

## **CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
455 MARKET STREET, SUITE 300  
SAN FRANCISCO, CA 94105  
PHONE: (415) 904-5260  
FAX: (415) 904-5400  
WEB: WWW.COASTAL.CA.GOV



# **F13a**

**A-2-SON-20-0042 (Chapman SFD, 1020 Highway 1)**

**October 9, 2020**

## **EXHIBITS**

**Exhibit 1 – Project Location**

**Exhibit 2 – Grant Deeds**

**Exhibit 3 – Site Photos and Project Photo-Simulation**

**Exhibit 4 – County-Approved Project Plans**

**Exhibit 5 – County Final Local CDP Action Notice**

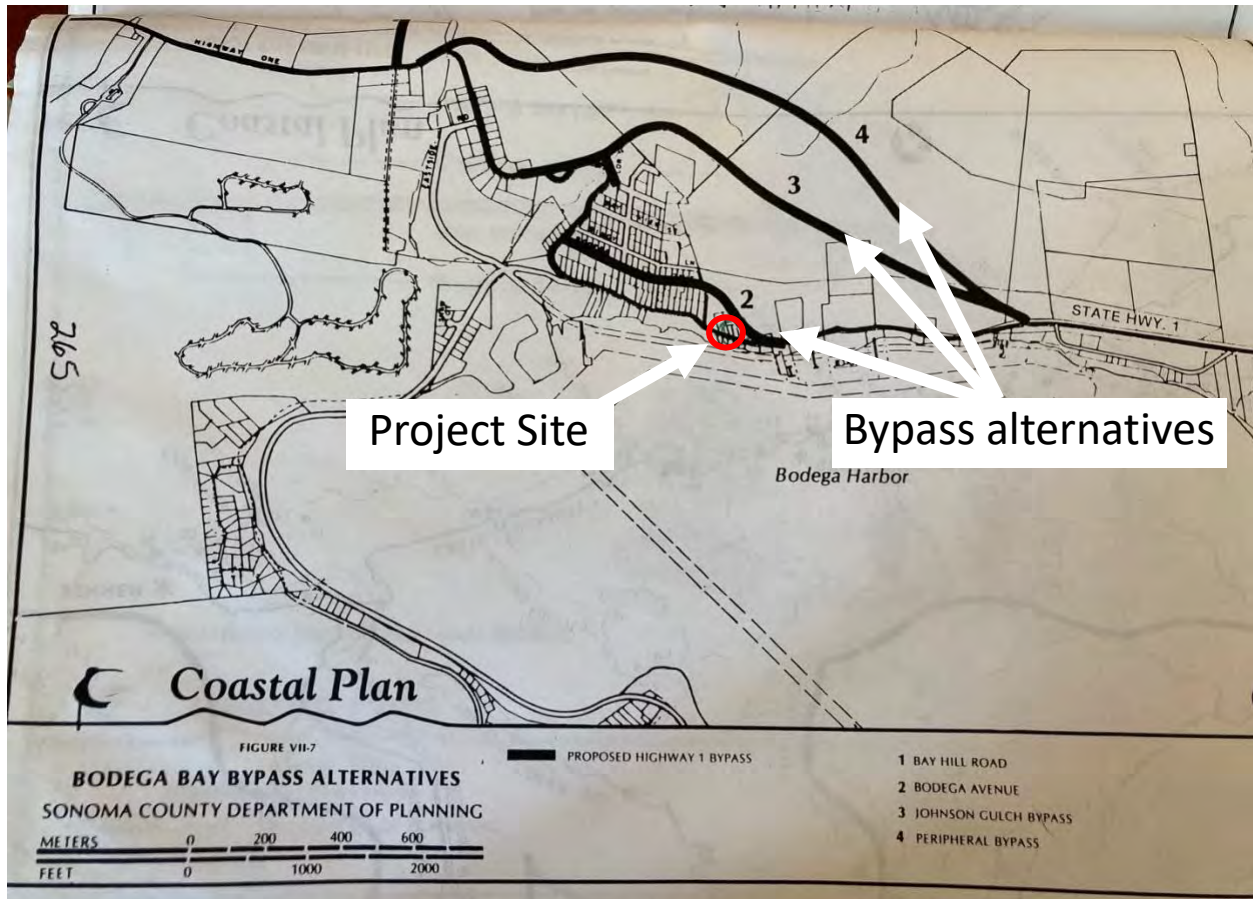
**Exhibit 6 – Appeal to the Coastal Commission**

**Exhibit 7 – Applicable LCP Provisions**

**1020 HIGHWAY 1- PROJECT LOCATION**  
**Bodega Bay, Sonoma County**









2016015402

Official Records Of Sonoma County  
 William F. Rousseau  
 03/02/2016 08:00 AM  
 FIRST AMERICAN TITLE CO.

DEED 2 Pgs

Fee: \$26.00  
 County Tax: \$110.00



**RECORDING REQUESTED BY**  
 First American Title Company

**MAIL TAX STATEMENT  
 AND WHEN RECORDED MAIL DOCUMENT TO:**  
 Alan E. Chapman and Judith C. Martin  
 4440 Francis Court  
 Sacramento, CA 95822

Space Above This Line for Recorder's Use Only

A.P.N.: 100-100-005

File No.: 4903-5082711 (TCE)

**GRANT DEED**

The Undersigned Grantor(s) Declare(s): DOCUMENTARY TRANSFER TAX **\$110.00**; CITY TRANSFER TAX \$;  
 SURVEY MONUMENT FEE \$

- [ ☒ ] computed on the consideration or full value of property conveyed, OR  
 [ ] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,  
 [ ☒ ] unincorporated area; [ ] City of **Bodega Bay**, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **Rose R. Calma, a married woman**

hereby GRANTS to **Alan Chapman and Julie Martin, husband and wife as community property with right of survivorship**

the following described property in the unincorporated area of the County of **Sonoma**, State of **California**:

**PARCEL ONE:**

COMMENCING AT THE NORTHWEST CORNER OF THE REAL PROPERTY HERETOFORE DEEDED ON THE 3RD DAY OF JUNE, 1902, BY G.W. SMITH TO PERRY F. DEBOLT AND H.J. BARNETT, WHICH SAID DEED WAS RECORDED IN THE COUNTY RECORDER'S OFFICE OF SONOMA COUNTY, CALIFORNIA, ON THE THIRD DAY OF JUNE, 1902 IN LIBER 197 OF DEEDS, PAGE 638, THEREOF; THENCE FOLLOWING THE WESTERLY LINE OF SAID PROPERTY SO CONVEYED IN A SOUTHWESTERLY DIRECTION, A DISTANCE OF 102 FEET TO THE POINT OF BEGINNING; THENCE PROCEEDING SOUTHERLY ALONG THE WESTERLY LINE OF THE SAID REAL PROPERTY SO DEEDED, A DISTANCE OF 85.05 FEET TO A POINT; THENCE SOUTHEASTERLY ALONG THE SOUTHERLY BOUNDARY OF SAID REAL PROPERTY SO CONVEYED A DISTANCE OF 42 FEET TO A POINT; THENCE NORTHERLY AND PARALLEL WITH THE SAID WESTERLY BOUNDARY OF SAID PROPERTY SO CONVEYED A DISTANCE OF 99.5 FEET TO A POINT; THENCE WESTERLY AND PARALLEL WITH THE NORTHERLY BOUNDARY OF SAID REAL PROPERTY SO CONVEYED A DISTANCE OF 39.5 FEET TO THE PLACE OF BEGINNING.

**PARCEL TWO:**

A COMMON RIGHT OF WAY, 5 FEET WIDE, THE WEST LINE OF WHICH IS COINCIDENT WITH THE EAST LINE OF THE LAND HEREINABOVE DESCRIBED AS PARCEL ONE.

Mail Tax Statements To: **SAME AS ABOVE**

Exhibit 2

A-2-SON-20-0042

Page 1 of 6

Grant Deed - continued

Date: **02/25/2016**

A.P.N.: 100-100-005

File No.: 4903-5082711 (TCE)

Dated: February 25, 2016

Rose R. Calma  
 Rose R. Calma

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF Hawaii )SS  
City & County of Honolulu )

On February 26, 2016 before me, A. Kahanu, Notary Public, personally appeared  
Rose R. Calma

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

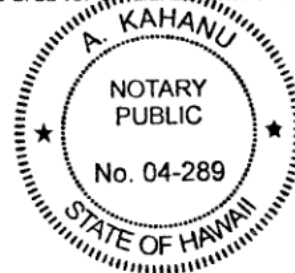
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature A. Kahanu

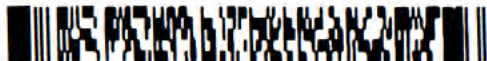
A. Kahanu  
 My commission expires: 05/30/2016

This area for official notarial seal.



**RECORDING REQUESTED BY**  
First American Title Company

**MAIL TAX STATEMENT  
AND WHEN RECORDED MAIL DOCUMENT TO:**  
Daniel L. Wong  
1010 Highway 1  
Bodega Bay, CA 94923



**2016013868**

Official Records Of Sonoma County  
William F. Rousseau  
02/26/2016 02:06 PM  
FIRST AMERICAN TITLE CO.

**DEED 3 Pgs**

Fee: \$29.00  
County Tax: \$605.00



Space Above This Line for Recorder's Use Only

A.P.N.: 100-100-006

File No.: 4903-5082527 (TCE)

## GRANT DEED

The Undersigned Grantor(s) Declare(s): DOCUMENTARY TRANSFER TAX \$605.00; CITY TRANSFER TAX \$;  
SURVEY MONUMENT FEE \$

- [ ☒ ] computed on the consideration or full value of property conveyed, OR  
[        ] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,  
[ ☒ ] unincorporated area; [    ] City of **Bodega Bay**, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **Robert A. Shleser and Rose R. Calma, Trustees, or to the successor trustee, of the Robert A. Shleser and Rose R. Calma Living Trust, dated March 10, 2000**

hereby GRANTS to **Daniel L. Wong, a married man as his sole and separate property and Anthony S. Ridgeway and Katherine L. Wong, husband and wife**

the following described property in the unincorporated area of the County of **Sonoma**, State of **California**:

### PARCEL ONE:

**BEGINNING AT THE NORTHWEST CORNER OF THE REAL PROPERTY HERETOFORE DEEDED ON THE 3RD DAY OF JUNE, 1902, BY C. W. SMITH TO PERRY F. DEBOLT AND H. J. BARNETT, WHICH SAID DEED WAS RECORDED IN THE COUNTY RECORDER'S OFFICE OF SONOMA COUNTY, CALIFORNIA, ON THE 3RD DAY OF JUNE, 1902 IN LIBER 197 OF DEEDS, PAGE 638, THEREOF; THENCE SOUTHERLY ALONG THE WESTERLY BOUNDARY OF THE REAL PROPERTY OF KATE BUTLER, A DISTANCE OF 102 FEET TO A POINT; THENCE EASTERLY AT RIGHT ANGLES A DISTANCE OF 39.5 FEET TO THE POINT OF COMMENCEMENT; THENCE AT RIGHT ANGLES SOUTHERLY AND ALONG THE EASTERLY BOUNDARY LINE OF ALICE WILSON A DISTANCE OF 103.9 FEET TO THE SOUTHERLY BOUNDARY OF THE REAL PROPERTY HEREIN CONVEYED; THENCE SOUTHEASTERLY ALONG THE SOUTHERLY BOUNDARY OF THE REAL PROPERTY HEREIN CONVEYED A DISTANCE OF 42 FEET TO THE SOUTHEAST CORNER OF THE REAL PROPERTY HEREIN CONVEYED; THENCE NORTHERLY ALONG THE EASTERLY BOUNDARY OF THE REAL PROPERTY HEREIN CONVEYED A DISTANCE OF 117.5 FEET TO A POINT IN THE NORTHEAST CORNER OF THE PROPERTY HEREIN CONVEYED; THENCE WESTERLY AT RIGHT ANGLES A DISTANCE OF 39.5 FEET TO THE POINT OF COMMENCEMENT.**

### PARCEL TWO:

**A COMMON RIGHT OF WAY, 5 FEET WIDE, THE EAST LINE OF WHICH IS COINCIDENT WITH THE WEST LINE OF THE LAND HEREINABOVE DESCRIBED AS PARCEL ONE.**

### PARCEL THREE:

Mail Tax Statements To: **SAME AS ABOVE**

**Exhibit 2**

**A-2-SON-20-0042**

**Page 3 of 6**

Grant Deed - continued

Date: **02/19/2016**

**THOSE CERTAIN RIGHTS OF WAY CONTAINED IN THE AMENDED ORDER AND DECREE OF  
DISTRIBUTION RECORDED DECEMBER 28, 1951 IN BOOK 1097 OF OFFICIAL RECORDS,  
PAGE 233, UNDER RECORDER'S SERIAL NO. D-57136, SONOMA COUNTY RECORDS.**

Grant Deed - continued

Date: **02/19/2016**

A.P.N.: 100-100-006

File No.: 4903-5082527 (TCE)

Dated: February 19, 2016

Robert A. Shleser and Rose R. Calma,  
Trustees, or to the successor trustee, of the  
Robert A. Shleser and Rose R. Calma Living  
Trust

  
 Robert A. Shleser, Trustee

  
 Rose R. Calma, Trustee

A notary public or other officer completing this certificate  
verifies only the identity of the individual who signed the  
document to which this certificate is attached, and not the  
truthfulness, accuracy, or validity of that document.

STATE OF Hawaii )SS  
 City & )  
 COUNTY OF Honolulu )

On February 27, 2016 before me, A. Kahanu, Notary Public, personally appeared  
Robert A. Shleser & Rose R. Calma

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the  
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

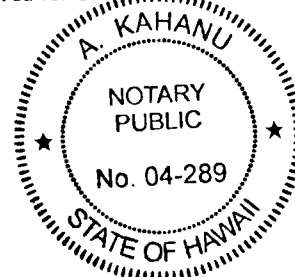
WITNESS my hand and official seal.

Signature A. Kahanu

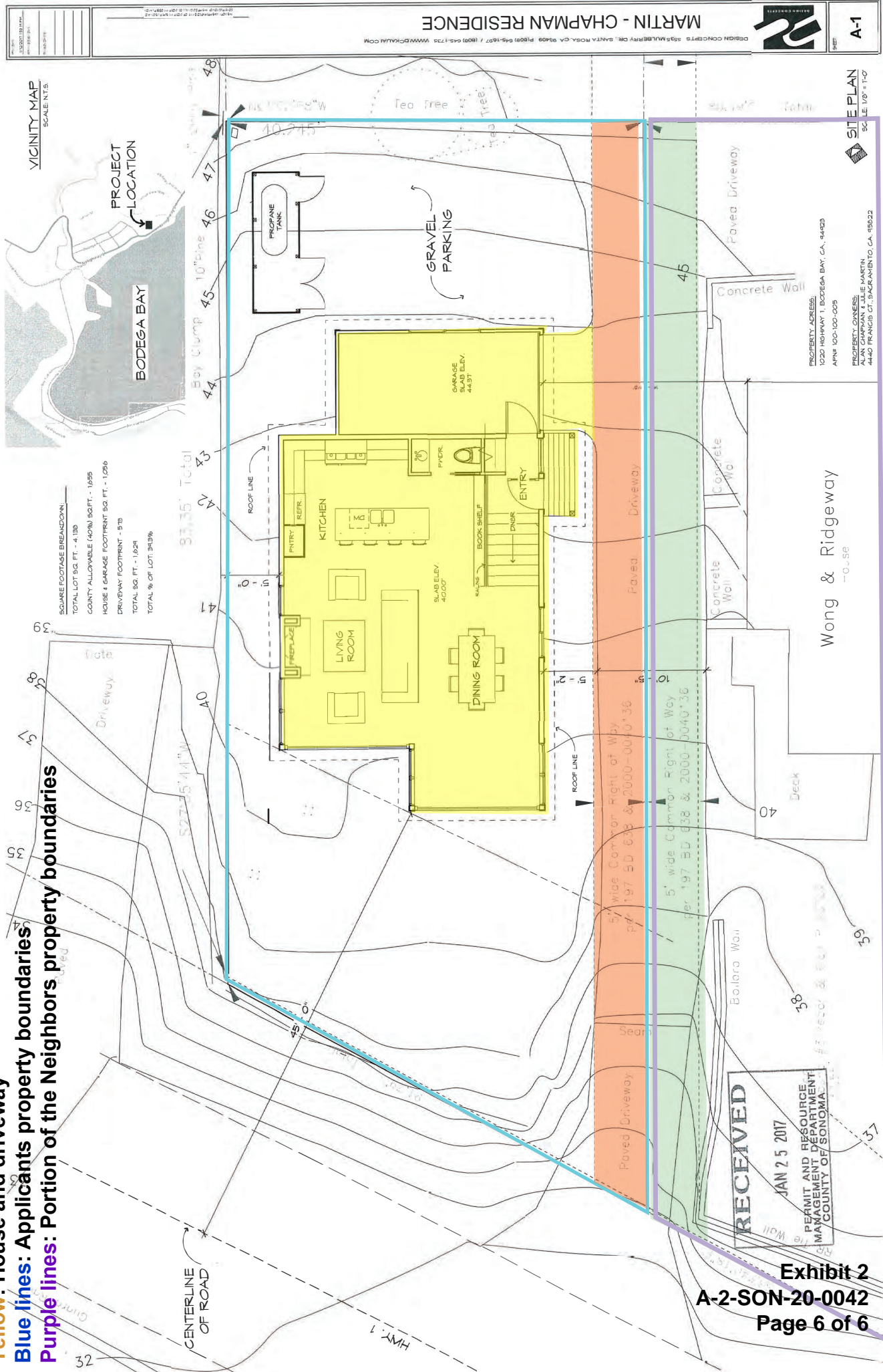
A. Kahanu

My commission expires: 05/30/2016

This area for official notarial seal.



**Orange:** Common ROW easement on applicants' property  
**Green:** Common ROW easement on neighbors' property  
**Yellow:** House and driveway  
**Blue lines:** Applicants property boundaries  
**Purple lines:** Portion of the Neighbors property boundaries

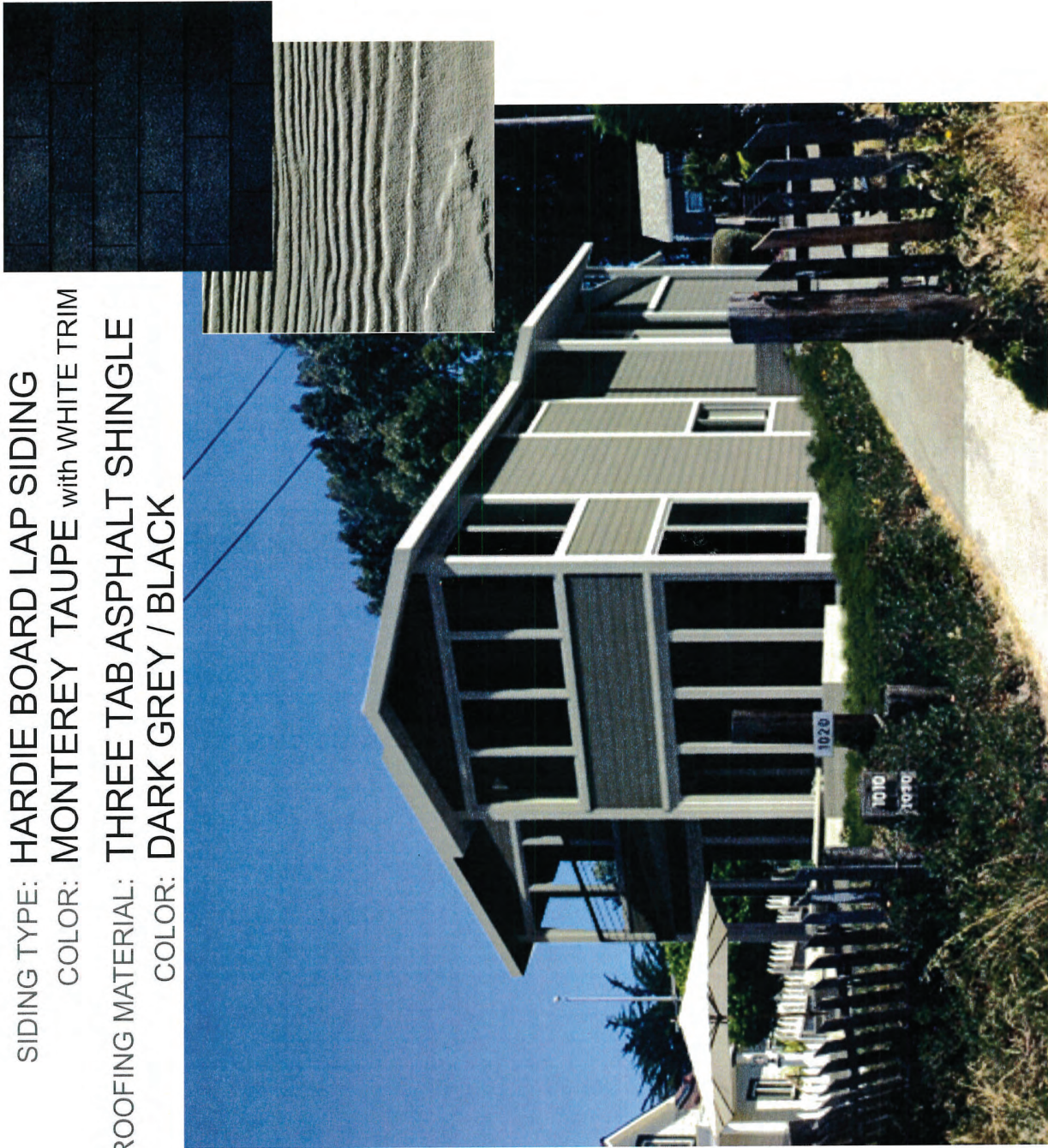


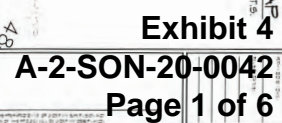
1020 HIGHWAY 1- PROJECT LOCATION  
Bodega Bay, Sonoma County



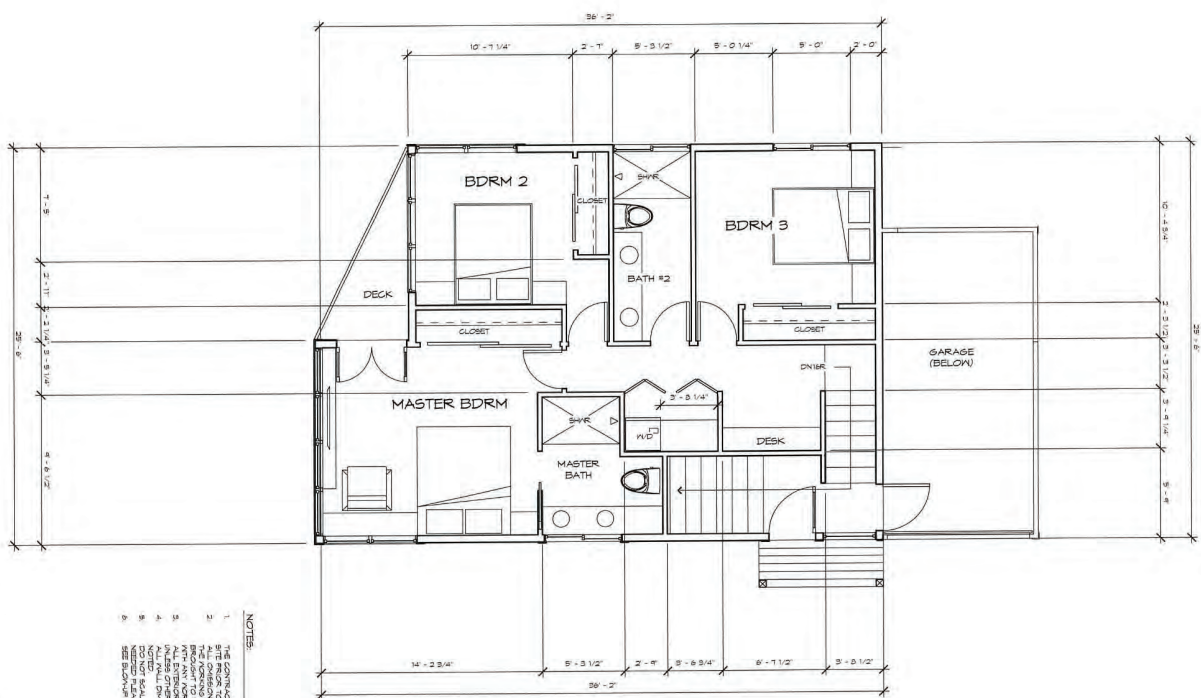


SIDING TYPE: **HARDIE BOARD LAP SIDING**  
COLOR: **MONTEREY TAUPE** with WHITE TRIM  
ROOFING MATERIAL: **THREE TAB ASPHALT SHINGLE**  
COLOR: **DARK GREY / BLACK**



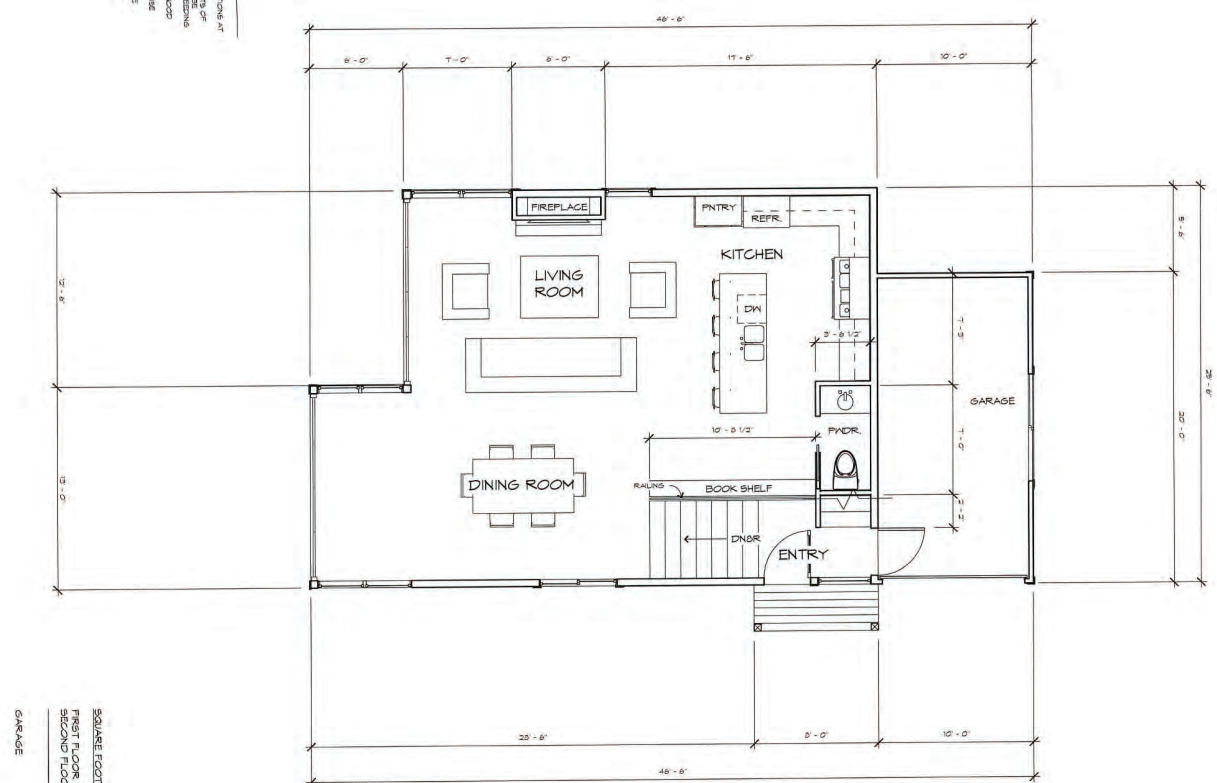


**SECOND FLOOR PLAN**  
SCALE 1/4" = 1'-0"



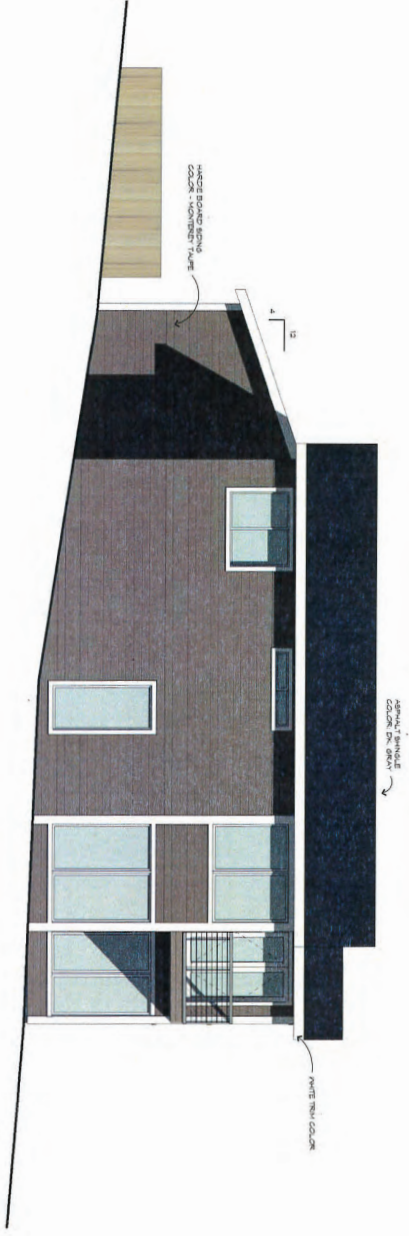
- NOTES:**
1. THE CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 CALIFORNIA BUILDING CODE.
  2. ALL DIMENSIONS OF CONCRETE SHALL BE TO THE FACE UNLESS NOTED OTHERWISE.
  3. ALL DIMENSIONS OF FRAMING SHALL BE TO THE CENTERLINE UNLESS NOTED OTHERWISE.
  4. ALL DIMENSIONS OF FINISH SHALL BE TO THE FINISH UNLESS NOTED OTHERWISE.
  5. ALL DIMENSIONS OF FINISH SHALL BE TO THE FINISH UNLESS NOTED OTHERWISE.
  6. ALL DIMENSIONS OF FINISH SHALL BE TO THE FINISH UNLESS NOTED OTHERWISE.

**FIRST FLOOR PLAN**  
SCALE 1/4" = 1'-0"

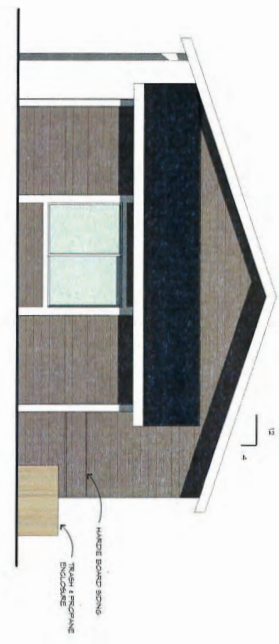


**SQUARE FOOTAGE BREAKDOWN:**

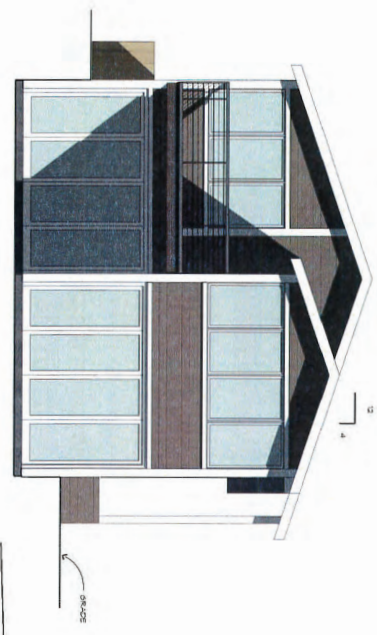
FIRST FLOOR	856 SQ. FT.
SECOND FLOOR	760 SQ. FT.
<b>TOTAL</b>	<b>1616 SQ. FT.</b>
<b>GARAGE</b>	<b>200 SQ. FT.</b>



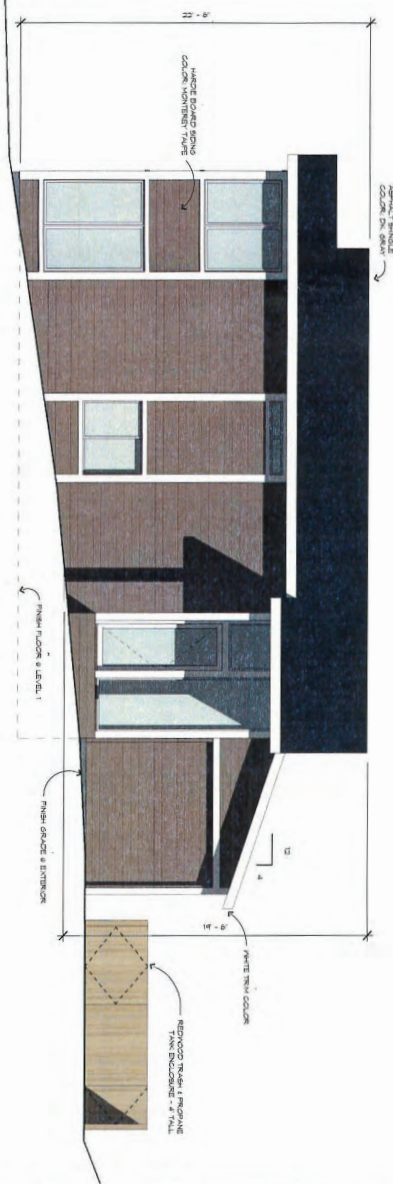
NORTH WEST ELEVATION  
1/4\"/>



NORTH EAST ELEVATION  
1/4\"/>

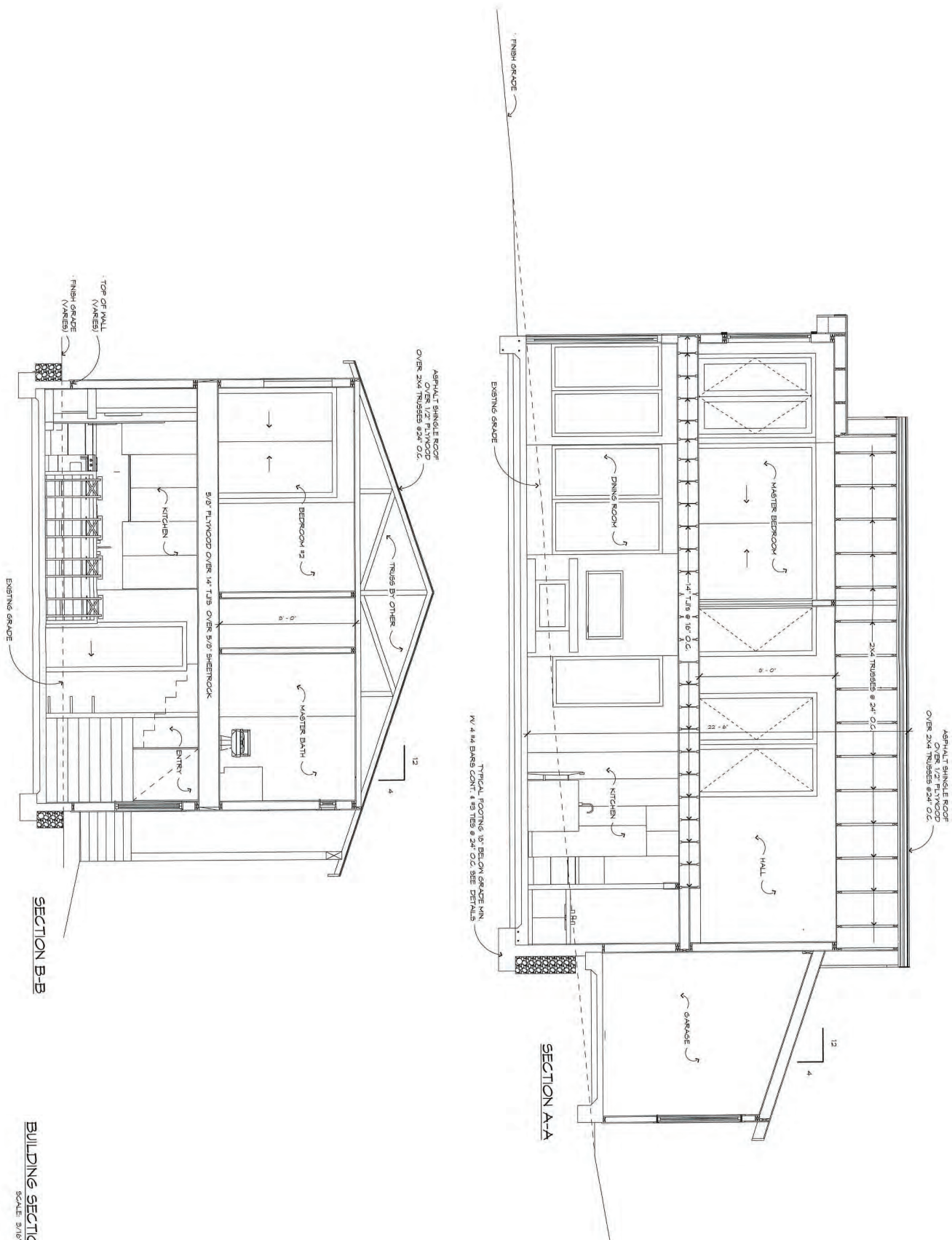


SOUTH WEST ELEVATION  
1/4\"/>

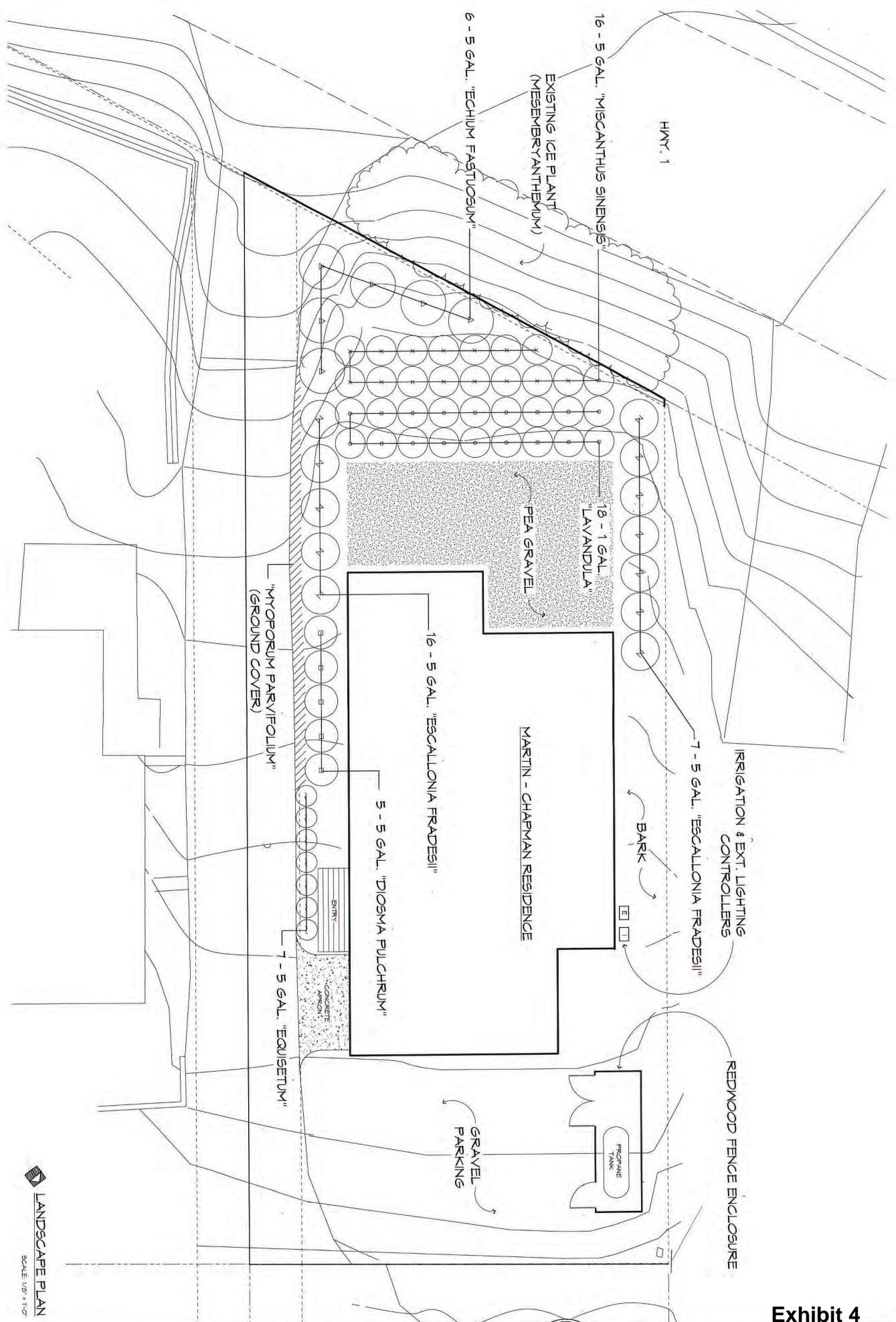


SOUTH EAST ELEVATION  
1/4\"/>

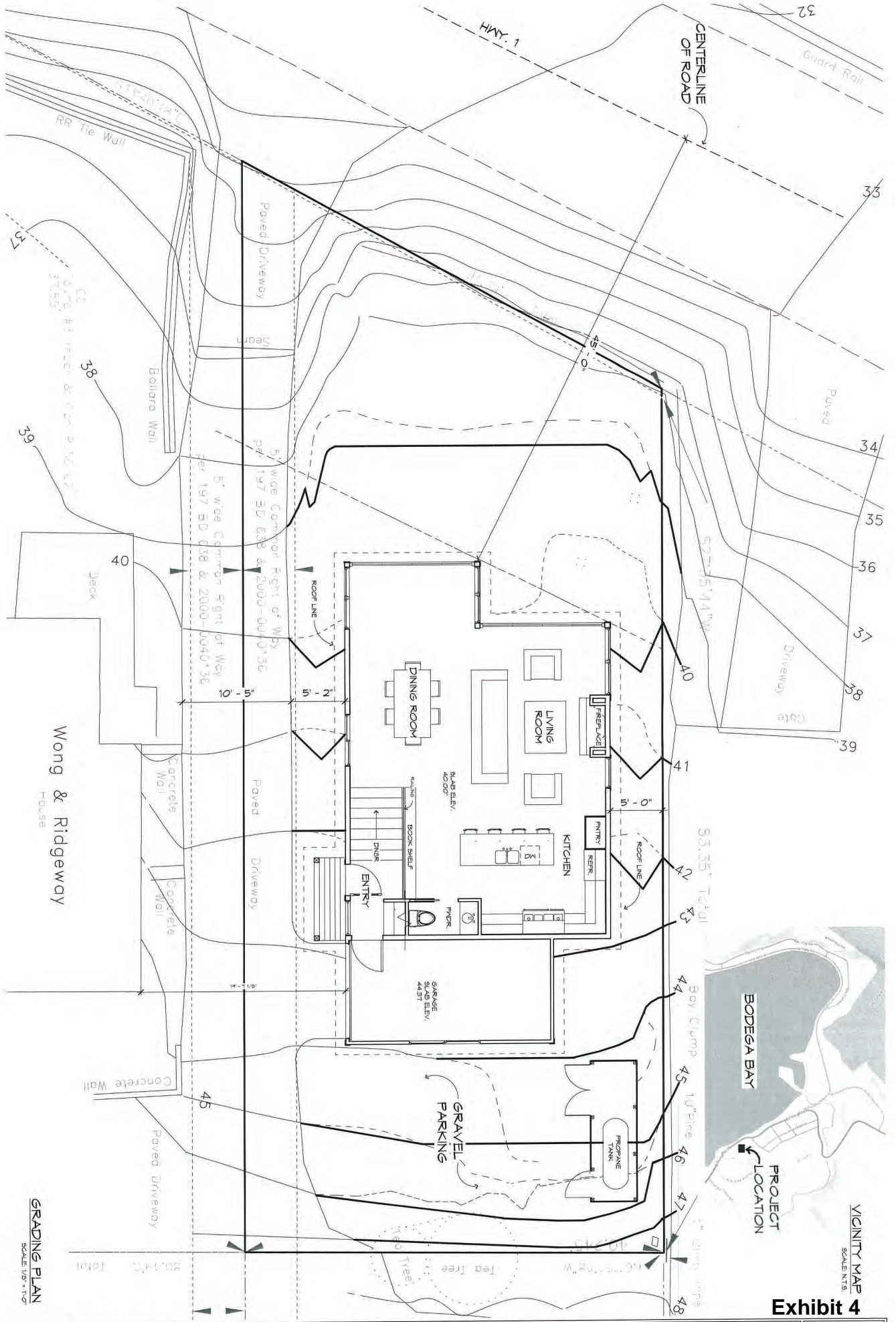
EXTERIOR ELEVATIONS  
SCALE: 1/4\"/>



BUILDING SECTIONS  
SCALE 3/16" = 1'-0"



LANDSCAPE PLAN  
SCALE 1/8" = 1'-0"



GRADING PLAN  
SCALE 1/8" = 1'-0"

A-9



DESIGN CONCEPTS 5535 MULBERRY DR., SANTA ROSA, CA. 95405 P(808) 645-1697 / (808) 645-1735 WWW.DCKALAI.COM

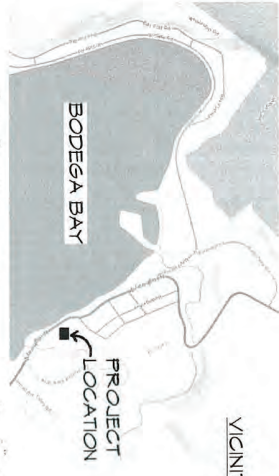
MARTIN - CHAPMAN RESIDENCE

Exhibit 4

A-2-SON-20-0042

Page 6 of 6

VICINITY MAP  
SCALE N.T.S.



# NOTICE OF FINAL ACTION ON A COASTAL PERMIT

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

RECEIVED

JUL 23 2020

CALIFORNIA  
COASTAL COMMISSION  
NORTH CENTRAL COAST

FINAL LOCAL  
ACTION NOTICE

REFERENCE # 2-SON-20-0569  
APPEAL PERIOD 7/24/20 - 8/6/20

July 17, 2020

Alan and Julie Chapman  
4440 Francis Court  
Sacramento, CA 95822

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the Coastal Zone. A project decision has been completed.

File No.: CPH16-0009

Project Location: 1020 Highway 1, Bodega Bay

Assessor's Parcel Number: 100-100-005

Project Description: Request for a Coastal Permit to allow a new 1,616 square foot single family residence with associated site improvements.

Proposed Project Approved the Sonoma County Board of Supervisors on July 14, 2020.

Conditions of Approval dated July 14, 2020 are enclosed.

Findings: The project, as described in the application and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Coastal Program. Specifically:

1. The project, as described in the application and as conditioned, conforms with the plans, policies, requirements, and standards of the Sonoma County Local Coastal Program and the zoning designation of R1 (Low Density Residential) CC (Coastal Combining).
2. The proposed single family residence, as conditioned, is consistent with the Local Coastal Plan Design review policies and the Coastal Zoning Ordinance Design Review requirements because the height, location, scale, size and character of the proposed single family residence will be compatible with the surrounding neighborhood because it is similar in size, scale and design to the existing neighborhood.
3. The project is located on the east side of Highway 1 which allows for a maximum height of 24 feet for residential development. The proposed 22 foot 6 inches single family residence is in conformance with the height restriction and will not block views from Highway 1.
4. The project is Categorically Exempt from CEQA pursuant to Section 15303, Class 3(a) because the project involves the construction of a new single family residence.
5. The establishment, maintenance or operation of the use for which this application is made will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the area of such use, nor be detrimental or injurious to property and improvements in the area or the welfare of the area. This is based on the fact that the proposed project is a residential use

Exhibit 5  
A-2-SON-20-0042

on a property zoned for residential and the proposed single family residence will be similar in size, mass and architecture to existing residential uses in the area.

Project is Appealable. The decision may be appealed in writing to the Sonoma County Board of Supervisors within ten (10) calendar days. The decision of the Board of Supervisors is appealable to the State Coastal Commission within ten (10) working days.

Address:  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

If you have any questions, feel free to contact me at (707) 565-1683 or at Jennifer.Faso@sonoma-county.org. Please refer to your file number (CPH16-0009) and site address when making inquiries.

Sincerely,

  
Jennifer Faso  
Project Planner

:jf

Enclosure: Conditions of Approval dated July 14, 2020

c: File No. CPH16-0009  
State Coastal Commission (via Certified mail)

**Conditions of Approval  
Exhibit A**

**Date:** July 14, 2020  
**Applicant:** Alan and Julie Chapman  
**Address:** 1020 Highway 1, Bodega Bay

**File No.:** CPH16-0009  
**APN:** 100-100-005

**Project Description:** Request for a Coastal Permit to construct a 1,616 square foot two story single family residence with attached garage and associated landscaping on a 4,138 square foot parcel.

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**Prior to issuance of building permit, the following condition must be met:**

**BUILDING:**

1. The applicant shall apply for and obtain building related permits from Sonoma County Permit Sonoma. The necessary applications appear to be, but may not be limited to, site review, building permit, septic permit, and grading permit.

**PLANNING:**

"The conditions below have been satisfied." BY \_\_\_\_\_ DATE \_\_\_\_\_

2. This Coastal Permit allows for the construction of a 1,616 square foot single family residence with attached garage and associated landscaping. The project must be developed in substantial compliance with the site plan and architectural drawings dated January 12, 2017, located in File No. CPH16-0009, unless otherwise modified by these conditions.
3. Exterior lighting shall be downward facing, fully shielded, and located at the lowest possible point to the ground. Flood lights are not permitted. Total luminous flux of lamps used in individual exterior luminaires, including security lights, shall not exceed 1750 lumens. Total illuminance beyond the property line created by simultaneous operation of all exterior lighting shall not exceed 1.0 lux. Radiation of light into the night sky is prohibited.
4. Site development shall be consistent with submitted project plans, and all materials and colors shall conform to plans, colors and materials and architectural specifications submitted as part of this application.
5. All utilities shall be placed underground.
6. All exterior finishes shall be of non-reflective materials and colors.
7. This "At Cost" entitlement is not vested until all permit processing costs are paid in full. Additionally, no grading or building permits shall be issued until all permit processing costs are paid in full.
8. Low-flow showerheads and faucet aerators shall be installed in all project dwelling units (Low water use toilets are currently required by State Law).
9. All grading and building permits plans involving ground disturbing activities shall include the following notes:

"If paleontological resources or prehistoric, historic or tribal cultural resources are encountered during ground-disturbing work, all work in the immediate vicinity shall be halted and the operator must immediately notify the Permit and Resource Management Department (PRMD) – Project Review staff of the find. The operator shall be responsible for the cost to have a qualified paleontologist, archaeologist or tribal cultural resource specialist under contract to evaluate the find and make recommendations to protect the resource in a report to PRMD. Paleontological resources include fossils of animals, plants or other organisms. Prehistoric resources include humanly modified stone, shell, or bones, hearths, firepits, obsidian and chert flaked-stone tools (e.g., projectile points, knives, choppers), midden (culturally darkened soil containing heat-affected rock, artifacts, animal bone, or shellfish remains), stone milling equipment, such as mortars and pestles, and certain sites features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe. Historic resources include all by-products of human use greater than fifty (50) years of age including, backfilled privies, wells, and refuse pits; concrete, stone, or wood structural elements or foundations; and concentrations of metal, glass, and ceramic refuse.

If human remains are encountered, work in the immediate vicinity shall be halted and the operator shall notify PRMD and the Sonoma County Coroner immediately. At the same time, the operator shall be responsible for the cost to have a qualified archaeologist under contract to evaluate the discovery. If the human remains are determined to be of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification so that a Most Likely Descendant can be designated and the appropriate measures implemented in compliance with the California Government Code and Public Resources Code."

10. The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations. Any proposed modification, alteration, and/or expansion of the residential development authorized by this Coastal Permit shall require the prior review and approval of PRMD or the Planning Commission, as appropriate pursuant to Section 26C-349 of the Sonoma County Code. Such changes may require a new or modified Coastal Permit and additional environmental review.
11. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.
12. The applicant has two years from the date of approval, or for such additional time as may be allowed, to meet the Conditions of Approval and vest the Coastal Permit or the permit shall become automatically void and of no further effect.



## APPEAL FORM

### Appeal of Local Government Coastal Development Permit

#### Filing Information (STAFF ONLY)

District Office: North Central Coast

Appeal Number: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Appellant Name(s): \_\_\_\_\_

#### APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Central Coast district office, the email address is [NorthCentralCoast@coastal.ca.gov](mailto:NorthCentralCoast@coastal.ca.gov). An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

1. Appellant information<sup>1</sup>

Name: Katherine Wong

Mailing address: 1046 Powell St., San Francisco, CA 94108

Phone number: 415-264-4345

Email address: klwong@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate    ☒ Submitted comment    ☒ Testified at hearing    ☐ Other

Describe: I submitted written comments to the County upon receiving notice of the CDP. I also submitted written comments to the Planning Commission/  
Board of Zoning Adjustments and testified at the December 2018 hearing before the Planning Commission/Board of Zoning Adjustments.  
I was one of the appellants of the Planning Commission/Board of Zoning Adjustment's decision to the Board of Supervisors. I  
submitted written comments to the Board of Supervisors and testified at the July 2020 hearing before the Board of Supervisors.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: We appealed the approval of the CDP to the Planning Commission/Board of Zoning Adjustments.  
We then appealed the decision on the CDP of the Planning Commission/Board of  
Zoning Adjustments to the Board of Supervisors. The County informed us that there were no  
further LCP appeal processes, other than an appeal to the Coastal Commission.

<sup>1</sup> If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

## Appeal of local CDP decision

### Page 2

#### 1. Appellant information<sup>1</sup>

Name: Anthony Ridgeway

Mailing address: Unit 9800, Box 475, DPO, AP 96303-0475

Phone number: 202-677-1148

Email address: sridgeway@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate    ☒ Submitted comment    ☒ Testified at hearing    ☐ Other

Describe: I submitted written comments to the County upon receiving notice of the CDP. I also submitted written comments  
to the Planning Commission/Board of Zoning Adjustments. I was one of the appellants of the decision by the  
Planning Commission/Board of Zoning Adjustment to the Board of Supervisors. I also submitted written  
comments to the Board of Supervisors and testified at the July 2020 hearing before the Board of Supervisors.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

**Appeal of local CDP decision**  
**Page 2**

**1. Appellant information:**

Name: Daniel L. Wong  
Mailing address: 1352 Marina Circle, Davis, CA 95616  
Phone number: 530-400-0794  
Email address: wong.dl@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate    ☒ Submitted comment    ☒ Testified at hearing    ☐ Other

Describe: I submitted written comments to the County upon receiving notice of the CDP. I also submitted written comments to  
to Planning Commission/Board of Zoning Adjustments, and testified at the associated December 2018 hearing.  
I was one of the appellants of the decision by the Planning Commission/Board of Zoning Adjustments. I  
submitted written comments to the Board of Supervisors and testified at the July 2020 hearing on the appeal.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: We appealed the approval of the CDP to the Planning Commission/Board of Zoning  
Adjustments. We then appealed the decision by the Planning Commission/Board  
of Zoning Adjustments to the Board of Supervisors. The County informed us that there  
were no further LCP appeal processes, other than an appeal to the Coastal Commission.

1 If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

2. Local CDP decision being appealed<sup>2</sup>

Local government name: Sonoma County

Local government approval body: Board of Supervisors

Local government CDP application number: CPH16-0009

Local government CDP decision: ☒ CDP approval ☐ CDP denial<sup>3</sup>

Date of local government CDP decision: June 14, 2020

Please identify the location and description of the development that was approved or denied by the local government.

Describe: Construction of a new, 1,616 square foot two-story single family  
home and attached garage on a 3,600 square foot unimproved  
vacant lot in Bodega Bay.

Please see attached for further details.

<sup>2</sup> Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

<sup>3</sup> Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

**Appeal of local CDP decision**  
**Page 2**

**1. Appellant information<sup>1</sup>**

Name: Martha Ruddell  
Mailing address: 1030 Highway 1, Bodega Bay, CA 94923  
Phone number: 707-481-9446  
Email address: skookie@comcast.net

How did you participate in the local CDP application and decision-making process?

☐ Did not participate    ☒ Submitted comment    ☒ Testified at hearing    ☐ Other

Describe: I submitted written comments to the County upon receiving notice of the CDP. I also submitted written comments to  
to Planning Commission/Board of Zoning Adjustments, and testified at the associated December 2018 hearing.  
I was one of the appellants of the decision by the Planning Commission/Board of Zoning Adjustments. I  
submitted written comments to the Board of Supervisors and testified at the July 2020 hearing on the appeal.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: We appealed the approval of the CDP to the Planning Commission/Board of Zoning  
Adjustments. We then appealed the decision by the Planning Commission/Board  
of Zoning Adjustments to the Board of Supervisors. The County informed us that there  
were no further LCP appeal processes, other than an appeal to the Coastal Commission.

<sup>1</sup> If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

**Appeal of local CDP decision**  
**Page 2**

**1. Appellant information:**

Name: Perry Marker  
Mailing address: 1030 Highway 1, Bodega Bay, CA 94923  
Phone number: 707-481-9446  
Email address: perrymarker@comcast.net

How did you participate in the local CDP application and decision-making process?

☐ Did not participate    ☒ Submitted comment    ☒ Testified at hearing    ☐ Other

Describe: I submitted written comments to the County upon receiving notice of the CDP. I also submitted written comments to  
to Planning Commission/Board of Zoning Adjustments, and testified at the associated December 2018 hearing.  
I was one of the appellants of the decision by the Planning Commission/Board of Zoning Adjustments. I  
submitted written comments to the Board of Supervisors and testified at the July 2020 hearing on the appeal.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: We appealed the approval of the CDP to the Planning Commission/Board of Zoning  
Adjustments. We then appealed the decision by the Planning Commission/Board  
of Zoning Adjustments to the Board of Supervisors. The County informed us that there  
were no further LCP appeal processes, other than an appeal to the Coastal Commission.

1 If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: Please see attached.

**Exhibit 6**  
**A-2-SON-20-0042**  
**Page 8 of 145**

### Section 3 - Identification of Interested Parties

Alan and Julie Chapman  
4440 Francis Ct, Sacramento, CA 95822  
916-591-8348

Richard Popek  
PO Box 1328, Bodega Bay, CA 94923  
[popekdesign@gmail.com](mailto:popekdesign@gmail.com)  
707-332-6160

Perry Marker & Martha Ruddell  
1030 Highway 1, Bodega Bay, CA 94923  
[perrymarker@comcast.net](mailto:perrymarker@comcast.net)  
[skookie@comcast.net](mailto:skookie@comcast.net)  
707-481-9446

Anthony Ridgeway  
Unit 9800, Box 475, DPO, AP 96303-0475  
[sridgeway@gmail.com](mailto:sridgeway@gmail.com)  
202-677-1148

Daniel L. Wong  
1352 Marina Circle, Davis, CA 95616  
[wong.dl@gmail.com](mailto:wong.dl@gmail.com)  
530-400-0794

Patricia Wong  
321 Anza Ave., Davis, CA 95616  
[patwinsci@gmail.com](mailto:patwinsci@gmail.com)  
530-902-2224

Margaret Briare  
PO Box 998, Bodega Bay, CA, 94923-998  
[briarepach@aol.com](mailto:briarepach@aol.com)  
707-875-2297

5. Appellant certification<sup>5</sup>

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Katherine L. Wong

Katherine L. Wong

Signature

Date of Signature 8/3/2020

5. Representative authorization<sup>6</sup>

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.


**Appeal of local CDP decision**

**Page 5**

**5. Appellant certifications**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Katherine L. Wong

Signature 

Date of Signature 8/3/2020

**5. Representative authorizations**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

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<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

**Appeal of local CDP decision**

**Page 5**

**5. Appellant certifications**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Anthony S. Ridgeway

Anthony S. Ridgeway  
Signature

Date of Signature 8/3/2020

**5. Representative authorizations**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

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**Appeal of local CDP decision**  
**Page 5**

**5. Appellant certifications**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Daniel L. Wong

Signature 

Date of Signature 8/3/2020

**5. Representative authorization**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

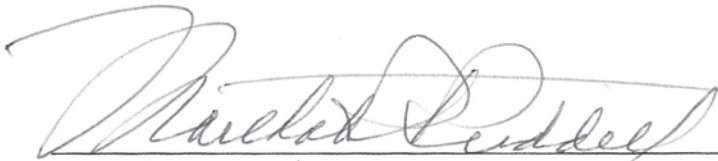
**Appeal of local CDP decision**

**Page 5**

**5. Appellant certification<sup>5</sup>**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Martha R. Ruddell

  
Signature

Date of Signature 8/3/20

**5. Representative authorization<sup>6</sup>**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

**Appeal of local CDP decision**

**Page 5**

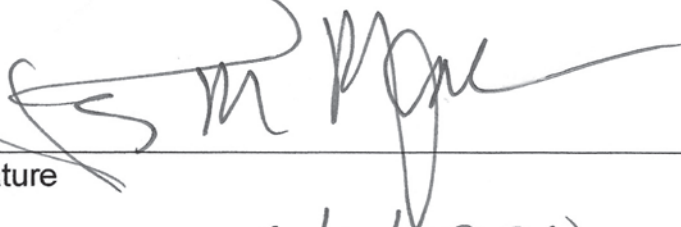
**5. Appellant certification<sup>5</sup>**

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name

Pam Marker

Signature



Date of Signature

8/4/2020

**5. Representative authorization<sup>6</sup>**

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐

I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

<sup>5</sup> If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

<sup>6</sup> If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

**Exhibit 6**

**A-2-SON-20-0042**

**Page 15 of 145**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400



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If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name \_\_\_\_\_

CDP Application or Appeal Number \_\_\_\_\_

Lead Representative

Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address. \_\_\_\_\_

City \_\_\_\_\_

State, Zip \_\_\_\_\_

Email Address \_\_\_\_\_

Daytime Phone \_\_\_\_\_

Your Signature \_\_\_\_\_

Date of Signature \_\_\_\_\_

Additional Representatives (as necessary)

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Street Address. \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_  
Email Address \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

Your Signature \_\_\_\_\_

Date of Signature \_\_\_\_\_

## Coastal Commission Appeal

Appeal of the Coastal Development Permit  
CPH16-0009 Legal Notice (1020 Highway 1, Bodega Bay)

### Section 2 - Local CDP Being Appealed

On December 20, 2018, the Board of Zoning Adjustments for the County of Sonoma approved a coastal development permit (CDP) for the construction of a 1,616 square foot two-story single family residence and attached 200 square foot garage on an undeveloped vacant parcel that the Applicants contend is 4,138 square feet<sup>1</sup> in the community of Bodega Bay.

On July 14, 2020, the Board of Supervisors for the County of Sonoma denied an appeal of the CDP, finding that the CDP was consistent with the goals and policies of the County's Local Coastal Program (LCP) and met the development standards of the LCP's Coastal Zoning Ordinance, Chapter 26C of the County Code. The Board of Supervisors also found that the project was consistent with the existing community character and natural environment.

### Section 3 - Grounds for Appeal

The County's approval raises issues of consistency with Sonoma County's Local Coastal Program (LCP) policies related to the R1 zoning requirements, traffic congestion, building scale, and conformity with the character of the existing town.

The CDP that has been approved for 1020 Highway 1 (the "project") raises several significant issues under the LCP that extend beyond this project. As noted by the County, the LCP "contain[s] the ground rules for future development and protection of coastal resources." What is a Local Coastal Program?, <https://sonomacounty.ca.gov/PRMD/Long-Range-Plans/Local-Coastal-Program/#what-is> (last visited Aug. 1, 2020). The LCP specifies the "appropriate type, location, and scale of uses of land and water and applicable resource protection and development policies." *Id.*

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<sup>1</sup> One of the issues on appeal is the lot size. The Applicant contends that the lot is 4,138 square feet, a number that the County of Sonoma (County) has used in all of its calculations. However, as explained in more detail below, the County's own zoning and parcel report, as well as the plat map, describe a lot that is only 3,600 square feet. Indeed, the original sales listing describes the parcel as being only 3,598 square feet. The County's tax records similarly show that the Applicants are being taxed on a parcel that is 3,600 square feet, not 4,138 square feet. The lot size matters in this case because many provisions of the Local Coastal Program (LCP) and associated Coastal Zoning Ordinance are based on lot size.

“Each LCP includes a ‘Land Use Plan’ (LUP) and an ‘Implementation Plan’ (IP) setting forth measures to implement the plan (such as Chapter 26C Coastal Zoning Code). Prepared by local government, these programs govern decisions that determine the short-term and long-term conservation and use of coastal resources. While each LCP reflects unique characteristics of individual local coastal communities, regional and statewide interests and concerns must also be addressed in conformity with Coastal Act goals and policies.” What is a Local Coastal Program?, <https://sonomacounty.ca.gov/PRMD/Long-Range-Plans/Local-Coastal-Program/#what-is> (last visited Aug. 1, 2020).

In Sonoma County, the “Local Coastal Plan is the ‘Land Use Plan’, and the Coastal Zoning Ordinance is the ‘Implementation Plan’ of the Sonoma County Local Coastal Program.” What is a Local Coastal Program?, <https://sonomacounty.ca.gov/PRMD/Long-Range-Plans/Local-Coastal-Program/#what-is> (last visited Aug. 1, 2020). More specifically, the “Sonoma County Local Coastal Program currently consists of three documents: The Local Coastal Plan, serving as the master planning document for the Sonoma Coast, the Coastal Zoning Ordinance, implementing the land use policies of the Local Coastal Plan, and the Administrative Manual, providing specific guidance on processing Coastal Development Permits.” Local Coastal Program Frequently Asked Questions, <https://sonomacounty.ca.gov/PRMD/Long-Range-Plans/Local-Coastal-Program/Frequently-Asked-Questions/> (last visited Aug. 1, 2020).

Accordingly, this appeal will use LCP to refer to the Local Coastal Plan and Coastal Zoning Ordinance.

**First**, a systemic issue raised by this CDP is the **proper calculation of lot size**, which matters under the LCP because the Coastal Zoning Ordinance, which is the County’s means for implementing the land use policies of the LCP, depends upon an accurate calculation. Every CDP that contemplates new development is affected by the manner in which the County calculates lot size, which makes it important to have a consistent approach that is supported by the underlying records, such as those maintained by the Assessor. Moreover, it is important to have a clear and consistent method for resolving disputes about the lot size calculation; in this case, official County records from the Assessor were disregarded in favor of the Applicant’s own calculations, which themselves are not supported by the record -- namely, the lot dimensions on Applicant’s grant deed.

**Second**, this case raises important precedential issues regarding **how the Coastal Commission and County consider and treat right-of-way easements**, which are common in coastal areas and have substantial statewide significance. In this case, the County has given inconsistent treatment to three separate right-of-way easements implicated by this CDP. Concerningly, and contrary to both State law and the County’s own Code, the County has treated a right-of-way easement associated with 1020 Highway 1 as giving the Applicants ownership rights over land that actually belongs to a neighboring parcel.

Proper treatment of easement rights is a matter of regional and statewide significance. Improperly expanding the rights of an easement holder, as the CDP has done in this case, could set a concerning precedent and could constitute a taking of that portion of the servient estate, namely, 1010 Highway 1. The County's treatment of the easements in this case also conflicts with how other cities and counties that are subject to the Coastal Act treat right-of-way easements, particularly in determining net lot size that may be used for any new development. The Commission has an important role in promoting uniform and consistent treatment of the same property rights along the California Coast.

**Third**, the CDP raises a **precedential issue** regarding the County's interpretation of its LCP, particularly its decision to selectively apply some, but not all, of the development standards set forth in the Coastal Zoning Ordinance, Chapter 26C, without any legal or factual support in the record (aside from the County's own assertions) that certain portions of the LCP do not apply to this new Project. Selective application of an LCP or the related zoning provisions is an issue of regional and statewide significance, since the effectiveness of any LCP depends upon faithful application of all of its requirements and its uniform application to all projects. If left unaddressed, this CDP could set a concerning precedent for Counties to ignore important provisions of their LCP and related zoning ordinances, undermining the very purpose and effectiveness of codified efforts to protect the coast.

**Fourth**, the CDP raises issues of regional significance related to the **Site Development requirements** set forth in the LCP and Coastal Zoning Ordinance. Coastal Zoning Ordinance §§ 26C-380A to 26C-382. **Minimum lot setbacks** are also implicated because of their role in ensuring sufficient space around structures to address fire hazards. Coastal Zoning Ordinance § 26C-102(f). The **health and safety** reviews conducted by the County, which in this case relied upon inaccurate site maps and design plans, including a site map that erroneously showed an emergency turnout that does not exist. The County, Planning Commission/Board of Zoning Adjustments, and Board of Supervisors approved the CDP without requiring that the site maps and design plans be corrected. Health and safety, particularly with regards to emergency egress and access for emergency vehicles such as fire trucks, are of great significance because the project is located in the heart of Bodega Bay, where an unchecked fire could cause great damage to the surrounding community.

**Fifth**, this CDP raises serious issues regarding the County's procedures for reviewing CDPs and its internal fact-finding and legal analysis to assure compliance of the CDP with the LCP. The County's handling of this CDP calls into question the **fairness and effectiveness of the local LCP appeal process**, in part because the staff reports do not present or address concerns raised in written comments.

The following provisions of the LCP highlighted in bold and underlined are implicated, as set forth in County Code 26C-102:

**Sec. 26C-102. - Permitted residential density and development criteria.**

**The use of land and structures within this district is subject to this article, the applicable regulations of this ordinance,** and the provisions of any district which is combined herewith. Policies and criteria of the general plan and coastal plan shall supersede the standards herein. Development shall comply with coastal plan policies.

(a) Residential density shall be between one (1) and six (6) dwelling units per acre as shown in the general plan land use or housing element or as permitted by a B combining district, whichever is more restrictive, provided however, that for a housing opportunity area type C project which meets all of the requirements of Section 26C-100(a)(5), or where a use permit for such project is approved pursuant to Section 26C-101(b), the maximum residential density shall be eleven (11) dwelling units per acre.

(b) Height Limits: Height for all structures is measured as the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof.

(1) West of Highway 1: Residential height limits are sixteen feet (16'). Commercial height limits are twenty-four feet (24').

**(2) Bodega Bay Core Area residential: Sixteen foot (16') height limit except that in major developments up to fifteen percent (15%) of the units may exceed the height limit.**

(3) East of Highway 1 in the Sereno Del Mar Subdivision: Residential height limits are sixteen feet (16'). The Sereno Del Mar Architectural Review Committee may grant a higher structure to a maximum of twenty-four feet (24') in accordance with subsection (7) below.

(4) East of Highway 1 and visible from designated scenic roads: Residential and commercial height limits are twenty-four feet (24') and fifteen feet (15') for accessory buildings.

(5) East of Highway 1 and are not visible from designated scenic roads: Thirty-five feet (35') for the main building and fifteen feet (15') for accessory buildings.

(6) Agricultural structures: Thirty-five feet (35'); however, structures shall not obstruct views of the shoreline from coastal roads, vista points, recreation areas, and beaches; and structures shall be sited to minimize visual impacts.

(7) Maximum height for telecommunication facilities is subject to the provisions of this article and Section 26C-325.7.

(8) An increase in height for residential structures west of Highway 1, up to a maximum of twenty-four feet (24'), may be approved if the appropriate review body finds that the structure is no higher than sixteen feet (16') above the corridor route grade directly across from the building site, will not block coast

views from the corridor route or neighboring properties and is compatible with community character.

An increase in height for structures east of Highway 1 up to a maximum of thirty-five feet (35') may be considered if the appropriate review body finds that the structure is no higher than twenty-four feet (24') above the corridor route grade directly across from the building site, will not block coast views from the corridor route or neighboring properties and is compatible with community character.

Where these requirements conflict with the height, site, and bulk criteria in Appendix B (Bane Bill) of the coastal plan, for those properties listed, the requirements of Appendix B shall be followed.

(9) A legal single family dwelling or appurtenant structures for which a building permit was issued after December 1, 1980, shall be considered to be conforming with regard to the height measurement. Repair and remodeling of such structures shall be allowed provided that the height does not exceed the height of the structure prior to the remodel or repair, or the building height allowed by this chapter, whichever is greater.

Expansions of such structures which do not comply with the revised height restrictions shall comply with the new definition of height measurement as stated above, except that the expansion, up to ten percent (10%) of floor area and not to exceed four hundred (400) square feet, shall be allowed, provided that the height does not exceed the height of the structure prior to the expansion, or the building height allowed by this chapter, whichever is greater.

**(c) Minimum Lot Size: Six thousand (6,000) square feet.**

(d) Minimum Lot Width: The minimum average lot width required within each lot is sixty feet (60').

**(e) Maximum Lot Coverage: Forty percent (40%).** Lot coverage may be waived by the director of the permit and resource management department for swimming pools.

**(f) Yard Requirements: The following shall apply except that if the subject property adjoins land which is zoned AR or designated as agricultural land, the use is subject to the requirements of Section 26C-323(f).**

(1) Front Yard: Not less than twenty feet (20') provided, however, that no structure shall be located closer than forty-five feet (45') to the centerline of any public road, street or highway.

**(2) Side Yard: Not less than five feet (5') except where the side yard abuts a street in which case such yard shall be the same as the front yard. On lots where access is gained to an interior court by way of a side yard or where an**

**entrance to a building faces the side line, said side yard shall be not less than ten feet (10').**

(3)Rear Yard: Not less than twenty feet (20').

(4)No garage or carport opening facing the street shall be located less than twenty feet (20') from any exterior property line, except that where twenty-five percent (25%) or more of the lots on any block or portion thereof in the same zoning district have been improved with garages or carports, the required front yard may be reduced to a depth equal to the average of the front yards of garages or carports. However, in no case shall the front yards be reduced to less than ten feet (10'). Further, the Permit and resource management department director may require a use permit if the reduction might result in a traffic hazard.

(5)Notwithstanding the above, if a residence is elevated to meet flood requirements, the space underneath the structure may be utilized for a garage or carport if it will meet building codes, even if the ten foot (10') to twenty foot (20') setback cannot be met, subject to approval of administrative design review.

(6)Cornices, eaves, canopies, bay windows, fireplaces, other cantilevered portions of structures, and similar architectural features may extend two feet (2') into any required yard. The maximum length of the projections shall not occupy more than \_\_\_\_ of the total length of the wall on which it is located. Uncovered porches, fire escapes, or landing places may extend six feet (6') into any required front or rear yard and three feet (3') into any required side yard.

(7)Where twenty-five percent (25%) or more of the lots on any one (1) block or portion thereof in the same zoning district have been improved with buildings, the required front yard may be reduced to a depth equal to the average of the front yards of the improved lots, subject to the restrictions of Section 26C-102(f)(4).

(8)Accessory buildings may be constructed within the required yards on the rear half of the lot, provided that such building(s) shall not occupy more than thirty percent (30%) of the width of any rear yard. Such accessory buildings shall not be located closer than ten feet (10') to the main buildings on adjacent lots. Notwithstanding the foregoing, swimming pools may occupy more than thirty percent (30%) of the width of any rear yard. A minimum of three feet (3') shall be maintained between the wall of a pool and the rear and side property lines, and from the main building on the same lot. Conventional pool accessory equipment (pump, filters, etc.) shall be exempt from setback restrictions. Additional setbacks may be required under the uniform building code.

**(9)Additional setbacks may be required within a sensitive area, riparian corridor, scenic corridor, critical habitat area, or unique feature, designated in the general plan or coastal plan.**

(g)Parking Requirements:

(1)Residential Uses: Require one (1) covered off-street parking space and one (1) screened parking space per dwelling unit. The requirements for covered parking may be waived by the director of the permit and resource management department where topographic conditions and/or small lot size make the provision of covered parking

difficult. Factors to be considered shall be compatibility with the neighborhood and safety of access onto public streets. Landscaping and/or fencing may be required where appropriate.

(2) Other uses shall conform to parking regulations. (h) Small lot subdivision standards for single-family detached dwelling unit subdivisions. **Sec. 26C-102.**

This appeal also implicates Section 26C-382, which sets forth “**Site development standards**”:

**Section 26-380A. Purpose**

To preserve and protect sensitive areas through appropriate development guidelines when grading, fill, or construction is necessary.

**Section 26-380. Application**

The regulations contained in this article shall be the minimum requirements and shall apply within a sensitive area, riparian corridor, scenic corridor, critical habitat area or unique feature designated in the general plan or coastal plan, and as defined in this chapter.

Where the policies of the coastal plan apply to a development they shall take precedence over these standards. Where the policies and standards of the general plan are more restrictive than those of the coastal plan or any of the standards below, the general plan standards and policies shall apply.

**Section 26C-382. Site development standards.**

**(a) Access roads, driveways, turnarounds.**

**(1) All residential uses and all other uses involving structures exceeding one thousand (1,000) square feet of floor area shall be served by an all-weather road or driveway adequate to provide fire and emergency equipment access.**

**(2) All required roads and driveways shall have a minimum cleared width of twelve feet (12') with an all-weather surface.**

(3) Required roads less than two (2) travel lanes in width shall include not less than one (1) turnout for each three hundred feet (300') of length.

(4) Maximum permitted grade on required roads shall be fifteen percent (15%) providing that a variance permit may be issued to allow road grades up to twenty percent (20%) for distances not exceeding 250 feet in any single instance and not exceeding two hundred fifty feet (250') in each one thousand two hundred fifty feet (1,250) of total roadway when required by local topography

**(5) Turnaround areas sufficient to accommodate fire and emergency equipment shall be provided adjacent to each residential structure and at the end of any dead-end roadways. Circular turnarounds shall be a minimum diameter of ninety feet (90'). Hammerhead configurations shall require minimum centerline radii of curvature of fifty feet (50').**

(6) No required roads shall have a centerline radius of curvature of less than fifty feet (50').

**(7) All weather surface on required roads shall utilize sufficient class I sub-base or class II base or equivalent native material to provide for unimpaired emergency equipment access during wet weather conditions.**

(8) Bridges and culverts shall be constructed to support a load of not less than twenty (20) tons with a surfaced travel land of not less than twelve feet (12').

(9) All roads shall be designed and constructed in accordance with the grading, drainage, erosion and sediment control standards of this chapter.

**(f) Fire protection.**

**(1) Ability to meet access and water supply storage and distribution standards shall be demonstrated prior to the issuance of any building permit.**

(2) Vegetation and other flammable material shall be cleared and maintained in accordance with all the requirements of the applicable fire service agency.

(3) Within any area designated extreme fire hazard in the general plan or coastal plan, vegetation and other combustible material clearance shall extend not less than one hundred fifty feet (150') on each side of any building or structure.

(4) Every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel shall be provided and maintained with an approved fire screen over the outlet.

(5) All buildings or structures located within areas designated as extreme fire hazards in the general plan or coastal plan shall be constructed using fire proof or fire-resistant roofs. All building projections including eaves, overhangs, canopies, balconies, decks, and unenclosed under-floor areas shall utilize suitable fire resistant constructions.

(6) All internal combustion engines operated in fire hazardous areas shall be equipped with approved spark arresters.

**(j) Landscaping and vegetation.**

(1) Native vegetation shall be retained, protected, and supplemented to the maximum extent possible.

(2) Fuel wood harvesting, except timber stand improvement, shall be conducted on a sustained yield basis. Harvested areas shall be protected from grazing until restocking is assured. Replanting shall be required whenever root sprouting fails to re-establish the initial native vegetation density.

(3) Landscaping, screening, and windbreaks shall utilize native species to the maximum extent possible.

**(l) Geologic hazards.**

(1) All uses subject to the requirements of the Alquist-Priolo Special Studies Zone Act for protection from fault rupture hazard shall demonstrate

compliance prior to issuance of any use permit, building permit, or other entitlement.

(2) All structures for human occupancy including mobile homes shall be designed and constructed to withstand without major structural damage groundshaking resulting from the maximum credible earthquake event for the area as specified in the Division of Mines and Geology Special Report 120 and adopted herein by reference.

(3) No structure for human occupancy shall be placed within the Tsunami Hazard zone as specified in the Division of Mines and Geology Special Report 120.

(4) Any structure for human occupancy proposed for construction within any area designated in the Division of Mines and Geology Special Report 120 as slope stability categories "Landslides", C or Bf shall require review and approval of all grading, site preparation, drainage, and foundation plans by a registered engineering geologist.

**(q) Scenic corridor.**

**(1) Ten (10) scenic corridors have been identified in the coastal plan. The extent of land visible from the scenic corridors have been mapped on the coastal visual resource maps incorporated by reference and on file in the permit and resource management department.**

**(2) All new development shall conform with coastal plan visual resource element recommendations, applicable scenic view protection policies and policies related to landform and vegetation categories, or subsequently approved area design guidelines.**

**(3) Design review for all new development to be required in accordance with the procedures described in the coastal plan visual resource element and coastal administrative manual.**

**(4) Coastal permits for development within designated scenic corridors shall not be approved except when it can be determined that the development will:**

**a. Create a consistent visual relationship with surrounding development and with the natural terrain and vegetation;**

b. Require minimum grading and vegetation removal;

**c. Not significantly obstruct existing public views;**

d. Utilize native plants for required landscaping;

e. Utilize building material colors and textures complementary to the natural landscape;

**f. Harmonize with the design characteristics of surrounding development;**

g. Minimize outdoor lighting, shielding it sufficiently to assure no glare toward residential areas or roadways.

The following subsections shall address the various grounds for appeal in more detail:

## A. Grounds for Appeal - **Public hearing and comment**

The following provisions of the LCP, specifically the Coastal Zoning Ordinance, are implicated by the County's procedural handling of the CDP in this case, particularly the appeals to the Planning Commission/Board of Zoning Adjustments and Board of Supervisors. The fairness and thoroughness of the local LCP appeals process is a matter of regional significance, since faithful application of the LCP largely depends on the County conducting a thorough and honest factual and legal analysis.

This case presents a precedential issue because the County reports, which were supposed to present and analyze the issues on appeal, in many instances glossed over the true dispute. Some of the reports' conclusions are also based on material factual inaccuracies, such as the date of the lot's creation and the source of the lot size calculation. These serious factual inaccuracies suggests that no one actually reviewed the underlying documents that the County is trying to use to support its decision. Addressing shortcomings in the local LCP appeals process is important to ensuring that the LCP is actually enforced.

### **Section 26C-344. - Notice.**

(a) At least ten (10) calendar days prior to any public hearing notice of the hearing shall be provided by the following method:

- (1) Mailed notice to the applicant.
- (2) Mailed notice to all persons who have, in the past calendar year, requested county notice of all coastal permits.
- (3) Mailed notice to any person who has, in writing, requested notices relating to the permit in question.

**(4) Mailed notice to all property owners within three hundred feet (300') of the perimeter of the property on which the project is proposed.**

**(5) Mailed notice to residents within one hundred feet (100') of the perimeter of the property on which the project is proposed.**

(6) Mailed notice to the coastal commission.

**(7) If the matter is heard by the planning commission, one (1) publication of notice in a newspaper of general circulation. Such notice shall include items 1 thru 7 and 9 thru 13 in Section 26C-344(c).**

(c) For the purposes of this section, each notice shall contain the following, as specified in paragraphs (a) and (b):

- (1) Date of application filing.
- (2) Name of applicant.
- (3) File number.
- (4) Project location and assessor's parcel number.
- (5) Project description.
- (6) Permits requested.
- (7) Date, time and place of public hearing.
- (8) Date of decision, if no public hearing is requested.
- (9) General hearing procedural information.

(10)Method of submitting written comment.

**(11)Notice that action is appealable to the county governing bodies, and to the coastal commission, if applicable.**

(12)Method of appeal and fees, if applicable.

(13)A statement that the development is within the coastal zone.

**Coastal Zoning Ordinance § 26C-345.**

**Sec. 26C-345. - Conditions.**

Approval of a coastal permit shall be conditioned as necessary to ensure conformance with and implementation of the coastal program. **The approving authority may require modification and re-submittal of project plans, drawings and specifications to ensure conformance with the coastal program. When modification and re-submittal of plans are required, action shall be deferred for a sufficient period of time to allow the director of the permit and resource management department to prepare a recommendation on the modified project.** Coastal Zoning Ordinance § 26C-345.

From the time this CDP was filed, there have been issues with inadequate notice. For example, the owners of 1010 Highway 1 only learned of the pending CDP from their neighbor, even though the LCP requires the County to give notice because 1010 Highway 1 is within 300 feet of the Project. Although the County claimed to have mailed a notice to 1010 Highway 1, no notice was ever received by mail. To date, we believe it is quite possible that other property owners within the required notice radius may never have been informed of the project, of the appeal to the Planning Commission/Board of Zoning Adjustments, or of the appeal to the Board of Supervisors. For example, we know that several of the property owners within 300 feet of the Project do not live in Bodega Bay. Accordingly, providing notice is important to ensuring that all parties affected by the Project are kept apprised of it. We are also unaware of the County ever publishing notice of the hearings.

Prior to the hearing before the Planning Commission/Board of Zoning Adjustments in 2018, County staff was repeatedly asked for the legal and factual basis for why it was not applying certain subsections of the LCP and Coastal Zoning Ordinance that appeared to be directly applicable. For example, we asked why the County was applying the 24-foot height limit in Coastal Zoning Ordinance 26C-102(b)(4), rather than the 16-foot height limit 26C-102(b)(2). The County staff refused to explain its analysis, even when we noted that public records showed 1020 Highway 1 as in "Old Bodega Bay," and the LCP has specific height limits for the "**Bodega Bay Core Area residential.**" Section 26C-102(b)(2). Similarly, when we raised concerns about the lot size calculations and that it conflicted with tax, Assessor and public records showing that the lot was only 3,600 square feet (rather than 4,138 square feet as listed in the Applicant's CDP), the County staff refused to explain why it was taking the Applicant's calculations on their face and not using its own Assessor and parcel information (see **Exhibit 1**). To date, the County has never explained why it has given no weight to its own Assessor and parcel data.

The County's unwillingness to articulate the factual and legal basis for its decisions, particularly in deciding what provisions of the LCP to apply, affects the very fairness of the proceedings; it is impossible as private citizens to respond cogently to broad, conclusory statements because we have no information about how the County arrived at its conclusions. Moreover, in cases where substantive concerns have been raised about which provisions of the Coastal Zoning Ordinance applies, we believe it is essential that the County be required to explain how and why it determined which of competing provisions applied (such as different height limits).

For example, the County's staff report for the Planning Commission/Board of Zoning Adjustments contains no reference to many concerns raised about how the County was applying the LCP and Coastal Zoning Ordinance. **See Exhibit 17.** From reading the County's staff report, no member of the Planning Commission/Board of Zoning Adjustments would even know that Section 26C-102(b) actually has several different height requirements that could apply to a project East of Highway 1. Nor would they know that written comments had been submitted raising concerns that the County was applying the incorrect subsection. *See* Section 26C-102(b)(2)-(5). **See Exhibit 17, at 5.** On its face, the staff report makes it look like a very simple issue, to which only one subsection applies. This omission, and others like it throughout the staff report, affected the fairness of the appeals process, because members of the Planning Commission/Board of Zoning Adjustments and Board of Supervisors give great weight to the staff reports and rely upon them to identify the issues on appeal and provide a balanced analysis. However, in this case, the staff report omits mention of written comments raising concerns that 1020 Highway 1 is in the "**Bodega Bay Core Area**" and thus subject to the different height limit in Section 26C-102(b)(2). **See Exhibit 17, at 5.**

As another example, the staff report does not discuss written concerns raised about the Project's yard setbacks being insufficient, because the entrance is on the side of the home, approximately 5 feet from the edge of the road. Rather, the staff report simply states that the applicable setback for a "**side yard**" in 26C-102(f) is "**minimum of five feet (5')**." From looking at the staff report, no member of the Planning Commission/Board of Zoning Adjustments would even know that Section 26C-102(f)(2) actually has greater setback requirements for side yards when the "**entrance to a building faces the side line**" (as it does with this Project). Section 26C-102(f)(2). In such cases, "**said side yard shall be not less than ten feet (10')**." *Id.* Nor would the members know that written comments had been submitted raising concerns about the adequacy of this setback and the potential fire hazard caused by having two structures separated by no more than the shared road that runs between them. As another example, from looking at the staff report, no member would know that written comments had been submitted raising concerns that the Applicant's lot size calculation was inaccurate. **See Exhibit 17, at 5** (discussing maximum lot coverage).

The Summary Report to the Board of Supervisors recommends denying the appeal, but like the staff report prepared for the earlier appeal, in many instances lacks any

acknowledgement or discussion of the actual issues raised on appeal. **See Exhibit 18.** For example, the portion of the Summary Report discussing the height limit does not even mention the LCP's 16 foot height limit for the "**Bodega Bay Core Area**" in Section 26C-102(b)(2), or discuss the appeal's contention that 1020 Highway 1 is in the "Bodega Bay Core Area." As written, no one on the Board of Supervisors would know that the LCP actually sets out several different height limits for properties East of Highway 1; they certainly would not have any factual or legal basis for analyzing the real issue, which is whether the Project is in the "Bodega Bay Core Area."

Similarly, in discussing the issue of maximum lot coverage, the Summary Report states that the "Grant deed for the subject parcel shows one legal lot totaling 4,138 square feet that includes the common right of way." **Exhibit 18, at 3.** As written, no one on the Board of Supervisors would know that the grant deed actually does not state that the lot is "4,138 square feet" or contain any calculation of the lot's square footage. Nor would the Board of Supervisors know that the Applicant's calculation of lot size (4,138 square feet) is inconsistent with the Assessor and Parcel records, as well as actual mathematical calculations using the lot dimensions from the grant deed.

At the actual hearing before the Planning Commission/Board of Zoning Adjustments, County staff offered oral responses to concerns raised about the minimum lot size requirement in the LCP (**Section 26C-102(c)**), as well as the adequacy of the fire and safety reviews based on the inaccurate plans and site map. One of these oral responses was the County's determination that 1020 Highway 1 was a legal lot, and not subject to the requirements of Section 26C-102(c). By waiting until the hearing to offer this new justification, the County affected the fairness of the proceeding in two fundamental ways: First, there was no time for appellants to research the issue. Second, the County did not explain the legal or factual basis for its determination that it was a "legal lot" and why being a legal lot exempted the Project from certain requirements in the LCP. The County staff also told the Planning Commission/Board of Zoning Adjustments that it could not make separate findings regarding the health and safety concerns raised on appeal or at the hearing. This advice is contrary to the LCP, which provides that "**The approving authority may require modification and re-submittal of project plans, drawings and specifications to ensure conformance with the coastal program. When modification and re-submittal of plans are required, action shall be deferred for a sufficient period of time to allow the director of the permit and resource management department to prepare a recommendation on the modified project.**" Section 26C-345. Contrary to what they were told, the LCP expressly grants the Planning Commission/Board of Zoning Adjustments authority to require modification and re-submittal of project plans, drawings and specifications.

Similar problems with notice and procedural fairness plagued the hearing before the Board of Supervisors. Even though we were the Appellants, we were not provided with any of the materials for the hearing, including the Summary Report with the County's analysis, until 2 business days before the hearing -- the same day that the materials were made available to the general public. **See Exhibit 18.** Responses were

then due 1 business day later. Only after reading the County's analysis in the summary report did we become aware of what the County was relying on as the factual and legal grounds for approval of the CDP. **See Exhibit 18 (County Summary Report)**. This Summary Report was crucial to our appeal because the County had previously been unwilling to provide the factual or legal support for the positions it orally took at the December 2018 hearing. After reading the Summary Report, we identified several factual and legal errors that required a response.

However, despite timely submitting a detailed letter with exhibits for distribution to the Board of Supervisors, the County did not and has not included those materials in the public record for the July 2020 hearing. The letter is attached as **Exhibit 21 (which had Exhibits 1-11 of this appeal as attachments)**. We requested confirmation from the County that **Exhibit 21** and its exhibits were distributed to the Board of Supervisors, but never received any such confirmation. We also requested that the letter and its exhibits be added to the materials posted for the hearing, as had been done with comments submitted by the Applicant. To date, neither the letter nor the exhibits have been uploaded.

Based on how the hearing before the Board of Supervisors proceeded, we question whether that letter (**Exhibit 21 and associated exhibits**) was distributed to the Board. Even if it was, the process that the County used for soliciting and distributing written comments on the CDP appeal does not allow for actual, substantive review: the timing (1 business day to submit comments, with the hearing the next day), does not realistically permit the Board to review or consider any substantive comments about the CDP, particularly when it requires understanding a multi-year administrative record.

The fairness of the local CDP appeal process was also affected by inaccurate information that the County provided about the hearing format. Inaccurate information about a hearing undermines the very purpose of Section 26C-344(c), which requires the County to provide information about the hearing process. As Appellants, we were also told that one person would have 10 minutes for introducing the reasons for the appeal, but that the other appellants would also have 3 minutes each to make specific arguments. At the hearing itself, we learned after the initial speaker that the other appellants would be limited to 1 minute each; this time limit was never announced and quite different from the information received before the hearing. As a result, the first speaker was simply cut off when 1 minute had elapsed. Based on the information that we had received from the County before the July 2020 hearing process and time limits, we had planned to divide the substantive issues among several speakers because many of the issues were not addressed in the County's Summary Report. **See Exhibit 18** (omitting any discussion of Bodega Bay Core area height limits, the right-of-way easements over Applicant's property and their effect on maximum lot coverage, lot size calculation disagreement with Assessor information). The incorrect information about the hearing format thus materially affected the appeal; it is not possible to make a substantive comment in 1 minute, particularly after being led to believe that 3 minutes was the time limit.

## **B. Grounds for Appeal - Lot Size Calculation Used to Approve the CDP**

The County's approval of this CDP hinges on the County's calculation of the lot size for 1020 Highway 1, which is parcel 100-100-005 according to the County Assessor. The staff reports prepared by the County state that the parcel is 4,138 square feet. **See Exhibit 17, at 1; Exhibit 18, at 1.** This calculation is very important because the CDP's compliance with the LCP requires an accurate calculation of the lot size. *See* Section 26C-102.

From the beginning, concerns about the accuracy of Applicants' lot size calculation were raised with the County planning staff. The lot size calculation was challenged again in the hearing before the Planning Commission/Board of Zoning Adjustments, and most recently in the hearing before the Board of Supervisors.

Some of the materials that we provided to the County staff and Board of Supervisors before the July 14, 2020 hearing included the County Zoning & Parcel Report for 1020 Highway 1, the County Assessor's parcel map, and the Applicant's own grant deed. **See Exhibit 1** (Sonoma County Zoning & Parcel Report for 1020 Highway 1), **Exhibit 3** (Assessor's Parcel Map), **Exhibit 2** (Applicant's grant deed). We also submitted a written letter detailing why the Applicant's lot size calculation was incorrect in light of these materials, as well as diagrams showing our own calculations based on the Applicant's grant deed. **Exhibit 21** (which had this appeal's Exhibits 1-11 as supporting evidence).

In determining lot size for the purposes of applying the LCP, the County did not use the County Assessor's calculation of 3,600 square feet, but instead deferred to the Applicant's own calculation of 4,138 square feet. At no time has the County resolved this discrepancy, or explained the legal or factual grounds for disregarding its own Assessor's calculations.

The County's approval of the CDP is not supported by the factual record or the law because the County's lot size calculation is inconsistent with the County's own parcel and Assessor records. The Assessor has determined that 1020 Highway 1 (parcel 100-100-005) is 3,600 square feet. *See Exhibit 1.* If the lot were actually 4,138 square feet, as Applicants have contended in their CDP, this would be reflected in the Assessor records. Notably, the sales listing for 1020 Highway 1, which is how Applicants learned about the lot and what they relied upon in purchasing the property, matches the Assessor records: it states that 1020 Highway 1 is 3,598 square feet, not 4,138 square feet. **Exhibit 13** (sales listing for 1020 Highway 1).

In response to these concerns that the lot size was calculated incorrectly, the staff report prepared for the Board of Supervisors suggests that the lot's square footage is set forth on the Applicant's grant deed. **See Exhibit 18, at 3** (highlighted). It is not: Nowhere does the deed specify lot size or calculate it. The problem with this portion of the

County's summary report is that it could have misled the Board of Supervisors into thinking that the grant deed definitively resolved the question of lot size, when it did not.

The Applicant's grant deed is attached as **Exhibit 2**. A cursory review makes clear that nothing on it "shows one legal lot totaling 4,138 square feet." **See Exhibit 18, at 3** (quote from the summary report). Thus, the County's only evidence for using the Applicant's lot size calculation is unsupported by the factual record. All that Applicant's grant deed has is a written description of a parcel of land with its dimensions. The shape of the lot and its dimensions are shown on the County Assessor's parcel map, **Exhibit 3**. The parallel sides of the trapezoidal lot are 85.05 and 99.5 feet long. The perpendicular side is 39.5 feet, and the opposite, diagonal side (which runs along Highway 1) is 42 feet.

The County's response to concerns raised about the lot size calculation were and are inadequate, because the grant deed does not contain the square footage and the Applicant's calculation conflicts with the County Assessor records. The County Assessor is responsible for keeping accurate records of lot sizes, which are used to calculate and collect property taxes. The County Assessor's calculation should be given great deference and weight, especially when there is no contrary recorded document that actually shows Applicant's lot size to be 4,138 square feet.

The County's determination of lot size is also unsupported by the Applicant's own grant deed, which is the only evidence that the County cited. **See Exhibit 2** (Applicant's grant deed). Using the dimensions from Applicant's grant deed, which match those on the County Assessor's parcel map, we calculated the square footage of 1020 Highway 1. Our calculations are shown on the attached schematic, **Exhibit 4**; we found the total area to be 3,644 sq ft. This calculation is very close to the County Assessor's determination of 3,600 square feet; the discrepancy is likely due to the property not being a true trapezoid, which is what we assumed in our calculations. **See Exhibit 1**.

Given that many of the zoning requirements under the LCP, particularly the Coastal Zoning Ordinance, hinge on lot size, there are many incentives for an Applicant's calculation to be greater than the actual physical dimensions of his/her property. In this case, for example, the sales listing that resulted in the Applicants ultimately purchasing 1020 Highway 1 lists the lot size as essentially what is shown on the County Assessor's records, 3,598 square feet, **compare Exhibit 3 with Exhibit 13**. When it came time to apply for the CDP, however, Applicants suddenly began to contend that their lot was actually 4,138 square feet, as shown on their initial application. **See Exhibit 19** (claiming lot is 0.096 of an acre).

Proper implementation of the LCP depends on accurately calculating the lot size. The Coastal Commission has an important role in ensuring that counties are being fair and uniform with their methodology for calculating lot size, and that the basis of these calculations is a reliable and verifiable source, such as the Assessor's records.

### C. Grounds for Appeal - **Whether 1020 Highway 1 Is a Legal Lot**

In urging the Board of Supervisors to approve the CDP for 1020 Highway 1, County staff repeatedly stressed that 1020 Highway 1 was a “legal lot created in 1902.” **Exhibit 18, at 4 (#4)**. The County therefore reasoned that “because the lot was created legally, development of the lot is allowed, however all current development standards must be met”, which the County acknowledges to include the LCP and Coastal Zoning Ordinance for coastal regions. **See Exhibit 18, at 4.**

None of the staff reports for this CDP explain the factual or legal basis for the County’s determination that it is a “legal lot.” Whether a particular parcel is a “legal lot” is a case-by-case determination, and requires consideration of the specific facts and circumstances for that lot.

Given that this is the first time that anyone has applied to develop anything on 1020 Highway 1, the County should have analyzed the facts and circumstances of the lot’s creation before approving the CDP. This analysis is important because the lot is very small (3,600 square feet) and located on a scenic corridor.

There is no evidence that the County has conducted the requisite analysis of 1020 Highway 1’s history necessary to deem it a “legal lot,” because the one fact cited by the County in support of its “legal lot” determination is factually wrong. The Summary Report states that the lot making up 1020 Highway 1 was “created in 1902.” But that is not true. **See Exhibit 10, at 5; Exhibit 22.** In a 2002 survey of 1010, 1020 and 1030 Highway 1, the surveyor notes that the first description of the four parcels that make up 1010, 1020 and 1030 Highway 1 appears in the Amended Order and Decree of Distribution from the Estate of Perry F. DeBolt from December 28, 1951. **See Exhibit 10, at 5.** Due to concerns about the County’s analysis of “legal lot,” we recently obtained the 1902 deed (**Exhibit 22**) that is referenced in Applicant’s grant deed (**Exhibit 2**).<sup>2</sup> It is **Exhibit 22**.

**Exhibit 22** does not describe 4 parcels or any easements. It describes one “lot” -- not lots -- or one “piece or parcel of land.” **Exhibit 22.**

The description of 4 parcels originates from the Order and Decree of Distribution for Perry F. DeBolt’s estate (hereinafter “Order and Decree of Distribution”. **Exhibit 23, see Exhibit 10, at 5.** This Order and Decree of Distribution was originally recorded in 1946;

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<sup>2</sup> Due to the pandemic, we were not able to obtain the deed before the July 2020 hearing before the Board of Supervisors; it was only after reviewing the staff report for that hearing that the County’s reliance on the 1902 deed was apparent.

an Amended Order and Decree of Distribution was recorded on December 28, 1951.<sup>3</sup> **Exhibit 23, at 1.**

As described in **Exhibit 23**, Perry F. DeBolt's will left the one large, undivided parcel that he purchased in 1902 (the property described in **Exhibit 22** as "real property consisting of house and lot") to his 4 children: Robert A. DeBolt, Alice Wilson, Lucy Ketterlin, and Kate Butler. After Perry F. DeBolt's death in 1941, the 4 heirs executed "deeds of conveyance among them" which "apportioned the real property between them." **Exhibit 23, at 2.** The Amended Order and Decree of Distribution then goes on to describe the 4 parcels that eventually became known as 1010 Highway 1, 1020 Highway 1 and 1030 Highway 1 (which consists of 2 of the parcels described in the Order and Decree of Distribution). **See Exhibit 23, at 2-4.** The legal descriptions that the heirs used in their "deeds of conveyance among them" are what appear in Applicant's grant deed, as well as the grant deeds for 1010 and 1030 Highway 1. **See Exhibit 2, 8, 9.**

As a threshold matter, the date and manner of a lot's creation determines its current legal status. Here, the County's determination that 1020 Highway 1 "was legally created" is not supported by the County's legal or factual analysis. The lot was not created in 1902 and there is no evidence that the County has looked at the facts or circumstances surrounding the lot's creation in 1951 through the probating of Perry F. DeBolt's estate. **See Exhibit 18, at 4.**

The County's analysis is also inadequate because California state law and case law require such a factual analysis before making any pronouncements as to whether a particular parcel is a "legal lot." The fact, for example, that a parcel appears on an Assessor's map is no guarantee that the parcel is a legal lot; this disclaimer even appears on the Assessor's map. **See Exhibit 3.**

Since 1893, the State of California has regulated the subdivision of lots. **See Subdivision Map Act, Cal. Gov. Code § 66410 et seq. (Map Act).** The Map Act is the "primary regulatory control" governing the subdivision of real property in California. *Hill v. City of Clovis*, 80 Cal. App. 4th 438, 445 (2002). The Act generally requires anyone seeking to subdivide property to design their subdivision in conformity with applicable general and specific plans, and to comply with all of the conditions of applicable local ordinances. *Id.* at 445. As used in the Act, "subdivision" means "the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous parcels, for the purpose of sale, lease or financing, whether immediate or future." **Cal. Gov. Code § 66424.** Ordinarily, subdivision under the Act may be lawfully accomplished only by obtaining local approval and recordation of a parcel map pursuant to section 66428 when four or fewer parcels are involved. *See John Taft Corp. v.*

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<sup>3</sup> The Amended Order and Decree superseded the prior Order and Decree filed in 1946, so we have used the Amended Order and Decree for purposes of our analysis.

*Advisory Agency*, 161 Cal. App. 3d 749, 755 (1984). A local agency will approve a parcel map only after extensive review of the proposed subdivision and consideration of such matters as the property' suitability for development, the adequacy of roads, sewer, drainage, and other services, the preservation of agricultural lands and sensitive natural resources, and dedication issues. **See, e.g., Cal. Gov. Code §§ 66451-66478.** By the time the DeBolt heirs executed "deeds of conveyance among themselves," Sonoma County had local ordinances governing subdivisions.

The Map Act contains very specific requirements for the creation of legal parcels. California State law also provides that a Court decree, such as the Amended Order and Decree of Distribution, does not in itself create separate legal parcels. **Cal. Civil. Proceed. § 872.040 ("Nothing in this title excuses compliance with any applicable laws, regulations, or ordinances governing the division, sale, or transfer of property.")**

In order for the DeBolt heirs' division of the one, undivided lot that they inherited into 4 parcels to constitute a legal subdivision and thus create 4 "legal lots," they had to comply with the Map Act, including local subdivision laws in effect at the time. There is no evidence in this case, however, that they did. First, a search of County records reveals no contemporaneously recorded parcel map for the 4 parcels. Second, the court's Amended Order and Decree of Distribution make mention of no fees or costs paid by the estate to create or record a parcel map, or obtain the necessary County approvals for a subdivision, which is the sort of cost that one would expect to find if the subdivision had been approved.

As noted in the 2002 survey, this 1951 Amended Order and Decree of Distribution is the "deed of origin" for 1030 Highway 1 (the "Marker" property), as well as 1020 and 1010 Highway 1 ("Shleser/Colma" property). **See Exhibit 10, at 4.** However, importantly, the surveyor in 2002 found that the "parcel descriptions" in Order and Decree of Distribution "contain inconsistent mathematical courses and some confusing and ambiguous language." **Exhibit 10, at 4.** The existence of inconsistent mathematical courses, as well as confusing and ambiguous language is strong evidence that the heirs did not obtain local approval to subdivide the inherited parcel into 4 lots. After all, one of the purposes of an official, recorded parcel map and local agency approval is to ensure that there is no "inconsistent mathematical courses" or "confusing, and ambiguous language."

The manner in which the four lots that now make up 1010, 1020 and 1030 Highway 1 were created also casts doubt on whether any of the lots were meant to be separate, buildable sites. Until 1971, 1010 and 1020 Highway 1 were held by members of the DeBolt family, who only constructed one home on 1010 Highway 1, even though they had the two "lots" created through probate. After the DeBolts sold the lots, 1010 and 1020 Highway 1 were always owned by the same people or close family members (husband/wife) until they were sold separately in 2016. Similarly, the two parcels making up 1030 Highway 1 only have 1 home built across the two lots making up that

property, which have been conveyed together for decades. Until 2016, when 1020 Highway 1 was sold to the Applicants,<sup>4</sup> no attempts were made to separately develop that parcel.

As has been true of other aspects of this CDP and the County's analysis, this factual error about when (and how) 1020 Highway 1 was created is not trivial. The Summary Report to the Board of Supervisors incorrectly suggests that 1020 Highway 1 was legally subdivided in 1902; it was not. **Compare Exhibit 18, at 4 with Exhibits 22, 23.** Whether 1020 Highway 1 is a "legal lot" is a significant issue of precedential importance outside of this case, because when a lot was created and what was on it prior to the Coastal Act affect whether it can be developed under the LCP. It is thus an issue of regional and state significance to ensure that the County is properly determining when a lot was "legally created" and actually analyzing whether that lot met the requirements of California state law and local law at the time (in this case, the 1950s). There is no evidence that the County conducted any of that analysis, since its staff reports repeatedly claim that 1020 Highway 1 was in existence in 1902, nearly five decades before the Amended Order and Decree of Distribution (the actual "deed of origin") was filed in 1951.

#### **D. Grounds for Appeal - Right-of-Way Easements**

The CDP raises a precedential issue regarding the treatment of right-of-way easements, which play an important role in the coastal zone. The County's treatment of right-of-way easements for this CDP conflicts with the California state law, the LCP, and settled common law. It also treats the three different right-of-way easements implicated by this CDP differently, making the County's own analysis internally inconsistent.

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<sup>4</sup> Applicants have repeatedly argued that the owners of 1010 Highway 1 and/or 1030 Highway 1 should have purchased the lot when it was listed for sale if they were concerned about development; they have also suggested that this is an attempt to obtain the same result for free.

The truth is very different. The owners of 1010 Highway 1 and 1030 Highway 1 both attempted to purchase the lot before it was sold to the Applicants. Specifically, the owners of 1010 Highway 1 made an offer to purchase both lots and had extended negotiations about the purchase of both lots. Those negotiations unfortunately broke down. The owners of 1010 Highway 1 also had plans to make a separate offer to purchase 1020 Highway 1 when they were not able to purchase the lot with the house on 1010 Highway 1; however, they learned 1020 Highway 1 was under contract before they could make an offer. The owners of 1030 Highway 1 also made an offer to purchase 1020 Highway 1; their offer was actually for more than the list price and more than Applicants paid. The prior owner nonetheless rejected the offer by the owners of 1030 Highway 1, likely because they had had an acrimonious history as neighbors.

If the lot were ever offered for sale again, the owners of 1010 Highway 1 would again seek to purchase it.

Applicant's grant deed (**Exhibit 2**) describes two things: the lot that they purchased ("parcel one") and a right-of-way easement (inaptly called "parcel two"<sup>5</sup> on the grant deed). The County, without legal support, appears to have treated this right-of-way easement over 1010 Highway 1 as a "lot" for the purpose of calculating lot size for this project. **See Exhibit 18, at 3.**

In the Summary Report's discussion of maximum lot coverage, the staff cites the LCP's definition of "lot" in support of its position that the "easement area" should be included in the lot size calculation. Section 26C-12 of the LCP defines a lot as "**a legally defined parcel or contiguous group of parcels in single ownership or under single control, usually a unit for the purposes of development.**" **See Exhibit 18, at 3.** There are two problems with this analysis.

First, there is only 1 piece of land that actually makes up 1020 Highway 1. It is Sonoma County parcel 100-100-005. **See Exhibit 3.** That is the land that has the trapezoidal shape, which has a square footage of 3,600 square feet according to the County Assessor and zoning records. **Exhibit 2.** No other land is deeded to the Applicants. **See also Exhibit 20, at 6.**

There is one other property right mentioned on the grant deed for 1020 Highway 1: it is a "Common Right of Way," which is a type of easement. **Exhibit 2.** An easement is a property right, but it is a property right in *another person's* land. It can never enlarge the actual amount of property owned by the Applicants, and cannot make 1020 Highway 1 any bigger than the 3,600 square feet calculated by the Assessor. In other words, by definition, the easement described in the Applicant's grant deed does not describe land that actually belongs to the Applicants or is part of 1020 Highway 1, but rather defines their right to use part of the land that makes up 1010 Highway 1, parcel 100-100-006. The Applicants do not own 1010 Highway 1, and the owners of 1010 Highway 1 have never given permission for the Applicants to use any part of 1010 Highway 1 for their project, including their lot size calculation.

The County attempts to rely on Coastal Zoning Ordinance § 26C-12 (emphasis added), which defines "**lot**" as "**a legally defined parcel or contiguous group of parcels in single ownership or under single control, usually considered a unit for purposes of development.**" An easement, which is what is described in Applicant's grant deed under the section inaptly listed as "Parcel 2" is not a "parcel," by definition. California Civil Code § 801(4) makes very clear that easements are land burdens; they grant no ownership interests in the underlying land: "**The following land burdens, or servitudes upon land, may be attached to other land as incidents or appurtenances, and are then called easements: ... (4) the right-of-way.**" The County's decision to treat

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<sup>5</sup> The Amended Order and Distribution describes the same easements, but does not use the confusing "parcel two" language. **See Exhibit 23.** The original descriptions from 1951 make clear that 1020 and 1010 Highway 1 each consist of only 1 lot.

Applicant's easement as a "lot" is contrary to the State of California's Civil Code and settled common law.

Simply put, a right-of-way easement is a right to use another's land: in this case it gives the Applicants the right to travel across part of 1010 Highway 1, so Applicants can enter and exit their property. **Cal. Civil Code § 803** ("**The land to which an easement is attached is called the dominant tenement; the land upon which a burden or servitude is laid is called the servient tenement.**") An easement does not and cannot make the easement holder's property any larger. Moreover, the County cannot and should not be permitted to treat an easement in a way that is contrary to state law.

The easement holder can enforce his/her easement rights -- in this case, namely the right to cross 1010 Highway 1 to enter and exit 1020 Highway 1 -- but the Applicants do not own the underlying land that they are crossing and the creation of a right-of-way easement never changes the ownership of the underlying land. **See Cal. Civil Code § 809**. Indeed, the very fact that an easement is included in the Grant Deed for 1020 Highway 1 is evidence that the underlying property belongs to *someone else*, which here is the owners of 1010 Highway 1 (parcel 100-100-006). If the Applicants actually owned the land over which their right-of-way easement runs, there would be no need or reason to give an easement. Further, under California state law, common ownership would actually destroy Applicant's easement. **See Cal. Civil Code § 811** ("**A servitude is extinguished ... 1. By the vesting of the right to the servitude and the right to the servient tenement in the same person.**")

Because the right-of-way easement described in the inaptly labeled "Parcel 2" section of Applicant's grant deed does not give the Applicants any ownership interest in the land underlying the right-of-way easement, there is no additional "**lot**" or "**land**" to include in the lot size calculation pursuant to Section § 26C-12. **See Exhibit 2**. The very code section that the County attempts to rely on in substantiating its treatment of the easement says that for a contiguous group of parcels to be treated as one "**lot**," they must have "**single ownership or under single control.**" Section § 26C-12. Neither of these requirements is met here: (1) there is no "**single ownership**" because different people own 1020 Highway 1 and 1010 Highway 1, the land underneath Applicant's right-of-way easement that the County is trying to treat as one lot for its lot size calculations, and (2) there is no "**single control**" over 1020 Highway 1 and 1010 Highway 1, because there are different owners and the Applicants do not have sole control or use of the portion of 1010 Highway 1 that is subject to their right-of-way easement.

What Section 26C-12 actually shows is that because the Applicants do not own the land (1010 Highway 1) over which their right-of-way easement runs, it is not proper under the LCP to treat that land as part of Applicant's "**lot**" for any calculations under the Coastal Zoning Ordinance. If left unchanged, however, the County's interpretation of Section 26C-12 of the LCP would fundamentally change how lot size can be calculated and create serious conflicts with California state law. Thus, the entirety of what the

applicants own at 1020 Highway 1 is Assessor lot 100-100-05 (Parcel One on the grant deed), which is only 3,600 square feet.

As shown on the County Assessor's Parcel Map (**Exhibit 3**), the easements referenced on the grant deeds for 1010 Highway 1, 1020 Highway 1, and 1030 Highway 1 are not on separate, standalone parcels.<sup>6</sup> There is only one parcel, 100-100-005, that makes up 1020 Highway 1. Similarly, there is only one parcel that makes up 1010 Highway 1, 100-100-006. Several right-of-way easements run over these parcels, as shown on a survey that was done by the prior owners of 1010 and 1020 Highway 1 in 2002. **See Exhibit 10.** The County's conclusion, which it relied upon in approving the CDP, that the Applicant's have ownership of a second, additional "lot" is thus inconsistent with the facts and unsupported by the record. It is also contrary to state law and settled common law.

The County's interpretation of the LCP, particularly as it interacts and relates to other provisions, state law, and common law, is a matter of regional significance. Many properties in the Coastal Zone are subject to or have easements; many of these easements are long standing and important means for protecting the public's access to the water and beaches. Others, such in this case, are necessary for otherwise landlocked properties to access a public right-of-way. In this case, the County's treatment of the right-of-way easement as a "lot" is not supported by the LCP or California state law; it effectively makes the Applicants owners of part of 1010 Highway 1, parcel 100-100-006. That is an impermissible taking by the County and needs to be addressed. Were the County to apply this same logic in other cases, it could affect or destroy crucial right-of-way easements giving valuable coastal access or access to public roads.

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<sup>6</sup> Our initial appeal paperwork filed with the Board of Supervisors incorrectly described the right-of-way easements as being on separate parcels. Due to time constraints, at the time that appeal paperwork was filed, we had not yet obtained the County Assessor's plat map (**Exhibit 3**) and 2002 survey map (**Exhibit 10**), or grant deeds for 1020 Highway 1 (**Exhibit 2**) or 1030 Highway (**Exhibit 9**).

After obtaining those materials, it became clear that the right-of-way easements were not on separate lots, and that the grant deed's use of the term "parcel" did not actually refer to a separate, physical lot for any of the right-of-way easements. Indeed, Applicants appear to admit as much on their initial CDP application, which only lists them as owning 1 lot, Assessor Parcel No. 100-100-005. **See Exhibit 19.**

As shown on the Assessor's plat map (**Exhibit 3**), there is only one physical lot for 1020 Highway 1 and one physical lot for 1010 Highway 1. The right-of-way easements described in the "parcel 2" sections of the grant deeds for 1020 Highway 1 and 1010 Highway 1 are not parcels at all (the word choice is admittedly poor and initially misleading), but instead describes a portion of the neighboring parcel (1010 Highway 1 and 1020 Highway 1, respectively) that may be crossed to enter/exit that property. The County has incorrectly treated the heading, "parcel 2," as granting a greater ownership right than what is actually then described, which is a right-of-way easement.

## E. Grounds for Appeal -- **Maximum Lot Coverage**

The maximum lot coverage for any structure is 40%. Sonoma Code § 26C-102(e) ("**Maximum Lot Coverage: Forty percent (40%)**"). Because the County used the wrong lot size for the Project (4,138 square feet), it incorrectly determined that the Applicant's plan for a home with a footprint of 1,629 square foot was permissible. This footprint includes the "single family residence, garage, and driveway." **See Exhibit 18, at 3 (#2).**

Using the correct lot size of 3,600 square feet for parcel 100-100-05, the maximum lot coverage is 1,440 square feet. The project should thus not be approved in its current form, because its footprint is greater than 1,440 square feet and thus fails to comply with this development criteria of the LCP.

In evaluating a CDP, the LCP also requires the County to consider building scale:

**2) Building Scale. An issue closely related to integration of structural design with the physical conditions of the site is that of scale, the relationship of the size of the structure to its surrounding features, both natural and man-made. In the past, many houses have been built which are not out of scale with their surroundings. *They may be too massive for their lot size, block light and air for smaller neighboring homes, and destroy the harmony and character of the community.* LCP, at 169 (emphasis added).**

The project's current design will affect neighboring homes, namely 1010 Highway 1 and 1030 Highway 1. It will limit the light for 1010 Highway 1, which is smaller and will be in the Project's shadow for a portion of the day because the County has currently approved a setback of approximately 5 feet from the road, even though the LCP requires more. The Project has a much greater lot coverage than any of the neighboring homes, which matters in part because it is such a small lot. This Project is also out-of-scale with its surroundings, with a smaller setback from Highway 1 than 1010 Highway 1, and a higher roof line that will almost entirely block 1030 Highway 1's view.

Moreover, the County's calculations and determination of maximum lot coverage has repeatedly omitted reference and accounting for the 5-foot wide, right-of-way easement that runs along the eastern side of 1020 Highway 1 (the side that is 99.5' long). This right-of-way easement is on parcel 100-100-005 and covers approximately 493 square feet of the Applicant's property. **See Exhibit 7** (showing where the easement is located and size calculations for the easement on 1020 Highway 1 that belongs to 1010 Highway 1 and 1030 Highway 1).<sup>7</sup>

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<sup>7</sup> 1020 and 1030 Highway 1's right-of-way easements should not be confused with the separate right-of-way easement discussed previously, which appears in Applicant's grant deed and gives them a right-of-way over part of 1010 Highway 1. The easements

Both 1010 Highway 1 and 1030 Highway 1 have a right-of-way easement over this portion of Applicant's property: the easements are described in their respective grant deeds. **See Exhibit 8** (1010 Highway 1 grant deed), **Exhibit 9** (1030 Highway 1 grant deed).

These easements are necessary and in use: on this portion of Applicant's land, there is a paved road that the owners of 1010 Highway 1 and 1030 Highway 1 use to enter and exit their properties. Because it is a right-of-way easement, the Applicants are not allowed to build anything else on it. The County has repeatedly disregarded that this 493 square feet of Applicant's property cannot be developed in any way because it is subject to a right-of-way easement and in fact has a paved road on it, as seen in the aerial pictures. A copy of the grant deed for 1010 Highway 1 was presented to the Planning Commission/Board of Zoning Adjustments at the December 2018 hearing, but the members were orally advised by County staff that 1010 Highway 1's right-of-way easement had no bearing on approval of the CDP. Nothing, however, in the LCP or Coastal Zoning Ordinance suggests that right-of-way easements should be disregarded in this manner, particularly when determining maximum lot coverage for new development.

The County's approach, moreover, is at odds with other cities and counties that have enacted similar provisions to determine lot size and maximum lot coverage for the purposes of implementing the Coastal Act. For example, the Malibu Local Coastal Program defines "area, net" as "that portion of a lot or parcel of land which is: 1) Not subject to any easement or included as a proposed public or private facility such as an alley, highway or street or other necessary public site within a proposed development project; . . . Except as provided above, portions of a lot or parcel of land subject to a . . . any other private or public easement shall not be counted as a part of the net area." Malibu LCP § 2.1 (General Definitions), [https://qcode.us/codes/malibu-coastal/view.php?topic=local\\_implementation\\_plan-2-2\\_1&frames=on](https://qcode.us/codes/malibu-coastal/view.php?topic=local_implementation_plan-2-2_1&frames=on) (last visited Aug. 1, 2020). Malibu uses the net area of a lot to determine maximum lot coverage.

The County's actions have precedential and regional significance because of their inconsistent treatment of easements even within their evaluation and approval of this same CDP: First, in determining lot size, the County treated 1020 Highway 1's right-of-way easement as increasing the Applicant's lot size and essentially making them owners of that part of 1010 Highway 1. Then, when the owners of 1010 Highway 1 and 1030 Highway 1 sought to ensure that the County would enforce their right-of-way easement over Applicant's land, the County disregarded this *identical*

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that are now being discussed, and were not addressed in the County's analysis, are the right-of-way easements that appear in the grant deeds of 1010 Highway 1 and 1030 Highway 1. These easements encumber 1020 Highway 1 and are limitations on the Applicant's use of that portion of their lot.

*property right* and treated that portion of Applicant's land as if it was unencumbered, had not already been built upon, and was in fact land that could be used by the Applicants for their project. Consistent treatment of the same legal right (here, easements) is important for the purpose of fairness and for effective implementation of the LCP.

The County's decision to ignore the easements held by 1010 Highway 1 and 1030 Highway 1 over Applicant's land is problematic because these owners have not and do not intend to ever give permission for the Applicants to use the portion of 1020 Highway 1 that is subject to this right-of-way easement for *any* purpose besides the paved road. Moreover, because the right-of-way easement on 1020 Highway 1 cannot be built upon, the actual size of 1020 Highway 1 that can be used for a house, garage or new driveway should be reduced by the right-of-way easement. In other words, the maximum footprint for the Applicant's home, garage and driveway should be  $40\% \times (\text{lot size}) - (\text{less right-of-way easement held by 1010 Highway 1 \& 1030 Highway 1}) = 40\% \times (3,600 \text{ sq. ft.}) - 493 \text{ sq. ft.} = 1,440 - 493 = 947 \text{ square feet.}$  The current footprint of 1,629 square feet for the house, garage and proposed driveway greatly exceeds this amount.

Reducing the buildable footprint by the size of the right-of-way easement is consistent with the intent of Sonoma Code § 26C-102(e) ("**Maximum Lot Coverage: Forty percent (40%)**"). This provision is concerned with how much of the land is developed, whether it be by a road, garage, driveway, or parking pad. Indeed, the staff's own calculations took into account the Applicant's new proposed driveway when calculating the coverage of the proposed project. **See Exhibit 18, at 3** (#2 "total footprint of the single family residence, garage and driveway is 1,629 square feet"). This calculation, however, incorrectly omitted the portion of 1020 Highway 1 that is already covered by the paved road corresponding to the right-of-way easement.

#### **F. Grounds for Appeal -- Height Limits**

The County's staff report erroneously suggests that there is only one height limit that applies to properties East of Highway 1. **See Exhibit 18, at 4** (#5 Height). The real issue, which was not addressed by the staff report, was which of the height limits listed in Coastal Zoning Ordinance § 26C-102 apply to this CDP. From the beginning, we have contended that the County is applying the wrong provision of Section 26C-102(b) based on plat maps and public data showing that 1020 Highway 1 is in the "**Bodega Bay Core Area.**" As described in more detail below, the County's decision to apply Section 26C-102(b)(4), rather than Section 26C-102(b)(2), is contrary to the factual evidence and also inconsistent with the height limitations that the County has imposed on new development surrounding the project site. This is a substantial issue because it raises concerns about the County's consistency in interpreting and applying the LCP: the County has never offered a legal or factual justification for applying different height

limits to two new developments of single-family homes that are within the same city block.

There are several different provisions of Section 26C-102(b) which could apply, depending on *where* a property is located on the East side of Highway 1. Specifically, Section 26C-102(b) provides:

“(b) Height Limits: Height for all structures is measured as the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof.

(1) West of Highway 1: Residential height limits are sixteen feet (16’). Commercial height limits are twenty-four feet (24’).

(2) **Bodega Bay Core Area residential: Sixteen foot (16’) height limit except that in major developments up to fifteen percent (15%) of the units may exceed the height limit.**

(3) East of Highway 1 in the Sereno Del Mar Subdivision: Residential height limits are sixteen feet (16’). The Sereno Del Mar Architectural Review Committee may grant a higher structure to a maximum of twenty-four feet (24’) in accordance with subsection (7) below.

(4) East of Highway 1 and visible from designated scenic roads: Residential and commercial height limits are twenty-four feet (24’) and fifteen feet (15’) for accessory buildings.”

Without explanation, the County has applied the least restrictive height limitation, found in Section 26C-102(4), which limits the building height to “**24 feet**” for this Project. **See Exhibit 18, at 4.**

The County should have applied the height limit for the “**Bodega Bay Core Area residential**” found in Section 26C-102(b)(2). Section 26C-102(b)(2) limits the height to “**16 feet.**” The LCP defines the “**Bodega Bay Core Area**” as “**includ[ing the] Taylor Tract and the residential area between Taylor Tract, Highway 1 and the proposed bypass.**” **See Exhibit 11** (County of Sonoma Local Coastal Program - Part 1 Chapter 7 - Development), at 2 (#26 “**Bodega Bay Core Area**”). Official plat maps recorded with the County show 1020 Highway 1 as in the Taylor Tract. **See Exhibit 11, at 2; see also Exhibit 10, at 4.** Public records also list 1020 Highway 1 as being in the Taylor Tract subdivision. **See Exhibit 15, at 2; Exhibit 20, at 6.** One also expressly shows that the 16 foot height requirement applies. **Exhibit 20, at 7.**

The County has never rebutted or addressed this evidence that 1020 Highway 1 is in the Bodega Bay Core Area. When the issue arose during the hearing before the Planning Commission/Board of Zoning Adjustments, the County staff verbally stated that 1020 Highway 1 was not in the Bodega Bay Core Area, but did not provide any legal or factual basis for this conclusion. The Summary Report to the Board of Supervisors did not even analyze this issue.

The County's one verbal, conclusory statement should not be sufficient to resolve this issue, especially when it is contrary to recorded plat maps and public records. Tellingly, the County's conclusion is also contrary to the lot's sales listing that the Applicants relied upon in buying it, which describes the lot as **"in Old Bodega Bay," Exhibits 13 and 15, at 2**. The original parcel that 1020 Highway 1 was part of is itself described as **"in the Township of Bodega Bay." Exhibit 22.**

The County's conclusion that 1020 Highway 1 is outside the **"Bodega Bay Core Area"** is also unsupported by the very history of the lot, which was once part of the land on which one of the original homes in Bodega Bay (Woodhaven) was built, which is considered a historic home. The lot's original inclusion in one of Bodega Bay's original home sites corroborates the plat map and public record evidence that 1020 Highway 1 is in the **"Bodega Bay Core Area"** and should thus be subject to the more restrictive 16' height limit. Indeed, it is difficult to imagine how a lot that was in the town of Bodega Bay before 1902 (albeit as part of a large parcel at the time), as 1020 Highway 1 was, could *not* be part of the Bodega Bay Core Area.

Applying the 16 foot height limit is also consistent with the height limit restrictions that the County imposed on the new, single-family homes being built directly behind 1020 Highway 1, 1010 Highway 1, and 1030 Highway 1. That subdivision was made to conform to the height limits in 26C-102(b)(2) for the **"Bodega Bay Core Area"** (presumably because it is also in the Core Area). Thus, those new homes can only be 16 feet high, except for 15% of the homes that are at the back of the development. The County's conclusion that 1020 Highway 1 is not in the **"Bodega Bay Core Area"** makes little sense when 1020 Highway 1 is literally surrounded by lots that the County has already deemed to be part of the **"Bodega Bay Core Area,"** including the lots to the South of 1020 Highway 1 that are closer to Harbor View Way.

It would be rather perverse to permit new development on property that is closer to the scenic byway (1020 Highway 1) and will have the effect of limiting the views of all existing and in-progress structures behind and next to it, to be built taller than the new structures behind it. If the CDP for this project is approved in its current form, however,

that is exactly what will happen in the heart of Bodega Bay: 1020 Highway 1 will have a maximum height limit of 24 feet and be subject to 26C-102(b)(4), while the homes to the North are limited to 16 feet and homes behind it are also limited to 16 feet, and subject to an entirely different section, 26C-102(b)(2). It makes no sense to apply different height limits to the new single-family homes in the subdivision and 1020 Highway 1, when the lots are next to each other.

Because height limits are so important to accomplishing the goals of the LCP, this is a precedential issue and issue of regional significance. As was true of the County's responses to other concerns about this CDP, the County's primary response to this concern about the CDP was an unsubstantiated, conclusory oral rebuttal that the 16 feet height limit did not apply during the hearing before the Planning Commission/Board of Zoning Adjustments. The County's staff report to the Board of Supervisors does not even mention that there is a more restrictive height limit for new development in the Bodega Bay Core Area, and contains no analysis as to why 26C-102(b)(4), rather than 26C-102(b)(2) applies.

In addition to the Coastal Zoning Ordinance, the LCP also has important design guidance:

**3) The small scale of its bay oriented development, historical significance and importance to recreation and the fishing industry all qualify the town of Bodega Bay as a special coast community worthy of protection. To maintain and protect the fishing village character of Bodega Bay and to provide needed affordable housing, *new residential development adjacent to the original town is proposed to be similar in scale and design to that in the existing town...With Bodega Bay expected to absorb the bulk of new commercial growth along the Sonoma coast, it is important to promote good design in keeping with the scale and character of the existing town.* LCP at 172 (emphasis added).**

**Bodega Bay Core Area (includes Taylor Tract and the residential area between Taylor Tract, Highway 1 and the proposed bypass). In addition to the Coastal Zone Design Guidelines, the following guidelines will be applied to Bodega Bay development. (Where conflicts occur, these guidelines supersede the general guidelines).**

**General. Site and design structures to take advantage of bay views *without blocking views of neighboring structures.***

**Height. Limit building height to 16 feet except that in major developments up to 15% of the units may exceed the height limit. LCP, at 180.**

If permitted to go forward in its current form, the CDP does not abide by the general or height limit requirements in the LCP. The Project will block 80% of the marina and Bodega Head views of 1030 Highway 1, as well as all views of the North harbor from 1010 Highway 1. These effects are due to the height and setbacks permitted for 1020 Highway 1, compared to the surrounding homes. This loss of view will devalue both properties and destroy the harmony and character of the community. The LCP is meant to ensure that new residential development is proposed to be similar in scale and design to that in the existing town. The existing height limit of the adjacent Bodega Bay homes in Old Bodega Bay is 16 feet.

A 16-foot height limitation is also consistent with the LCP, which provides that any new structures should be **“in harmony with the shape, size and scale of adjacent buildings in the community.”** 1020 Highway 1 is in the heart of Bodega Bay; it is not an isolated lot with no residences behind it or near it. One of the ways that the Applicants have sought to justify the 24’ height limit is by citing the height of nearby homes that were built decades before the Coastal Act was even contemplated, including 1040 Highway 1 (Woodhaven, which was built in 1902), 1030 Highway 1 (built in 1947), and 1010 Highway 1 (built in 1950). It is inapposite to compare a new development under the LCP to homes that were built before those requirements came into effect.

Even if such a comparison were made, the height is not consistent with the homes immediately next to it: The home on 1030 Highway 1 is a single-story home; it is not 24’ feet high. The home on 1010 Highway 1 does not block the views for 1030 Highway 1 because it is not as tall as the proposed project and has a flat roof. The applicants for 1020 Highway 1, however, have chosen a design that will be taller and with a gabled roof, so that it *will* obstruct nearly all views from 1030 Highway 1, which itself is evidence that the design is not in harmony with the adjacent buildings (namely, 1010 Highway 1, which lies on a similar elevation).

There is no reason why the Applicants could not modify their design to comply with the lower height requirement. The Board of Zoning was improperly instructed by County staff that they could not use their authority to enforce that aspect of the LCP.

#### **G. Grounds for Appeal - Minimum Lot Size**

The County’s conclusion that “development of the lot is allowed” is at odds with the LCP, particularly the Coastal Zoning Ordinance, which expressly requires any new development to meet its requirements. *See Exhibit 18, at 4.*

1020 Highway 1 is zoned R1. One of the requirements in LCP is: **“(c) Minimum Lot Size: Six thousand (6,000) square feet.”** Section 26C-102(c). Of all the requirements for R1 developments, this is arguably the simplest and most straightforward: It requires that all new developments occur on a lot of at least 6,000 square feet.

The County, however, has chosen not to apply this requirement in the LCP, even though it has applied (and extensively discussed) all of the other requirements in the subsections before and after **“Minimum Lot Size.”** Without citing any case law or legal authority, the County has argued that this part of the LCP only “set standards for the creation of new lots but do not impact the ability to develop a legally established lot provided all current development standards are met.” **Exhibit 18.**

The County’s justification is concerning because nothing in the LCP or Coastal Zoning Ordinance for the Coastal Regions says anything about only applying this requirement in Section 26C-102 to the “creation of new lots.” Section 26C-102(c) does not distinguish between “new” or “existing” or “legally established lots.” It just says “lot,” the plain reading of which would apply to all lots, be they existing or newly created.

The Applicants have tried to suggest that it is inappropriate to apply this part of the LCP to their CDP because some of the surrounding homes were built on lots smaller than 6,000 square feet. This argument ignores that the comparison is inapposite; the homes that the Applicants are referring to were constructed long before adoption of the LCP and the Coastal Zoning Ordinance, and in fact before building permits were required in 1961. Applicants’ argument also ignores that when the homes on 1030 and 1010 Highway 1 were built, both homes were still on the one large, undivided original parcel. The Applicants, however, are subject to this requirement because they purchased a vacant lot after enactment of the LCP and are seeking to build a home on it for the very first time.

The County’s interpretation of the LCP and related Coastal Zoning Ordinance provisions is also at odds with its own guidance to the public, which makes clear that lots within the County may not be buildable. **See Exhibit 12.** On the FAQs for the Planning Division, one section addresses this very issue:

**“Is my parcel buildable?”**

**A parcel’s buildability depends upon constraints including parcel size** and shape, slope, proximity to floodplain, soil suitability for foundations and septic systems, and water availability. Any structures will have to meet zoning ordinance setbacks from property lines, building code requirements for foundation and building design, health codes for water supply and sewage disposal, and fire codes.” **See Zoning FAQs,** [www.sonomacounty.ca.gov/PRMD/Planning/FAQs-Zoning/](http://www.sonomacounty.ca.gov/PRMD/Planning/FAQs-Zoning/) (last visited Aug. 1, 2020).

The staff reports prepared by the County incorrectly suggest that the LCP merely suggests or “recommend[s]” a minimum lot size for new development. **See Exhibit 18, at 4 (#4).**

This interpretation of the LCP is concerning, because the plain text of the Code unequivocally states that there is a **“minimum lot size.”** Section 26C-102(c). This

requirement is not prefaced, as the Summary Report could be read to suggest, as a “recommendation” or suggestion. Sonoma County Code § 26C-102(c), (d).

The Applicant’s property does not meet the minimum lot size requirement of **6,000 square feet**; it is only 3,598 square feet. Nothing in this requirement, despite the County’s suggestion to the contrary, limits this lot size requirement to the “creation of new lots.” Rather, the beginning of this Code section, in which the minimum lot size requirement is found, unequivocally states that **“The use of land and structures within this district is subject to this article, the applicable regulations of this ordinance, and the provisions of any district which is combined herewith. . . . Development shall comply with coastal plan policies.”** Sonoma County Code § 26C-102.

At the hearing before the Planning Commission/Board of Zoning Adjustments, the County for the first time verbally advised the Board that “substandard existing lots” could still be built upon. The County offered no factual or legal support for this interpretation; moreover, the timing of this new comment made it impossible to determine whether this conclusion was consistent with the LCP. Nothing in the LCP or Coastal Zoning Ordinance discusses “substandard existing lots,” or suggests that there is an exception from any of the requirements in 26C-102 if they are being newly developed.

Before the Board of Supervisors, the County no longer referenced “substandard existing lots,” but now advised that “[m]inimum lot size requirements set standards for the creation of new lots but do not impact the ability to develop a legally established lot provided all current development standards are met.” **See Exhibit 18, at 4 (#4).**

The County’s attempt to read out one of the requirements of the LCP is an issue of regional significance. One of the current **“development criteria,”** as set forth in Section 26C-102, is **“Minimum Lot Size: Six thousand (6,000) square feet.”** The County is nonetheless attempting to ignore this requirement, even though lot size is one of the very **“development criteria”** expressly addressed in the LCP. The section in which this requirement is located sets forth a variety of “development standards” when a property that has a zoning designation of R1, as is the case for 1020 Highway 1, must meet. They include **“(b) Height Limits, (c) Minimum Lot Size ... (e) Maximum Lot Coverage, (f) Yard Requirements [setbacks], and (g) Parking Requirements.”** Section 26C-102(b), (e), (f), (g).

There is no dispute by the Applicant or the County that the project must comply with all of the other requirements that appear directly before and after Section 26C-102(c) “Minimum Lot Size.” Indeed, the County’s staff reports devoted significant time to discussing whether the project complied with the setbacks, height limit, and maximum lot coverage requirements. **See Exhibit 17, at 5-6.** Yet, arbitrarily and without a citation to any case law or LCP, the staff instructed the Zoning Board to ignore subsection (c) with the “Minimum Lot Size” requirement. This requirement, however, is very important to achieving the other stated goals of the County’s LCP.

There are no express or implied exceptions in the LCP or Section 26C-102 to the minimum lot size requirement. By its terms, the “**Minimum Lot Size**” applies to any new development with an R1 zoning. Unlike the neighboring lots, no home was built on 1020 Highway 1 before enactment of the LCP. It is thus different from 1010 Highway 1 and 1030 Highway 1, which both had homes constructed on them in 1950 and 1947, respectively, before adoption of the LCP or these zoning requirements.

It is arbitrary and capricious for the County to not apply the entirety of the LCP and zoning requirements. Most importantly, it undermines the very purpose of the LCP, which is to set clear and uniform development criteria for coastal zones. A survey of other county and municipality’s LCPs shows that they often explicitly state if a minimum lot area only applies to newly created lots. See, e.g., Malibu LCP § 3.3. (Zoning Districts) (“All new lots created within the RR District shall comply with the following criteria: a) Minimum Lot Area.”).

This requirement in the LCP necessarily meant that some lots might not meet this requirement, and thus, might not be buildable. Indeed, the County’s own website warns that “**lot size**” may affect whether a lot is buildable. Applicants, who purchased this lot in 2016, certainly knew that it was an undeveloped lot subject to the LCP; that fact is mentioned in the sales description. Nothing in the listing guaranteed that anything could be built upon 1020 Highway 1, and a straightforward reading of the LCP makes clear that 1020 Highway 1 does not meet this development criteria. As such, enforcing this criteria in no way deprives Applicants of anything; they bought the lot knowing it was subject to the LCP and these provisions of the Coastal Zoning Ordinance.

#### H. Grounds for Appeal -- **Safety Concerns**

Several concerns raised in the LCP apply to this project. The text in **bold print** is directly from the LCP:

1) **Bodega Bay. Through the community of Bodega Bay, minor road improvements will not be adequate to relieve traffic congestion. This section of Highway 1 has the most critical capacity deficiency along the Sonoma Coast. Side friction effects and vehicle turning movements across the opposing traffic stream seriously reduce the available highway capacity. The section of Highway 1 between The Tides and Johnson Gulch represents the worst case because of the narrow roadway width.** LCP, at 157 (emphasis added).

There are significant, unaddressed safety concerns if the CDP is allowed to proceed in its current form. 1020 Highway 1 is “between the Tides and Johnson Gulch,” which the LCP identified as being “the worst case.”

Coastal Zoning Ordinance § 26C-380A through § 26C-382, contains “**Site Development and Erosion Control Standards.**” It sets for the “**minimum requirements and shall apply within a . . . scenic corridor.**” Section 26C-380. It applies to “**all new and existing uses permitted by Chapter 26C**” of the Coastal Zoning Ordinance, which includes this CDP. Section 26C-381. The site development standards implicated by 1020 Highway 1 include:

**Section 26C-382 - Site Development Standards.**

**(a) Access roads, driveways, turnarounds.**

**(1) All residential uses and all other uses involving structures exceeding one thousand (1,000) square feet of floor area shall be served by an all-weather road or driveway adequate to provide fire and emergency equipment access.**

**(2) All required roads and driveways shall have a minimum cleared width of twelve feet (12') with an all-weather surface.**

**(3) Required roads less than two (2) travel lanes in width shall include not less than one (1) turnout for each three hundred feet (300') of length.**

**(4) Maximum permitted grade on required roads shall be fifteen percent (15%) providing that a variance permit may be issued to allow road grades up to twenty percent (20%) for distances not exceeding 250 feet in any single instance and not exceeding two hundred fifty feet (250') in each one thousand two hundred fifty feet (1,250) of total roadway when required by local topography.**

**(5) Turnaround areas sufficient to accommodate fire and emergency equipment shall be provided adjacent to each residential structure and at the end of any dead-end roadways. Circular turnarounds shall be a minimum diameter of ninety feet (90'). Hammerhead configurations shall require minimum centerline radii of curvature of fifty feet (50').**

**(6) No required roads shall have a centerline radius of curvature of less than fifty feet (50').**

**(7) All weather surface on required roads shall utilize sufficient class I sub-base or class II base or equivalent native material to provide for unimpaired emergency equipment access during wet weather conditions.**

From the beginning, concerns have been raised with the County staff, Planning Commission/Board of Zoning Adjustments, and Board of Supervisors about the effect the Project, particularly the house size, positioning on the lot, and only 5 foot setback from the common right-of way road, will have on providing fire and emergency equipment access to all properties.

At the 2018 hearing before the Planning Commission/Board of Zoning Adjustments, an oral suggestion was that delivery trucks and other vehicles park in a turn-out on Highway 1 and walk to nearby homes. The placement and conditions of the few turn-outs nearby are not conducive to this. **See Exhibit 14, at 2-3.** These turn-outs are nearly always occupied by automobiles belonging to owners and renters of the homes on the west side of Highway 1. They are also quite narrow; within the last year, the

Bodega Bay Fire Department had to rescue a parked car from sliding into the bay at the turn-out directly across from the driveway leading to 1020 Highway 1.

More concerning is that the site map used for approval by all agencies, (i.e., Bodega Bay Fire District (BBFD), CalTrans), the Planning Commission/Board of Zoning Adjustments, and the Board of Supervisors (**see Exhibit 16**) was, and remains, inaccurate. The Applicants have never voluntarily corrected it and the County has never required accurate plans or a site map. The site map shows that there is a “paved driveway” on 1010 Highway 1 across from the planned gravel parking space on 1020 Highway 1. Together with the gravel parking space, this “paved driveway” was presumably supposed to satisfy the turnaround requirement. However, what appears in the Applicant’s sitemap to be a paved, easy pull-in space for vehicles to use in conjunction with 1020 Highway 1’s proposed gravel parking space does not exist. 1010 Highway 1 has no paved driveway anywhere. The area shown as a “paved driveway” on the plans is actually a privacy fence, concrete retaining wall, and hill with cypress trees. **See Exhibit 14, at 4.** Thus, fire, emergency and delivery vehicles have no other option but to back down the easement road directly onto Highway 1 at a very dangerous spot just below a blind curve, on which very few drivers observe the 25 mph limit. **See Exhibit 14, at 1.**

The inaccuracy of the site map was brought to the attention of the Planning Commission/Board of Zoning Adjustments at the 2018 hearing. We asked for the Planning Commission/Board of Zoning Adjustments to use its authority to require the Applicants to correct the plans and site map before approving the CDP, and for those corrected materials to be submitted for health and safety review by BBFD and CalTrans, along with a site visit because of the small lot size.

At the 2018 hearing, Commissioner Lowry asked, “. . . if the commission could make findings and separate out the decision regarding the driveway and highway safety” (minutes of that meeting). The Board certainly had that authority, as set forth explicitly in the LCP, **Section 26C-345**. However, County staff incorrectly informed the Board that they could not make such findings and assured the Commissioners “. . . that the project will be reviewed by Caltrans and Fire.” The County also promised that the Project’s map and plans would be corrected, resubmitted for a health and safety review, and a new site visit conducted before the appeal to the County Board of Supervisors. After these representations by the County, the Board denied our appeal.

None of the promises made to induce the Planning Commission/Board of Zoning Adjustments’ approval were fulfilled. Critically, the Project’s plans and site map in the July 14, 2020 packet for the Board of Supervisors was identical—they still showed the nonexistent paved driveway—to the one used for the initial agency approvals and for the hearing in December 2018. **See Exhibit 16.** Applicants have not been required to submit corrected plans or a site map, and nothing in the Board of Supervisors’ resolution requires them to do so.

At the July 2020 hearing, we reiterated our request that the Board of Supervisors use their authority, which they have under Section 26C-345, to require submission of corrected plans and a site map, and for Bodega Bay Fire Department and CalTrans do a new analysis based on both the corrected materials and a site visit. The request was not addressed and the CDP was upheld based on the inaccurate plans and map.

There is no evidence that any further reviews were done by CalTrans and Fire after the 2018 hearing. There was no site visit; the only pictures of the site are from before the 2018 hearing. Even if there had been another review, it would have been of no value, because the plans and site map are incorrect. There is no way that any judgments made about health and highway safety can be valid when based on materials that are fundamentally inaccurate in their portrayal of the site.

Several provisions of the LCP designed to help ensure the health and safety of the community are implicated by this CDP. They call into question what materials were provided to CalTrans and Fire, since many of them implicate access and emergency egress. First, Section 26C-382(a)(2) states that **“All required roads and driveways shall have a minimum cleared width of twelve feet (12’) with an all-weather surface.”** As shown on the Applicants’ plans, **Exhibit 16**, the paved road leading up to 1020 Highway 1 does not meet that minimum cleared width requirement of 12 feet, nor has the County required the Applicants to improve the existing road so that it will meet this development standard. The current road is, at most, 10 feet wide, which is substantially less than what is required under 26C-382(a)(2). This difference matters, because the Applicant’s home will make it significantly more difficult for fire and emergency equipment to access any of the homes served by that road -- including 1030 and 1010 Highway 1. The existing road would have to be expanded and additional land paved to satisfy Sections 26C-382(a)(2) and 26C-382(a)(7), which requires an all-weather surface on such roads.

Second, Section 26C-382(a)(5) requires **“Turnaround areas sufficient to accommodate fire and emergency equipment shall be provided adjacent to each residential structure and at the end of any dead-end roadways.”** Despite us repeatedly raising concerns about turnaround areas, the County approved this CDP without requiring a turnaround area adjacent to 1020 Highway 1 that would be sufficient to accommodate fire and emergency equipment. This is particularly important because the road leading to 1020 Highway 1 is a dead-end roadway. Applicant’s design does not allow for the necessary turnaround for fire or emergency equipment as required in the LCP. The road dead-ends at the property line for 1020 Highway 1, making it essential that the CDP include a turnaround sufficient for fire and emergency equipment.

The project plans submitted by the Applicants incorrectly make it appear that the parking area for 1030 Highway 1 could serve as a turnaround area for 1020 Highway 1. **See Exhibit 16.** 1030 Highway 1’s parking area, however, cannot be used to satisfy this requirement of Section 26C-382(a)(5) because that land does not belong to the Applicants and they do not have any easement or permission from the owners of 1030

Highway 1 to use it as a turnaround area for their home. If the CDP were to be approved in its current form, the County would be effectively granting Applicants use of land belonging to 1030 Highway 1 for an emergency turnaround, which they have no authority to do and could constitute a taking.

As discussed at the hearing before the Planning Commission/Board of Zoning Adjustments and Board of Supervisors, Applicant's current design will force fire and emergency equipment to *back onto Highway 1 near a very hazardous blind curve. This creates a major safety issue on Highway 1* which is designated in the LCP as the "worst case" part of Highway 1 due to narrow road width. We do not believe that the project in its current form should be approved when the County has acknowledged that it will result in such vehicles having to back onto this hazardous stretch of Highway 1. This stretch of Highway 1 has already been identified as hazardous by the County, even *without* vehicles backing onto it.

The Applicant's proposed design also raises concerns about fire safety because of the proximity of the Project to 1010 Highway 1. As the proposed site map shows, **see Exhibit 16**, the homes on 1020 Highway 1 and 1010 Highway 1 will only be 15 feet apart, at most. Of that 15 feet, 10 feet is the paved road on the right-of-way easement. Part of Applicant's home will actually be less than 15 feet from 1010 Highway 1, because the steps and columns supporting the entryway to the home start at the edge of the private road. In that area, the homes will only be separated by the width of the road.

Given the serious, deadly, and often uncontrolled wildfires that have affected Sonoma County in recent years, it is deeply concerning that the current design will result in such closely-spaced homes, particularly when neighboring home sites have far more separation between structures. As designed, it seems all but assured that a fire at 1020 Highway 1 or 1010 Highway 1 will likely result in a total loss of the neighboring home, particularly if there are high winds (as often happens in Bodega Bay). Given that the properties are in the Bodega Bay Core area and on Highway 1, this fire safety issue certainly poses a significant safety risk to the town and its inhabitants. An uncontrolled fire on these properties could easily destroy the town or cut off its primary emergency egress/access by spreading towards Highway 1.

At least some of the fire and safety concerns with regards to this project are due to the County's failure to impose the appropriate setback requirements in Coastal Zoning Ordinance § 26C-102:

**(f)Yard Requirements: The following shall apply except that if the subject property adjoins land which is zoned AR or designated as agricultural land, the use is subject to the requirements of Section 26C-323(f).**

(1)Front Yard: Not less than twenty feet (20') provided, however, that no structure shall be located closer than forty-five feet (45') to the centerline of any public road, street or highway.

**(2)Side Yard: Not less than five feet (5') except where the side yard abuts a street in which case such yard shall be the same as the front yard. On lots where access is gained to an interior court by way of a side yard or where an entrance to a building faces the side line, said side yard shall be not less than ten feet (10').**

In this case, the County treated the front yard as the 42 foot section facing Highway 1 (see Exhibit 16, Exhibit 7). It treated the property line that 1020 Highway 1 shares with 1010 Highway 1 as the "side yard" and only required a setback of 5 feet. See Exhibit 16. However, as was done with the height limit, the County appears to have used the least restrictive setback in 26C-102(f)(2), even though this provision has different requirements, depending on what is on that side.

Here, as shown on the site plan, this side yard "**abuts a street**"-- namely, the road used to access 1010, 1020 and 1030 Highway 1. According to 26C-102(f)(2), in that case "**such yard shall be the same as the front yard,**" which here is "**not less than 20 feet.**" Significantly, 26C-102(f)(2) applies this 20 foot setback to any "street," regardless of whether it is public or private.

The County's approval and use of the minimum 5-foot setback in this case also ignores that the Applicant's design has the main entrance to 1020 Highway 1 not through the side of the house that faces Highway 1 (the "front") but rather on this "side yard" where the entryway stairs start at the border of the paved road. See Exhibit 16. Section 26C-102(f)(2) provides that "[o]n lots where . . .**an entrance to a building faces the side line, said side yard shall be not less than ten feet (10').**" In this case, not only is an entrance to the proposed home on the side yard, but it is the main entrance.

The County's failure to correctly apply Section 26C-102(f)(2) to this project is the primary source of the fire safety issues. In requiring larger setbacks when the side yard has a road alongside it or an entrance, the Coastal Zoning Ordinance is designed to address and prevent the situation proposed here: where two homes are literally separated by the width of a 10-foot road. Given that any emergency or fire vehicles will be using that road between 1010 and 1020 Highway 1 to access these properties and 1030 Highway 1, the 20 foot setback serves an important safety buffer. Without it, there is no way that fire vehicles could enter the site to protect or attempt to save any of the structures.

While we strongly believe that the 20 foot setback in Section 26C-102(f)(2) should apply for safety reasons, at minimum the CDP violates the 10-foot setback because the home's entrance is on the side yard. The 10-foot setback would make the situation safer than the current design, particularly as there is no way to move the home on 1010 Highway 1. Section 26C-102(f)(9) even contemplates that "**(9)Additional setbacks may be required within a sensitive area, riparian corridor, scenic corridor, critical habitat area, or unique feature, designated in the general plan or coastal plan.**" Here, 1020 Highway 1 is not only in a scenic corridor, but in a location where an uncontrolled fire

could decimate the rest of Old Bodega Bay. Despite raising concerns about the fire hazard posed by the design and site features that make the larger setbacks applicable, the County chose a setback that is not only visually unappealing as viewed from Highway 1 with the houses so close together, but most importantly very dangerous.

This is an issue of precedential and regional significance. Setbacks are one of the ways to control for fire risks, particularly with new development. The LCP has very specific setback requirements, which are particularly important in this case because of the small lot size and the proximity of both homes to a protected wetland, which would also likely catch fire. Although not disclosed on Applicant's initial application to the County, this wetland is within 100 feet of 1020 Highway 1. Setbacks are a reasonable way to address fire safety concerns and protect the scenic corridor.



## Zoning & Parcel Report

Zoning and Land Use information for unincorporated Sonoma County. Find out important information about your parcel. Some examples of parcel information:

Jurisdiction (unincorporated Sonoma County or incorporated city).

Zoning and Land Use codes, Groundwater Availability, Supervisorial District, Williamson Act Land Contract, etc. (unincorporated areas only).

### Explanation of the Zoning Codes<sup>1</sup> »

Find out what the different zoning letter and number codes mean (e.g. RR, R1, C3, CC).

### Find My Assessor Parcel Number<sup>2</sup> »

## Results

Parcel Number:	100-100-005
Jurisdiction:	Unincorporated Sonoma County
Zoning:	R1 CC B6 4 DU, G SR <a href="#">What the Zoning Codes Mean<sup>3</sup></a>
Land Use:	UR 4
Air Quality Control Board:	Northern Sonoma County Air Pollution Control District
ALUC Referral Area:	Not Applicable
Area & Specific Plan:	Not Applicable
Assessor Notes:	From 100-100-05 6 04/10/93
Assessor Tax Rate Area (TRA):	057009
Assessor Use Code:	0000 [Vacant Residential Lot/undevel]
Bodega Bay PUD:	Resides Within
California Tiger Salamander:	Not Applicable
Fire District:	Bodega Bay FPD
Fire Protection Response Area:	SRA = State
Flood Prone Urban Area:	Not Applicable
Groundwater Availability:	Zone 4 - Areas with low or highly variable water yield
Inspector - Building:	Robert Hynes
Inspector - Code Enforcement:	Jackie Crawford
Inspector - Well & Septic:	Northwest District
Inspector - Well & Septic, Plan Review:	Northwest District
Land Size - Acres:	0.08
Land Size - SqFt:	3600
Landslide:	Not Mapped
Lat/Long (Parcel Center):	38.331000, -123.046550

Liquefaction:	Very Low Susceptibility
Local Area Development Guideline:	Not Applicable
NRCS Soils (Expansive Soils*):	RrC, TeG
Parcel Specific Policy:	Not Applicable
Planning Area:	1 - Sonoma Coast/Gualala Basin
Redevelopment Plan:	Not Applicable
Sanitation District:	Not Applicable
School District - Elementary:	Shoreline Jt(21,49)
School District - High:	Shoreline Jt(21,49)
Seismic Design Category (SDC):	SDC E
Sphere of Influence:	Not Applicable
Supervisory District:	District 5 - Lynda Hopkins
Urban Growth:	Not Applicable
Urban Service Area:	Bodega Bay USA
Waiver Prohibition Area:	Not Applicable
Water Quality Control Board:	North Coast Region
Wet Weather Zone:	D - Sebastopol
Williamson Act Land Contract:	Not Applicable



#### Contact Information

##### Planning Division<sup>4</sup>

Permit & Resource Management  
Department<sup>5</sup>  
County of Sonoma

##### Contact Planning Division<sup>6</sup>

Email: [Planner@sonoma-county.org](mailto:Planner@sonoma-county.org)

##### Contact Planning by Phone

Monday – Friday

10:00 AM – 12:00 PM

1:00 PM – 3:00 PM

Phone: (707) 565-1900, option 5

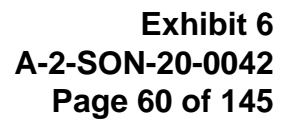
CA Relay Service: 711

##### Address

2550 Ventura Avenue  
Santa Rosa, CA 95403

## Links

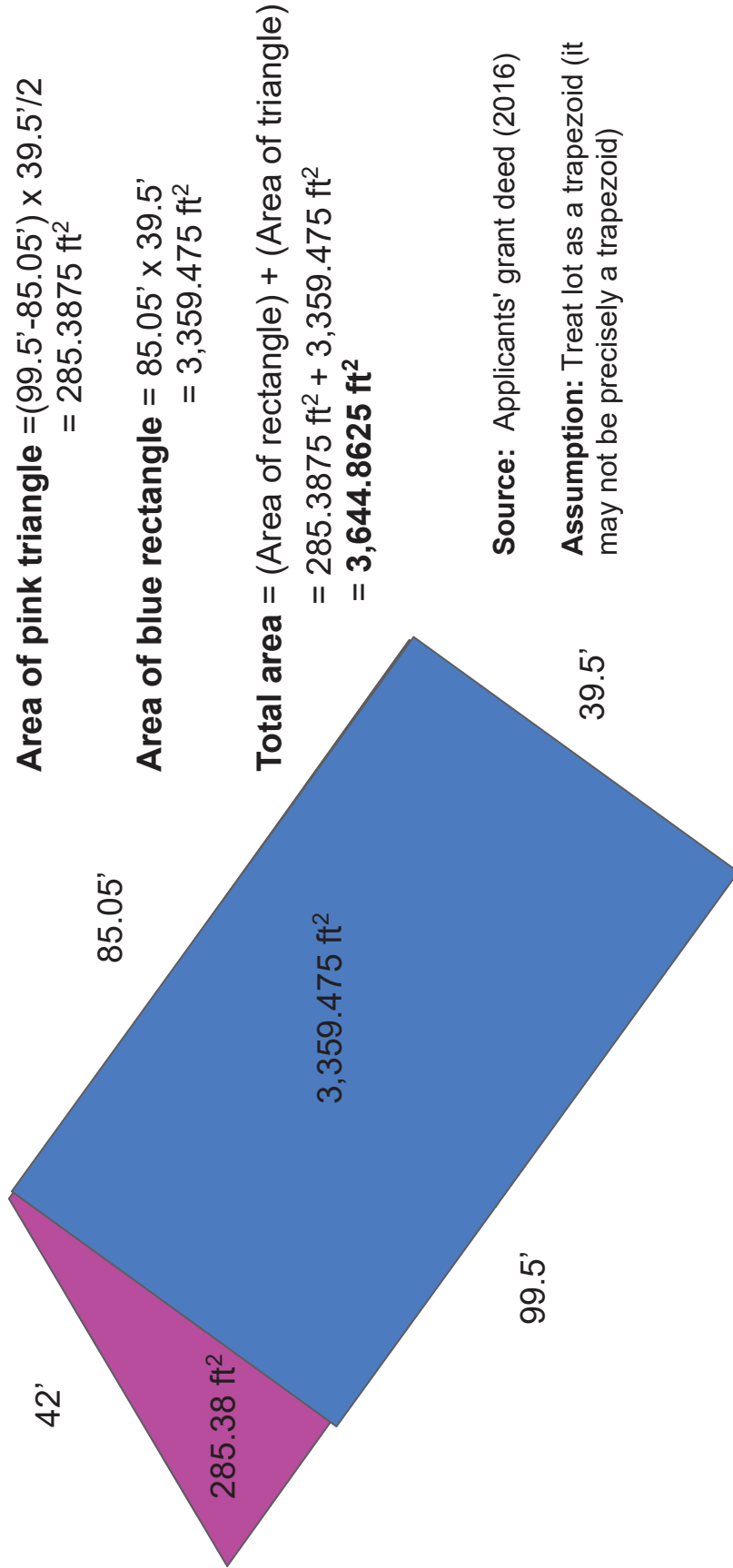
1. [https://sonomacounty.ca.gov/\\_templates\\_portal/ParcelReport.aspx?id=2147551617&apn=100-100-005/PRMD/Services/Zoning-and-Parcel-Report/Zoning-Codes/](https://sonomacounty.ca.gov/_templates_portal/ParcelReport.aspx?id=2147551617&apn=100-100-005/PRMD/Services/Zoning-and-Parcel-Report/Zoning-Codes/)
2. [https://sonomacounty.ca.gov/\\_templates\\_portal/ParcelReport.aspx?id=2147551617&apn=100-100-005/PRMD/Planning/FAQs-Zoning/#find-apn](https://sonomacounty.ca.gov/_templates_portal/ParcelReport.aspx?id=2147551617&apn=100-100-005/PRMD/Planning/FAQs-Zoning/#find-apn)
3. [http://sonomacounty.ca.gov/\\_templates\\_portal/Page.aspx?id=2147539258](http://sonomacounty.ca.gov/_templates_portal/Page.aspx?id=2147539258)
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5. [https://sonomacounty.ca.gov/\\_templates\\_portal/ParcelReport.aspx?id=2147551617&apn=100-100-005/Permit-and-Resource-Management/](https://sonomacounty.ca.gov/_templates_portal/ParcelReport.aspx?id=2147551617&apn=100-100-005/Permit-and-Resource-Management/)
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**EXHIBIT**  
**4**

**Lot Size Calculation for 1020 Highway 1 based on Applicant's grant deed**

**Lot size is 3,644.9 ft<sup>2</sup>**



$$\begin{aligned}\text{Area of pink triangle} &= (99.5' - 85.05') \times 39.5' / 2 \\ &= 285.3875 \text{ ft}^2\end{aligned}$$

$$\begin{aligned}\text{Area of blue rectangle} &= 85.05' \times 39.5' \\ &= 3,359.475 \text{ ft}^2\end{aligned}$$

$$\begin{aligned}\text{Total area} &= (\text{Area of rectangle}) + (\text{Area of triangle}) \\ &= 285.3875 \text{ ft}^2 + 3,359.475 \text{ ft}^2 \\ &= \mathbf{3,644.8625 \text{ ft}^2}\end{aligned}$$

**Source:** Applicants' grant deed (2016)

**Assumption:** Treat lot as a trapezoid (it may not be precisely a trapezoid)



## Zoning & Parcel Report

Zoning and Land Use information for unincorporated Sonoma County. Find out important information about your parcel. Some examples of parcel information:

Jurisdiction (unincorporated Sonoma County or incorporated city).

Zoning and Land Use codes, Groundwater Availability, Supervisorial District, Williamson Act Land Contract, etc. (unincorporated areas only).

### Explanation of the Zoning Codes<sup>1</sup> »

Find out what the different zoning letter and number codes mean (e.g. RR, R1, C3, CC).

### Find My Assessor Parcel Number<sup>2</sup> »

## Results

Parcel Number:	100-100-006
Jurisdiction:	Unincorporated Sonoma County
Zoning:	R1 CC B6 4 DU, G SR <a href="#">What the Zoning Codes Mean<sup>3</sup></a>
Land Use:	UR 4
Air Quality Control Board:	Northern Sonoma County Air Pollution Control District
ALUC Referral Area:	Not Applicable
Area & Specific Plan:	Not Applicable
Assessor Notes:	From 100-100-06 4 04/10/93
Assessor Tax Rate Area (TRA):	057009
Assessor Use Code:	0010 [Single Family Dwelling]
Bodega Bay PUD:	Resides Within
California Tiger Salamander:	Not Applicable
Fire District:	Bodega Bay FPD
Fire Protection Response Area:	SRA = State
Flood Prone Urban Area:	Not Applicable
Groundwater Availability:	Zone 4 - Areas with low or highly variable water yield
Inspector - Building:	Robert Hynes
Inspector - Code Enforcement:	Jackie Crawford
Inspector - Well & Septic:	Northwest District
Inspector - Well & Septic, Plan Review:	Northwest District
Land Size - Acres:	0.1
Land Size - SqFt:	4400
Landslide:	Not Mapped, Surficial Deposits
Lat/Long (Parcel Center):	38.330922, -123.046445

Liquefaction:	Very Low Susceptibility
Local Area Development Guideline:	Not Applicable
NRCS Soils (Expansive Soils*):	RrC, TeG
Parcel Specific Policy:	Not Applicable
Planning Area:	1 - Sonoma Coast/Gualala Basin
Redevelopment Plan:	Not Applicable
Sanitation District:	Not Applicable
School District - Elementary:	Shoreline Jt(21,49)
School District - High:	Shoreline Jt(21,49)
Seismic Design Category (SDC):	SDC E
Sphere of Influence:	Not Applicable
Supervisory District:	District 5 - Lynda Hopkins
Urban Growth:	Not Applicable
Urban Service Area:	Bodega Bay USA
Waiver Prohibition Area:	Not Applicable
Water Quality Control Board:	North Coast Region
Wet Weather Zone:	D - Sebastopol
Williamson Act Land Contract:	Not Applicable



#### Contact Information

##### Planning Division<sup>4</sup>

Permit & Resource Management  
Department<sup>5</sup>  
County of Sonoma

##### Contact Planning Division<sup>6</sup>

Email: [Planner@sonoma-county.org](mailto:Planner@sonoma-county.org)

##### Contact Planning by Phone

Monday – Friday

10:00 AM – 12:00 PM

1:00 PM – 3:00 PM

Phone: (707) 565-1900, option 5

CA Relay Service: 711

##### Address

2550 Ventura Avenue  
Santa Rosa, CA 95403

## Links

1. [https://sonomacounty.ca.gov/\\_templates\\_portal/ParcelReport.aspx?id=2147551617&apn=100-100-006/PRMD/Services/Zoning-and-Parcel-Report/Zoning-Codes/](https://sonomacounty.ca.gov/_templates_portal/ParcelReport.aspx?id=2147551617&apn=100-100-006/PRMD/Services/Zoning-and-Parcel-Report/Zoning-Codes/)
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## Zoning & Parcel Report

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### Explanation of the Zoning Codes<sup>1</sup> »

Find out what the different zoning letter and number codes mean (e.g. RR, R1, C3, CC).

### Find My Assessor Parcel Number<sup>2</sup> »

## Results

Parcel Number:	100-100-024
Jurisdiction:	Unincorporated Sonoma County
Zoning:	R1 CC B6 4 DU, G SR <a href="#">What the Zoning Codes Mean<sup>3</sup></a>
Land Use:	UR 4
Air Quality Control Board:	Northern Sonoma County Air Pollution Control District
ALUC Referral Area:	Not Applicable
Area & Specific Plan:	Not Applicable
Assessor Notes:	From 100-100-24 7 04/10/93
Assessor Tax Rate Area (TRA):	057009
Assessor Use Code:	0010 [Single Family Dwelling]
Bodega Bay PUD:	Resides Within
California Tiger Salamander:	Not Applicable
Fire District:	Bodega Bay FPD
Fire Protection Response Area:	SRA = State
Flood Prone Urban Area:	Not Applicable
Groundwater Availability:	Zone 4 - Areas with low or highly variable water yield
Inspector - Building:	Robert Hynes
Inspector - Code Enforcement:	Jackie Crawford
Inspector - Well & Septic:	Northwest District
Inspector - Well & Septic, Plan Review:	Northwest District
Land Size - Acres:	0.18
Land Size - SqFt:	8160
Landslide:	Not Mapped, Surficial Deposits
Lat/Long (Parcel Center):	38.331218, -123.046321

Liquefaction:	Very Low Susceptibility
Local Area Development Guideline:	Not Applicable
NRCS Soils (Expansive Soils*):	RrC
Parcel Specific Policy:	Not Applicable
Planning Area:	1 - Sonoma Coast/Gualala Basin
Redevelopment Plan:	Not Applicable
Sanitation District:	Not Applicable
School District - Elementary:	Shoreline Jt(21,49)
School District - High:	Shoreline Jt(21,49)
Seismic Design Category (SDC):	SDC E
Sphere of Influence:	Not Applicable
Supervisory District:	District 5 - Lynda Hopkins
Urban Growth:	Not Applicable
Urban Service Area:	Bodega Bay USA
Waiver Prohibition Area:	Not Applicable
Water Quality Control Board:	North Coast Region
Wet Weather Zone:	D - Sebastopol
Williamson Act Land Contract:	Not Applicable



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Email: [Planner@sonoma-county.org](mailto:Planner@sonoma-county.org)

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Phone: (707) 565-1900, option 5

CA Relay Service: 711

##### Address

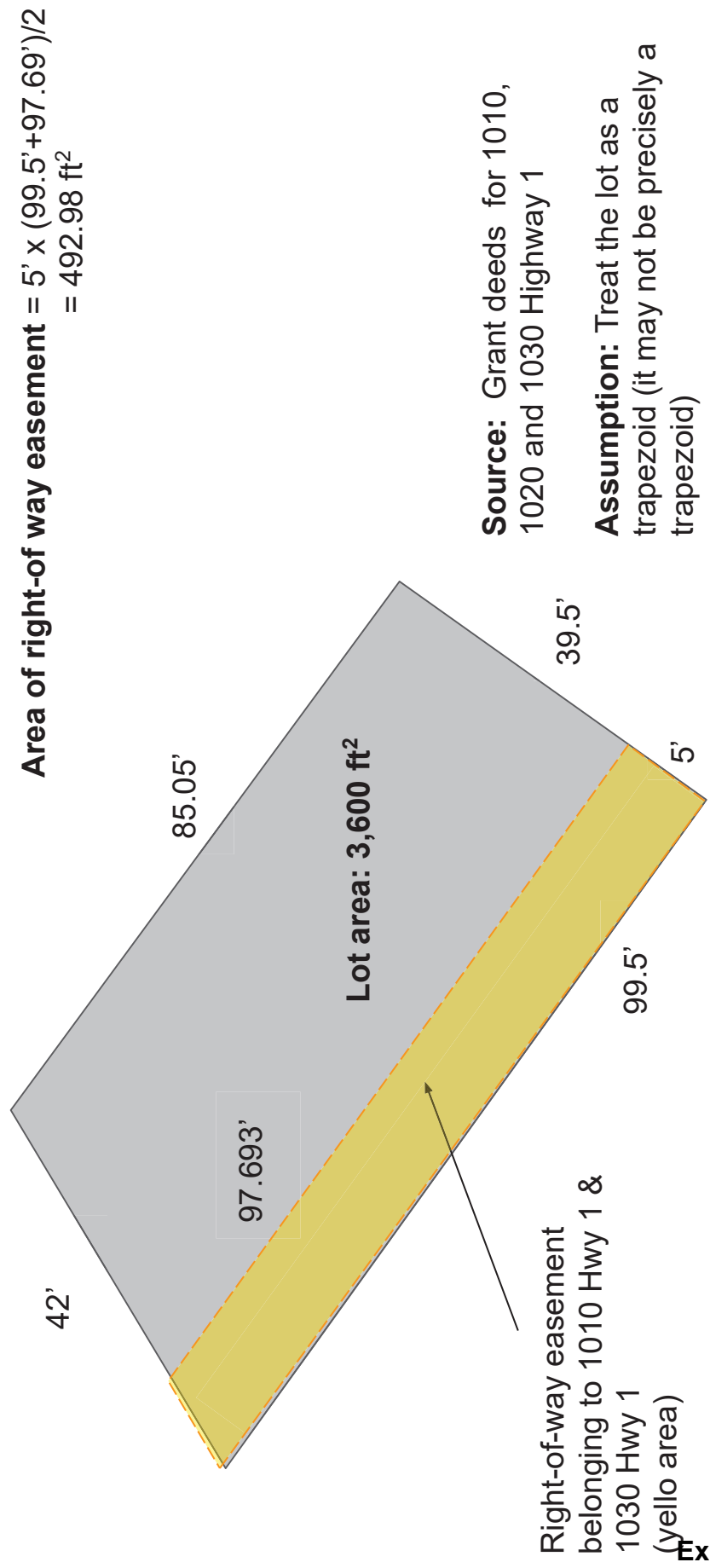
2550 Ventura Avenue  
Santa Rosa, CA 95403

## Links

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Right-of-Way Easement Over 1020 Highway 1

(belongs to 1010 and 1030 Highway 1)



Right-of-way easement

belonging to 1010 Hwy 1 &

1030 Hwy 1

(yellow area)

Recorded by and Return to:

ROBERT A. SHLESER  
ROSE R. CALMA  
PO BOX 560  
WAIMANOLO, HAWAII  
USA 96795



GENERAL PUBLIC  
03/13/2002 09:16 NOTCN  
RECORDING FEE: 13.00

2002037405

OFFICIAL RECORDS OF  
SONOMA COUNTY  
EVEE T. LEWIS

3



## NOTICE OF CONSENT TO USE OF LAND

To: PERRY M. MARKER and MARTHA R. RUDELL

**NOTICE** is hereby given by the undersigned, ROBERT SHLESER and ROSE CALMA, TRUSTEES OF HE ROBERT A. SHLESER and ROSE R CALMA LIVING TRUST are the owners and holders of record title to the real property known as Sonoma County APN 100-100-005 and 006 as such property, inclusive of its appurtenant easements of record, are described at Sonoma County Document 2000-0040136 as referenced herein and as more specifically described on Exhibit "A" as attached hereto and made a part of this Notice.

Pursuant to Section 813 of the California Civil Code the right of the public or any person to make any use whatsoever of the land described herein, or any portion of it (other than any use expressly allowed by a written or recorded map, agreement, deed, or dedication) is by permission, and subject to the control, of the undersigned owner.

This Notice is given in accordance with Civil Code Section 813, to establish conclusive evidence that subsequent use of the land herein described during this Notice is in effect by the public or any user for any purpose (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is permissive and with the consent of the undersigned owner in any judicial proceeding involving the issue as to whether all or any portion of such land has been dedicated to public use or whether any user has a prescriptive right in such land or any portion of it.

This consent to the use for the purpose described is given subject to the right of the undersigned owner, pursuant to Civil Code Section 813, to revoke such covenant by recording a Notice of Revocation in the office of the recorder of Sonoma County, State of California.

Dated FEB 25 2002

  
ROBERT A. SHLESER, Trustee

Dated FEB 25 2002

  
ROSE R. CALMA, Trustee

Order No.  
Escrow No. 142040JK  
Loan No.

EXHIBIT

9

WHEN RECORDED MAIL TO:

Perry M. Marker and Janet A. Rudolph  
166 Beau Forest Drive  
Oakland, CA 94611



1994 0072014

OFFICIAL RECORDS OF  
**SONOMA COUNTY**  
BERNICE A. PETERSON

AT REQUEST OF

06/06/1994 FIRST AMERICAN TITLE  
FEE: \$ 20.00 08:00:00  
TT: \$ 240.90 PGS: 2  
PAID

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

DOCUMENTARY TRANSFER TAX \$ 240.90

SAME AS ABOVE

☒ Computed on the consideration or value of property conveyed, OR  
Computed on the consideration or value less liens or encumbrances  
remaining at time of sale

As declared by the undersigned Grantor

Signature of Declarant or Agent determining tax - Firm Name

100-100-024

## GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**Thomas R. Boylan, an unmarried man; and Paula J. Boylan, an unmarried woman**

hereby GRANT(S) to

**Perry M. Marker and Janet A. Rudolph, husband and wife, as Joint Tenants**

the real property in the  
County of

**Unincorporated Area  
Sonoma**

, State of California, described as

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

Dated May 17, 1994

STATE OF CALIFORNIA }  
COUNTY OF SONOMA }ss

On July 2, 1994  
before me JULIE KIDD, personally  
appeared Thomas R Boylan

personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized  
capacity(ies) and that by his/her/their signature(s) on the  
instrument the person(s) or the entity upon behalf of which the  
person(s) acted executed the instrument  
WITNESS my hand and official seal

Signature

*Julie Kidd*

MAIL TAX STATEMENTS AS DIRECTED ABOVE

*Thomas R. Boylan*  
Thomas R. Boylan  
*Paula J. Boylan*  
Paula J. Boylan  
*Witness by Julie Kidd*

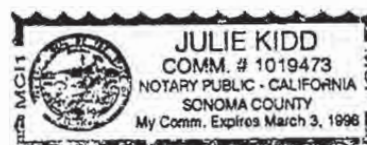


Exhibit 6  
A-2-SON-20-0042  
Page 70 of 145

EXHIBIT "A"

PARCEL ONE

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June 1902, by G.W. Smith and Perry F. De Bolt and H. J. Barnett, which said deed was recorded in the county recorder's office of Sonoma County, California, on the 3rd day of June, 1902, in Book 197 of deeds, page 638, thereof; thence following the Westerly line of said property so conveyed a distance of 102 feet to a point; thence at right angles and parallel with the Northerly line of said property so conveyed, a distance of 39.5 feet to a point; thence at right angles Northerly and parallel with the said Westerly line of said property a distance of 102 feet to the Northerly boundary of said property; thence Westerly along the Northerly boundary of said property, a distance of 40.8 feet to the place of beginning.

PARCEL TWO

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902 by G. W. Smith to Perry F. De Bolt and H. J. Barnett, which said deed was recorded in the county recorder's office of Sonoma County, California, on the 3rd day of June 1902, in Book 197 of deeds, page 638 thereof; thence along the Northerly boundary of said real property so conveyed a distance of 40.8 feet to the point of beginning; thence at right angles and parallel with the Westerly boundary of said real property so conveyed a distance of 102.5 feet to a point; thence Easterly and parallel with said Northerly boundary of said land so conveyed a distance of 39.5 feet to a point in the Easterly boundary of said lands so conveyed; thence at right angles Northerly and parallel with the Westerly boundary of said real property so conveyed a distance of 102.5 feet to the corner of said real property so conveyed as aforesaid; thence at right angles and along the Northerly line of said real property so conveyed a distance of 40.8 feet to the point of commencement.

PARCEL THREE

A common right of way as reserved in the deeds to Ralph De Bolt and Alice Wilson recorded November 6, 1946 in Book 717, pages 96 & 98, Sonoma County Records.

A. P. No.: 100-100-24

3000 (2/82) - (Witness) First American Title Company

STATE OF CALIFORNIA  
COUNTY OF

SONOMA

On JUNE 2, 1994

said State, personally appeared JOHN C. CHUTE

known to me (I do not know who he is but he is the same as the one who

a credible witness who is personally known to me) to be the person whose name is subscribed to the within instrument, as

a witness thereto, who being by me duly sworn, depose and said

That he/she resides in SONOMA COUNTY

, that he/she

was present and saw, PAULA J. BOYLAN

, personally

known to him/her to be the same person(s) described in and who executed the within instrument, as a party(ies) thereto, sign, seal and deliver the same and that said party(ies) duly acknowledged in the presence of said affiant, that he/she/they executed the same, and that said affiant, thereupon at the party(ies) request, subscribed his/her name as a witness thereto.

WITNESS my hand and official seal

Signature

*Julie Kidd*

ss

, before me, the undersigned, a Notary Public in and for

, personally



(This area for official notarial seal)

Exhibit 6

A-2-SON-20-0042

Page 71 of 145

Recorded by and Return to:

ROBERT A. SHLESER  
ROSE R. CALMA  
PO BOX 560  
WAIMANOLO, HAWAII  
USA 96795



GENERAL PUBLIC  
03/13/2002 09:16 NOTCN  
RECORDING FEE: 13.00

**2002037405**

OFFICIAL RECORDS OF  
SONOMA COUNTY  
EEVE T. LEWIS

**3**



## NOTICE OF CONSENT TO USE OF LAND

To: PERRY M. MARKER and MARTHA R. RUDELL

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Pursuant to Section 813 of the California Civil Code the right of the public or any person to make any use whatsoever of the land described herein, or any portion of it (other than any use expressly allowed by a written or recorded map, agreement, deed, or dedication) is by permission, and subject to the control, of the undersigned owner.

This Notice is given in accordance with Civil Code Section 813, to establish conclusive evidence that subsequent use of the land herein described during this Notice is in effect by the public or any user for any purpose (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is permissive and with the consent of the undersigned owner in any judicial proceeding involving the issue as to whether all or any portion of such land has been dedicated to public use or whether any user has a prescriptive right in such land or any portion of it.

This consent to the use for the purpose described is given subject to the right of the undersigned owner, pursuant to Civil Code Section 813, to revoke such covenant by recording a Notice of Revocation in the office of the recorder of Sonoma County, State of California.

Dated FEB 25 2002

  
ROBERT A. SHLESER, Trustee

Dated FEB 25 2002


  
ROSE R. CALMA, Trustee

EXHIBIT "A"

PARCEL ONE:

BEGINNING at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902, by C. W. Smith to Perry F. DeBolt and H. J. Barnett, which said Deed was recorded in the County Recorder's Office of Sonoma County, California, on the 3rd day of June, 1902 in Liber 197 of Deeds, page 638, thereof; thence Southerly along the Westerly boundary of the real property of Kate Butler, a distance of 102 feet to a point; thence Easterly at right angles a distance of 39.5 feet to the point of commencement; thence at right angles Southerly and along the Easterly boundary line of Alice Wilson a distance of 103.9 feet to the Southerly boundary of the real property herein conveyed; thence Southeasterly along the Southerly boundary of the real property herein conveyed a distance of 42 feet to the Southeast corner of the real property herein conveyed; thence Northerly along the Easterly boundary of the real property herein conveyed a distance of 117.5 feet to a point in the Northeast corner of the property herein conveyed; thence Westerly at right angles a distance of 39.5 feet to the point of commencement.

PARCEL TWO:

A COMMON RIGHT OF WAY, 5 feet wide, the East line of which is coincident with the West line of the land hereinabove described as Parcel One.

PARCEL THREE:

THOSE CERTAIN RIGHTS OF WAY contained in the Amended Order and Decree of Distribution recorded December 28, 1951 in Book 1097 of Official Records, page 233, under Recorder's Serial No. D-57136, Sonoma County Records.

PARCEL FOUR:

COMMENCING at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902, by G. W. Smith to Perry F. DeBolt and H. J. Barnett, which said Deed was recorded in the County Recorder's Office of Sonoma County, California, on the 3rd day of June, 1902 in Liber 197 of Deeds, page 638, thereof; thence following the Westerly line of said property so conveyed in a Southwesterly direction, a distance of 102 feet to the point of beginning; thence proceeding Southerly along the Westerly line of the said real property so deeded, a distance of 85.05 feet to a point; thence Southeasterly along the Southerly boundary of said real property so conveyed a distance of 42 feet to a point; thence Northerly and parallel with the said Westerly boundary of said property so conveyed a distance of 99.5 feet to a point; thence Westerly and parallel with the Northerly boundary of said real property so conveyed a distance of 39.5 feet to the place of beginning.

PARCEL FIVE:

A COMMON RIGHT OF WAY, 5 feet wide, the West line of which is coincident with the East line of the land hereinabove described as Parcel Four.

NOTARY ACKNOWLEDGEMENT

State of Hawaii )  
County of Honolulu ) ss

On Feb. 25, 2002, before me, Wendy-Lee P. Bruhn, personally  
appeared Robert A. Shleser & Rose R. Calma

☒ Personally known to me or ( ) proved to be on the basis of  
Satisfactory evidence to be the person (s) whose name (s) is/are  
subscribed to the within instrument and acknowledged to me that  
he/she/their authorized capacity (s), and that by his/her/their signature (s)  
on the instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Wendy-Lee P. Bruhn

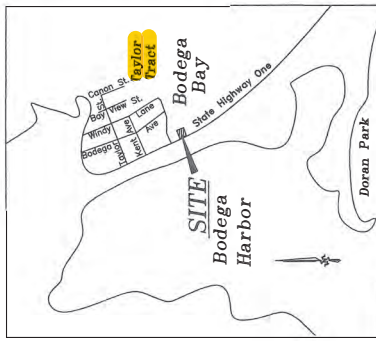
Signature of Notary Public Wendy-Lee P. Bruhn

My Commission Expires: Oct. 20, 2002

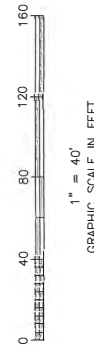
L3

# NOTES

1. Basis of Bearings is South 40°00'00"E between found monuments "A" and "B" along the southerly line of State Highway One as shown on 44 Maps 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.
2. Horizontal alignment of State Highway One as shown on 44 Maps 164-5 does not correspond with existing occupation and found monuments, and the right of way width of said highway is undetermined and classified as "variable" per Caltrans. The southerly property line of the Shleiser property as shown hereon is calculated at the bearing-bearing intersection of the westerly and easterly property lines per R13 and the calculated right of way line of Highway One per R5 & R6. As such, the location of said southerly line may vary from the true location of State Highway One northerly right of way, formerly known as Broadway per 31 Maps 8.
3. All distances and dimensions are shown in feet and decimals thereof.
4. Area of Shleiser & Calma property = 0.19 acres, more or less.
5. There is a discrepancy in the location of this property line as evidenced by the location of found old 1/2" iron pipe monuments called for in R6 and in R9. Please refer to Sheet 2 for details.



VICINITY MAP  
NOT TO SCALE



## RECORD OF SURVEY

of lands of Robert A. Shleiser and Rosa R. Calma as described in that deed recorded as Document No. 2000-0040136 of Official Records, Sonoma County Records.

Lying Within the Bodega Rancho  
County of Sonoma • State of California  
**PACIFIC LAND SURVEYS**  
P.O. BOX 346 BODAGA CA 94923 • 707.232.2208

APN 100-100-005 & 016 • Scale: 1"=40' • JANUARY 2002  
Boundary Sheet • Sheet 1 of 2

## RECORDER'S STATEMENT

Filed this 24th day of January 2002 at 11:22 a.m. (C.M.T.)  
in Book 630 of Maps, at Page 17, at the request of  
the County Surveyor.

Document No. 2002011911  
Fee Paid: \$10  
Deputy County Recorder

Deputy County Recorder

## COUNTY SURVEYOR'S STATEMENT

This map has been examined in accordance with Section 8766 of the  
Land Surveyor's Act this 28th day of January, 2002.



Surveyor of the County of Sonoma  
State of California

Deputy

## SURVEYOR'S STATEMENT

This map correctly represents a survey made by me or under my direction in  
conformance with the requirements of the Land Surveyor's Act at the request  
of Robert A. Shleiser in August, 2001.



Susan D. Ruschmeyer P.L.S. 6702  
License Expires 06/30/04

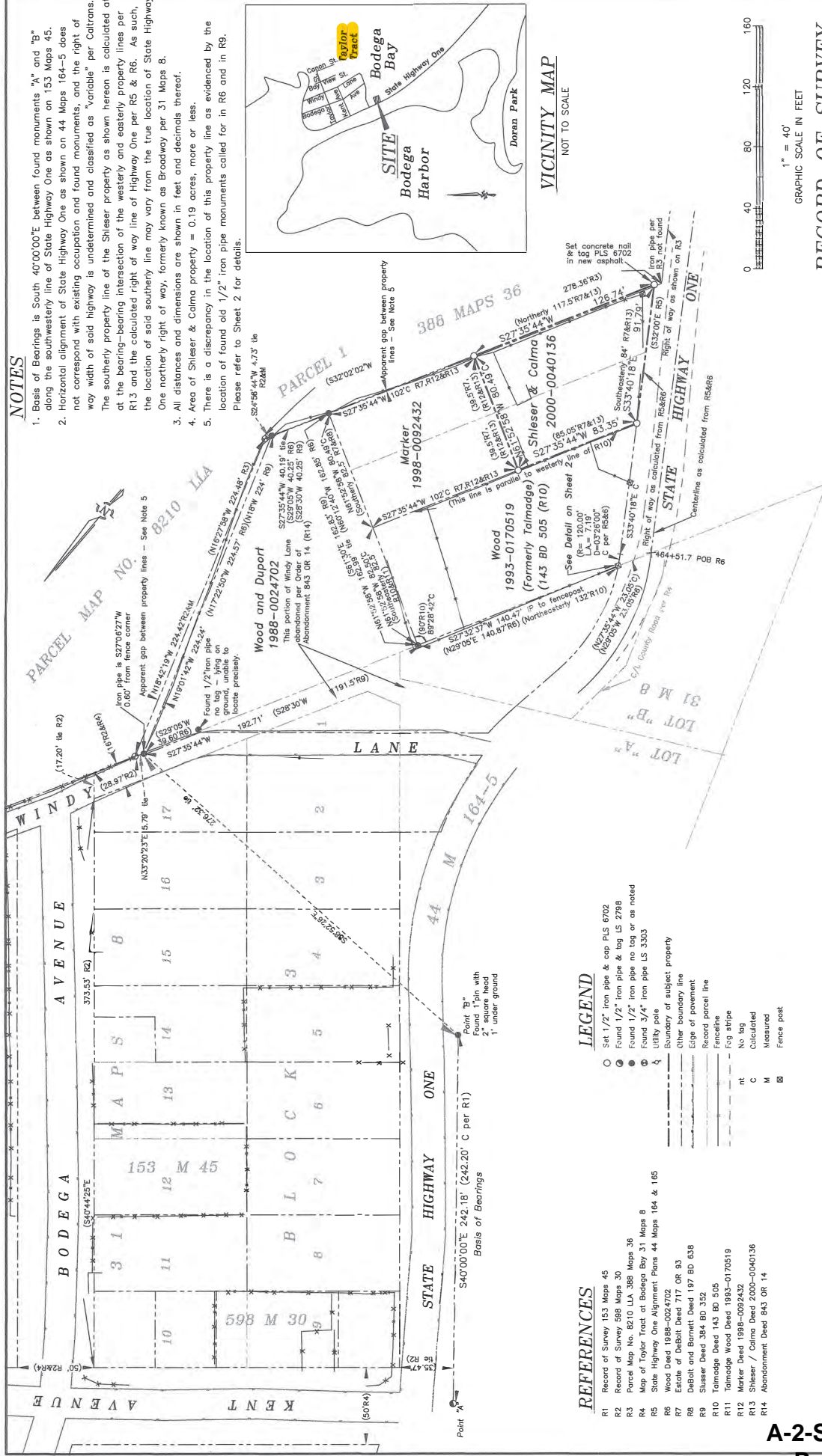
20-02

## REFERENCES

- R1 Record of Survey 153 Maps 45
- R2 Record of Survey 598 Maps 30
- R3 Parcel Map No. 8210 LLA 388 Maps 36
- R4 Map of Taylor Tract at Bodega Bay 31 Maps 8
- R5 State Highway One Alignment Plans 44 Maps 164 & 165
- R6 Wood Deed 1988-0024702
- R7 Estate of DeBolt Deed 717 OR 93
- R8 DeBolt and Barnett Deed 197 BD 638
- R9 Slusser Deed 384 BD 352
- R10 Talmadge Deed 143 BD 505
- R11 Talmadge Wood Deed 1993-0170519
- R12 Marker Deed 1998-0092432
- R13 Shleiser / Calma Deed 2000-0040136
- R14 Abandonment Deed 843 OR 14

## LEGEND

- Set 1/2" iron pipe & cap PLS 6702
- Found 1/2" iron pipe & tag LS 2798
- Found 1/2" iron pipe no tag or as noted
- Found 3/4" iron pipe LS 3303
- Utility pole
- Boundary of subject property
- Other boundary line
- Edge of pavement
- Record parcel line
- Fenceline
- Fg stripe
- nt No tag
- C Calculated
- M Measured
- Fence post



# NOTES

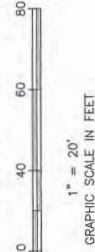
1. Basis of Bearings is South 40°00'00"E between found monuments "A" and "B" along the southwestern line of State Highway One as shown on 153 Maps 45.
2. Horizontal alignment of State Highway One as shown on 44 Maps 164-5 does not correspond with existing occupation and found monuments, and the right of way width of said highway is undetermined and classified as "variable" per Caltrans. The southerly property line of the Shleser property as shown hereon is calculated at the bearing-bearing intersection of the westerly and easterly property lines per R13 and the calculated right of way line of Highway One per R5 & R6. As such, the location of said southerly line may vary from the true location of State Highway One northerly right of way, formerly known as Broadway per 31 Maps 8.
3. All distances and dimensions are shown in feet and decimals thereof.
4. Area of Shleser & Calma property = 0.19 acres, more or less.
5. There is a discrepancy in the location of this property line as evidenced by the location of found old 1/2" iron pipe monuments called for in R6 and in R9. Please refer to Sheet 1 for overview of boundary.
6. The Decree of Distribution deed for the Estate of Perry F. DeBolt, recorded in Book 717 of Official Records at Page 93, Sonoma County Records, contains legal descriptions for four parcels of land to be divided among the DeBolt heirs. This deed is the deed of origin for the Marker and for the Shleser/Calma properties. The parcel descriptions in 717 OR 93 contain inconsistent mathematical courses and some confusing and ambiguous language. It is the opinion of this surveyor that the intent of this deed was to create four contiguous parcels of land with a 10 foot wide "common right of way to be used by all of the parties hereto..." lying five feet west and five feet east and parallel to the interior parcel division lines per 717 OR 93.

## LEGEND

- Set 1/2" iron pipe & cap PLS 6702
- Found 1/2" iron pipe & tag LS 2798
- Found 1/2" iron pipe no tag or as noted
- Found 3/4" iron pipe LS 3303
- Utility pole
- Boundary of subject property
- Other boundary line
- Edge of pavement
- Record parcel line
- Fenceline
- Fog stripe
- Easement line
- nt No tag
- C Calculated
- M Measured
- IP Iron pipe
- Area of concrete
- Fence post

## REFERENCES

- R1 Record of Survey 153 Maps 45
- R2 Record of Survey 598 Maps 30
- R3 Parcel Map No. 8210 LLA 388 Maps 36
- R4 Map of Taylor Tract at Bodega Bay 31 Maps 8
- R5 State Highway One Alignment Plans 44 Maps 164 & 165
- R6 Wood Deed 1988-0024702
- R7 Estate of DeBolt Deed 717 OR 93
- R8 DeBolt and Barnett Deed 197 BD 638
- R9 Shleser Deed 384 BD 352
- R10 Talmadge Deed 143 BD 505
- R11 Talmadge Wood Deed 1993-0170519
- R12 Marker Deed 1998-0092432
- R13 Shleser / Calma Deed 2000-0040136
- R14 Abandonment Deed 843 OR 14



## RECORD OF SURVEY

of lands of Robert A. Shleser and Rosa R. Calma as described in that deed recorded as Document No. 2000-0040136 of Official Records, Sonoma County Records.

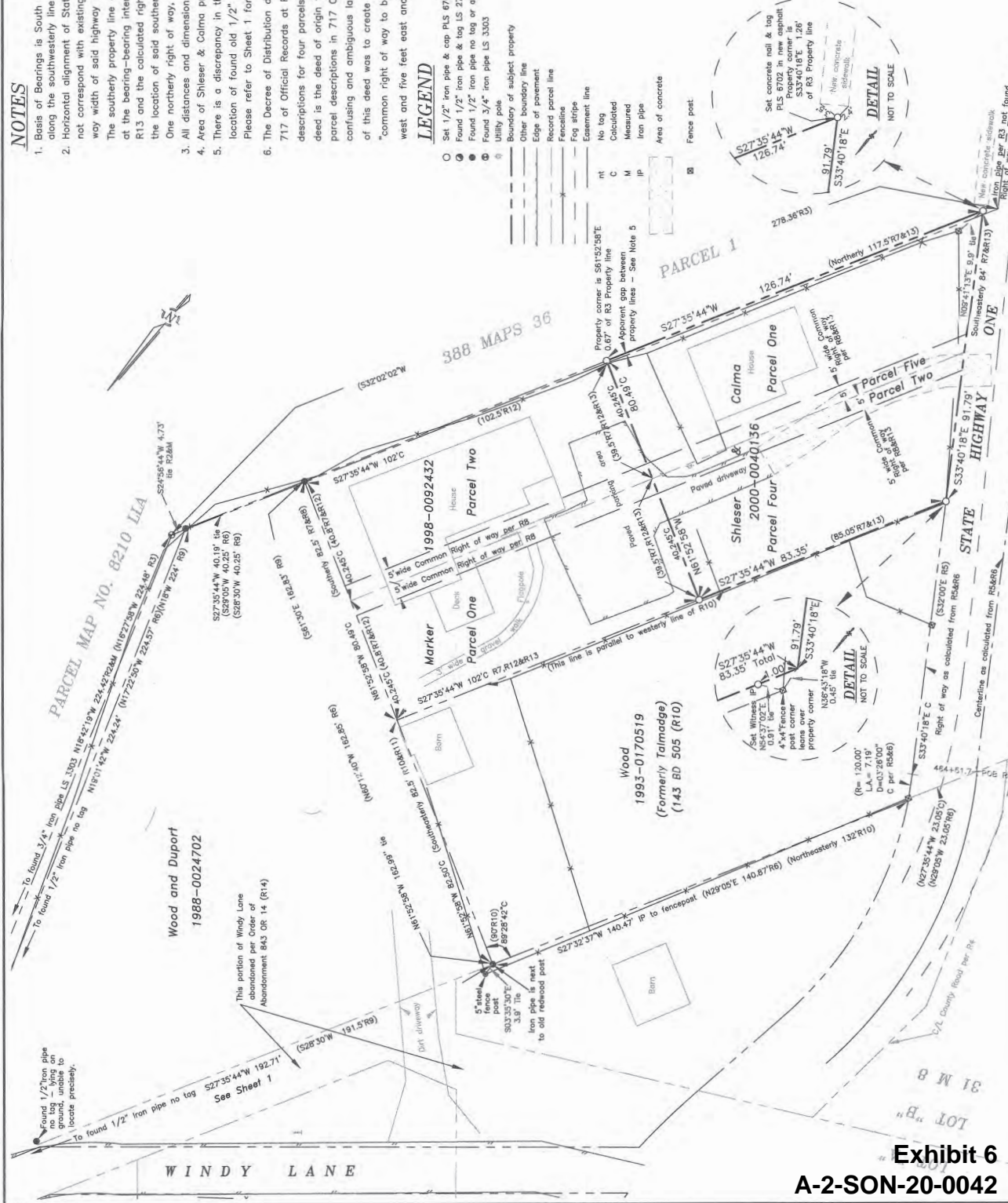
Lying Within the Bodega Rancho

County of Sonoma • State of California

**PACIFIC LAND SURVEYS**  
P.O. BOX 706 BODICA, CA 94923 • 706.876.5208

APN 100-100-005 & 006 • Scale: 1"=20' • Sheet: 2 of 2

Detail Sheet



## VII. DEVELOPMENT

### HOUSING

#### Introduction

The major goal of the Housing section is to protect and promote low and moderate cost housing for people who work within the coastal zone to carry out Coastal Act policies on housing, access, and coastal zone priority uses.

#### Coastal Act Policies

30213. Lower cost visitor and recreational facilities and housing opportunities for persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. New housing in the coastal zone shall be developed in conformity with the standards, policies, and goals of local housing elements adopted in accordance with the requirements of subdivision (c) of Section 65302 of the Government Code.

Other sections of the Coastal Act imply that affordable housing should be provided. Coastal Act policies which encourage visitor-serving commercial development (Section 30220-30223), agricultural production (Sections 30241-30242) and coastal-dependent industry (Sections 30702-30708) call for increasing and maintaining employment opportunities in the coastal zone which generate modest incomes. If workers are unable to find affordable housing in the coastal zone, the viability of such Coastal Act policies would be seriously threatened.

#### Definitions

Affordable Rental Housing means rental housing which costs not more than 30 percent of 60 percent of HUD median area income for a lower income household, adjusted for household size, and not more than 30 percent of 50 percent of HUD median area income for a very-low income household, adjusted for household size; assuming that the household size will equal the number of bedrooms contained in the unit, plus one.

Affordable Ownership Housing means home ownership housing which costs not more than 30 percent of the maximum income as established by HUD for very low, lower, and moderate income households, adjusted for household size; assuming that household size will equal the number of bedrooms contained in the unit, plus one.

Density Bonus means a density increase of at least 25 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. In the coastal zone, the otherwise maximum allowable residential density shall mean the maximum density determined by applying all site-specific environmental constraints applicable under the Coastal Plan and Coastal Zoning Ordinance certified by the Coastal Commission.

Housing Opportunity Area means a parcel or parcels of land whereon a project may be proposed that provides affordable housing pursuant to General Plan Housing Element Policy HE-2g as modified by the Coastal Plan. Lower Income Households means a household whose gross annual income is not more than eighty percent of the HUD median income adjusted for household size.

is measured as the vertical distance between the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof. Screen parking areas from view through use of plantings, design, and siting.

In Bodega Bay, reflect the nautical character of the harbor with wooden exteriors, stained or painted white or subdued earth colors. For heavy, commercial structures, permit textured metal in subdued colors with proper architectural detailing and landscaping to add visual interest and soften building lines.

Agricultural Structures. Locate large agricultural structures out of public view when possible. Encourage designs and materials which blend with the natural vegetative cover.

Signs. Relate signs to their surroundings in terms of size, shape, color, texture, and lighting so that they are complimentary to the overall design of the building and are not in visual competition with other conforming signs in the area. Insure that signing is subtle, unobtrusive, vandal proof and weather resistant, and if lighted, not unnecessarily bright. Avoid using struts, braces, kickbacks, or guy wires to support signs.

26. **Bodega Bay Core Area** (includes Taylor Tract and the residential area between Taylor Tract, Highway 1 and the proposed bypass). In addition to the Coastal Zone Design Guidelines, the following guidelines will be applied to Bodega Bay development. (Where conflicts occur, these guidelines supersede the general guidelines).

General. Site and design structures to take advantage of bay views without blocking views of neighboring structures.

Architectural Form. Encourage traditional building forms of coast buildings including Greek Revival, Salt Box, and simple cottage styles similar to existing homes. Encourage pitched roofs. Flat roofs may be appropriate where compatible with existing structures. Where a building is between two existing structures, the design should act as a transition between the two existing structures.

Height. Limit building height to 16 feet except that in major developments up to 15% of the units may exceed the height limit. Height for residential structures is measured as the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof. (See Figure VII-11.) Where these requirements conflict with the height, site, and bulk criteria of Appendix B (Bane Bill), for those properties listed, the requirements of Appendix B shall be followed.

Fences. Discourage property line fences over three feet in height and encourage traditional picket fences.

Materials and Colors. Encourage wood board or shingle siding. Encourage painted exteriors in colors similar to those existing in the town of Bodega Bay (i.e., rust, red, white, green, beige, brown, gray, yellow, and blue). Other colors must be approved by the Design Review Committee. Natural wood exteriors may be intermixed but should not dominate the new development area. Encourage wood trim windows painted in a contrasting, harmonizing color.

Streets. Encourage minimum paved street widths consistent with circulation, safety, and parking requirements to provide a sense of continuity between the new development and the original town.

Pedestrian Access. Require separated bike paths and walkways on one side of the street in new development areas.

Setbacks. Encourage some variation in setbacks.

Garages. Encourage use of detached garages in and adjacent to Taylor Tract. Single car garages may be appropriate.

27. **Bodega Harbor.** Continue to enforce Design Guidelines and Construction Regulations for Bodega Harbor Subdivision. Where homes within view corridors do not meet Bodega Harbor height, bulk and location conditions, the County Design Review Committee will review proposed plans for conformance with Coastal Plan view protection objectives.
28. **The Sea Ranch.** Continue to enforce The Sea Ranch Design Guidelines, incorporating the specified Height, Site, and Bulk Criteria provided for in Section 30610.6 (d) of the Public Resources Code. If a proposed residence does not meet the Height, Site and Bulk Criteria, the County may issue a variance as allowed in the adopted Height, Site and Bulk Criteria.



## OWNER'S CERTIFICATE

We hereby certify that we are the owners of and have the right, title and interest in the land shown upon this map, and are the only persons whose consent is necessary to pass clear title to said property and we consent to the making of said map of the subdivision shown within the border lines.

Owners:

Ann C. Hall  
Lewis K. Land

Barbara Jane Land  
Barbara Jane Land

Frances A. Moore  
Frances A. Moore, Trustee, U/T/A dated April 1979, Owner.

## ACKNOWLEDGMENT

State of California ) ss  
County of Sonoma )

On this 21 day of September, in the year 1986, before me, James A. Williams, a Notary Public personally appeared Lewis K. Land, Elizabeth Land, Barbara Jane Land and Helen Elizabeth Land, personally known to me or proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to this instrument and acknowledged that they executed it.

In witness whereof, I have hereunto set my hand and affixed my official seal in the County of Sonoma on the day and year in this certificate first above written.



James A. Williams  
Notary Public in and for said County of Sonoma  
and State of California. My Commission expires 4/27/90.

## ACKNOWLEDGMENT

State of Colorado )  
County of Larimer )

On this 19th day of September, 1986 before me, the undersigned a Notary Public in and for said County of Larimer, State of Colorado, duly commissioned and sworn, personally appeared Frances A. Moore as Trustee, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



James A. Williams  
Notary Public  
County of Larimer, State of Colorado  
My Commission expires 8-1-87

Signatures of owners of the following interests have been omitted under the provisions of Section 6616 (C) of the Subdivision Map Act; their interest in such that it cannot ripen into a fee title and such signatures are not required by the governing body:

Recorded	Nature of Interest
1983 O.R. 720	Road, access, utility, and drainage easement
Doc. No. 84045509	Easement for highway slopes, drainage, public utilities, electric cables, telephone lines.

## SURVEYOR'S CERTIFICATE

This map was prepared by me or under my direction and is based upon a field survey conducted in accordance with the Subdivision Map Act and local ordinance at the request of Lewis K. Land and Barbara Jane Land, hereby state that this parcel map substantially conforms to the approved or conditionally approved tentative map, if any, and that all monuments are of the character and occupy the positions indicated, and are sufficient to enable the survey to be retraced.

John G. Stroeh  
John G. Stroeh 3303  
License No. 6680-88  
STATE OF CALIFORNIA  
DEPUTY

## COUNTY SURVEYOR'S CERTIFICATE

This map conforms with the requirements of the Subdivision Map Act and local ordinance.

Dated: September 24, 1986



## COUNTY CLERK'S CERTIFICATE

I certify that all bonds, money or negotiable bonds required under the provisions of the Subdivision Map Act and local ordinance for the recording of this map have been filed with and approved by the County Clerk, namely, bond(s) under Government Code Sections 66493 (a) and 66493(c) in the sum of \$6,000.00 and \$0.00, respectively.

Date: 9-24-86  
Steve J. Smith  
Clerk of the Board of Supervisors

## RECORDER'S CERTIFICATE

Filed this 26 day of September, 19 86, at 8:00 A.M. in Book 388 of Maps at Page 36-37 at the request of the County Clerk.

Serial No. 86076979 Fee 8.00

Bernice A. Peterson  
County Recorder

## TAX COLLECTOR'S CERTIFICATE

According to the records in the office of the undersigned, there are no liens against this subdivision, or any part thereof, for unpaid state, county, municipal or local taxes or special assessments collected as taxes, except those taxes and special assessments collected as taxes and not yet payable is \$4,000.00.

The land is said subdivision is not subject to a special assessment or bond which may be paid in full.

Security required pursuant to Government Code Sections 66493(a) and 66493(c) are hereby accepted and approved.

Dated: Sept. 23, 1986  
Shirley W. May  
Tax Collector  
County of Sonoma, State of California

## PARCEL MAP NO. 8210 LLA

BEING A PORTION OF THE LAND OF LEWIS K. LAND AND ELIZABETH LAND AS SAID LANDS ARE DESCRIBED IN THAT DEED RECORDED IN BOOK 3558 OF OFFICIAL RECORDS, PAGE 189, SONOMA COUNTY RECORDS.

BODEGA BAY SONOMA COUNTY CALIFORNIA  
DECEMBER 1985

**[st]**<sup>2</sup> STUBER-STROEH ASSOCIATES, INC.

CONSULTING ENGINEERS & SURVEYORS  
7900 Colton Ave. Suite 210, Novato, CA 94947 415-886-4763

A.P. 100-18-30 & 36, 100-19-4

SHEET 1 OF 2

File 101-01

## Bodega Bay Lots for

**\$199,000**

**In Escrow**

**1020 North Highway One**

0.0826 acre lot. Water view lot in Old Bodega Bay. Lot is in BBPUD and can have sewer and water connection. Building subject to PRMD, and Ca. Coastal Permit. Home on the right.

MLS # 21517074 Sonoma Coast Living / Buttarro

**\$199,000**

0.1377 acre lot. Water view parcel. Spud Farm. Close to miles of

MLS # 21517074

*No Photo Available*











\$100,000

Last Sold Price

3,598 / 0.08

Lot Size / Acres

1020 Highway 1

Bodega Bay, CA 94923

Save

↗ Share

# Property Details for 1020 Highway 1

Status	Sold
MLS #	21517074
Year Built	-
Compass Type	Land

Exhibit 6

A-2-SON-20-0042

Page 87 of 145

MLS Type	Lots & Acreage / Residential Lot
Lot Size	0.08 AC
Taxes	-
Condo/Co-op Fees	-
HOA Fees	-
County	<a href="#">Sonoma County</a>
Area	Coastal Sonoma
Subdivision	Taylor Tract
View(s)	Bay, Hills, Marina, Ocean, Water

## Location

[Bodega Bay](#) ▶ [94923](#) ▶ [Coastal Sonoma](#) ▶ 1020 Highway 1

Listing Courtesy of Sonoma Coast Living, Thera Buttarro, DRE #00610278

## Description

Water view lot in **Old Bodega Bay**. Lot is in BBPUD and can have sewer and water connection. Building subject to Sonoma County PRMD, and Ca. Coastal Permit. Home on the right, 1010 Hwy is sold separately.

**Exhibit 6**  
**A-2-SON-20-0042**  
**Page 88 of 145**

# Building Information for 1020 Highway 1

Lot Size 0.08 AC

## Payment Calculator

\$360 per month

30 year fixed, 3.51% Interest

Principal and Interest	\$360
Property Taxes	—
HOA Dues	\$0

### Term

30 Years Fixed

### Home Price

\$100,000

### Interest

3.51%

### Down Payment

\$20,000

20%

# Property Information for 1020 Highway 1

Features

Exhibit 6  
A-2-SON-20-0042  
Page 89 of 145

**Interior Features**

- Miscellaneous: **Golf Course Near, Park Nearby, Restaurant Nearby**

**Utilities**

- Sewer/Septic: **Sewer Public, TBD**
- Utilities: **Cable Available, Elec Avail, Phone Avail**

**Property Details****Homeowners Association**

- HOA Amount: **\$0**
- HOA: **No**

**Property Details**

- Lot Square Footage: **3598.0**
  - Acres: **0.08**
  - Picture Count: **1**
  - Picture Modified Date Time: **07-11-2015**
  - Common Int Dev: **No**
  - New Construct/Resale: **Resale**
  - Planned Unit Development: **No**
  - County: **Sonoma**
  - Property Disclaimer: **Information has not been verified, is not guaranteed, and is subject to change.**
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**Lot / Property Details****Building Information**

- Existing Structures: **Shed**

**Location Information**

- Location: **Coastal**
- School District: **Shoreline**
- Elementary School: **Bodega Bay**
- Jr/Middle School: **Tomales**
- High School: **Tomales**

## Lot Information

- Num of Lots: 1 Lot
- Building Pad: No
- Cond/Restr: Coastal Commission, Right of Way
- Corners Marked: No
- Crops: None
- Current Use: None
- Dev Status: Rough Grade, Subdiv Yes
- Developer/Bldr Lot Num: 0
- HOA Fee Includes: None
- Lease Amount: \$0
- Lot Description: Cleared, View
- Lot Measurement: Acres
- Lot Size Source: (Realist Public Rec)
- Soils Report: No
- Special Zones: Coastal Zone
- Surface Water: None
- Surveyed: No
- Topography: Upslope, Irregular
- Water Source: TBD, Water Public
- Zoning: R1 CZ
- Zoning Allows: Residential
- Fencing: Partial, Wood Board
- Soil: Unknown

## Listing Info

### Market Details

- List Offices: Sonoma Coast Living (BALE30)
- Buyer Offices: Sonoma Coast Living (BALE30)
- List Agents: Thera Buttaro (B4996)
- Buyer Agents: Thera Buttaro (B4996)
- Listing Agent First Name: Thera
- Listing Agent Last Name: Buttaro
- Listing Agent Number: 15029
- Selling Agent Full Name: Thera Buttaro
- Selling Agent Number: 15029.0
- Listing Office Name: Sonoma Coast Living
- ListingOffice Number: 3836.0
- Selling Office Name: Sonoma Coast Living
- Selling Office Number: 3836.0
- Search Contractual Date: 03-02-2016

**Exhibit 6**  
**A-2-SON-20-0042**  
**Page 91 of 145**

- Entry Date: 07-11-2015
- Available Date: 07-11-2015

Rental Info

- Lease Type: Net

Schools near 1020 Highway 1

All	Elementary	Middle	High
<hr/>			
Bodega Bay Elementary School			NR
K-5, 0.3 mi, Public			
<hr/>			
Tomales High School			5
9-12, 10.0 mi, Public			

School ratings and boundaries are provided by [GreatSchools.org](#) and Pitney Bowes. This information should only be used as a reference. Proximity or boundaries shown here are not a guarantee of enrollment. Please reach out to schools directly to verify all information and enrollment eligibility.

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[Carmet](#)

[Russian River](#)

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[94952](#)

[94929](#)

[95465](#)

[95450](#)

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Listing Courtesy of Sonoma Coast Living, Thera Buttarro, DRE #00610278

Based on information from the San Francisco Association of Realtors as of 07/11/2015 07:00 AM, the MLSListings MLS as of 07/11/2015 07:00 AM, or the BAREIS MLS as of 07/11/2015 07:00 AM. MLS data is deemed reliable but is not guaranteed accurate by the MLS. Information is provided for consumers' personal, non-commercial use, and may not be used for any purpose other than to identify prospective properties consumers may be interested in purchasing. Buyers are responsible for verifying the accuracy of all information and should investigate the data themselves or retain appropriate professionals. Information from sources other than the Listing Agent may have been included in the MLS data. Unless otherwise specified in writing, the Broker/Agent has not and will not verify any information obtained from other sources. The Broker/Agent providing the information contained herein may or may not have been the Listing and/or Selling Agent. Information being provided is for consumers' personal, non-commercial use and may not be used for any purposes other than to identify prospective properties consumers may be interested in purchasing. Data last updated on 03/23/2017 02:02 PM

## Company

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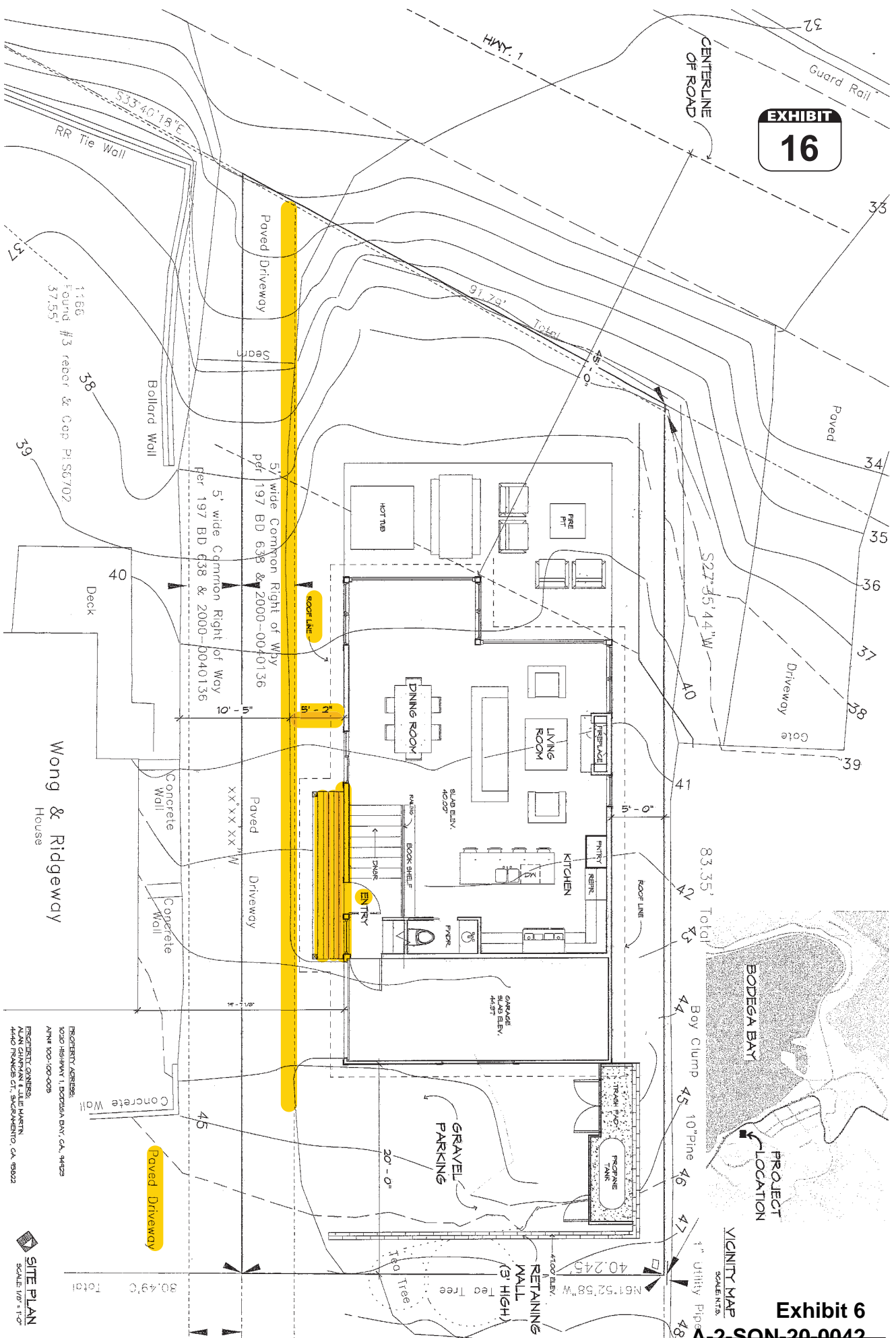
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**EXHIBIT**  
**16**



PROPERTY ADDRESS:  
1000 HIGHWAY 1, BODEGA BAY, CA, 94923  
APN# 100-100-005

PROJECT OWNERS:  
ALAN CHAPMAN & LILIE MARTIN  
4440 PINEWOOD CT., SHERBORN, CA 95022

**SITE PLAN**  
SCALE: 1/8" = 1'-0"

## Sonoma County Board of Zoning Adjustments STAFF REPORT

**FILE:** CPH16-0009  
**DATE:** December 20, 2018  
**TIME:** 1:15 pm  
**STAFF:** Jennifer Faso, Project Planner

Appeal Period: 10 calendar days

### SUMMARY

**Applicant:** Alan and Julie Chapman  
**Owner:** Alan and Julie Chapman  
**Location:** 1020 Highway 1, Bodega Bay  
**APNs:** 100-100-005

**Supervisory District No.:** 5

**Subject:** Coastal Permit

**PROPOSAL:** Request for a Coastal Permit, for a new two story 1,616 square foot single family residence with attached 200 square foot garage and associated landscaping on a 4,138 square foot lot.

**Environmental Determination:** Categorical Exemption, per CEQA Guidelines Section 15303 Class 3 (a), the project involves the construction of a new single family residence.

**Land Use:** Urban Residential

**Specific/Area Plan:** Local Coastal Plan

**Ord. Reference:** Section 26C-102

**Zoning:** R1 (Low Density Residential District), CC (Coastal Combining), G (Geologic hazard Combining), SR (Scenic Resources)

**Land Conservation Contract:**

Not Applicable

**Application Complete** August 13, 2018  
**for Processing:**

**RECOMMENDATION:** Recommend that the Board of Zoning Adjustments find the project Categorially Exempt from CEQA and approve the Coastal Permit to allow construction of a two story 1,616 square foot single family residence with attached 200 square foot garage and associated landscaping.

**EXECUTIVE SUMMARY:** The request is for a Coastal Permit to allow the construction of a 1,616 square foot two story single family residence. The subject parcel is a vacant lot located on the east side of Highway 1, within the Coastal Zone and within the Bodega Bay Urban Service Area.

The proposed traditional architectural style of the new single family residence along with the proposed exterior materials will be compatible with the surrounding neighborhood and the natural environment. The project meets the development standards in terms of setbacks, maximum lot coverage and height restrictions of the R1 (Low Density Residential) CC (Coastal Combining) zoning district in which the project is located.

The project is exempt from CEQA given that the project involves the construction of a single family residence.

### **ANALYSIS**

**Project Description:** The proposed two story 1,616 square foot single family residence is comprised of 856 square foot first floor and 760 square foot second floor. The attached garage is 200 square feet which will allow for one covered parking space. Additional uncovered parking area is available on the project site adjacent to the garage. The height of the structure is 22 feet 6 inches.

Access to the site is provided from Highway 1 via a shared easement. The existing easement provides access to the two adjacent parcels.

The parcel is within the Bodega Bay Urban Service Area, whereas public sewer and water is provided by the Bodega Bay Public Utility District.

The following exterior materials and colors are proposed:

#### **Siding**

Material: Hardie Board Lap Siding with white trim

Color: Monterey Taupe

#### **Roof**

Material: Three Tab Asphalt Shingle

Color: Dark Grey/ Black

**Site Characteristics:** The project site is a 4,138 square foot parcel located on the east side of Highway 1, at 1020 Highway 1, Bodega Bay (see Exhibit B, vicinity map). The parcel is vacant and gently slopes towards Highway 1 which borders the parcel at the westerly property line.

**Surrounding Land Use and Zoning:**

North: Single Family residence zoned R1 (Low Density Residential), CC (Coastal Combining)  
South: Single Family residence zoned R1 (Low Density Residential), CC (Coastal Combining)  
East: Single Family residence zoned PC (Planned Community), CC (Coastal Combining)  
West: Highway 1, Vacant Parcel zoned PF (Public Facility)

**DISCUSSION OF ISSUES**

**Issue #1:** Consistency with the Local Coastal Plan (LCP)

The proposed single family residence is located within the Coastal Zone, and therefore the project is subject to the provisions of the Sonoma County Local Coastal Plan (1987, amended 2001). The purpose of the Local Coastal Plan is to protect, maintain and where feasible enhance the overall quality of the coastal environment. The Local Coastal Plan identifies intended land uses and includes policies to preserve the Coastal Zone's visual and biological resources.

Land Use

The Land Use Section of the Coastal Plan formulates development policies that together with the Land Use Maps indicate the type, location and intensity of land permitted in the Coastal Zone. The Local Coastal Plan identifies the project site and the surrounding parcels as Urban Residential. The Urban Residential designation allows for a full range of residential development within Urban Service Areas. The project site is currently vacant and the proposed use is residential, therefore the project is consistent with Local Coastal Plan land use section.

Visual Resources

The Visual Resources Section of the Local Coastal Plan provides policies to prevent blockage or degradation of scenic views from public spaces and to assure that development is compatible with the existing natural and developed landscape. The project site is located within a Scenic Resource area and therefore the project is subject to design review. The Local Coastal Plan Design Guidelines along with Section 26C-292 of the Coastal Zoning Code, provide design review standards. These standards were analyzed as part of this application. See analysis below under Issue #2.

In addition to the Local Coastal Design Guidelines the project was analyzed for consistency with Permit Sonoma's Visual Assessment Guidelines. Based on the criteria included in the guidelines it appears that the project is significant in regards to visual impacts. However given that the project is located on an existing legal lot east of Highway 1, within an Urban Service Area and the fact that the project will be similar in size, scale and materials to the existing surrounding neighborhood, the project as conditioned, will not have significant negative visual impacts. Below is a summary of the Visual Assessment Guidelines for this project.

Permit Sonoma Visual Assessment Guidelines		
Threshold of Significant	Sensitivity	Staff Analysis of Visual Characteristics
Site Sensitivity	Moderate	The project site is located on the east side of Highway 1 within the Bodega Bay Urban Service Area and has an urban land use designation of Urban Residential. The project site is not located on a hilltop and does not contain significant natural vegetation. The project site is surrounded by three lots that are developed with single family residences. Based on the site's characteristics the project meets the threshold for an area of moderate visual sensitivity. The proposed single family residence is similar in size and scale with the surrounding developed parcels and will not block views from Highway 1.
Visual Dominance	Subordinate	The proposed single family residence has moderate design elements in terms of visual dominance. The structure will be a new visible element within the neighborhood, given that the lot has never been developed. However it will attract attention equally with other features in the area. The proposed form, scale, exterior colors, and exterior lighting are compatible with the surrounding neighborhood.
Overall Project Significance	Less than Significant	The overall visual dominance of the proposed single family residence will be less than significant. This is based on the analysis above which demonstrates the moderate sensitivity of the project site and the subordinate characteristics of the proposed structure.

#### Biotic

The Local Coastal Plan identifies areas along the Sonoma County coast that contain sensitive environmental resources. The project site is not located within one of the Local Coastal Plan's identified sensitive areas. A biological assessment prepared by Charles A Patterson, dated February 10, 2016, was submitted as part of the Coastal Permit application (see Exhibit E). The assessment concluded that the project site does not contain wetlands and that no natural biotic habitats or significant native species will be lost as a result of this project.

## Issue #2: Consistency with the Coastal Zoning Ordinance

The project site has a base zoning of R1 (Low Density Residential), CC (Coastal Combining). This zoning designation allows for single family residences. The proposed project, a single family residence, is consistent with the zoning designation.

### Residential Development Criteria

The applicable (R1) Low Density Residential development criteria was analyzed as part of the application. The proposed project is consistent with the development criteria as shown below.

Zoning Ordinance Section 26C-102(f)		
Yard Requirements	Required Setback	Proposed Setback
Front	<i>Not less than twenty feet (20') provided, however, that no structure shall be located closer than forty-five (45') to the centerline of any public road, street or highway</i>	22 feet ( 22' ) to property line  45 feet ( 45'' ) to centerline of Highway 1
Side	<i>Minimum of five feet (5')</i>	5 feet (5 ' ) north property line 9 feet (9') south property line
Rear	<i>Minimum of (twenty) 20'</i>	20 feet (20')

The Coastal Zoning Ordinance Section 26C-102 (b) (3) states that the maximum height of residential structures east of Highway 1 and visible from designated scenic roads is twenty-four feet (24'). The height of the proposed single family dwelling is 22 feet 6 inches therefore the project is consistent with the height requirements of the Coastal Zoning Code.

Maximum lot coverage allowed per Section 26-102(e) is forty percent (40 %) of the lot. The proposed development associated with this application which includes the single family residence, garage and driveway footprint is 1,629 square feet. The subject parcel is 4,138 square feet, therefore the project's lot coverage is 39.3 %. The proposed lot coverage for this project is less than maximum allowed. Therefore the project is consistent with the maximum lot coverage requirement.

### Design Review General Development Standards

As required by the Local Coastal Plan's design review standards and pursuant to Section 26C-292 of the Coastal Zoning Code, design review standards were analyzed as part of this application. The following design review standards apply to this project.

- (a) *Proposed structures are designed and situated as to retain and blend with natural vegetation and land forms of the site and to ensure adequate space for light and air to itself and adjacent properties;*

Staff analysis: The proposed single family residence is setback from property lines as required by the Coastal Zoning Code, this ensures adequate space for light and air on the project site and for the adjacent properties. Minimal grading is required for the project, therefore the natural land form of the lot will remain the same. The proposed colors and materials for the project are natural tones, which will enable the project to blend with the surrounding natural environment.

*(g) Views are protected by the height and location of structures and through the selective pruning or removal of trees and vegetative matter at the end of the view corridors;*

Staff analysis: The project site is located on the east side of Highway 1 therefore coastal views will not be obstructed from Highway 1. The proposed single family residence is 22' 6" at its highest point which is consistent with the maximum height allowed by the Coastal Zoning Code.

*(l) Varying architectural styles are made compatible through the use of similar materials and colors which blend with the natural setting and surrounding neighborhood;*

Staff analysis: The surrounding area is developed with single family residences that are various architectural styles and sizes. The proposed exterior materials (Monterey Taupe Hardie Lap Board and Dark Grey roof shingles) are earth tones similar to materials used by adjacent structures. Based on the proposed traditional architectural style and the proposed exterior materials the project is compatible with the surrounding neighborhood and the natural environment.

*(j) The design of the structure is appropriate to the use of the property and is in harmony with the shape, size and scale of adjacent buildings in the community;*

Staff analysis: The proposed single family residence is designed in a manner that is consistent with a typical single family residence and residential use. Project design features include the use of natural colors and materials for the exterior components of the project making the project compatible with the surrounding neighborhood. The project site is surrounded by three existing residences. Based on Sonoma County Assessor's records the residences range in size from 1,200 square feet to 2,264 square feet. The two residences located to the north and south of the project site are two stories and the residence to the east is a single story residence. Given that the proposed single family dwelling and attached garage is 1,616 square feet it is compatible in size and scale with the adjacent existing structures.

Based on the analysis above the project is consistent with the Design Review Development standards of the Coastal Zoning Ordinance.

### **Issue #3** California Environmental Quality Act (CEQA)

The proposed project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 Class 3 (a) because the project involves the construction of a single family residence.

### **STAFF RECOMMENDATION**

Staff recommends that the Board of Zoning Adjustments find the project Categorically Exempt from CEQA and approve the Coastal Permit to allow construction of a two story 1,616 square foot single family residence with attached 200 square foot garage and associated landscaping.

### **LIST OF ATTACHMENTS**

EXHIBIT A: Draft Conditions of Approval  
EXHIBIT B: Vicinity Map and Aerial Project Site  
EXHIBIT C: General Plan Land Use  
EXHIBIT D: Zoning Map  
EXHIBIT E: Project Description, Application and Supplemental Information  
EXHIBIT F: Biological Assessment dated February 10, 2016  
EXHIBIT G: Project Plan dated 1/12/2017  
EXHIBIT H: Draft Resolution

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## COUNTY OF SONOMA

575 ADMINISTRATION  
DRIVE, ROOM 102A  
SANTA ROSA, CA 95403

### SUMMARY REPORT

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**Agenda Date:** 7/14/2020

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**To:** Board of Supervisors

**Department or Agency Name(s):** Permit Sonoma

**Staff Name and Phone Number:** Jennifer Faso, (707) 565-1683

**Vote Requirement:** Majority

**Supervisorial District(s):** Fifth

**Title:**

**1:30 PM** - Coastal Permit Appeal, 1020 HWY 1 Bodega Bay

**Recommended Action:**

Conduct a public hearing and approve a Resolution denying the appeal, exempting the project from the California Environmental Quality Act (CEQA), and upholding the Board of Zoning Adjustment's approval of a Coastal Permit for a new 1,616 square foot single family residence and attached 200 square foot garage at 1020 HWY 1 Bodega Bay, APN 100-100-005; CPH16-0009.

**Executive Summary:**

The proposed project is the construction of a new two story 1,616 square foot single family residence with attached 200 square foot garage and associated landscaping. The subject parcel is a 4,138 square foot parcel located on the east side of Highway 1 within the Coastal Zone and within the Bodega Bay Urban Service Area.

The proposed traditional architectural style of the new single family residence along with the proposed exterior materials will be compatible with the surrounding neighborhood and the natural environment. The project meets development standards in terms of setbacks, maximum lot coverage and height restrictions of the R1 (Low Density Residential) CC (Coastal Combining) zoning district in which the project is located.

The project is exempt from the California Environmental Quality Act (CEQA) given that the project involves the construction of a single family residence.

On December 20, 2018, the Board of Zoning Adjustments conducted a public hearing and found the project exempt from the requirements of CEQA and unanimously approved the Coastal Permit.

On December 28, 2018 the adjacent neighbors (Appellants) filed a timely appeal to the Board of Supervisors, shown in Attachment 3.

Staff recommends denying the appeal because the project is consistent with the goals and policies of the Local Coastal Plan and meets the development standards of the Coastal Zoning Ordinance, Chapter 26C of the County Code. Furthermore the project will be compatible with the existing community character and the natural environment.

**Discussion:**

**Exhibit 6**

**A-2-SON-20-0042**

**Page 104 of 145**

**Project Description:**

The proposed 1,616 square foot single family residence is two stories comprised of a 856 square foot first floor and a 760 square foot second floor. The height of the structure is 22 feet 6 inches. The attached garage is 200 square feet which will provide one covered parking space. Additional uncovered parking is available on the project site adjacent to the garage.

The following exterior materials and colors are proposed:

Siding

Material: Hardie Board Lap Siding with white trim

Color: Monterey Taupe

Roof

Material: Three Tab Asphalt Shingle

Color: Dark Grey/Black

Site Characteristics

The project site is a 4,138 square foot parcel located on the east side of Highway 1, at 1020 Highway 1 Bodega Bay (Attachment 4 Vicinity Map). The parcel is vacant and gently slopes towards Highway 1 which borders the parcel at the westerly property line.

Surrounding Land Use and Zoning

North: Single family residence zoned R1 (Low Density Residential), CC (Coastal Combining)

South: Single family residence zoned R1 (Low Density Residential), CC (Coastal Combining)

East: Single family residence zoned PC (Planned Community), CC (Coastal Combining)

West: Highway 1, Vacant parcel zoned PF (Public Facility)

**Issues Raised in the Appeal Letter:**

**1. Public Hearing Comment Procedures**

The appeal states a concern that the rules and procedures of the Board of Zoning Adjustments' public hearing process were not followed. Specifically the appeal states that the property owners' contractor/designer was allowed to assume the role of applicant and was given more time than the general public to address the Board of Zoning Adjustments.

Staff discussion: Public Hearing Comment Procedures

The Coastal Permit application submitted to Permit Sonoma lists Alan and Julie Martin Chapman as the applicants and owners. The application lists Mason Tobey and contractor Richard Popek as *Others Persons to be Notified*. This section of the application allows property owners to designate additional individuals that they want included on all correspondence and contact with Permit Sonoma. In many cases the project manager or other professionals are listed in this section.

The Bylaws of the Sonoma County Board of Zoning Adjustments and the procedural rules for conduct of public meeting state: *The applicant or his/her representatives will be given an opportunity to make a presentation or make comments relative to his/her application.* During the Board of Zoning Adjustments hearing the applicant Julie Martin Chapman gave a brief introduction of the project and then asked her contractor/designer Richard Popek to use the rest of her allotted time to speak and answer questions from the members of the Board of Zoning Adjustments (Attachment 6 BZA Minutes). Richard Popek was not given additional time as a member of the public as he was delegated by the property owner as a member of the project applicant team. The Board of Zoning Adjustments held a public hearing, reviewed the staff report and materials and listened to public comment consistent with their procedural rules for conduct of public meetings.

## **2. Maximum Lot Coverage**

The appeal states that the driveway easement that serves the subject parcel and the adjacent parcels should not be included in the total footage of the parcel. For this reason the appellants believe that the proposed project exceeds the maximum lot coverage for development.

### Staff discussion: Maximum Lot Coverage

The access for this parcel along with access for the adjacent parcel is provided by a 10 foot driveway easement. The easement consists of 5 feet from the subject parcel and 5 feet from the adjacent parcel (1010 Highway 1). The Grant Deed for the subject parcel shows one legal lot totaling 4,138 square feet that includes the common right of way. The Coastal Zoning Code section 26C-12 defines: *Lot means a legally defined parcel or contiguous group of parcels in single ownership or under single control, usually considered a unit for purposes of development.* Therefore the total lot area for this project is calculated including the easement area.

Maximum lot coverage allowed per Section 26-102(e) of the Coastal Zoning Code is forty percent (40%). The proposed development which includes the total footprint of the single family residence, garage and driveway is 1,629 square feet. The subject parcel is 4,138 square feet, therefore the project's lot coverage is 39.3 percent. The proposed lot coverage for this project is less than then maximum allowed making the project consistent with the maximum lot coverage requirements.

## **3. Easement /Driveway**

The appeal states that the site plan submitted with the application misrepresents the condition of the existing driveway easement in terms of paving and the amount of turn around area available for larger vehicles.

### Staff discussion: Easement /Driveway

The site plan (Attachment 6 Plans) shows the first part of the driveway as paved and the rear portion of the driveway as gravel. The existing driveway has been in use for many years and was originally paved at the portion of the driveway that connects with Highway 1, this has worn over time. The rear portion of the driveway is currently gravel and is not proposed to change. The unpaved driveway does not preclude large

**Exhibit 6**

vehicles from accessing the site as they have done so in the past. In many cases, for example trash pick-up or UPS deliveries, will perform their business from the main road or nearby turnouts, consistent with the current practice in the area.

#### **4. Consistency with Local Coastal Plan**

The appeal states that the proposed project is not consistent with the Local Coastal Plan because the project site is smaller than the minimum lot size recommended in the Coastal Plan for new development and that the appellants believe that there is no authority to “grandfather in” the existing lot.

##### Staff discussion: Consistency with Local Coastal Plan

The project site is a legal lot created in 1902. At the time the lot was created the current minimum lot sizes were not in effect. Because the lot was created legally, development of the lot is allowed however all current development standards must be met. The project is consistent with the current development standards of the Local Coastal Plan and Coastal Zoning Ordinance. Minimum lot size requirements set standards for the creation of new lots but do not impact the ability to develop a legally established lot provided all current development standards are met.

#### **5. Height**

The appeal states that the proposed height of the new single family residence exceeds the height restriction of the Coastal Zoning Ordinance and that the residence will not be compatible with the existing neighborhood.

##### Staff discussion: Height

Section 26C-102 (4) of the Coastal Zoning Code notes that residential projects east of Highway 1 and visible from designated scenic roads are limited in height to 24 feet and 15 feet for accessory buildings.

The proposed single family residence is 22 feet 6 inches at its highest point and therefore is consistent with the maximum height allowed by the Coastal Zoning Code.

The surrounding area is developed with single family residences that consists of various architectural styles and sizes. The proposed traditional architectural style along and earth tone exterior materials are similar to adjacent structures making the project compatible with the surrounding neighborhood.

#### **6. Lot Access and Egress for Larger Vehicles**

The appeal states concerns regarding the size of the lot and the ability for larger vehicles to access and exit the lot safely.

##### Staff discussion: Lot Access and Egress for Larger Vehicles

The existing lot is accessed by a common right of way easement that includes an existing driveway

**Exhibit 6**

**A-2-SON-20-0042**

**Page 107 of 145**

encroachment into Highway 1 permitted by California Department of Transportation (Caltrans).

As part of the standard practice for processing Coastal Permits the project was sent to interested parties, other county departments and state agencies. Each department and agency was given the opportunity to raise any concerns or request additional information that would assist in the analysis of the project. As part of that process the project was sent to The California Department of Transportation, the County of Sonoma Fire and Emergency Services and Bodega Bay Fire Protection Agency. No comments were received from these agencies during this referral period.

**Staff Recommendations:**

Deny the appeal and uphold the Board of Zoning Adjustments approval of the proposed single family residence subject to the attached conditions of approval.

**Prior Board Actions:**

None.

**FISCAL SUMMARY**

**Narrative Explanation of Fiscal Impacts:**

N/A

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Att 1 - Draft Board of Supervisor's Resolution

Att 2 - Draft Conditions of Approval

Att 3 - Appeal Form dated December 28, 2018

Att 4 - Project Site Map

Att 5 - Board of Zoning Adjustment Staff Report Packet dated December 20, 2018

Att 6 - Board of Zoning Adjustment minutes excerpt December 20, 2018

Att 7 - Project Plans

**Related Items "On File" with the Clerk of the Board:**

N/A

## Planning Application

PJR-001

## Application Type(s):

- ☐ Admin Cert. Compliance  
☐ Ag. Or Timber Preserve/Contract  
☐ Conditional Cert. of Compliance  
☐ Cert. of Modification  
☒ Coastal Permit  
☐ Zoning Permit for: \_\_\_\_\_

- ☐ Design Review Admin.  
☐ Design Review Full  
☐ General Plan Amendment  
☐ Lot Line Adjustment  
☐ Major Subdivision

File # CPH16-0009

- ☐ Minor Subdivision  
☐ Voluntary Merger  
☐ Ordinance Interpretation  
☐ Second Unit Permit  
☐ Specific/Area Plan Amendment  
☐ Use Permit  
☐ Variance  
☐ Zone Change  
☐ Other: \_\_\_\_\_

By placing my contact information (name, address, phone number, email address, etc.) on this application form and submitting it to Sonoma County PRMD, I understand and authorize PRMD to post this application to the internet or public information purposes, including my contact information.

## PRINT CLEARLY

APPLICANT				OWNER (IF OTHER THAN APPLICANT)			
Name <u>ALAN &amp; JULIE CHAPMAN</u>				Name _____			
Mailing Address <u>4440 FRANCIS CT</u>				Mailing Address _____			
City <u>SACRAMENTO</u>	State <u>CA</u>	Zip <u>95822</u>		City _____	State _____	Zip _____	
Day Ph <u>(916) 511-8348</u>	Email _____			Day Ph ( ) _____	Email _____		
Signature <u>[Signature]</u>		Date <u>9-24-16</u>		Signature _____		Date _____	
OTHER PERSONS TO BE NOTIFIED (If listed they must sign application form)							
Name/Title <u>MASON TOSEY</u>				Name/Title <u>RICHARD POPEK / CONTRACTOR</u>			
Mailing Address <u>5535 MULBERRY DR.</u>				Mailing Address <u>PO BOX 1328</u>			
City <u>SANTA ROSA</u>	State <u>CA</u>	Zip <u>95409</u>		City <u>BODEGA BAY</u>	State <u>CA</u>	Zip <u>94923</u>	
Day Ph <u>(808) 645-1735</u>	Email <u>mason@dckauai.com</u>			Day Ph <u>707 332-6166</u>	Email <u>POPEKDESIGN@GMAIL.COM</u>		
Signature <u>[Signature]</u>		Date <u>SEP 27 2016</u>		Signature <u>[Signature]</u>		Date <u>9-27-16</u>	
PROJECT INFORMATION							
Address(es) <u>1020 HWY. 1, BODEGA BAY, CA 94923</u>				City <u>BODEGA BAY</u>			
Assessor's Parcel Number(s) <u>100-100-005</u>							
Project Description <u>SINGLE FAMILY, NEW CONSTRUCTION HOME ON .095 ACRES. THE HOME WILL BE LOCATED ON THE NORTH SIDE OF HWY 1 WITH A COMBINED S.Q. FT. OF 1,616 (INCLUDING GARAGE)</u>							
Acreage <u>.095</u>				Number of new lots proposed _____			
Site Served by Public Water? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				Site Served by Public Sewer <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			

## TO BE COMPLETED BY PRMD STAFF

Planning Area <u>1</u>	Supervisorial District <u>5</u>	Latitude _____	Longitude _____
Current Zoning <u>R1 CC BG 4 DU G SR</u>			
General Plan Land Use <u>UR 4</u>		Specific/Area Plan _____	
S.P. Land Use _____		Violation? <input type="checkbox"/> Yes <input type="checkbox"/> No	File No. _____
Application resolve planning violation? <input type="checkbox"/> Yes <input type="checkbox"/> No		Penalty application? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Previous Files _____			
Application accepted by <u>Scott Orr</u>		Date <u>9/27/16</u>	
Approved by _____		Date _____	

Exhibit 6



1020 Hwy 1  
Bodega Bay, CA 94923

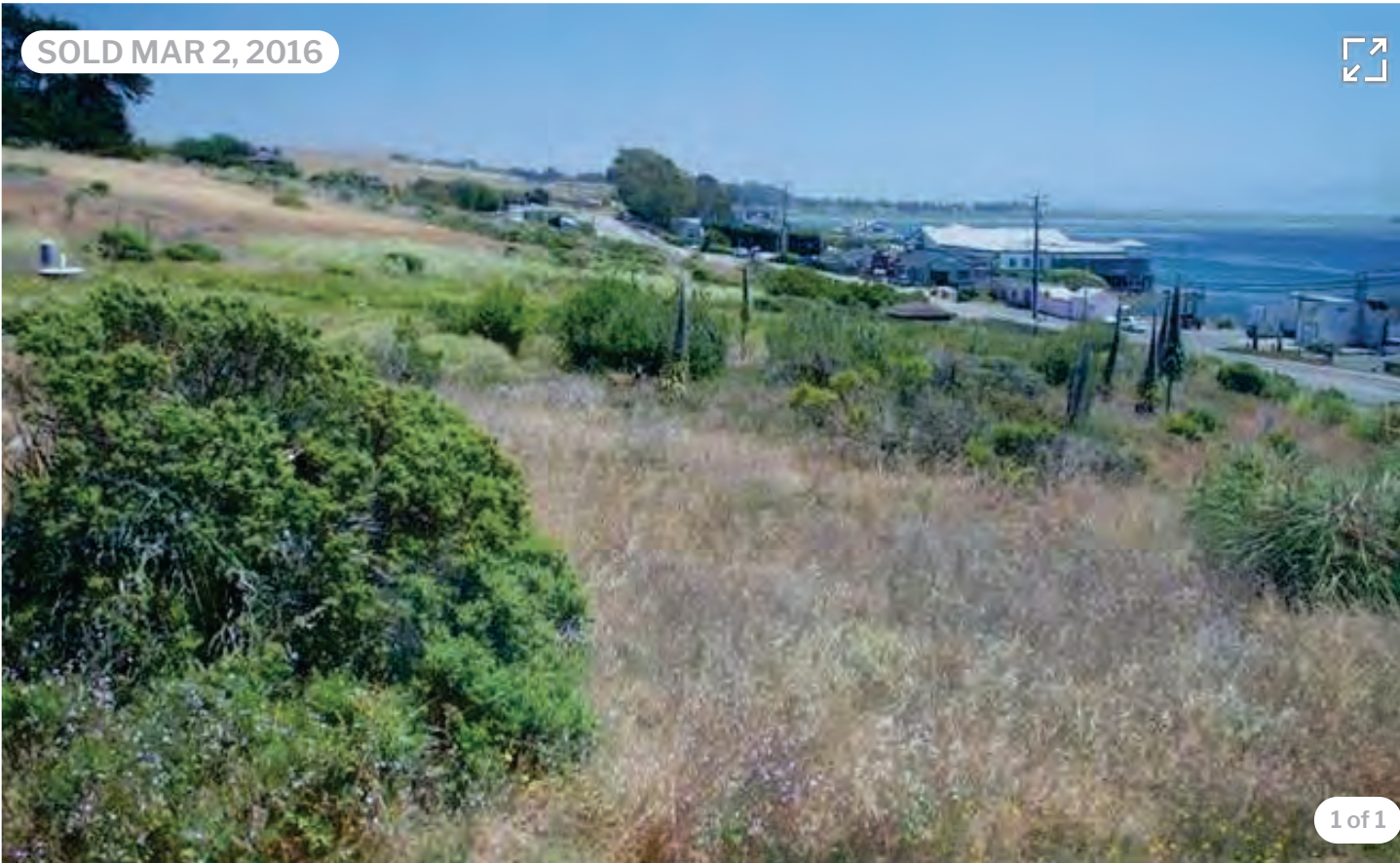
**\$177,020**  
Redfin Estimate  
—  
Sq. Ft.

**\$100,000**  
Last Sold Price

—  
Beds

—  
Baths

Status: Sold



Street View

Is This Your Home?

Track this home's estimate  
& nearby sales activity

Exhibit 6  
A-2-SON-20-0042  
Page 110 of 145

[I'm the Owner](#)

Sell your home with a  
Redfin Partner Agent.

Estimated sale price

**\$169,000 - \$186,000**

[Request Consultation](#)

## Redfin Estimate for 1020 Hwy 1

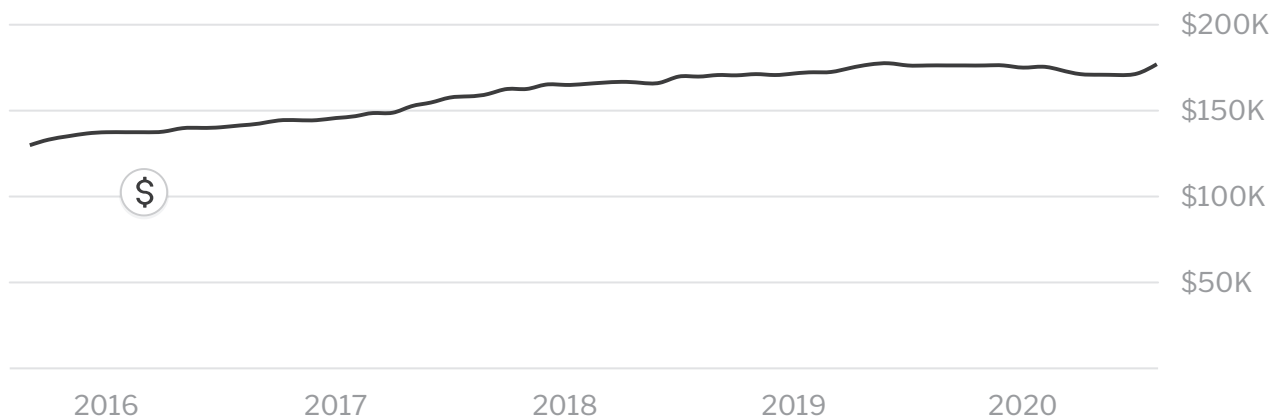
[Edit Home Facts](#) to improve accuracy.

**\$177,020**

[Track This Estimate](#)

+\$77K since sold in 2016

1 year 5 years



Redfin Estimate based on recent home sales. [i](#)

## Homeowner Tools



[Edit home facts](#)

Review property details and add renovations.



[Manage photos](#)

**Exhibit 6**  
**A-2-SON-20-0042**  
**Page 111 of 145**

Update home photos or make them private.



[View Owner Dashboard](#)

Track your estimate and nearby sale activity.

## Ask Redfin Partner Agent Jennifer a Question



**Jennifer Peschken**

Bodega Bay Redfin Partner Agent

HomeSmart Advantage Realty

Responds in 4 business hours

I'd like to know more about 1020 Hwy 1.

[Ask a Question](#)

## About This Home

Water view lot in **Old Bodega Bay**. Lot is in BBPUD and can have sewer and water connection. Building subject to Sonoma County PRMD, and Ca. Coastal Permit. Home on the right, 1010 Hwy is sold separately.

Listed by Thera Buttaro • DRE #00610278 • Sonoma Coast Living

Redfin last checked: [3 minutes ago](#) | Last updated Mar 23, 2017 • Source: BAREIS

Bought with Thera Buttaro • DRE #00610278 • Sonoma Coast Living

[Show Less](#) ^

## Price Insights

**Exhibit 6**  
**A-2-SON-20-0042**  
**Page 112 of 145**

Redfin Estimate

\$177,020

Home Facts

Status	Sold
Community	Coastal Sonoma
Lot Size	3,598 Sq. Ft.
MLS#	21517074

Map Nearby Homes For Sale

Expand Map | Street View | Directions

Public Facts for 1020 Hwy 1

Taxable Value		Tax Record	
Land	\$106,120	2019	\$1,771
Additions	N/A		
Total	N/A		

Home Facts	<div>Edit Facts</div>
Beds	—
Baths	—
Sq. Ft.	—
Stories	—

Exhibit 6

A-2-SON-20-0042

Page 113 of 145

Lot Size	3,600 Sq. Ft.
Style	Vacant Land
Year Built	—
Year Renovated	—
County	Sonoma County
APN	100100005000

Home facts updated by county records on Jan 28, 2020.

## Listing Details for 1020 Hwy 1

Property information provided by BAREIS when last listed in 2015. This data may not match [public records](#). [Learn more](#).

### Homeowners Association, School / Neighborhood, Utilities, Taxes / Assessments

#### Homeowners Association

- Coastal Commission, Right of Way

#### School / Neighborhood

- School District: Shoreline
- High School: Tomales
- Jr/Middle School: Tomales
- Elementary School: Bodega Bay

#### Utilities

- Sewer/Septic: Sewer Public, TBD
- Water Source: TBD, Water (Public)
- Utilities: Cable Available, Elec Avail, Phone Avail

#### Taxes / Assessments

- Tax Autofill: NNNNYN
- City Transfer Tax: No

### Property / Lot Details

#### Land Information

**Exhibit 6**  
**A-2-SON-20-0042**  
**Page 114 of 145**

- View(s): Bay, Hills, Marina, Ocean, Water
- Soil: Unknown
- Fencing: Partial, Wood Board
- Topography: Upslope, Irregular
- No
- Acres: 0.08

### Lot Information

- # of Lots: 1 Lot
- Lot Square Footage: 3,598
- Lot Size Source: Tax Records
- Lot Measurement: Acres
- Lot Description: Cleared, View
- Zoning Allows: Residential
- Zoning: R1 CZ
- Subdivision: Taylor Tract
- Developer/Bldr Lot #: 0.00
- Developer Status: Rough Grade, SubdivisionYes

### Property Information

- Property Type: Lots & Land
- Property Subtype 1: Single Family Residence
- Property Subtype 1: Residential
- Resale
- Age: 0
- Special Zones: Coastal Zone
- Property Disclaimer: Information has not been verified, is not guaranteed, and is subject to change. Copyright © 2020 Bay Area Real Estate Information Services, Inc. All rights reserved. Copyright 2020 Rapattoni Corporation. All rights reserved.

### Location Details, Misc. Information, Subdivision / Building

#### Location Details

- Location: Coastal
- Area: Coastal Sonoma

#### Misc. Information

- Miscellaneous: Golf Course Near, Park Nearby, Restaurant Nearby

**Exhibit 6**  
**A-2-SON-20-0042**  
**Page 115 of 145**

Building Information

- Building Pad: No
- Common Int Dev: No
- Existing Structures: Shed
- Height Limit: 16

Listing Information

Listing Price Information

- Original Price: 199000.00



Listing Information

- Sale/Lease-Rent: Sale

Property History for 1020 Hwy 1

This is a new listing, so no sales records exist yet. As the MLS and public records start to fill up, we'll list the details here.

Activity for 1020 Hwy 1

 6 Views	 8 Favorites	 3 X-Outs	 0 Redfin Tours
---	---	---	--

Schools

This home is within the [Shoreline Unified School District](#).

**Showing nearby schools.** Please check the school district website to see all schools serving this home.

GreatSchools Rating

NR	<a href="#">Bodega Bay Elementary School</a> Public • K to 5 • Serves this home	0.2 mi Distance
5/10	<a href="#">Tomaes High School</a> Public • 9 to 12 • Serves this home	10.0 mi Distance


School data provided by [GreatSchools](#). School service boundaries are intended to be used as reference only. To verify enrollment eligibility for a property, contact the school directly.

Neighborhood Info for 1020 Hwy 1

Exhibit 6  
A-2-SON-20-0042  
Page 116 of 145

Transportation in 94923

  
**41** / 100  
Car-Dependent  
Walk Score®

  
**40** / 100  
Somewhat Bikeable  
Bike Score®

This area is **car dependent** — most errands require a car. There is a **minimal amount of infrastructure for biking**.

94923 Real Estate Sales (Last 30 days)

Median List Price	\$1.1M
Median \$ / Sq. Ft.	\$613
Median Sale / List	96.3%

Median Real Estate Values

Location	List Price	\$ / Sq. Ft.	Sale / List
94923	\$1,100,000	\$613	96.3%
Bodega Bay	\$1,100,000	\$613	96.3%
Sonoma County	\$704,500	\$416	99.1%

# Nearby Similar Homes

Homes similar to 1020 Hwy 1 are listed between \$69K to \$3,950K at an average of \$350 per square foot.

NEW CONSTRUCTION

**\$535,500**

3 Beds 2.5 Baths 1,368 Sq. Ft.  
3673 Sebastopol Rd, Santa Rosa, CA 95407

Central Air      Stucco

NEW 2 DAYS AGO

**\$68,735**

— Beds — Baths — Sq. Ft.

3459 3441 MOORLAND Ave, Santa Rosa, CA 95407

**\$1,095,000**

— Beds — Baths — Sq. Ft.

5350 5353 Oak Meadow Dr, Santa Rosa, CA 95401

**\$650,000**

— Beds — Baths — Sq. Ft.

841 Gold Ridge Rd, Sebastopol, CA 95472

**\$240,000**

— Beds — Baths — Sq. Ft.

1857 Sea Way, Bodega Bay, CA 94923

NEW CONSTRUCTION

**\$2,395,000**

66 Beds — Baths 35,225 Sq. Ft.

1001 Doubles Dr, Santa Rosa, CA 95407

Garage    Parking    Central Air    Stucco    Modern

**\$995,000**

— Beds — Baths — Sq. Ft.

1 Bodega Hwy, Occidental, CA 95472

**\$2,500,000**

4 Beds 2 Baths — Sq. Ft.

11050 Westside Rd, Healdsburg, CA 95448

**Exhibit 6**  
**A-2-SON-20-0042**  
**Page 122 of 145**

5600 Eastside Rd, Forestville, CA 95436

**\$298,000** Last Sold Price

— Beds — Baths — Sq. Ft.

315 Tom Jones Ct, Bodega Bay, CA 94923

SOLD JUN 1, 2020

**\$2,700,000** Last Sold Price

— Beds — Baths — Sq. Ft.

20019 20501 Coleman Valley Rd, Bodega Bay, CA 94923

SOLD JUN 1, 2020



Local rules require you to be signed in to see more photos.

**Sign in for price** Last Sold Price

— Beds — Baths — Sq. Ft.

15210 Bittner Rd, Occidental, CA 95465

Nearby Properties

1105 CA-1, Bodega Bay, CA  
2 Beds | 2.5 Baths | 1357 Sq. Ft.

1120 CA-1, Bodega Bay, CA  
2 Beds | 1 Baths | 468 Sq. Ft.

1110 CA-1, Bodega Bay, CA  
- Beds | - Baths | 667 Sq. Ft.

975 CA-1, Bodega Bay, CA  
2 Beds | 2 Baths | 1392 Sq. Ft.

1130 CA-1, Bodega Bay, CA  
- Beds | - Baths | - Sq. Ft.

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More Real Estate Resources

New Listings in 94923

1195 Bay View St

Exhibit 6  
A-2-SON-20-0042  
Page 125 of 145

[1534 Ranch Rd](#)  
[All 94923 New Listings](#)

## Nearby Cities

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[Bodega Bay Waterfront](#)  
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1020 Hwy 1 is vacant land in Bodega Bay, CA 94923. This vacant land is a 3,598 square foot lot. This property last sold on March 02, 2016 for \$100,000. Based on Redfin's Bodega Bay data, we estimate the home's value is \$177,020. Comparable nearby homes include [199 Surfbird Ct](#), [21668 Heron Dr](#), and [1900 Westshore Rd](#). The closest school is Bodega Bay Elementary School. The closest grocery stores are Diekmann's Bay Store and Pelican Plaza Grocery & Deli. Nearby coffee shops include Roadhouse Coffee at Bodega Bay and Captain Davey's Ice Cream & Espresso. Nearby restaurants include Bay View Restaurant, Tides Wharf and Ginocchio's Kitchen. This address can also be written as 1020 CA-1, Bodega Bay, California 94923.

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**To: Sonoma County Board of Supervisors**  
**Re: Appeal of Coastal Permit CPH16-0009**

July 13, 2020

Dear Board of Supervisors:

This letter is on behalf of Katherine Wong, Anthony Ridgeway, and Daniel Wong, the owners of 1010 Highway 1, Bodega Bay, CA 94923. Our home is next to the proposed development on 1020 Highway 1.

As set forth in more detail below, we believe that the Board of Supervisors should affirm the appeal, and thus reverse and remand the project to the Board of Zoning adjustments with instructions that the project not be approved in its current form because of material factual errors in the administrative record, failure to the proposal to comply with the applicable provisions of the Sonoma County Civil Code, violations of the Local Coastal Plan, and failure to obtain the additional reviews by the relevant State and County agencies, including CalTrans and local fire departments, of an accurate site plan and project description.

First, this letter is going to highlight and address several still uncorrected errors in the administrative record. Because of these errors, the project should not be approved, because the information that was presented to the Board of Zoning and that they relied upon in making their decision was not accurate and was highly material to whether the project meets the Zoning requirements.

### **Factual Errors in Record**

The materials prepared for use by this Board during for the July 14, 2020 hearing contain inaccurate and incorrect information, which affects the issues raised on appeal. Several of these errors have been raised before the Board of Zoning adjustments, as well as in public comments submitted before the December 2018 hearing before the Board of Zoning adjustments.

Concerningly, they have not been corrected. They include the following errors:

- A. The "Summary Report" and PowerPoint both state that the parcel located at 1020 Highway 1 is 4,138 sq. ft. This calculation is incorrect. The Sonoma County Assessor has calculated the parcel size to be 3,600 sq. ft. See Exhibit 1 (Sonoma County Zoning & Parcel Report). Alternatively, using the Grant Deed and the County Assessor's Parcel Map, we calculated the lot size to be approximately 3,644.86 sq. ft. See Exhibit 2 (Grant Deed), Exhibit 3 (Parcel Map), Exhibit 4 (calculations). This mathematical error is significant because of the Zoning requirements regarding maximum lot coverage, lot size, and setbacks.
- B. Page 5 of the Powerpoint and Attachment 4, the "Project Site," both purport to show the legal boundaries of the parcel for 1020 Highway 1 in red. Both diagrams incorrectly show the paved driveway as being part of the land belonging to 1020 Highway 1. It is not. The driveway is a "Common Right of Way" easement, which actually covers part of

the parcel which is 1020 Highway 1, and part of the parcel that is 1010 Highway 1. This is significant because 1020 Highway 1's easement over land belonging to 1010 Highway 1 was erroneously used to calculate the lot size, and thus the amount of the lot that could be built upon.

- C. Attachment 7 of the materials for the upcoming hearing, "Project Plans," has not been updated and contain significant errors. First, page 2 incorrectly shows a "paved driveway" as being opposite the proposed gravel parking area on 1020 Highway 1. This supposed "paved driveway" has been incorrectly represented as being for common use and allowing for the critical turnaround of emergency vehicles. As we have repeatedly indicated, there is no paved driveway behind 1010 Highway 1; it is a steep hill with vegetation that cannot be driven on, let alone used as a turnaround for emergency vehicles. Further, the area depicting the "paved driveway" belongs to 1010 Highway 1, and is not for common use by the owners of 1020 Highway 1 or anyone else. We have no intention to grant an easement of that area to the Applicants. We are concerned about this continued error in the materials and site plans, because these erroneous plans were submitted to CalTrans and the local and County Fire Departments in order to obtain their health & safety sign off. Any such approvals were thus based on critically inaccurate site plans. The Board should require correct site plans to be created and re-submitted for review by CalFire and the local Fire Department, especially given how close the proposed home on 1020 Highway 1 will be to the existing structures. While less important, Pages 2-3 also continue to show a hot tub and large patio area in the front yard, which the applicant stated at the December 2018 hearing had been removed from the plan. Despite this verbal representation, the plans that the Board of Supervisors are now being asked to approve allow for the construction of this patio area.
- D. The Summary Report incorrectly states that the common driveway for 1020 Highway 1, 1010 Highway 1 and 1030 Highway 1 has part of the driveway that is "paved and the rear portion of the driveway is gravel." See Summary Report, p.3 (#3 Easement/Driveway). This description is incorrect. The entire driveway, which is the right-of-way easement belonging to all 3 properties, is paved.

In the 2018 hearing before the Board of Zoning adjustments, the following unsupported and incorrect assertions were made. Importantly, many of these assertions were raised for the first time in the applicant's rebuttal arguments, and thus could not be corrected before the Board of Zoning voted. As indicated, the Board of Zoning adjustments relied on these public comments, among others, in approving the project. Some of the incorrect assertions included:

1. 1020 Highway 1 has the same overall lot square footage as 1010 Highway 1. This is not correct. The lot square footage for 1020 Highway 1 is substantially less than both 1010 Highway 1 and 1030 Highway 1, as evidenced by the County Assessor's Parcel Map. See Exhibit 3. The Sonoma County assessor lists the lot size of 1010 Highway 1 as 3,600 sq. ft., not the 4,138 sq. ft. claimed by the applicants or listed in the Summary or Powerpoint prepared for this hearing. See Exhibit 1. This mathematical error is confirmed by looking at the grant deed for 1020 Highway 1 (Exhibit 2) and County Assessor's Parcel Map (Exhibit 3). Using the dimensions from the grant deed (which

also appear on the County Assessor's Parcel Map) and treating the lot as a trapezoid, I calculated the lot square footage to be approximately 3,644.86 sq. ft. See Exhibit 4 (calculations). According to the Sonoma County assessor, 1010 Highway 1 is 4,400 sq. ft. and 1030 Highway 1 is 8,160 sq. ft. See Exhibits 5 & 6 (Sonoma County Assessor records for 1010 Hwy 1 and 1030 Hwy 1).

2. The house located on 1010 Highway 1 is as large, if not larger, than the proposed house for 1020 Highway 1, and the home on 1030 Highway 1 is larger than the proposed home on 1020 Highway 1. This comparison is both misleading and also incorrect with regards to 1010 Highway 1. The home on 1010 Highway 1 is a 2-story home with a total of 1,200 square feet; the footprint of the first floor is approximately 650 square feet. This is substantially smaller than the proposed home for 1020 Highway 1, which is currently designed to be 1,616 sq. ft., in addition to a 200 sq. ft. garage, which is also a covered structure. The footprint of the first floor of 1020 Highway 1 is much larger, at 856 sq. ft., than the home on 1010 Highway 1. If the garage is included in the calculations, the footprint of 1020 Highway 1 is actually 1,056 sq. ft. While the home on 1030 Highway 1 is approximately 1700 sq. ft., it is also on a lot nearly twice as large as 1020 Highway 1. Thus, suggesting that the proposed project on 1020 Highway 1 is no different from the home on 1030 Highway 1 overlooks the substantial difference in lot size.

### **Maximum Lot Coverage & Treatment of Easement**

The Summary Report prepared for this Board's use during the upcoming meeting incorrectly states that the "Grant Deed for the subject parcel shows one legal lot totaling 4,138 square feet that includes the common right of way." This statement is factually erroneous.

The applicant's Grant Deed is attached as Exhibit 2. Nowhere on the Grant Deed is there a calculation of the lot square footage. All the Grant Deed does is describe a parcel of land, which is shaped like a trapezoid. The shape of the lot and its dimensions are shown on the County Assessor's Parcel Map, Exhibit 3. The parallel sides of the trapezoidal lot are 85.05 and 99.5 feet long. The perpendicular side is 39.5 feet, and the opposite, diagonal side (which runs along Highway 1) is 42 feet.

Using the dimensions off of Grant Deed and the Assessor's Parcel Map, we calculated the area of 1020 Highway 1. Our calculations are shown on the attached schematic, Exhibit 4, which finds the total area to be 3,644 sq ft. This calculation is very close to the value listed on the sales and Sonoma County assessor's, which list that parcel (100-100-005) as being 3,600 sq. ft. See Exhibit 1.<sup>1</sup>

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<sup>1</sup> We believe that the slight difference between our calculations and those of the assessor are due to the property likely not being a perfect trapezoid.

In the Summary Report's discussion of Maximum Lot coverage, the staff cites the definition of "Lot" in the Sonoma County Code in support of its position that the "easement area" should be included in the lot size calculation. See Summary Report at 3. There are two problems with this argument.

First, there is only 1 piece of land that actually makes up 1020 Highway. It is identified by Sonoma County as parcel 100-100-005. That is the land that has the trapezoidal shape, which has a square footage of 3,600 sq. ft. according to the Sonoma County assessor and zoning records. Exhibit 2. The only other property right that is mentioned on the grant deeds for 1020 Highway 1 is a "Common Right of Way," which is a type of easement. Exhibit 2. An easement is a property right, but it is a property right in another person's land. In other words, by definition, the easement described in the Grant Deed for 1020 Highway 1 does not describe land that actually belongs to the applicants or to 1020 Highway 1, but rather defines their right to use part of the land that actually makes up 1010 Highway 1, parcel no. 100-100-006. The applicants do not own 1010 Highway 1, and as the owners of 1010 Highway 1, we do not give them permission to use any part of our property in their lot size calculations or construction.

The staff discussion of Maximum Lot Coverage cites Sonoma Code § 26C-12 (emphasis added), which defines "lot" as "a legally defined parcel or contiguous group of parcels in single ownership or under single control, usually considered a unit for purposes of development." An easement, which is what is described under the section listed as "Parcel 2" in the Grant Deed (and "Parcel 5" in the prior Grant Deed for this same property), is not a parcel,<sup>2</sup> by definition. See Exhibit 2 (grant deeds). See California Civil Code § 801(4) ("The following land burdens, or servitudes upon land, may be attached to other land as incidents or appurtenances, and are then called easements: ... (4) the right-of-way.")

Simply put, a right-of-way easement is a right to use another's land: in this case it gives the owners of 1020 Highway 1 the right to travel across part of 1010 Highway 1 in order to enter and exit their property. See Cal. Civil Code § 803 ("The land to which an easement is attached is called the dominant tenement; the land upon which a burden or servitude is laid is called the servient tenement.") The easement holder can enforce his/her easement rights -- in this case, namely the right to cross 1010 Highway 1 to enter and exit 1020 Highway 1 -- but the applicants do not own the underlying land that they are crossing and the creation of a right-of-way easement never changes the ownership of the underlying land. See Cal. Civil Code § 809. Indeed, the very fact that an easement is included in the Grant Deed for 1020 Highway 1 is evidence that the underlying property belongs to someone else, which here is the owners of 1010 Highway 1 (parcel no. 100-100-006); if the Applicants actually owned the land over which the easement runs, there would be no need or reason to give an easement.

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<sup>2</sup> The Grant Deed's use of the term "parcel" is unfortunate and confusing, but what is described on the deeds is a classic right-of-way easement, as the applicants appear to admit as much. Thus, the law governing easements should apply.

Because the easement described under the misleadingly labeled “Parcel 2” section of the Grant Deed for 1020 Highway 1 does not give the applicants an ownership interest in the underlying land, there is no additional “lot” or “land” to include in the lot size calculation. See Exhibit 2. Thus, the entirety of what the applicants own at 1020 Highway 1 is described in Parcel One on the Grant Deed, which is only 3,600 sq. ft. The maximum lot coverage for any structure is 40% of 3,600 sq. ft, which is 1,440 sq. ft. Sonoma Code § 26C-102(e) (“Maximum Lot Coverage: Forty percent (40%)”). The staff report has calculated the total footprint of the “single family residence, garage, and driveway” in the applicant’s plans as 1,629 sq. ft, which is larger than the 40% lot coverage permitted by the Coastal Zoning Code. See Summary Report, p. 3 (#2 “total footprint of the single family residence, garage and driveway is 1,629 square feet”). For this reason, the appeal should be affirmed and the project should not be approved in its current form because the project is too big under the applicable Codes and Zoning restrictions.

Moreover, the staff’s advice to the Board of Zoning at the December 2018 hearing and in its staff report also incorrectly omitted reference and consideration of an identical 5’ wide easement that runs along the eastern side of 1020 Highway 1 (the side that is 99.5’ long), covering approximately 5’ by 99.5’ = 497.5 sq. ft. of the Applicant’s property. See Exhibit 7 (calculations of easement on 1020 Highway 1 that belongs to 1010 Highway 1 and 1030 Highway 1). This right-of-way easement belongs to 1010 Highway 1 and 1030 Highway 1, as evidenced in the grant deeds for those properties. See Exhibit 8 (1010 Highway 1 Grant Deed) and Exhibit 9 (1030 Highway 1 Grant Deed). This easement is necessary and in use: it is where the paved road is built that the owners of 1010 Highway 1 and 1030 Highway 1 use to enter and exit their properties. As such, what the staff should have told the Board of Zoning is that 497.5 sq. ft. of the 3,600 sq. ft. lot making up 1020 Highway 1 has already been built upon (“covered”), because it is subject to a right-of-way easement and is in fact has a paved road on it, as seen in the aerial pictures. A copy of the Grant Deed for 1010 Highway 1 was presented to the Board of Zoning at the December 2018 hearing, but they were incorrectly advised by the staff that the easement referenced on the Grant Deed for 1010 Highway 1 had no bearing on the lot size calculation.

This advice was incorrect. As shown on the County Assessor’s Parcel Map (Exhibit 3), the easements referenced on the Grant Deeds for 1010 Highway 1, 1020 Highway 1, and 1030 Highway 1 are not on separate parcels. There is only one parcel, 100-100-005, that makes up 1020 Highway 1; one parcel that makes up 1010 Highway 1, 100-100-006; and one parcel that makes up 1030 Highway 1, 100-100-024. The easements run over these parcels, as shown on a survey that was done by the prior owners of 1010 and 1020 Highway 1 in 2002. See Exhibit 10.

This matters because the owners of 1010 Highway 1 and 1030 Highway 1 have not and do not intend to ever give permission for the Applicants to use the portion of 1020 Highway 1 that is subject to the easement for any purpose besides the right-of-way easement. Moreover, because the right-of-way easement on 1020 Highway 1 has already been built on (“covered”), the actual amount of the lot of 1020 Highway 1 that can be used for a house, garage or new driveway

should be reduced by what is already covered by the paved road associated with the right-of-way easement. In other words, the maximum footprint for the Applicant's home, garage and driveway should be  $40\% \times (\text{lot size}) - (\text{less easement held by 1010 Highway 1 \& 1030 Highway 1}) = 40\% \times (3,600 \text{ sq. ft.}) - 497.5 \text{ sq. ft.} = 1,440 - 497.5 = 942.5 \text{ sq. ft.}$  The current footprint of 1,629 sq. ft. for the house, garage and proposed driveway greatly exceeds this amount.

Reducing the footprint by the size of the right-of-way easement is consistent with the intent of Sonoma Code § 26C-102(e) ("Maximum Lot Coverage: Forty percent (40%)"). This provision is concerned with how much of the land is developed, whether it be by a road, garage, driveway, or parking pad. Indeed, the staff's own calculations took into account the Applicant's new proposed driveway when calculating the coverage of the proposed project. See Summary Report, p. 3 (#2 "total footprint of the single family residence, garage and driveway is 1,629 square feet"). This calculation, however, incorrectly omitted the portion of 1020 Highway 1 that is already covered by the paved road corresponding to the right-of-way easement.

## **Consistency with the Coastal Zoning Ordinances**

### **A. Minimum Lot Size - Sonoma Code § 26C-102(c) & (d)**

The Summary Report prepared for the Board of Supervisors incorrectly suggests that the Sonoma County Code merely suggests or "recommend[s]" a minimum lot size for new development. See Summary Report, p.4 (#4).

The plain text of the Code states, unequivocally, that there is a "minimum lot size." This requirement is not prefaced, as the Summary Report could be read to suggest, as "recommendations" or suggestions. Sonoma County Code § 26C-102(c), (d). Specifically, Section 26C-102(c) states: "Minimum Lot Size: Six thousand (6,000) square feet." The Applicant's property does not meet the minimum lot size requirement. Nothing in this requirement, despite the staff's suggestion to the contrary, limits this lot size requirement to the "creation of new lots." Rather, the beginning of this Code section, in which the minimum lot size requirement is found, unequivocally states that "The use of land and structures within this district is subject to this article, the applicable regulations of this ordinance, and the provisions of any district which is combined herewith. . . . Development shall comply with coastal plan policies." Sonoma County Code § 26C-102.

At the hearing before the Board of Zoning, the staff advised the board that "substandard existing lots" could still be built upon, but did not cite any provisions of the Code or case law. The Summary Report prepared for the Board of Supervisors similarly states, without citing any provision of the Coastal Plan or case law, that "[m]inimum lot size requirements set standards for the creation of new lots but do not impact the ability to develop a legally established lot provided all current development standards are met." See Summary Report, p. 4 (#4).

The staff's recommendations to the Zoning Board and in the Summary Report are not correct under the plain language of Section 26C-102 of the Coastal Plan and are completely unsupported by any County codes or case law. The section in which this requirement is located sets forth a variety of "development standards" when a property that has a zoning designation of R1, as is the case for 1020 Highway 1, must meet. They include "(b) Height Limits, (c) Minimum Lot Size ... (e) Maximum Lot Coverage, (f) Yard Requirements [setbacks], and (g) Parking Requirements." Sonoma Civil Code § 26C-102(b), (e), (f), (g).

There is no dispute by the Applicant or the staff that the proposed project on 1020 Highway 1 must comply with all of the other requirements that appear directly before and after Section 26C-102(c) "Minimum Lot Size." Indeed, the staff report prepared for the Board of Zoning devoted significant time to discussing whether the project complied with the setbacks, height limit, and maximum lot coverage requirements. See Staff Report, at 5-6. Yet, arbitrarily and without a citation to any case law or Code Section, the staff instructed the Zoning Board to ignore subsection (c) with the "Minimum Lot Size" requirement. This requirement, however, seems very important to achieving the other stated goals of the County's Coastal Plan.

The Summary Report prepared for this Board similarly suggests -- without citation to anything in the Code or any other controlling legal authority -- that the Local Coastal Plan and Coastal Zoning Ordinance make exceptions regarding lot size for lots that were created before enactment of the Local Coastal Plan and Zoning requirements set forth in Section 26C-102. However, we found no such express or implied exceptions in the Local Coastal Plan or Section 26C-102. By its terms, the "Minimum Lot Size" set forth in Section 26C-102(c) appears to apply to any development with an R1 zoning. Unlike the neighboring lots, no home was built on 1020 Highway 1 before enactment of Coastal Zone Code, Sonoma County Code § 26C-102. It is thus different from 1010 Highway 1 and 1030 Highway 1, which both had homes constructed on them in 1950 and 1947, respectively, before adoption of Sonoma County's Local Coastal Program or the zoning requirements set forth in the Code. We believe it is arbitrary and capricious for the staff and Zoning Board to ignore this express requirement when it is requiring the project to meet the other requirements in this section.

The staff's recommendation to the Board of Zoning and in its recent Summary Report to ignore this provision of Section 26C-102 is also problematic because it does apply the requirements that appear directly above and below it, including the height limits, maximum lot coverage, and setback requirements. By its very terms, one of the "current development standards" in the Local Coastal Plan is a minimum lot size. By including this requirement, it would appear that the Local Coastal Plan did contemplate that some lots may not meet this requirement, and thus, may not be buildable. There is no "substandard" lot exception, despite the staff's suggestion, in the Code.

#### **B. Height Limits - Sonoma Code § 26C-102(b)**

The Summary Report provided to the Board of Zoning erroneously suggests that there is only one height requirement that applies to properties East of Highway 1. See Summary Report, at 4 (#5 Height). In fact, there are several different sections which could apply, depending on where a property is located on the East side of Highway 1. Specifically, Section 26C-102(b) provides:

(b) Height Limits: Height for all structures is measured as the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof.

- (1) West of Highway 1: Residential height limits are sixteen feet (16'). Commercial height limits are twenty-four feet (24').
- (2) **Bodega Bay Core Area residential: Sixteen foot (16') height limit except that in major developments up to fifteen percent (15%) of the units may exceed the height limit.**
- (3) East of Highway 1 in the Sereno Del Mar Subdivision: Residential height limits are sixteen feet (16'). The Sereno Del Mar Architectural Review Committee may grant a higher structure to a maximum of twenty-four feet (24') in accordance with subsection (7) below.
- (4) East of Highway 1 and visible from designated scenic roads: Residential and commercial height limits are twenty-four feet (24') and fifteen feet (15') for accessory buildings.

The staff recommended applying the least restrictive height limitation, found in Section 26C-102(4), which limits the building height to 24 feet. Based on public records and a review of the Coastal Plan, we believe, however, that the height limit for the “Bodega Bay Core Area residential” (in bold) should apply. Section 26C-102(b) limits the height to 16 feet.

According to tax and public records, 1020 Highway 1 is in the Taylor Tract. The Local Coastal Program defines the “Bodega Bay Core Area” as “ includ[ing the] Taylor Tract and the residential area between Taylor Tract, Highway 1 and the proposed bypass.” See Exhibit 8 (County of Sonoma Local Coastal Program - Part 1 Chapter 7 - Development, page 56, #26). Even if 1020 Highway 1 is not in the Taylor Tract, as suggested by public records, it is located in the “residential area between Taylor Tract, Highway 1, and the proposed bypass.”

Limiting any proposed development on 1020 Highway 1 to 16 feet is also consistent with the subdivision being built behind 1010 Highway 1 and 1030 Highway 1. All of the homes that are being developed in that subdivision are limited to 16 feet. It would be rather perverse to permit a property that is closer to the scenic byway and will have the effect of limiting the views of existing structures behind it, to be built taller than the new structures behind it. A 16' height limitation is also more consistent with the Coastal Plan, which provides that any new structures should be “in harmony with the shape, size and scale of adjacent buildings in the community.” 1020 Highway 1 is in the heart of Bodega Bay; it is not an isolated lot with no residences behind it. The home on 1030 Highway 1 is a single-story home. The home on 1010 Highway 1 does

not block the views for 1030 Highway 1 because it is not as tall, even though it lies on a similar slope to 1020 Highway 1. The applicants for 1020 Highway 1, however, have chosen a design that will be so tall that it *will* obstruct nearly all views from 1030 Highway 1, which itself is evidence that the design is not in harmony with the adjacent buildings. There is no reason why the Applicants could not modify their design to comply with the lower height requirement. The Board of Zoning was improperly instructed that they could not use their authority to enforce that aspect of the Coastal Plan.

### **C. Lot Access & Egress (Required Setback - Sonoma Code § 26C-102(f))**

The Summary Report suggests that there is no issue with lot access and egress for emergency vehicles because no comments were received from Caltrans, Sonoma County Fire & Emergency Services, or the Bodega Bay Fire Protection Agency. See Summary Report at 4-5. What the Summary Report fails to mention, however, is that the materials sent to those parties had serious inaccuracies, including about the location and access to an nonexistent paved driveway on 1010 Highway 1 that could be used for egress and emergency purposes. As noted above, the drawings are still inaccurate and we do not believe than updated plans have been provided to these agencies. Given the serious flaws in the drawings and description, we believe that the Applicants should have been required to submit revised drawings for review and comment by these agencies before the Board of Zoning was permitted to vote on or approve it. It is pure speculation that these agencies would have no comment if they were provided with accurate drawings, particularly given the heightened concerns about fire danger and access after the recent devastation caused by fires in this very County. As currently designed, the house on 1020 Highway 1 will be less than 10 feet (the width of the paved road on right-of-way easement) from 1010 Highway 1. We believe that such close spacing of the properties creates a substantial fire hazard. Moreover, if review is not ordered now, interested parties such as us will have no mechanism to seek review or appeal, or assure that such a review by these agencies takes place.

### **Adoption and Incorporation of Other Arguments**

We also join in, adopt and hereby incorporate the arguments made by the other appellants, including but not limited to Perry Marker and Martha Ruddell in their comments and all arguments in the appeal form and arguments made below to the Board of Zoning.

Respectfully,

Daniel Wong, Katherine Wong & Anthony Ridgeway

THIS INDENTURE, Made this 3rd, day of June, , in the year of our Lord one thousand nine hundred and two,

BETWEEN G.W.Smith of the County of Sonoma State of California,

the party of the first part, and P.F.DeBolt and H.J.Barnett of the same place, the parties of the second part,

WITNESSETH: That the said party of the first part, for and in consideration of the sum of Fifteen Dollars, Gold Coin of the United States of America, to him in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, conveyed and confirmed, and by these presents does grant, bargain and sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all that certain lot, piece or parcel of land situate, lying and being in the Township of Bodega, County of Sonoma, State of California, and bounded and particularly described as follows, to-wit:

Commencing at the Southwest corner of the piece of land belonging to Samuel Talmadge which corner is on the easterly line of the main County road running parallel with Bodega Bay and close thereto. Thence from said point Easterly along the Southeasterly line of said Talmadge land, Thence Southerly 82 1/2 feet, Thence Westerly to the East line of the above mentioned County road, thence Northerly along the Easterly line of said road to the point of Commencement. Containing about 40/100 acres of land, more or less, at Bodega Bay Sonoma Co., Cal.

The said Above piece of land having a continuous width of 5 Rods.

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the said parties of the second part, and to their heirs and assigns forever,

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of

G. W. Smith

SEAL  
SEAL  
SEAL  
SEAL

State of California, )

ss.

County of Sonoma, ) On this Third day of June A.D. one thousand nine hundred and two, before me, W.J.Eardley, a Notary Public in and for said County of Sonoma, personally appeared G.W.Smith known to me to be the person described in and whose name is subscribed to the annexed instrument and he acknowledged to me that he executed the same.

Witness my hand and official seal.

(SEAL)

W. J. Eardley,

Notary Public in and for the County of Sonoma, State of California.

Recorded at the request of P.F.DeBolt June 3 1902 at 55 minutes past 11 o'clock, A.M.

County Recorder.

Exhibit 6

A-2-SON-20-0042

Page 137 of 145

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CLOSED

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Entered, Book 107 Page 284

DEC 28 1951

RECEIVED

DEC 28 1951

WILLIAM P. JONAHSEN  
County Clerk, Superior Court of the State of California  
In and for the County of Sonoma  
BY Helen P. Hanson DEPUTY

ENDORSED

FILED

Dec. 29, 1951, from Gas Lums  
as of Oct. 25, 1946

WILLIAM P. JONAHSEN, COUNTY CLERK

BY HELEN P. HANSON

DEPUTY, CLERK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE  
COUNTY OF SONOMA

In the Matter of the Estate of	)	No. 14670
PERRY F. DeBOLT, also known as	)	R. M. QUACKENBUSH
PERRY FRANK DeBOLT, also known as	)	303-304 Rosenberg Bldg.
PERRY DeBOLT, also known as P. F.	)	Santa Rosa, California
DeBOLT, also known as P. DeBOLT,	)	Attorney for Estate
Deceased.	)	

AMENDED  
ORDER SETTLING FINAL ACCOUNT AND DECREE OF DISTRIBUTION

R. A. DeBOLT and ALICE MAY WILSON, the Executor and Executrix, respectively, of the Last Will and Testament of the Estate of Perry F. DeBolt, also known as Perry Frank DeBolt, also known as Perry DeBolt, also known as P. F. DeBolt, also known as P. DeBolt, having on the 25th day of October, 1946, rendered and filed herein a full and true account of their administration of said estate, and with said account filed a petition for final distribution of the estate of the said deceased, proof having been made to the satisfaction of the Court, the Court finds that the Clerk has given notice of the settlement of said account and hearing of the petition in the manner and for the time required by law.

The Court finds that said account is, in all respects, true and correct and is supported with proper vouchers; that the

1097 234

property remaining in the hands of the Executor and Executrix at the time of filing of said account and at the date of this decree is as follows, to-wit:

Cash in the sum of . . . . . \$1,407.16

Real property consisting of house and lot at Bodega Bay valued at . . . . . \$ 500.00 and more particularly described as follows, to-wit:

Commencing at the Southwest corner of the piece of land belonging to Samuel Talmadge which corner is on the Easterly line of the main County road, running parallel with Bodega Bay, and close thereto; thence from said point Easterly along the Southeasterly line of said Talmadge land; thence Southerly 82½ feet; thence Westerly to the East line of the above mentioned County Road; thence Northerly along the Easterly line of said road to the point of commencement, containing about 40/100 acres of land, more or less, at Bodega Bay, Sonoma County, California. The said above piece of land having a continuous width of five (5) rods.

Said described property being the property as deeded on the 3rd day of June, 1902 by G. W. Smith to P. F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's Office of Sonoma County, California on the 3rd day of June, 1902, in Liber 197 of Deeds, page 636 thereof, Sonoma County Records.

That the heirs, R. A. DeBolt, Alice May Wilson, Lucy H. Ketterlin, and Kate Elisabeth Butler, have by deed of conveyance among them, apportioned the aforesaid real property between them as follows:

That said heirs have granted to Alice Wilson as her portion of the above-described real property all that certain piece or parcel of land, situate, lying, and being in the County of Sonoma, State of California, and more particularly described as follows, to-wit:

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902, by G. W. Smith to Perry F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's office of Sonoma County, California, on the 3rd day of June, 1902, in Liber 197 of deeds, page 636 thereof; thence following the Westerly line of said property so conveyed, a distance of 102 feet to the point of beginning; thence proceeding along the Westerly line of the said real property so deeded a distance of 85.05 feet to a point; thence Southeasterly along the Southerly boundary of said real property so conveyed a distance of 42 feet to a point; thence Northerly and parallel with the said Westerly boundary of said property so conveyed a distance of 99.5 feet to a point; thence Westerly and parallel with the Northerly boundary of said real property so conveyed a distance of 39.5 feet to the place of beginning.

Reserving and granting unto the said party of the second part a common right of way to be used by all of the parties hereto

consisting of a strip of land 5 feet on the Westerly side of the said Easterly boundary of the land described above.

The said heirs have granted to Kate Butler as her portion of the above-described real property, all that certain piece or parcel of land, situate, lying and being in the County of Sonoma, State of California, and more particularly described as follows, to-wit:

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902 by G. W. Smith to Perry F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's office of Sonoma County, California, on the 3rd day of June, 1902 in Liber 197 of deeds, page 638 thereof; thence following the Westerly line of said property so conveyed a distance of 102 feet to a point; thence at right angles and parallel with the Northerly line of said property so conveyed, a distance of 39.5 feet to a point; thence at right angles Northerly and parallel with the said Westerly line of said property a distance of 102 feet to the Northerly boundary of said property; thence Westerly along the Northerly boundary of said property, a distance of 40.8 feet to the place of beginning.

Reserving and granting unto the said party of the second part a common right of way to be used by all of the parties hereto consisting of a strip of land 5 feet on the Westerly side of the said Easterly boundary of the land described above.

The said heirs have granted to Lucy Ketterlin as her portion of the above-described real property, all that certain piece or parcel of land, situate, lying and being in the County of Sonoma, State of California, and more particularly described as follows, to-wit:

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902 by G. W. Smith to Perry F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's office of Sonoma County, California, on the 3rd day of June, 1902 in Liber 197 of deeds, page 638 thereof; thence along the Northerly boundary of said real property so conveyed a distance of 40.08 feet to the point of beginning; thence at right angles and parallel with the Westerly boundary of said real property so conveyed a distance of 102.5 feet to a point; thence Easterly and parallel with the said Northerly boundary of said land so conveyed a distance of 39.5 feet to a point in the Easterly boundary of said lands so conveyed; thence at right angles Northerly and parallel with the Westerly boundary of said real property so conveyed a distance of 102.5 feet to the corner of the said real property so conveyed as aforesaid; thence at right angles and along the Northerly line of said real property so conveyed a distance of 40.8 feet to the point of commencement.

Reserving and granting unto the said party of the second part a common right of way to be used by all of the parties hereto consisting of a strip of land 5 feet on the Easterly side of the said Westerly boundary of the land described above.

1097 236

The said heirs have granted to Ralph DeBolt as his portion of the above-described real property, all that certain piece or parcel of land, situate, lying and being in the County of Sonoma, State of California, and more particularly described as follows, to-wit:

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902 by G. W. Smith to Perry F. DeBolt and J. J. Barnett, which said deed was recorded in the County Recorder's office of Sonoma County, California, on the 3rd day of June, 1902 in Liber 197 of deeds, page 638 thereof; thence Southerly along the Westerly boundary of the real property herein conveyed a distance of 102 feet to a point; thence Easterly at right angles and parallel with the Northerly boundary line of said property so conveyed of 39.5 feet to the point of beginning; thence Southerly and parallel with the Westerly boundary of said real property so conveyed a distance of 103.9 feet to the Southerly boundary of said real property so conveyed; thence Southeasterly along the Southerly boundary of said real property a distance of 42 feet to the Southeast corner of the real property so conveyed; thence Northerly and along the Easterly boundary of said real property so conveyed a distance of 117.5 feet to a point in said Easterly boundary; thence Westerly a distance of 39.5 feet to the point of beginning.

Reserving and granting unto the said party of the second part a common right of way to be used by all of the parties hereto consisting of a strip of land 5 feet on the Easterly side of the Westerly boundary of the land described above.

The Court further finds that in addition to the foregoing the said estate has a 1/3 interest in and to all that certain real property situate in the Township of Bodega, County of Sonoma, State of California, and described as follows, to-wit:

Lot Two (2) of the Bay Shore Tract, Bodega Bay, Sonoma County, California, as surveyed by A. A. Batchelor, C. E. in October 1919, and so numbered and delineated on the map of said Bay Shore Tract drawn by said A. D. Batchelor which map was recorded in Book 40 of Maps at page 12, November 28th 1921 in the office of the County Recorder of said Sonoma County.

Subject to all existing taxes, assessments and liens thereon, if any there be.

The Court further finds that due and legal notice to creditors of said estate has been given in the manner and for the time required by law; that all claims and debts against said estate and all debts, expenses and charges of administration have been fully paid and discharged; that there is on file herein an Order Finding No Inheritance Tax Due.

The Court further finds that the said Perry F. DeBolt,

also known as Perry Frank DeBolt, also known as Perry DeBolt, also known as P. F. DeBolt, also known as P. DeBolt, died in the County of Sonoma, State of California, on the 28th day of September, 1941, leaving as heirs at law or the legatees, the following persons:

R. A. DeBOLT, 1225 Fair Oaks Avenue, Santa Rosa, California  
 ALICE MAY WILSON, Route 1, Box 1174, Cupertino, California  
 LUCY H. KITTERLIN, 229 Third Street, Santa Rosa, California  
 KATE ELIZABETH BUTLER, 3135 Stony Point Road, Santa Rosa, Calif.

The Court further finds that during the course of administration the attorney and Executor and Executrix of said estate did conduct two separate sales of personal property and three separate sales of real property, inventoried in said estate, and that the reasonable value of extraordinary services rendered by the said attorney is the sum of One Hundred Fifty (\$150.00) Dollars. The Executor and Executrix waive any and all right to the Executor's and Executrix's commission in the estate.

The contemplated costs for closing said estate will be the sum of Twenty (\$20.00) Dollars.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the said final account of the said Executor and Executrix be, and the same is, hereby settled, allowed, and approved.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that all that certain piece or parcel of land, situate, lying and being in the County of Sonoma, State of California, and more particularly described as follows, to-wit:

Commencing at the Southwest corner of the piece of land belonging to Samuel Talmadge which corner is on the Easterly line of the main County road, running parallel with Bodega Bay, and close thereto; thence from said point Easterly along the South-easterly line of said Talmadge land; thence Southerly 82½ feet; thence Westerly to the East line of the above mentioned County Road; thence Northerly along the Easterly line of said road to the point of commencement, containing about 40/100 acres of land, more or less, at Bodega Bay, Sonoma County, California. The said above piece of land having a continuous width of five (5) rods.

BOOK 1097 PAGE 238

Said described property being the property deeded on the 3rd day of June, 1902, by G. W. Smith to P. F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's Office of Sonoma County, California on the 3rd day of June, 1902, in Liber 197 of Deeds, page 638 thereof, Sonoma County Records.

be, and the same is, hereby, divided equally among the four heirs and distributed as follows:

To Alice Wilson:

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902, by G. W. Smith to Perry F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's office of Sonoma County, California, on the 3rd day of June, 1902, in Liber 197 of deeds, page 638 thereof; thence following the Westerly line of said property so conveyed, a distance of 102 feet to the point of beginning; thence proceeding along the Westerly line of the said real property so deeded a distance of 85.05 feet to a point; thence Southeasterly along the Southerly boundary of said real property so conveyed a distance of 42 feet to a point; thence Northerly and parallel with the said Westerly boundary of said property so conveyed a distance of 99.5 feet to a point; thence Westerly and parallel with the Northerly boundary of said real property so conveyed a distance of 39.5 feet to the place of beginning.

Reserving and granting unto the said party of the second part a common right of way to be used by all of the parties hereto consisting of a strip of land 5 feet on the Westerly side of the said Easterly boundary of the land described above.

To Kate Butler:

All that certain piece or parcel of land, situate, lying and being in the County of Sonoma, State of California, and more particularly described as follows, to-wit:

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902 by G. W. Smith to Perry F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's office of Sonoma County, California, on the 3rd day of June, 1902 in Liber 197 of deeds, page 638 thereof; thence following the Westerly line of said property so conveyed a distance of 102 feet to a point; thence at right angles and parallel with the Northerly line of said property so conveyed, a distance of 39.5 feet to a point; thence at right angles Northerly and parallel with the said Westerly line of said property a distance of 102 feet to the Northerly boundary of said property; thence Westerly along the Northerly boundary of said property, a distance of 40.8 feet to the place of beginning.

Reserving and granting unto the said party of the second part a common right of way to be used by all of the parties hereto consisting of a strip of land 5 feet on the Westerly side of the said Easterly boundary of the land described above.

To Lucy Ketterlin:

All that certain piece or parcel of land, situate, lying and being in the County of Sonoma, State of California, and more particularly described as follows, to-wit:

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902 by G. W. Smith to Perry F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's office of Sonoma County, California on the 3rd day of June, 1902 in Liber 197 of deeds, page 638 thereof; thence along the Northerly boundary of said real property so conveyed a distance of 40.08 feet to the point of beginning; thence at right angles and parallel with the Westerly boundary of said real property so conveyed a distance of 102.5 feet to a point; thence Easterly and parallel with the said Northerly boundary of said land so conveyed a distance of 39.5 feet to a point in the Easterly boundary of said lands so conveyed; thence at right angles Northerly and parallel with the Westerly boundary of said real property so conveyed a distance of 102.5 feet to the corner of the said real property so conveyed as aforesaid; thence at right angles and along the Northerly line of said real property so conveyed a distance of 40.8 feet to the point of commencement.

Reserving and granting unto the said party of the second part a common right of way to be used by all of the parties hereto consisting of a strip of land 5 feet on the Easterly side of the said Westerly boundary of the land described above.

To Ralph DeBolt:

All that certain piece or parcel of land, situate, lying and being in the County of Sonoma, State of California, and more particularly described as follows, to-wit:

Beginning at the Northwest corner of the real property heretofore deeded on the 3rd day of June, 1902 by G. W. Smith to Perry F. DeBolt and H. J. Barnett, which said deed was recorded in the County Recorder's office of Sonoma County, California, on the 3rd day of June, 1902 in Liber 197 of deeds, page 638 thereof; thence Southerly along the Westerly boundary of the real property herein conveyed a distance of 102 feet to a point; thence Easterly at right angles and parallel with the Northerly boundary line of said property so conveyed of 39.5 feet to the point of beginning; thence Southerly and parallel with the Westerly boundary of said real property so conveyed a distance of 103.9 feet to the Southerly boundary of said real property so conveyed; thence Southeasterly along the Southerly boundary of said real property a distance of 42 feet to the Southeast corner of the real property so conveyed; thence Northerly and along the Easterly boundary of said real property so conveyed a distance of 117.5 feet to a point in said Easterly boundary; thence Westerly a distance of 39.5 feet to the point of beginning.

Reserving and granting unto the said party of the second part a common right of way to be used by all of the parties hereto consisting of a strip of land 5 feet on the Easterly side of the Westerly boundary of the land described above.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all that

BOOK 1097 PAGE 240

certain piece or parcel of real property, in which the estate has a 1/3 interest, situate in the Township of Bodega, County of Sonoma, State of California, and more particularly described as follows, to-wit:

Lot Two (2) of the Bay Shore Tract, Bodega Bay, Sonoma County, California, as surveyed by A. R. Batchelor, C. E. in October 1919, and so numbered and delineated on the map of said Bay Shore Tract drawn by said A. D. Batchelor which map was recorded in Book 40 of Maps at page 12, November 28th 1921 in the office of the County Recorder of said Sonoma County.

Subject to all existing taxes, assessments and liens thereon, if any there be.

be, and the same is hereby distributed as follows:

Alice May Wilson - a 1/12 interest therein

Kate Elizabeth Butler - a 1/12 interest therein

Lucy H. Ketterlin - a 1/12 interest therein

Ralph A. DeBolt - 1/12 interest therein

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the sum of One Hundred Fifty (\$150.00) Dollars be paid to the attorney in said estate as extraordinary fees in connection with the sales of personal and real property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the remaining sum of \$1,227.18, be, and the same is hereby, distributed, share and share alike, as follows:

Alice May Wilson - \$309.29

Kate Elizabeth Butler - \$309.29

Lucy H. Ketterlin - \$309.29

Ralph A. DeBolt - \$309.29

Done in open Court this 24<sup>th</sup> day of January, 1951.

RECORDED AT REQUEST OF  
R. M. Quackenbush  
At 4:11 PM. JAN. 10 1951  
Book 1097 Official Records p. 233  
SONOMA COUNTY, CALIFORNIA

DEC 28 1951

RECORDED  
By [Signature] COUNTY  
FEE \$ 6.90  
SERIAL No. 57136

HILLIARD COMSTOCK

Judge of the Superior Court.

- 8 -

# **Relevant Sonoma County Certified LCP Policies**

## **26C-12. Definitions.**

**26C-12: Lot.** A legally defined parcel or contiguous group of parcels in single ownership or under single control, usually considered a unit for purposes of development.

**26C-12: Lot coverage.** The percentage of a lot encumbered by structures and areas devoted to vehicular traffic or parking. Driveways surfaced with permeable materials, uncovered decks less than 30 inches in height, and roof overhangs less than one foot wide may be excluded.

## **Article X. R1 - Low Density Residential District. (26C-100 - 26C-102)**

**Purpose:** To stabilize and protect the residential characteristics of the district and to promote and encourage a suitable environment for family life. The “R1” district is intended for single family homes in low density residential areas, as provided in Section 2.2.1 of the General Plan, which are compatible with existing neighborhood character.

**26C-102(b)(4): East of Highway 1 and visible from designated scenic roads:** Residential and commercial height limits are twenty-four (24) feet and 15 for accessory buildings.

**26C-102 (e): Maximum lot coverage.** Forty percent (40%). Lot coverage may be waived by the Director of the Permit and Resource Management Department for swimming pools.

**26C-102(f)(2): Side yard:** Not less than five (5) feet except where the side yard abuts a street in which case such yard shall be the same as the front yard. On lots where access is gained to an interior court by way of a side yard or where an entrance to a building faces the side line, said side yard shall be not less than ten (10) feet.

## **26C-343. Public Hearing and Comment.**

## **26C-344. Notice.**

## **Section 26C-380. Application.**

The regulations contained in the article shall be the minimum requirements and shall apply within a sensitive area, riparian corridor, scenic corridor, critical habitat area or unique feature designated in the General Plan or Coastal Plan, and as defined in this chapter.

Where the policies of the Coastal Plan apply to a development they shall take precedence over these standards. Where the policies and standards of the General Plan are more restrictive than those of the Coastal Plan or any of the standards below, the General Plan standards and policies shall apply.

## **26C-382. Site Development Standards.**

**26C-382(2):** All required roads and driveways shall have a minimum cleared width of twelve feet (12') with an all-weather surface.

#### **LCP VII-51**

#### **Visual Resources**

#### **Recommendations**

#### **Community Compatibility:**

10. Design structures to be compatible with existing community characteristics.
11. Relate structures in size and scale to adjacent buildings.
12. Locate and design all development to minimize the impacts of noise, *light, glare, and odors, on adjacent properties and the community at large.*

#### **Design Guidelines**

26. **Bodega Core Area** (includes Taylor Tract and the residential area between Taylor Tract, Highway 1, and the proposed bypass). In addition to the Coastal Zone Design Guidelines, the following guidelines will be applied to Bodega Bay development. (Where conflicts occur, these guidelines supersede the general guidelines).

General. Site and design structures to take advantage of bay views without blocking views of neighboring structures.

Height. Limit building height to 16 feet except that in major developments up to 15% of the units may exceed the height limit. Height for residential structures is measured as the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the topmost point of the roof. (See Figure VII-11.) Where these requirements conflict with the height, site, and bulk criteria of Appendix B (Bane Bill), for those properties listed, the requirements of Appendix B shall be followed.