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**COASTAL PERMIT ADMINISTRATOR  
STAFF REPORT - STANDARD CDP**

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**NOVEMBER 15, 2023  
CDP\_2022-0001**

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**SUMMARY**

**OWNER/APPLICANT/AGENT:** DOUGLAS & JENNIFER HERTING  
3044 SANTA MARIA DR  
CONCORD, CA 94518

**REQUEST:** Standard Coastal Development Permit for the construction of a single-family residence with basement, install water storage tanks, relocated existing shed(s); Grading to construct a driveway access from State Route 1; After-the-Fact approval for an existing well and septic system; Trenching for underground power connection; Installation of an auxiliary septic tank and pump tank to be connected to the existing septic field; and major vegetation removal for the driveway and home site. Additional, temporary occupancy of a travel trailer during construction is requested.

**LOCATION:** In the Coastal Zone, 2.25± miles north of Anchor Bay, 0.25± miles north of Gypsy Flat Road (Private), on the east side of State Route 1 (SR 1), located at 33101 S. Hwy 1, Gualala, CA 95445; APN: 143-050-15.

**TOTAL ACREAGE:** 8± Acres

**GENERAL PLAN:** Remote Residential, 40-acre minimum (RMR40) Coastal Element Chapter 2.2

**ZONING:** Remote Residential, 40-acre minimum (RMR40) Mendocino County Code, Division II Chapter 20.380

**SUPERVISORIAL DISTRICT:** 5 (Williams)

**ENVIRONMENTAL DETERMINATION:** Mitigated Negative Declaration

**RECOMMENDATION:** APPROVE WITH CONDITIONS

**STAFF PLANNER:** JESSIE WALDMAN

**BACKGROUND**

**PROJECT DESCRIPTION:** Standard Coastal Development Permit to develop a vacant parcel by constructing a 1,200 sq. ft. single-family residence with an 800 sq. ft. basement/garage and a driveway access to connect to State Highway 1. Included as part of the request is after-the-fact approval for an existing on-site well and on-site septic system; installation of an auxiliary septic tank and pump tank to be connected to the existing on-site septic system leach field; trenching for underground utility connection; and major Vegetation Removal for creating access to the parcel and building envelope.

The well permit, #7179 (aka. 364405), was most likely a required test well to satisfy the requirements for Boundary Line Adjustment B\_65-88 and CCC 1-88-203. Septic permit 3967-F was also most likely a required proof of septic capacity, rather than a requirement to install septic, to satisfy the Boundary Line Adjustment requirements. There is no County or State record of past discretionary permits that allowed for the septic to be installed, nor for use of a production well. Therefore, the project request has changed to

convert the test well into a production well (No. 7179) and permitting after-the-fact septic system (#=No. 3697-F).

Multiple studies were provided by the landowner as part of the CDP Application, which are kept on file with the Mendocino County Department of Planning & Building Services, and include the following:

- Biological Resources Assessment and ESHA Analysis, prepared by Miles Hartnett of Jacobszoon & Associates, Inc., Updated July 6, 2022
- CALFIRE No.378-21 – Standard Conditions of Approval
- Septic Evaluation, prepared by Septic Skeptic, dated February 12, 2021
- Well Test Report, prepared by Trey Driscoll, October 28, 2021

For purposes of eliminating redundancy within this Staff Report, the proposed development request is for the construction of a single-family residence and ancillary development.

**APPLICANT'S STATEMENT:** CDP Application date received January 10, 2022:

- *Building a 1200 square (foot) house with a 800 square foot basement*
- *Running power from existing PG&E pole to the house*
- *Requesting after the fact approval for an existing well and septic system install in 1989 with County permits*
- *Grading to create a driveway directly from Highway 1 to access our property*
- *Grading to extend the driveway to our future home with parking area*
- *Removal of trees to build driveway and build our home.*

**RELATED APPLICATIONS ON-SITE:**

- Parcel 13 within the Pacific Reefs Subdivision (Map 2, Drawer 3, Page 40 of Mendocino County Records)
- B 65-88 created the current configuration of the parcel
  - CCC-1-88-203
  - 7179 (aka. 364405) – Water Well Driller's Report
  - 3967-F – Septic Tank Permit
- 1-MEN-1-6.995 – CALTRANS Encroachment Permit (Pending CDP Issuance)

**NEIGHBORING PROPERTIES:**

- APN: 143-050-04 – CDP 36-00 – Test Well; CDP\_2012-0017 – Single-Family Residence
- APN: 143-050-07 – CDP 46-05 – Single-Family Residence Replacement
- APN: 143-050-08 – CDP 4-92 – Single-Family Residence; CDP 20-97 – Guest Cottage
- APN: 143-050-14 – CDP\_2012-0004 - Fence
- APN: 143-050-10 – CDP 79-99 – Septic & Gate

**SITE CHARACTERISTICS:** The project site is vacant, in the Coastal Zone, 2± miles north of the town of Anchor Bay, on the east side of State Route 1 (SR 1), 0.25± miles north of its intersection with Gypsy Flat Road (private), as shown on the *Location & Aerial Maps*. The proposed development on the site is situated approximately 200 feet above sea level, as shown on the *Topographical Map*. The bulk of the parcel is mapped as "*Bedrock (Zone 1)*" with portions adjacent to State Route 1 (SR 1) mapped as "*Beach Deposits and Stream Alluvium and Terraces (Zone 3) – Intermediate Shaking*", as shown on the attached *LCP Land Capabilities and Natural Hazards Map*. The attached *LCP Habitats and Resources Map* does not show any sensitive resources being located on the subject parcel. Portions of the parcel, including the location of the proposed development, are located less than 300 feet from a bluff top edge, as shown on the *Appealable Areas* map. The site is mapped as a "High Fire Hazard" area and is located within a State Responsibility Area and South Coast Fire Protection District, as shown on the attached *Fire Hazard Zones and Responsibility Areas Map*. The site is mapped on the attached *Ground Water Resources Map* as being located within a *Critical Water Area*. The attached *Estimated Slope* map shows estimated slopes between 15 and 72 degrees. Soils present on the parcel are Seaside-Rock outcrop complex (5-30% slopes), as

shown on the attached *Local Soils Map*.

**SURROUNDING LAND USE AND ZONING:** As listed on Table 1 below, the surrounding lands are classified and zoned Remote Residential (RMR), and developed with residential uses, as shown on the *Aerial Imagery (Vicinity)*, *Aerial Imagery*, and *Local Coastal Program (LCP) Land Use Map 18: Albion* maps. The single-family residence and ancillary development are consistent with the surrounding land uses and development.

	GENERAL PLAN	ZONING	LOT SIZES	USES
<b>NORTH</b>	Remote Residential (RMR40)	Remote Residential (RMR40)	38.6± Acres	Residential
<b>EAST</b>	Remote Residential (RMR40)	Remote Residential (RMR40)	36.2± Acres	Residential
<b>SOUTH</b>	Remote Residential (RMR40)	Remote Residential (RMR40)	4.7± Acres	Residential
<b>WEST</b>	Rural Residential (RR5)	Rural Residential (RR5)	3.0± Acres	Residential

**PUBLIC SERVICES:**

Access: State Route 1 (SR 1)  
 Fire District: South Coast Fire Protection District  
 Water District: On-Site Wall  
 Sewer District: On-Site Septic System  
 School District: Arena Union Elementary

**AGENCY COMMENTS:** As listed on Table 2 below, project referrals were sent on January 23, 2023, and March 21, 2023, to the following agencies with jurisdiction over the Project. A summary of the submitted agency comments are listed below.

REFERRAL AGENCIES	COMMENT
Arena Union Elementary School District	No Comment
Archaeological Commission	Comments
Building Division (Fort Bragg)	No Comment
California Coastal Commission (CCC)	Comments
California Department of Fish & Wildlife (CDFW)	Comments
CALFIRE (Land Use)	No Comment
California Department of Transportation (CALTRANS)	Comments
Cloverdale Rancheria	No Response
Department of Transportation (DOT)	No Comment
Environmental Health (EH) (Fort Bragg)	Comments
Gualala Municipal Advisory Council (GMAC)	Comments
Planning Division (Ukiah)	Comments
Redwood Valley Tribe	No Response
Sherwood Valley Band of Pomo Indians	No Response
Sonoma State University (SSU)	Comments
South Coast Fire Protection District	No Response

**CCC Comments:** On February 1, 2023 the California Coastal Commission (CCC) submitted comments in response to the proposed application with concerns regarding the existing well and septic, development proposed within 100 feet of Environmentally Sensitive Habitat Area (ESHA), the need for establishing a new driveway access from State Route 1 (SR 1), and confirmation of the parcel size being less than 40 acres.

On May 5, 2023, the CCC attended a visit at the subject parcel, where CCC submitted additional comments. On August 11, 2023, the (CCC) submitted additional comments and recommendations:

- Well and Septic Field: It was clear from our site visit that the well and septic field are existing. Since the application states that the well and septic was permitted in 1989, the County should reference or submit as part of the referral the County permits for the well and septic. If the County is unable to identify these permits, then it should not be referenced as previously permitted and processed as an after the fact approval.
- Alternative Analysis: It would be beneficial for the County to request an alternatives analysis be conducted on sites that are heavily constrained by ESHA to ensure that the proposed development is sited in the least environmentally damaging location. For this particular project, our site visit on May 5, 2023, with county staff and CDFW staff, it appeared that the proposed location of the development would be sited in the least damaging location. That being said, since the proposed development is sited within ESHA (Bishop-pine forest) an alternatives analysis would assist the County in their takings analysis and for making the findings that the least environmentally damaging alternative is being pursued.
- Driveways: After our site visit and discussion with CDFW staff Jen Garrison, the proposed location for the new driveway would be less impactful to Bishop pine forest ESHA than grading the existing driveway for use to access the property. This concern has been addressed.
- Parcel: As mentioned in prior comments submitted to the County on February 1, 2023, since the parcel is zoned for RMR40, with a minimum lot size of 40 acres and the parcel is only 8 acres, we recommend confirming that the parcel is a legal parcel

CDFW comments: On August 24, 2023, the Department of Fish & Wildlife (CDFW) submitted comments in response to the proposed application recommending the following:

- To extent feasible, retain regeneration of trees including northern bishop pine and shrubs and herb layer including Douglas iris. No maritime lilies were observed onsite, but if present, avoid impact to them. If lilies cannot be avoided, please consult with the County to develop a plan to remove plants before disturbance and replant onsite after ground disturbance is complete.
- Remove invasive species including pampas grass and other invasive plant species like non-native broom species (if present).

CALFIRE comments: The project was referred to CALFIRE, where CALFIRE recommended adhering to conditions under CALFIRE File Number 378-21.

CALTRANS comments: On June 22, 2023, the California Department of Transportation (CALTRANS) submitted comments in response to the proposed application. CALTRANS conducted a pre-application review (1-MEN-1-6.995) for the proposed driveway development to access the parcel, where the development to CALTRANS is consistent with this applications proposal for the new driveway approach.

#### **LOCAL COASTAL PROGRAM CONSISTENCY:**

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 proposed development is located within the boundaries of the Local Coastal Program (LCP) area, as shown on the *LCP Land Use Map 30: Anchor Bay* attachment. The project site is classified as Remote Residential (RMR) by the Mendocino County General Plan, as shown on the *General Plan Classifications* map.

The Coastal Element Chapter 2.2 Remote Residential classification is intended to:

*... be applied to lands having constraints for commercial agriculture, timber production or grazing, which are well suited for small scale farming and low density agricultural/residential uses by the absence of such limitations as inadequate access, unacceptable hazard exposure or incompatibility with adjoining resource land uses. The classification is also applied to some areas which might not otherwise qualify except for the fact that the land has been divided and substantial development has occurred.*

The subject parcel is recorded as Parcel 13 within the Pacific Reefs Subdivision (Map 2, Drawer 3, Page 40 of Mendocino County Records). Coastal Development Permit CCC-1-88-203 and Boundary Line Adjustment B 65-88 created the current configuration of the parcel.

The proposed project, which involves developing a vacant parcel by constructing a single-family residence and appurtenant structures and utilities, is consistent with principally permitted uses and ancillary development with the Remote Residential Land Use classifications, per Mendocino County Coastal Element Chapter 2.2.

Zoning: The project site is located within a Remote Residential (RMR) zoning district, as shown on the *Zoning Display Map*. The parcel's zoning designation (RMR40) requires a 40-acre minimum parcel size. The established parcel is 8.0± acres in size, as shown on the *Adjacent Parcels* map, making it a legal non-conforming parcel.

The RMR district is intended to, per Mendocino County Code (MCC) Section 20.380.005:

*... be applied to lands within the Coastal Zone which have constraints for commercial agriculture, timber production or grazing, but which are well-suited for small scale farming, light agriculture and low density residential uses, or where land has already been divided and substantial development has occurred.*

The proposed project will be located outside the required setbacks, which are 50 feet front, rear, and side yard setbacks and outside the 45 foot corridor preservation setback, as shown on the *Site Plan* map. As currently proposed, the development will be a maximum height of 22 feet above natural grade for non-Highly Scenic Areas and will be consistent with the RMR district maximum of 28 foot building height allowance, as shown on the *Elevations* maps. The proposed development will result in an overall lot coverage of 0.6 percent (2,163 square feet), which is consistent with the 10 percent allowable coverage. A minimum of two off-street parking spaces are required per residential unit; four spaces are proposed as shown on the attached *Site Plan* and *Floor Plans* maps.

The proposed development, a single-family residence, appurtenant structures and utilities, is consistent with MCC Chapter 20.380 and Chapter 20.472.

Visual Resources: The site is not mapped within a Highly Scenic Area, therefore, the proposed development is only subject to Policy 3.5-1 of the Coastal Element and MCC Section Chapter 20.504.035.

**Condition 11** is recommended to require exterior lighting to be kept to the minimum necessary for safety and security purposes and to be downcast, shielded and positioned in a manner that will not shine light or allow light glare to extend beyond the boundaries of the parcel in compliance with Mendocino County Coastal Element Policies 3.5-1 and MCC Section 20.504.035.

**Condition 12** is recommended to require an exterior finish schedule for proposed materials and colors which will be visually compatible with the character of the surrounding area consistent with Mendocino County Coastal Element Policies 3.5-1.

With added conditions, the proposed project will not increase view obstruction from nearby public areas, is visually compatible with the character of surrounding areas, and will be consistent with Mendocino County Coastal Element Policy 3.5-1 and MCC Chapter 20.504 regulations.

Hazards Management: Mendocino County Coastal Element Chapter 3.4, Hazards Management, addresses seismic, geologic, and natural forces within the Coastal Zone. Mapping does not associate the site with tsunami, or flood hazards, as shown on the *LCP Land Capabilities and Natural Hazards* map. The bulk of the parcel is mapped as "Bedrock (Zone 1)" with portions adjacent to State Route 1 (SR 1) mapped as "Beach Deposits and Stream Alluvium and Terraces (Zone 3) – Intermediate Shaking", as shown on the attached *LCP Land Capabilities and Natural Hazards Map*.

The property is in an area of “High Fire Hazard” severity rating, as shown on the *Fire Hazard Zones & Responsibility Areas* map. Fire protection services are provided by the California Department of Forestry and Fire Protection (CALFIRE) and the South Coast Fire Protection District (SCFD). The project was referred to CALFIRE and SCFD, where CALFIRE recommended adhering to conditions under CALFIRE File Number 378-21. As of this date, no response has been received from SCFD. A State Fire Safe Regulations Application Form, CALFIRE File Number 378-21, was issued for the project. **Conditions 5 and 6** are recommended for the applicant to secure all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction ensures any fire protection policy or plan will be addressed.

With added conditions, the proposed project will be consistent with MCC Chapter 20.500 regulations for hazard areas, including geologic hazards (faults, bluffs, tsunami, landslides, and erosion), fire and flood hazards.

Habitats and Natural Resources: Both the LCP and Mendocino County Code (MCC) address protections to be granted to Environmentally Sensitive Habitat Areas (ESHA). MCC states that development having the potential to impact an ESHA shall be subject to a report of compliance prepared by a qualified biologist, to determine the extent of sensitive resources, to document potential negative impacts, and to recommend appropriate mitigation measures.

A Biological Resources Assessment and ESHA Analysis was completed for the proposed project by Jacobszoon & Associates, Inc. updated on July 6, 2022, including a Biological Scoping Survey and a Reduced Buffer Analysis, all of which are kept on file with the Mendocino County Department of Planning & Building Services.

The Biological Resources Assessment and ESHA Analysis and its Reduced Buffer Analysis determined the entire parcel is located within redwood and/or Bishop pine forest. No development or structures are proposed within the 50 foot class III watercourse/riparian ESHA buffer.

- Class III watercourse/riparian ESHA – The proposed buffer is measured 50 feet from the edge of the riparian vegetation associated with the watercourse or outmost edge of the active channel if riparian vegetation is not present.
- Redwood forest (G3 S3) MCV2 Sensitive Natural Community: Buffer width N/A.
- Bishop pine forest (G3 S3) MCV2 Sensitive Natural Community: Buffer width N/A
- Coast lily ESHA: 50 foot buffer

The proposed 50 foot buffer area around the class III watercourse/riparian ESHA and recommended mitigation measures should be sufficient in maintaining the integrity, functional capacity, and self-sustaining nature of the habitats present.

The proposed location for the single-family residence and ancillary development including the proposed driveway is the most feasible and least impactful location within the parcel. It utilizes an existing footprint of disturbance, is immediately accessed from State Route 1 (SR 1), and does not require any watercourse crossings. The proposed location of the residence, driveway and new septic tank would be within 50 feet of the Bishop pine ESHA. However, they would be placed in an existing clearing that is flat, reducing the amount of trees that may need to be removed and amount of grading that may need to occur. The proposed driveway is proposed within the Bishop pine ESHA; however, the location proposes to remove minimal trees and less grading if the driveway was proposed elsewhere on the property.

Also, the proposed two (2) water tanks would be located within the Bishop pine ESHA where the old septic tank is located, which is proposed to be removed. Utilizing this area, is the best location due to the area already being cleared and utilizing the existing gravel driveway that access this area. If the water tanks were to be located elsewhere on the property, additional tree removal and grading would need to take place along with additional trenching to hook up the water tanks to the well.

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 20.496.020(A)(1) reads in part, “*the buffer area shall be measured from the outside edge of Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width.*” The project, specifically the proposed driveway access from State Route 1 (SR 1), is inconsistent with this LCP policy; however, no alternative exists on the parcel that could be found to be consistent with this LCP policy. Prohibiting development within fifty (50) feet of an ESHA would deprive the owner of all use of the property.

In summary, the proposed project cannot be found consistent with LCP policies relating to ESHA; however, the proposed project is the least damaging alternative and the proposed mitigation and restoration measures recommended in **Conditions 18 through 20** will address the impacts to ESHA. These measures will mitigate the impact of the proposed development and restore and enhance ESHA located on the parcel.

Grading, Erosion, and Run-Off: The area of the proposed single-family residence and ancillary development is sloped towards the west and State Route 1 (SR 1), parallel with the mapped Riparian area further south, as shown on the *Updated ESHA map, Topographic Map and Site Plan* maps. The attached *Estimated Slope* map shows estimated slopes between 15 and 72 degrees.

As proposed, grading will occur at the time of construction of the proposed single-family residence and ancillary development, including trenching for the connection to utilities, a driveway encroachment at State Route 1 (SR), water and electricity and septic tank installation to the on-site septic system. The project would require approximately 225 cubic yards of grading as the site requires the establishment of the driveway at State Route 1 (SR 1) to satisfy CALTRANS and CALFIRE requirements.

**Conditions 5 and 6** are recommended for the applicant to secure all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction ensures any grading, erosion and runoff protection and hazard area policies or plans will be addressed.

**Condition 15** is recommended to ensure the proposed development protects grading, erosion and runoff protection and hazard area policies as well as enhancing the adjacent wetland, creating new wetland habitat. **Condition 16** is recommended to ensure Best Management Practices (BMP's) will be implemented at the time of construction and protection measures recommended for the adjacent ESHA. Grading activities, including establishing and maintaining the proposed driveway and parking areas, shall comply with MCC Chapters 20.492 and 20.500 regulations. **Condition 17** will ensure that all necessary permitting for CALTRANS recommendations will be met prior to further development of the parcel.

With added conditions, the proposed project is consistent with MCC Chapter 20.492 and 20.500 regulations for Grading, Erosion and Runoff Standards.

Groundwater Resources: The site is designated on the Mendocino County Coastal Groundwater Study Map as a Critical Water Resource Area, as shown on the *Ground Water Resources* map. The proposed project would be served by an on-site well and on-site septic system. An on-site septic system was approved by the Mendocino County Division of Environmental Health (DEH), septic permit number 3967-F. The septic permit was issued, installed, and DEH completed a final inspection with approval in March of 1989. The proposed project will require the installation of a septic tank at the proposed single-family residence to be connected to the existing septic system. A well permit, 7179 (aka 364405), was issued, installed, and DEH completed a final inspection with approval in March of 1989. A Well Test Report, prepared by Trey Driscoll, October 28, 2021, indicated the test well produced approximately 1 gallon per minute during a 22 hour test. The project was referred to the DEH, where they provided comments; where septic permit, 3967-F, has capacity for 3-bedrooms. In addition, DEH stated that two (2) additional septic permits would be required for the removal an existing septic tank that was originally installed as part of the septic permit, 3967-F, and for the new tank installation and connection to the existing septic system. **Condition 13** of the Conditions of Approval captures this requirement.

Staff finds the proposed project would not adversely affect groundwater resources. **Conditions 5 and 6** are recommended to secure all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction to ensure any groundwater protection policy or plan will be addressed.

With added conditions, the proposed project will be consistent with the Local Coastal Program policies related to groundwater resources and DEH requirements, including Coastal Element Policy 3.8.

Archaeological/Cultural Resources: The applicant submitted an Archaeological Survey prepared by Alta Archaeological Consulting, dated March 24, 2023, and an Updated Survey, dated April 25, 2023. The project and survey were reviewed by the Mendocino County Archaeological Commission, on June 14, 2023, where the survey was accepted. Since resources were not identified in the survey, the Archaeological Commission recommended **Condition 9**, which advises the applicant of the “Discovery Clause.” The “Discovery Clause” prescribes the procedures subsequent to the discovery of any cultural resources during construction of the project. With the inclusion of the recommended conditions, Staff finds the project to be consistent with Mendocino County policies for protection of paleontological and archaeological resources.

The project was referred to three local tribes for review and comment, Cloverdale Rancheria, Sherwood Valley Band of Pomo Indians, and the Redwood Valley Rancheria. As of this date, no response was received from any of the three local tribes.

With added conditions, Staff finds the proposed project is consistent with Mendocino County policies for the protection of the paleontological and archaeological resources.

Transportation, Utilities and Public Services: The project would not contribute a significant amount of new traffic on local and regional roadways. The cumulative effects of traffic resulting from development on this site were considered when the Coastal Element land use designations were assigned. Additionally, there are surrounding parcels which have already been developed and have homes that are occupied; therefore, construction of a single-family residence, attached garage and ancillary development is not anticipated to generate a significant amount of additional traffic beyond what presently exists. The cumulative effects of traffic resulting from development on this site were considered when the Coastal Element land use designations were assigned. The infrastructure necessary for electrical, telecommunications, and on-site water supply and wastewater collection systems will be installed as part of the proposed project. The project may result in minimal population growth, however existing governmental facilities are adequate to provide service both to the project site and elsewhere within respective service areas.

A minimum of two parking spaces are required for the project per MCC Section 20.472.015 and are shown on the site plan. The proposed project will be served by an on-site well and sewage disposal system and underground power connection to PG&E service and a new driveway access from State Route 1 (SR 1).

An encroachment permit is required with California Department of Transportation (CALTRANS) as the project site is accessed from SR 1. On June 22, 2023, the California Department of Transportation (CALTRANS) submitted comments in response to the proposed application. CALTRANS conducted a pre-application review (1-MEN-1-6.995) for the proposed driveway development to access the parcel. The applicant's plans meet State design guidelines. A State Fire Safe Regulations Application Form, CALFIRE File Number 378-21, was issued for the project. **Conditions 5 and 6** are recommended for the applicant to secure all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction ensures any fire protection policy or plan will be addressed. **Condition 17** will ensure that all necessary permitting for CALTRANS recommendations will be met. The Mendocino County Department of Transportation had no comments on the proposed project.

With added conditions, Staff finds the project is consistent with Mendocino County Coastal Element policies for transportation, utilities and public services protection Chapter 3.8 and will be consistent with MCC Chapter 20.516 regulations.

Public Access: The project site is located east of SR 1 and is not designated as a potential public access trail location, as shown on *LCP Land Use Maps 30: Anchor Bay* map. Existing public access to the shore is located approximately 2.0 miles south at Anchor Bay Shoreline Access, at the mouth of Fish Rock Creek and an existing campground. There will be no impacts to public access. Findings related to public access are not required for this project as the site is located east of the first public road, SR 1 paralleling the sea.

#### **ENVIRONMENTAL DETERMINATION:**

The Coastal Permit Administrator finds that the environmental impacts for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant



environmental impacts will result from this project; therefore, adopting a Mitigated Negative Declaration is recommended.

### **PROJECT FINDINGS AND CONDITIONS**

Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, the Coastal Permit Administrator approves the proposed project to construct a single-family residence with basement/garage, grading to construct a driveway to connect to SR 1, after-the-fact approval for an existing on-site well and septic system, trenching for underground power connection, the installation of an auxiliary septic tank and pump tank to be connected to the existing septic field, and major vegetation removal for the driveway and home site, and adopts the following findings and conditions.

#### **FINDINGS:**

1. Pursuant with MCC Section 20.532.095(A)(1), Coastal Residential Land Use Types are principally permitted in the Remote Residential classification; single-family residential land uses conform to the goals and policies of the certified Local Coastal Program, including policies identified in the Coastal Element Chapter 2.2 (Remote Residential land use classification), Chapter 3.1 (Habitats and Natural Resources), Chapter 3.4 (Hazards Management), Chapter 3.5 (Visual Resources, Special Communities and Archaeological Resources), Chapter 3.8 (Transportation, Utilities and Public Services) and Chapter 4.12 (Anchor Bay-Gualala Planning Area). The proposed development to construct a single-family residence is a principally permitted use and is consistent with the intent of the Remote Residential land use classification. Accessory uses are permitted on parcels containing an existing principally permitted use within the Coastal Remote Residential land use classification and are consistent with the intent of the Remote Residential land use classification which allows for accessory uses to be developed; and
2. Pursuant with MCC Section 20.532.095(A)(2), the proposed development to construct a single-family residence, an attached basement/garage, and ancillary development will be provided with adequate utilities, access roads, drainage and other necessary facilities. The proposed project will be served by an on-site well and sewage disposal system and underground power connection to PG&E service. The proposed driveway, accessed from State Route 1 (SR 1), is adequate to serve the proposed development. Drainage and other necessary facilities have been considered in the project design; and
3. Pursuant with MCC Section 20.532.095(A)(3), the proposed development is consistent with the purpose and intent of the Remote Residential (RMR) zoning district and Accessory Use Regulations, as well as all other provisions of Division II of Title 20 of the Mendocino County Code and preserves the integrity of the RMR zoning district. With compliance with the conditions of approval, the proposed single-family residence, an attached basement/garage, and ancillary development would satisfy all development requirements for the district; and
4. Pursuant with MCC Section 20.532.095(A)(4), the proposed development, 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. An Initial Study and adoption of a Mitigated Negative Declaration is recommended. Specific conditions were prepared by a biologist and are recommended to ensure compliance with the California Environmental Quality Act requirements for a Mitigated Negative Declaration; and
5. Pursuant with MCC Section 20.532.095(A)(5), the proposed development to construct a single-family residence, an attached basement/garage, and ancillary development would not have any adverse impact on any known archaeological or paleontological resources. The project was referred to California Historical Resources Information System on March 27, 2023, noting two previous studies covering 100% of the proposed project area had been completed. These studies identified no cultural resources and CHRIS noted the proposed project area has a low possibility of containing unrecorded archaeological sites. **Condition 9** is in place when archaeological sites or artifacts are discovered; and
6. Pursuant with 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. Solid waste service is available either as curbside pick-up or at the South Coast Transfer Station (several miles away). While the project would contribute incrementally to traffic volumes on local and regional roadways, such incremental increases were considered when the LCP land use designations were assigned to the site; and

7. Pursuant to MCC Section 20.532.100(A)(1), no development shall be allowed in an ESHA unless the resources as identified will not be significantly degraded by the proposed development, there is no feasible less environmentally damaging alternative, and all feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted. Alternatives to the proposed development were considered. Adjacent properties in the vicinity were reviewed to determine that the size and scale of development is in conformance with adjacent properties. Mitigation measures, **Conditions 18 through 20**, have been recommended to reduce any potential impacts from the proposed project. As conditioned, the proposed development will not significantly degrade the resources as identified.

**CONDITIONS OF APPROVAL AND MITIGATION MEASURES (as indicated by “\*\*”):**

*A double asterisk \*\* indicates the incorporated Mitigation Measures. Deletion and/or modification of these conditions may affect the issuance of a Mitigated Negative Declaration*

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction or use of the property in reliance on such permit has been initiated prior to its expiration.
2. To remain valid, progress towards completion of the project must be continuous. The Applicants have sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
3. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code (MCC).
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. The Applicants shall secure all required building permits for the proposed development as required by the Building Inspection Division of the Department of Planning and Building Services, California Department of Transportation (CALTRANS) and the Division of Environment Health (DEH).
7. 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.
8. 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.

9. 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.
10. Any Building Permit request shall include all conditions of approval of this Coastal Development Permit. Conditions shall be printed on or attached to the plans submitted.
11. Any Building Permit request associated with this Coastal Development Permit shall include exterior lighting details consistent with Mendocino County Coastal Element Policies 3.5 and Mendocino County Code of Ordinances Section 20.504.035 on the building plans and shall be a part of on-site construction drawings.
12. Any Building Permit request associated with this Coastal Development Permit shall include exterior finish schedules on the building plans consistent with Mendocino County Coastal Element Policies 3.5 and Mendocino County Code of Ordinances Section 20.504.015(C) and shall be a part of on-site construction drawings.
13. Prior to issuance of any Building Permit request associated with of this Coastal Development Permit, the applicant shall obtain two (2) septic permits, one (1) for destruction of an existing septic tank, and another for the installation of a new septic tank to connect to the existing on-site septic system, allowed per septic permit 3967-F.
14. **\*\*This entitlement does not become effective, or operative, and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife (CDFW) filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2,814.00 OR CURRENT FEE shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within 5 days of the end of any appeal period. Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to ensure timely compliance with this condition.**
15. Prior to issuance of this Coastal Development Permit, the applicant shall provide a Grading and Erosion Plan, prepared by a qualified professional, in form and content acceptable to the Coastal Permit Administrator. The grading permit shall also account for any cuts and fills associated with the projects, including the use and installation of retaining walls.
16. Standard Best Management Practices (BMPs) shall be employed to assure minimization of erosion resulting from construction. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. Any soil stockpiles shall be covered or otherwise stabilized to prevent dust impacts. Any bare soil created by the construction phase of the project shall be revegetated with native vegetation and/ or native seed mixes for soil stabilization. Construction activities within 500 feet of residential uses shall be limited to the hours of 7:00 a.m. and 7:00 p.m. weekdays, using quiet models of air compressors and other stationary noise sources where technology exists, use of mufflers on all internal combustion engine-driven equipment, and locating staging areas as far away as possible from noise-sensitive land use areas
17. Prior to issuance of any ground disturbance OR building permit associated with this Coastal Development Permit, the applicants shall complete a driveway and encroachment to the satisfaction of the State Department of Transportation (CALTRANS), including obtaining an encroachment permit for any work within state right-of-way, consistent the CALTRANS a pre-application review, project Number, 1-MEN-1-6.995, for the proposed driveway development to access the parcel.
18. **\*\*Restoration and avoidance measures with monitoring shall be implemented to prevent potential impacts to adjacent Environmentally Sensitive Habitat Area (ESHA), as proposed in the Biological Resources Assessment and ESHA Analysis, prepared by Miles Hartnett of Jacobszoon & Associates,**

Inc., updated July 6, 2022, and California Coastal Commission (CCC) and California Department of Fish and Wildlife (CDFW) recommendations, as follows:

- a. Redwood Forest and woodland: Recommendations for *Sequoia sempervirens* Forest and Woodland Alliance:
    - i. It is recommended that this community be managed to retain at least 50 percent redwood (*Sequoia sempervirens*) relative cover in the tree canopy or retain redwood as a characteristic species within the tree canopy.
    - ii. Land managers could consider thinning suppressed tanoak (*Notholithocarpus densiflorus*) trees and brush or suppressed redwood tree stems within each fairy ring to encourage the growth and expansion of large redwoods in the canopy.
    - iii. There are no redwood trees proposed for removal at this time.
  - b. Bishop Pine-Monterey pine forest and woodland: Recommendations for *Pinus muricata*-*Pinus radiata* Forest and Woodland Alliance:
    - i. It is recommended that this alliance be managed to retain at least 30 percent *Pinus muricata* relative cover in the tree canopy. Thinning of species other than *Pinus muricata* within the Bishop pine forest should be considered to achieve the desired abundance of healthy Bishop pine trees.
    - ii. It is recommended that any proposed removal of *Pinus muricata* trees larger than 6 inches diameter at breast height (dbh) within this community be mitigated by planting *Pinus muricata* saplings obtained from local stock in the area. Planted Bishop pine saplings should be planted by hand, with workers using hand tools and/or digging through the soil with a portable augur without the usage of heavy construction machinery that could trample and/or compact ground layer plants and underlying soil. Newly planted Bishop pine individuals should be protected by “protective tubes”.
    - iii. A replanting ratio of 3:1 should be implemented for every Bishop pine tree removed. It is proposed to remove four (4) Bishop pine trees; therefore, twelve (12) Bishop pine trees shall be replanted. However, it is recommended that if the property has sufficient regeneration of Bishop pine trees on site, that the regeneration shall be utilized instead of planting more Bishop pine trees. A formal survey for Bishop pine regeneration has not been conducted but four (4) Bishop pine trees have been observed during site visits. Prior to planting, a site survey will be performed. The total of emerging seedlings and planted trees (if necessary) shall be a minimum of twelve (12) Bishop pine trees. An 80% survival rate for the existing seedlings and newly planted replacement Bishop pine trees shall occur and be monitored for five consecutive years annually in October by a qualified biologist. Results of restoration activities shall be submitted to CDFW, the County, and the California Coastal Commission on an annual basis no later than December 31 for each of the five monitoring years (2022 through 2026, for example, if construction begins and this Plan’s mitigation measure actions are initiated by spring 2021). CDFW may provide comments on each annual summary letter and require planting of new Bishop pine trees based on results noted in each of the annual summary letters. For example, in the event that an 80% survival rate of the Bishop pine trees is not achieved in the first five years, the monitoring period will be extended until compliance is demonstrated.
    - iv. Supplemental watering will be conducted, if necessary, as well as thinning, if necessary, to release crowded individuals for more rapid tree growth. During the monitoring visit, the qualified biologist will remove any non-native species that may have encroached within the Project Area.
19. \*\*Restoration and avoidance measures with monitoring shall be implemented to prevent potential impacts to adjacent Environmentally Sensitive Habitat Area (ESHA), as proposed in the Biological Resources Assessment and ESHA Analysis, prepared by Miles Hartnett of Jacobszoon & Associates, Inc., updated July 6, 2022, and California Coastal Commission (CCC) and California Department of Fish and Wildlife (CDFW) recommendations, as follows:
- a. Recommendations for Special-status plant species are listed below: It is recommended that a 50 foot reduced buffer be maintained around the location of the coast lily to not disturb this plant.

- b. Recommendations for special-status amphibian species are listed below:
    - i. It is recommended that all earthwork within or adjacent to any watercourse adhere to standard methods of erosion and sediment control and, if possible, to complete all work while the channel is dry to reduce sediment load downstream.
    - ii. It is recommended that major earthwork not be conducted during qualifying rain events when amphibian species are more likely to migrate away from aquatic habitats. A qualifying rain event is defined as 0.5 inches of precipitation or more within a 48-hour time period.
    - iii. It is recommended that any work within a watercourse with the potential to impact aquatic resources be conducted in compliance with a CDFW Lake or Streambed Alteration Agreement.
  - c. Recommendations for special-status avian species and migratory bird species are listed below:
    - i. It is recommended that any active bird nest not be removed, relocated, or otherwise disturbed for any purpose until all fledglings have left the nest.
    - ii. It is recommended that nesting bird surveys be conducted by a qualified biologist prior to the commencement of any activity that results in the removal of vegetation during nesting bird season. Nesting bird season is between February 1st and August 15th of any year.
    - iii. Nesting bird surveys should be conducted no more than 14 days prior to initiation of tree/vegetation removal or ground disturbance and should cover the entire work area and surrounding areas within 500 feet. No-disturbance buffers for active bird nests should be established by a qualified biologist.
  - d. Recommendations for special-status insect species are listed below:
    - i. It is recommended that trees or other vegetation occupied by overwintering populations of monarch not be removed or otherwise disturbed until all monarchs have left the site.
    - ii. It is recommended that monarch surveys be conducted by a qualified biologist no more than 14 days prior to the commencement of tree/vegetation removal from November 1st to January 31st of any year when monarchs are most likely to be found overwintering.
  - e. Recommendations for special-status mammal species are listed below:
    - i. It is recommended that Sonoma tree vole surveys be conducted by a qualified biologist no more than 14 days prior to the commencement of tree removal. The surveys should cover all potential habitat where tree removal is proposed and surrounding areas within 50 feet. Buffers and/or mitigation measures for identified nests should be established by a qualified biologist.
    - ii. If evidence of bat roosts are observed (i.e. bat guano, ammonia odor, grease stained cavities) around trees, cavities, or structures proposed for removal, it is recommended that pre-construction bat surveys be conducted no more than 14 days prior to groundbreaking activities. If bat roosts are identified, buffer or mitigation measures should be established by a qualified biologist.
    - iii. If evidence of special-status mammal borrows or denning activity is observed, it is recommended that pre-construction surveys be conducted by a qualified biologist for activities that may affect den sites.
20. \*\*Restoration and avoidance measures with monitoring shall be implemented to prevent potential impacts to adjacent Environmentally Sensitive Habitat Area (ESHA), as proposed in the Biological Resources Assessment and ESHA Analysis, prepared by Miles Hartnett of Jacobszoon & Associates, Inc., updated July 6, 2022, and California Coastal Commission (CCC) and California Department of Fish and Wildlife (CDFW) recommendations, as follows:
- a. Recommended mitigation measures, to minimize construction impacts to a less than significant level, include:
    - i. Erosion control fencing should be installed 50 feet outside of the Class III watercourse/riparian ESHA prior to construction.

- ii. Stockpiled materials should be removed, covered, or otherwise secured during qualifying rain events to prevent hazardous materials or sediment from being delivered into the Class III watercourse ESHA.
  - iii. Young bishop pine trees should be allowed to become re-established wherever they are present outside the construction site.
  - iv. Trees larger than 6 inches dbh removed during construction should be mitigated for by planting replacement saplings at a ratio of 3:1 and should have an 80 percent survival rate over 5 years.
  - v. Landscaping on the parcel should not include any invasive plants and should ideally consist of native plants compatible with the adjacent plant communities. No plants listed on California Invasive Plant Council (Cal-IPC) Inventory should be included in landscaping. Native plants used for landscaping should be native to coastal Mendocino County. Additionally, any trees proposed for planting should be pest free to reduce introduction of potentially devastating pest to Bishop pine forest.
- b. Recommendations for using natural topographic features is as follows:
- i. Surface, building design, and access road drainage features should be directed away from the Class III watercourse/riparian ESHA, when possible. The appropriate design of drainage features that work with natural and existing topography can aid in reducing impacts to the Class III/riparian ESHA.

Staff Report prepared by:

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DATE

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MARK CLISER FOR JESSIE WALDMAN  
PLANNER II

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

**ATTACHMENTS:**

- |  |   |
|--|---|
| A. Location Map                            | N. LCP Habitats & Resources                           |
| B. Aerial Imagery (Vicinity)               | O. Appealable Areas                                   |
| C. Aerial Imagery                          | P. Adjacent Parcels                                   |
| D. Topographical Map                       | Q. Fire Hazard Zones & Responsibility Areas           |
| E. Site Plan                               | R. Wetlands   |
| F. Floor Plans                             | S. Ground Water Resource Areas                        |
| G. Elevations                              | T. Estimated Slope                                    |
| H. Exterior Lighting                       | U. Western Soils Classifications                      |
| I. Exterior Finishes                       | V. ESHA Updated Map, Jacobszoon, Updated July 6, 2022 |
| J. Zoning Display Map                      | W. CALTRANS Encroachment Permit (1-MEN-1-6.995)       |
| K. General Plan Classifications            |   |
| L. LCP Land Use Map 30: Anchor Bay         |   |
| M. LCP Land Capabilities & Natural Hazards |   |

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

**REFERENCES:**

(Coastal Element) Mendocino County, Planning and Building Services, Planning Division. The County of Mendocino General Plan, Coastal Element. 2021. Accessed September 26, 2023, at: <https://www.mendocinocounty.org/government/planning-building-services/plans/coastal-element>

(MCC, 1991) Mendocino County Department of Planning and Building Services. October 1991. Mendocino County Zoning Code Coastal Zoning Code, Title 20 – Division II of the Mendocino County Code. Accessed September 26, 2023, at: [https://library.municode.com/ca/mendocino\\_county/codes/code\\_of\\_ordinances?nodeld=MECOCO\\_TIT20\\_ZOOR\\_DIVIIMECOCOZOCO](https://library.municode.com/ca/mendocino_county/codes/code_of_ordinances?nodeld=MECOCO_TIT20_ZOOR_DIVIIMECOCOZOCO)

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