

Resolution Number _____

County of Mendocino
Ukiah, California

MAY 6, 2021

MS_2019-0003 JULIA CARSON

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF
MENDOCINO, STATE OF CALIFORNIA, ADOPTING A NEGATIVE
DECLARATION AND GRANTING A MINOR SUBDIVISION

WHEREAS, the applicant, JULIA CARSON, filed an application for a minor subdivision with the Mendocino County Department of Planning and Building Services to subdivide 4.67± acres into two 2.67± acres and 2.0± acres parcels, in the Coastal Zone, 0.5± mile west of the intersection of Caspar Road (CR 410B) and State Route 1 (SR), lying on the west side of Caspar Point Rd (private); located at 45380 Caspar Point Rd., Caspar (APN: 118-010-27); General Plan RR5(2):R; Zoning RR:5/FP; Supervisorial District 4; (the "Project"); and

WHEREAS, during February 2020 California Coastal Commission, California Department of Fish & Wildlife, Planning & Building Services staff, and others conducted a site visit with the purpose of agreeing upon the extent of environmentally sensitive habitat areas; and on February 14, 2020 and pursuant with MCC Section 20.496.015(D) all agencies agreed that the Tufted Hair Grass Meadow is an environmentally sensitive habitat area, or ESHA, and the Shore Pine stand is isolated, generally a fragmented habitat, does not rise to the status of a "forest", and, in this particular case, does not warrant protection as an ESHA; and

WHEREAS, on May 6, 2021, the Planning Commission met and heard recommendations from staff, the applicant's agent (including a request for four exceptions from road standards) and consultants, and received and heard comments from the public; and

WHEREAS, on May 6, 2021 and following public comments, Planning Commissioner Jones moved to approve the application with modified conditions; and following additional discussion between the Commissioners, she withdrew her motion; and

WHEREAS, on May 6, 2021, Commissioner Jones offered a motion to continue the matter to June 17, 2021 and accepted an amendment to the motion from Commissioner Paulin, who then seconded the amended motion, and subsequently the motion passed by unanimous voice vote (4-0-1), with Commissioner Wiedemann abstaining; and

WHEREAS, A Negative Declaration was prepared for the Project and noticed and made available for agency and public review on April 8, 2021, in accordance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on, May 6, 2021 and June 17, 2021, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Negative Declaration and the Project. All interested persons were given an opportunity to hear and be heard regarding the Negative declaration and the Project; and

WHEREAS, Minor Subdivision Application MS_2019-0003 was reviewed by the Mendocino County Subdivision Committee on August 13, 2020 and is supported by the Committee with recommended conditions; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Negative Declaration and the Project.

NOW, THEREFORE, BE IT RESOLVED, that based on the evidence in the record, the Planning Commission makes the following findings:

1. **General Plan and Zoning Consistency:** The subject parcel is classified in the Coastal Element of the General Plan as *Rural Residential* (RR) and the Project is consistent with this designation. The parcel is assigned a variable density, RR5(2):R, that allows 2 acre minimum lot sizes and the Project is consistent with the intent of MCC Chapter 20.376 *Rural Residential District*; and
2. **Division of Land Regulations:** The Project is consistent with Chapter 17 of the Mendocino County Code, Division of Land Regulations and the Subdivision Committee recommends conditional approval for the proposed minor subdivision to the Planning Commission pursuant with MCC Section 17-48.5 and ~~no conflicts with the County Division of Land Regulations were identified~~the Planning Commission approves the requested exceptions to roadway standards as requested by the Applicant; and
3. **Pursuant with MCC Section 20.524.025(E)**, the two lot subdivision will not result in a parcel having more than one zoning district designation; and
4. **Pursuant with MCC Section 20.532.095(A)(1)** and as conditioned, the two lot subdivision would conform with the certified Local Coastal Program, including Coastal Element Chapter 2.2 (Land Use Plan), Chapter 3.9 (Locating and Planning New Development), and Chapter 4.6 (Caspar Planning Area); and
5. **Pursuant with MCC Section 20.532.095(A)(3)** and as conditioned, the proposed two lot subdivision is consistent with the purpose and intent of the Rural Residential District, satisfies the development requirements of the District, and satisfies the specified requirements of the MCC Chapters 20.500 *Hazards* and 20.504 *Visual Resources and Special Treatment Areas*, and all other provisions of Division II; and
6. **Pursuant with MCC Section 20.532.095(A)(5)**, the Project will not have any adverse impacts on any known archaeological or paleontological resource and supports Coastal Element Policy 3.5-10. A standard condition advises the applicant of the County's "discovery clause" which establishes procedures to follow in the event that archaeological or cultural materials are unearthed during site preparation or construction activities; and
7. **Pursuant with MCC Section 20.532.095(B)(1)**, the Project conforms to public access policies, including Chapter 20.528 *Coastal Access Regulations and Open Space Easements*; and there are coastal access points and trails within the vicinity; and
8. **Pursuant with MCC Section 20.532.100(A)(1)**, the Project conforms to Chapter 20.496 *Environmentally Sensitive Habitat and Other Resource Areas* regulations as it establishes a minimum buffer distance from surveyed environmentally sensitive habitat areas (ESHA), including *Tufted Hair Grass Meadow ESHA*, and the Project supports Coastal Element Policies 3.1-2 and 3.1-7; and
9. **Pursuant with MCC Section 20.532.100(C)(1)(a)**, the Project will have access to on-site ground water, as the test well produced 1,170 gallons per day in 1991 and recent evaluations found no significant change in ground-water levels, and septage disposal, roadway, and other necessary services; and
10. **Pursuant with MCC Section 20.532.100(C)(1)(b)**, the Project will not have, individually or cumulatively, a significant adverse environmental effect on environmentally sensitive habitat areas

or on other coastal resources, and a Negative Declaration has been prepared pursuant to the California Environmental Quality Act; and

11. Pursuant with MCC Section 20.532.100(C)(1)(c), the new lots created will not significantly adversely affect the long-term productivity of adjacent agricultural or timber lands as surrounding areas are not identified as agricultural or timber lands and the Project supports Coastal Element Policy 3.9-8; and
12. Pursuant with MCC Section 20.532.100(C)(1)(d) and as conditioned, the proposed two lot subdivision is provided with adequate utilities, access roads, drainage and other necessary facilities and supports Coastal Element Policy 3.8-10; and
13. Pursuant with MCC Section 20.532.100(C)(1)(e), the proposed land division meets the requirements of Chapter 20.524 and is consistent with all applicable policies of the Coastal Element, including Coastal Element Chapter 3.9 policies regarding land divisions.

BE IT FURTHER RESOLVED that the Planning Commission hereby grants the requested minor subdivision and exception to the Division of Land Regulations, subject to the Conditions of Approval in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission action shall be final on the 11th day after the date of the Resolution unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission.~~that the Planning Commission action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.~~

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: JAMES FEENAN
Commission Services Supervisor

By: _____

BY: IGNACIO GONZALEZ
Interim Director, Planning & Building Services

ALISON PERNELL, Chair
Mendocino County Planning Commission

EXHIBIT A

CONDITIONS OF APPROVAL

~~MAY 6~~ June 17, 2021

MS_2019-0003 JULIA CARSON

APPROVED PROJECT DESCRIPTION: Coastal Minor Subdivision of a 4.67± acre parcel into two parcels of 2.67± acres and 2.0± acres.

CONDITIONS OF APPROVAL: For a Minor Subdivision which has been approved according to the Mendocino County Code, the following "Conditions of Approval" shall be completed prior to filing a Parcel Map.

ALL CONDITIONS OF APPROVAL MUST BE MET PRIOR TO EXPIRATION OF TWENTY-FOUR (24) MONTHS FROM DATE OF APPROVAL, UNLESS RENEWED PURSUANT TO THE MENDOCINO COUNTY CODE.

Aesthetics:

1. The following note shall be placed on the Parcel Map:

All future external lighting, whether installed for security, safety or landscape design purposes, shall be shielded, downcast or shall be positioned in a manner that will not shine or allow light glare to exceed the boundaries of the parcel on which it is placed.

Air Quality:

2. A notation shall appear on the Parcel Map:

Future development of building site(s), access roads or driveways may be subject to the grading requirements and drainage control measures identified in the Conditions of Approval.

3. A note shall appear on the Parcel Map:

The access road, driveway and interior circulation routes be maintained in such a manner as to insure minimum dust generation subject to Air Quality Management District Regulation 1 Rule 430. All grading must comply with Air Quality Management District Regulations Rule 430. Any rock material, including natural rock from the property, used for surfacing must comply with Air quality Management District regulations regarding asbestos content.

Biological & Botanical Resources:

- ~~4. Subdivider shall submit to the Department of Planning and Building Services, a Site Plan exhibit defining building envelopes which will avoid rare plant communities in accordance with the Biological Scoping & Botanical Survey Report for 45380 Caspar Point Road, Caspar, CA, Wynn Coastal Planning & Biology, June 12, 2019.~~

~~— A note shall be placed on the Parcel Map:~~

~~— Development will be confined to the building envelopes as described on the Site Plan exhibit on file in the Department of Planning and Building Services.~~

- 45.** This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. **Said fee of \$ 2,530.25 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 insure timely compliance with this condition.

Cultural Resources:

- 56.** A note shall appear on the Parcel Map:

In the event that archaeological resources are encountered during development of the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

Geology & Soil:

- 67.** The subdivider shall acknowledge in writing to the Department of Planning and Buildings Services that all grading activities and site preparation, at a minimum, shall adhere to the following “Best Management Practices”. The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
- a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
 - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
 - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
 - d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.
 - e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 15th or before a weather event with an at least thirty percent (30%) chance of rain, whichever comes first.~~Erosion control measures shall be in place prior to October 1st.~~
 - f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year unless wet weather grading protocols are approved by the Department of Planning and Building Services or other agencies having jurisdiction.
 - g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:

- i. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1½ units horizontal (66.7% slope).
- ii. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 cubic meters) on any one lot and does not obstruct a drainage.

Fire:

78. The subdivider shall comply with those recommendations in the CalFire letter of (CAL FIRE FILE 90-19) or other alternatives as acceptable to CAL FIRE. Written verification shall be submitted from CalFire to the Department of Planning and Building Services that this condition has been met to the satisfaction of CalFire.
89. The subdivider shall comply with those recommendations of the Fort Bragg Rural Fire District or other alternatives as acceptable to the Fire District. Written verification shall be submitted from Fire District to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Fire District.

Hydrology & Water Quality:

940. The applicant shall provide the Division of Environmental Health adequate advance written notice (minimum of 15 days) of the date and time any field soil testing procedures for any proposed on-site sewage systems to allow the Division of Environmental Health staff to be present for soil testing.
1044. The applicant shall submit to the Division of Environmental Health an acceptable site evaluation report (DEH FORM 42.04) for Parcel 2 completed by a qualified individual demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan Policy for On-site Waste Treatment and Disposal and Mendocino County Division of Environmental Health's Land Division Requirements (DEH FORM 26.09).
1142. The applicant shall submit to the Division of Environmental Health an acceptable site evaluation report (DEH FORM 42.04) for a replacement system for the existing structure(s) located on Parcel 1 completed by a qualified individual demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan Policy for On-site Waste Treatment and Disposal and Mendocino County Division of Environmental Health's Land Division Requirements (DEH FORM 26.09).
1243. The applicant shall submit to the Division of Environmental Health an acceptable site development plan at a scale of not more than 1 inch = 50 feet showing all adjacent parcels on one sheet completed by a qualified individual showing the location and dimensions of the initial sewage disposal system(s), 100% replacement area(s), acceptable setback distances to water wells and other pertinent setback distances which may impact project site development.
1344. The applicant shall submit to the Division of Environmental Health an acceptable standard mineral analysis performed by a certified public health laboratory from an identified source on the subdivision. Compounds to be tested for, at a minimum are: Calcium, Iron (total), Magnesium, Manganese (total), Potassium, Sodium, Bicarbonate, Carbonate, corrosivity (pH), alkalinity (total), total dissolved solids, turbidity, Chloride, Fluoride, Nitrate, Sulfate, Calcium hardness, Magnesium hardness and total hardness.

Land Use & Planning:

1445. The applicant is hereby notified that this proposed division lies within the Coastal Zone Boundary and additional action may be necessary. For information you should contact the California Coastal Commission Northern California Office, 1385 8th St., Arcata, CA 95521, 707-836-8950.

1546. That verification be received by a licensed civil engineer or surveyor that each parcel created is a minimum of 2 acres, net.

1647. All existing structures shall meet current setback requirements to newly proposed property lines. A Site Plan exhibit shall be submitted to the satisfaction of Planning and Building Services clearly identifying compliance.

Transportation:1748. Easements & Dedications:

- a. There shall be provided an access easement of 40 feet in width from a publicly maintained road to each parcel being created. Documentation of access easement(s) shall be provided to the Mendocino County Department of Transportation for their review prior to final approval.
- b. If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown as easements with widths as shown of record or a minimum of ten (10) feet, whichever is greater.
- c. All natural drainage and water courses shall be considered as easements. Minimum width shall be twenty (20) feet, or to the high water level plus five (5) feet horizontal distance, whichever is greater. If a Parcel Map is filed, such easements shall be shown on the final parcel map.

1849. Road Improvement Requirements:

- a. Subdivision road from Caspar Point Road to terminus of access easement~~within the access easement~~ shall be improved in accordance with the County of Mendocino Road and Development Standards drawing A10H and the following minimum standards: Twenty ~~six-two (226)~~ foot wide, eight (8) inch minimum thickness Class 2 aggregate base rock road within the access easement.
- ~~b. Install or replace drainage culverts where necessary. New or replaced culverts shall be a minimum of 12 inches in diameter and designed by a California Registered Civil Engineer to accommodate the 10-year storm event with a headwater to depth ratio of no greater than 1.0. In no case shall a new or replaced culvert be smaller than an upstream culvert.~~
- ~~c-b.~~ A standard private road approach shall be constructed to a minimum width of eighteen (18) feet, with improved approach extending twenty (20) feet from the edge of the County road, paved with asphalt concrete or comparable surfacing to the adjacent road. Concrete driveways shall not be permitted.

1920. Turnaround Requirements:

- a. A 40 foot radius turnaround shall be constructed within a 50 foot radius easement at terminus of access easement to the satisfaction of the Mendocino County Department of Transportation. Alternatively, subdivider may construct a "Hammerhead-T" turnaround within a forty (40) foot wide by eighty (80) foot long easement at the terminus of the access easement. Turnaround shall be constructed with eight (8) inch minimum rock base, twenty (20) feet wide and sixty (60) feet long, with twenty (20) foot radius surfacing returns. If desired, the "Hammerhead-T" may be located at the driveway of the proposed residence on Parcel 2, provided that the entirety of the "Hammerhead-T" is included in the easement. The turnaround must be constructed before parcel map recording.

- b. If approval of the tentative map is conditioned upon certain improvements being made by the subdivider, the subdivider shall notify the Mendocino County Department of Transportation when such improvements have been completed. Prior to the filing of the parcel map, required road improvements must be inspected and approved by the Department of Transportation. Current inspection fees apply.
- c. Any proposed work within County rights-of-way requires obtaining an encroachment permit from the Mendocino County Department of Transportation.

Special Conditions:

2024. Building/Development Setbacks indicating Front/Rear/Side to all property boundary's (existing and proposed) and roadway/easements shall be designated on the Parcel Map (MCC Sec. 17-52.(I))

2122. Pursuant to Government Code Section 66492 & 66493, prior to recordation of the Parcel Map, the subdivider must: (a) Obtain a Certificate from the Mendocino County Tax Collector stating that all current taxes and any delinquent taxes have been paid and; (b) Pay a security deposit (or bond) for taxes that are a lien, but not yet due and payable.

2223. In accordance with MCC Section 20.500.020(E)(3), all grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the geotechnical engineer's report (for example, Brunsing Associates, Inc. Geotechnical Investigation Carson Residence and Guest Unit 45380 Caspar Point Road, Caspar, California. January 8, 2016).

2324. The property owner shall execute and record a deed restriction, in a form and content acceptable to the Director of Planning and Building Services and County Counsel, which shall provide that:

- a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards; and
- b. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' 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; and
- c. The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant; and
- d. The landowner shall not construct any bluff or shoreline protective devices to protect structures shown on the Site Plan or other improvements in the event that these structures are subject to damage or other erosional hazards in the future, unless approved by a Coastal Development Permit or permit amendment; and
- e. The landowner shall remove the structures shown on the Site Plan when bluff retreat reaches the point where the structures are threatened. In the event that portions of the structures shown on the Site Plan, or other improvements, fall to the beach or ocean before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal; and
- f. Attached as exhibits to the Deed Restriction shall be (i) the adopted findings and conditions approving MS_2019-~~00020003~~0003; and (ii) a Site Plan. The Site Plan exhibit shall identify the boundaries the *Tufted Hair Grass Meadow ESHA*, its buffer, the geotechnical bluff set back, and

others, and shall be printed in black and white. The Director of Planning and Building Services, or their designee, shall review and accept the Site Plan exhibit; and

- g. The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

2425. In accordance with MCC Section 20.496.020(A), a buffer area shall be established adjacent to all environmentally sensitive habitat areas (ESHA), including the *Tuft Hair Grass Meadow ESHA*. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from developments and shall be compatible with the continuance of the habitat areas. The width of the buffer area shall be a minimum 100 feet. In accordance with MCC Chapters 20.496 and 20.532, the Coastal Permit Administrator may consider a request to modify the buffer width.

2526. Development, including repair, maintenance, and improvements to any structure, located within Environmentally Sensitive Habitat Area (ESHA) buffers, or ESHA resource areas, shall require a coastal development permit or permit amendment. Development may be exempt from the requirements of MCC Chapter 20.532, provided it meets the exemption criteria and is located outside of ESHA buffers and ESHA resource areas.

2627. Future development shall implement the mitigation and avoidance measures described in Section 6 of the *Biological Scoping & Botanical Survey Report for 45380 Caspar Point Road, Caspar, CA 95420* prepared by Wynn Coastal Planning & Biology and dated June 12, 2019 (or the adopted measures associated with a Coastal Development Permit).

2728. The bluff setbacks, as specified in the Geotechnical Investigation report prepared by Brunsing Associates dated January 9, 2016, shall be memorialized on the Parcel Map (and on the Site Plan exhibit attached to the Deed Restriction). In accordance with MCC Chapters 20.500 and 20.532, the Coastal Permit Administrator may consider a request to modify the bluff setback distance.

THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE APPROVED PARCEL MAP IS RECORDED BY THE COUNTY RECORDER.