees and vegetated areas has the potential to disturb birds' nesting process if it occurs during the nesting season. No nesting bird surveys are recommended if activity occurs in the non-breeding season (September to January). If vegetation removal or development is to occur during the breeding season (February to August), a pre-construction survey is recommended within 14 days of the onset of vegetation removal or construction to ensure that no nesting birds will be disturbed during development. If active native bird nests are observed, no vegetation removal or construction activities with the potential to disrupt nesting shall occur within a 100-foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active nest until all young are no longer dependent upon the nest. A biologist should monitor the nest site weekly during the breeding season to ensure the buffer is sufficient to protect the nest site from potential disturbance. Construction should occur during daylight hours to limit disturbing construction noise and minimize artificial lights.

11. ****BIO-2 Avoidance Measure: Protect Bat Species.** Tree removal and construction in the study area has the potential to impact special status bat species. Bats are vulnerable when roosting for reproduction when young are not yet able to fly, and during hibernation because they can die of cold or malnutrition if hibernation is disturbed. Temperatures on the Mendocino Coast usually do not drop low enough to necessitate bat hibernation. No special features such as hollow trees, abandoned buildings, or other cave analogs, which could serve as roosting or hibernation refugium, are present; therefore, the potential for negative impacts to bats is minimal. If the residence on one of the subject parcels is proposed for demolition, then a survey may be warranted.

12. ****BIO-2.1 Avoidance Measure: Pre-construction surveys for bats.** Tree removal and construction will ideally occur between September 1st and October 31 after the young have matured and prior to the bat hibernation period. If it is necessary to disturb potential bat roost sites between November 1 and August 31, pre-construction surveys should be performed by a qualified biologist 14 days prior to the onset if development activities. Pre-construction bat surveys involve surveying trees, rock outcrops, and buildings subject to construction for evidence of bat use (guano accumulation, or acoustic or visual detections). If evidence of bat use is found, then biologists shall conduct acoustic surveys under appropriate conditions using an acoustic detector, to determine whether a site is occupied.

13. ****BIO-2.2 Avoidance Measure: Roost buffer.** If active bat roosts are observed, no tree removal or construction activities with potential to disturb roosting shall occur within a minimum 50-foot exclusion zone. These exclusion zones may vary depending on species, habitat and level of disturbance. The exclusion zone shall remain in place around the active roost until all young are no longer dependent upon the roost.

14. ****BIO-3 Avoidance Measure: Protect Sonoma Tree Voles.** Sonoma tree voles are presumed to be present within the stand and there is a potential for incidental take. Bishop pine trees will be removed that may contain hidden nests. The microclimate within the tree canopy is likely to change adjacent to trees that are removed because they will no longer block wind, shade areas, collect fog, etc. Changes in microclimates in the tree canopy may reduce the habitat suitable for Sonoma tree voles.

15. ****BIO-4 Avoidance Measure: Protect Sonoma Tree Voles and Northern Red Legged Frog.** The construction impact area shall be surveyed by a qualified biologist within seven days prior to the start of construction for any tree nests indicative of Sonoma tree voles and any Northern red-legged frogs. If any active Sonoma tree vole nests are found, the nest shall be avoided during construction activities with a buffer zone determined by a qualified biologist. In the event that a Northern red-legged frog is observed in an active construction zone, the contractor shall halt construction activities in the immediate area where observed, and the frog shall be moved by a qualified Biologist to a safe location in similar habitat outside of the construction zone.

16. **BIO-5 Mitigation Measure: Mitigation Site.** The 0.75± acre eucalyptus grove will serve as the mitigation site. Clear the mitigation site of eucalyptus duff and smaller eucalyptus trees. Fall large

eucalyptus trees in such a way to minimize the impacts on other species in the area. Eucalyptus trees would be felled one-at-a-time. All stumps would be left in place and the brush and duff would be stacked on top of the stumps and tarped.

17. ****BIO-5.1 Mitigation Measure**. Following the eucalyptus tree cleanup, native seed shall be cast to prevent erosion in the mitigation site.

18. ****BIO-6: Mitigation Measure. Avoid Loss of Sensitive Natural Communities.** A replanting ratio of 3:1 seedling shall be implemented for each northern Bishop pine tree removed. The seedlings should be watered approximately once a month over the first two to three summers, until their root systems are established, and they are putting on at least 3 inches of new growth a year. If any new tree dies, replacement is required. Removal and replacement of trees shall also be coordinated with CAL FIRE with applicable approvals obtained prior to removal.

19. ****BIO-7 Mitigation Measure: Driveway Clearance.** Prior to driveway clearance, take inventory and identify cover percentage of vegetation within the 12 by 319-foot driveway footprint. Harvest native saplings, shrubs and herb species from this area and replant in the mitigation site and/or pots in a proportion equal to what would be removed.

20. ****BIO-8 Mitigation Measure: Residence and Associated Structures Clearance:** Prior to homesite (residence and associated structures) clearance, take inventory and identify cover percentage of vegetation within the 0.7± acre. Harvest native saplings, shrubs and herb species from this area.

21. ****BIO-9 Mitigation Measure:** Prior to homesite (residence, driveway and associated structures) clearance, harvest large native shrubs and saplings with an excavator and immediately transplant to mitigation site to minimize stress and disturbance.

22. ****BIO-9 Mitigation Measure: Removal of Non-Native Invasive Species.** Target all non-native invasive species for removal in the mitigation site until the mitigation site has the same species composition and percent cover as the proposed building envelope.

23. ****BIO-10 Mitigation Measure:** Appropriate maintenance and removal of invasive species will be conducted on an annual basis for a minimum of ten years, or until such time as the mitigation site achieves a species composition and density equivalent to that of the original building envelope.

24. ****BIO-11 Mitigation Measure:** Prior to ground or vegetation disturbing activities, clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Maintain fencing, stakes, and/or flags until the completion of the project in that area. Orange construction fencing paired with straw wattles shall be installed between the wetland and riparian buffer areas and the proposed development, separating the wetlands/riparian and their buffer zones from construction related impact area. No materials storage, heavy equipment use or other impacts shall occur within the fenced off wetlands area. Straw wattles shall be properly installed to intercept liquids leaving the construction area. All fencing shall be maintained in a functional manner through the duration of construction and until all disturbed soil is stabilized. Fencing shall be checked, and appropriate maintenance shall occur on a weekly basis and after every rain event.

25. ****BIO-12 Mitigation Measure:** Prior to ground or vegetation disturbing activities and throughout the entire project, clearly delineate the boundaries of the deeded riparian area with posted signs, posting stakes, flags, and/or rope to act as a visual reminder not to encroach.

26. ****BIO-13 Mitigation Measure:** The landowner is required to follow the Mitigation, Monitoring and Reporting Plan for a minimum of ten (10) years or until the mitigation site achieves the same species composition and percent cover as the original building site. The landowner must submit an annual monitoring report via in-person or mail to the County of Mendocino Planning and Building Services Department Attention: Senior Planner by December 1 of each year.

27. ****Construction Hours:** Construction activities shall only occur during daylight hours to limit disturbing construction noise and minimize artificial lights.

28. ****BIO-14 Mitigation Measure: Construction Best Management Practices:** appropriate Best Management Practices (BMPs) shall be incorporated pre- and post-construction to protect water quality and the surrounding environmentally sensitive habitat areas. Low symbolic fencing shall minimize traffic and trampling of ESHAs outside of the building envelope.

29. Prior to the issuance of the 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: (Deed Restrictions are items #1-11 below).

    1. A map that indicates the building envelope, mitigation site, and environmentally sensitive habitat areas.

    2. Declarants agree to indemnify and hold harmless the County, its successors in interest, advisors, officers, agents and employees, against any and all claims, demands, damages, costs, and expenses of liability, including (without limitation attorney's 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.

    3. Declarants agree that any adverse impacts to the property caused by the permitted project shall responsibilities of the Declarants.

    4. Declarants shall not construct any bluff or shoreline protective devices to protect the subject single-family residence, garage, septic system, or other improvements, in the event that these structures are subject to damage, or other erosional hazards, in the future.

    5. Declarants hereby agree that, at all times on and after the date on which this Declaration is recorded, the Conditions of Approval, as enumerated in EXHIBIT B attached hereto, constitute covenants, conditions and restrictions on the use and enjoyment of the Property.

       (a) This Declaration shall remain in full force and effect and shall bind Declarants and all his/her/their assigns or successors-in-interest during the period that either the development authorized by the Permit, or any part or modification thereof, or the Permit, or any modification or amendment thereof, remains in existence on or with respect to, and thereby confers benefit upon, the Property.

       (b) In the event of a termination or extinguishment of this Declaration other than pursuant to a County-approved amendment to the Permit, the Standard and Special Conditions shall, notwithstanding any such termination or extinguishment, continue to restrict the use and enjoyment of the Property as they did prior to that termination or extinguishment and to bind Declarants and his/her/their successors-in-interest, so long as either or both of the conditions described in paragraph (a) continue to exist on or with respect to the Property.

    6. It is intended that this Declaration is irrevocable and shall constitute an enforceable restriction within the meaning of (a) Article XIII, Section 8, of the California Constitution; and (b) section 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Declaration shall be deemed to constitute a servitude upon and burden to the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

    7. Any act, conveyance, contract, or authorization by Declarants whether written or oral which uses or would cause to be used or would permit use of the Property contrary to the terms of this Declaration will be deemed a violation and a breach hereof. The County and Declarants may pursue any and

all available legal and/or equitable remedies to enforce the terms and conditions of this Declaration. In the event of a breach, any forbearance on the part of either party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

8. The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

9. Notwithstanding anything in this Declaration to the contrary, prior to terminating this Declaration or rescinding, amending, adding, deleting or otherwise modifying any provision hereof, the written consent of the County and Declarants, or their authorized representative, shall first be had. Certificates of amendment recorded in the County of Mendocino's Recorder's Office evidencing any such alterations shall have attached the document in which such consent is manifest. Failure to secure the consent required by this section shall render a rescission, termination, amendment, addition, or deletion null, void and of no force or effect.

10. The use of insecticides, herbicides, and other pesticides including rodenticides outside of the building envelope shall be prohibited.

11. No development, as defined in Section 30106 of the Coastal Act, shall occur within the open space area within the subject property outside of the delineated building envelope, except for the following:

    i. Low symbolic, wildlife friendly fencing or similar demarcation barriers

    ii. Temporary construction fencing and erosion and sediment control devices may be installed along the border between the authorized building envelope and the open space restricted area during construction, and maintenance of such fence after construction.

    iii. Habitat enhancement and mitigation activities required to be undertaken onsite as approved by the County of Mendocino Planning and Building Services Director.

    iv. Removal of non-native vegetation using hand tools

    v. Fuels management consistent with state-mandated defensible space requirements in accordance with a Final Fuels Management Plan

    vi. Planting of native vegetation to improve the habitat values and functions, other restoration and enhancement activities including, fire hazard mitigation measures and removal of debris and unauthorized structures.

30. <u>Prior to the issuance of building permits in reliance to the CDP,</u> the landowner shall submit to the County of Mendocino Planning Department for review and written approval Final Landscaping and Fuel Modification Plans in conformance with the following requirements:

    A. Landscaping Plan

        i. Rodenticides containing any anticoagulant compounds shall not be used on the property.

        ii. Landscaping shall prioritize native vegetation common to the area.

        iii. No plant species listed as invasive by the California Native Plant Society and the California Invasive Plant Council shall be prohibited.

    B. Fuel Modification Plans

        i. Vegetation within 30 feet of the proposed residence may be cut down to the ground or maintained at a low height (generally under 2 feet), with fire-resistant vegetation compatible with the authorized residential structures. Fuel modification within this zone shall utilize

approaches that are most appropriate to the site, including strategies such as preserving fire-resistant, locally indigenous species instead of completely removing all vegetation.

ii. The Fuel Modification Plan shall minimize impacts to sensitive habitat and shall prioritize treatment as follows: (a) dead, dying and diseased material, (b) invasive species, (c) non-sensitive native species, and (d) sensitive native plant species if and only if vegetation management of such species is critical to meeting fuel modification goals. For (c) and (d), to the maximum extent feasible, vegetation treatment should be conducted in a manner that maintains the assemblage of species present for the vegetation type as classified under the Manual of California Vegetation. The Plan shall include details regarding the types, sizes, species, and location of plant materials to be removed, and how often vegetation thinning, and maintenance activities are to occur. The impacts from the building envelope would offset to less than significant by restoration of mitigation site.

31. Prior to the issuance of any building permit reliant upon this Coastal Development Permit, a Final Mitigation, Monitoring, and Reporting Plan (MMRP) shall be submitted to the County of Mendocino with CDFW approval with CDFW for the northern Bishop pine forest in order to offset impacts from the project request. The Final MMRP shall be prepared by a qualified ecologist and/or a biologist and approved by the California Department of Fish and Wildlife, and shall include invasive species removal, a regular understory management regimen to facilitate growth of new recruits and transplanted saplings, fuel load reduction around the single-family residence, and a supplemental plan. The supplemental plan shall hold the baseline inventory of all plant species to be removed from the building envelope to keep track of the planted locations, species type, species survival, and alternative methods to achieve success. The Final MMRP shall also include a monitoring plan and performance criteria to measure success of management activities. Reporting must occur on an annual basis to the County of Mendocino Planning Division Attn: Senior Planner by December 1 of each year for ten years minimum. Reports must include the following information:

    a. Name and contact information of person in charge of monitoring activities, and name and contact information of reporting party.
    b. Color photos of the active management areas at the beginning and end of the reporting period
    c. A summary of any issues encountered, and management steps taken during the reporting period.
    d. Methods used during that monitoring period to eradicate invasive species, improve forest health and conditions for new northern Bishop pine seedling recruits.
    e. Level of effort and methods used during that monitoring period to eradicate weeds, improve forest health and conditions for new northern Bishop pine seedling recruits.
    f. Inventory of type, location, and size of what was planted, remediation needs, and success rates.

32. Heavy machinery such as and not limited to excavators and skid steers that may be used onsite have the potential spread invasive plant material from use on other sites. Heavy machinery that is used in dirt needs to be power washed offsite to eliminate seeds and other propagules.

33. Remove water tank and portable pumps and/or generator from project site until mitigation site consists of all transplanted native shrubs, trees, and herbs.

34. Obtain all required CAL FIRE permits and/or exemptions for the removal of commercial tree species on project site including grand fir (*Abies grandis)*, Douglas fir (*Pseudotsuga menziesii),* northern Bishop pine (*Pinus muricata*), and tan oak (*Notholithocarpus densiflorus*).

November 14, 2024
DATE

Shelby Miller
SHELBY MILLER
PLANNER II

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

ATTACHMENTS:

A. Location Map
B. Aerial Map
C. Topographical Map
D. Site/Tentative Map/Project Plans
E. General Plan Map
F. Zoning Map
G. LCP Maps
H. Adjacent Owner Map
I. Fire Hazards Map
J. Slope Map
K. Soils Map
L. Ground Water Resource Area
M. Wetlands
N. CDP 1-92-215 Tentative Map
O. Commercial Tree Species List
P. Takings Analysis
Q. Tentative Mitigation Monitoring and Reporting Plan

MITIGATED NEGATIVE DECLARATION AND INITIAL STUDY AVAILABLE ONLINE AT:
https://www.mendocinocounty.gov/government/planning-building-services/meeting-agendas