



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482

ROGER MOBLEY, ACTING DIRECTOR

Telephone 707-463-4281

FAX 707-463-5709

pbs@co.mendocino.ca.us

www.co.mendocino.ca.us/planning

FEBRUARY 27, 2012

**NOTICE OF PUBLIC HEARING ON THE ORDINANCE AMENDMENT (OA 1-2007)
AND REZONING (R 4-2011) OF THE HARRIS QUARRY EXPANSION PROJECT**

NOTICE IS HEREBY GIVEN THAT the Mendocino County Planning Commission at its regular meeting on Thursday, March 15, 2012, at 1:30 PM, to be held in the Board of Supervisors Chamber, 501 Low Gap Road, Ukiah, California, will conduct a public hearing on the following project including a review of the Final Environmental Impact Report (FEIR) at the time listed or as soon thereafter as the item may be heard.

CASE#: OA 1-2007 and R 4-2011

DATE FILED: 1/14/2005

OWNER: FRANK DUTRA AND ERICA PETERS AND JORGE LUNA

APPLICANT: NORTHERN AGGREGATES, INC

REQUEST: An ordinance amendment to the County's Inland Zoning Code (Title 20 Division I) creating a new Mineral Processing (MP) Combining District allowing for the processing of mineral resources near the site of extraction. Processing would include the operation of asphalt and/or concrete batch plants. Said combining district would be applied only to areas with a Rangeland (R-L) zoning designation. Also requested is a concurrent rezone adding the combining district to an 18-acre portion of a larger property which includes an active hillside quarry to accommodate a proposed onsite asphalt facility.

LOCATION: Unincorporated area of Mendocino County excluding the Coastal Zone. The proposed application of the combining district (rezoning) would be associated with the Harris Quarry and located approximately seven miles south of Willits, on Black Bart Drive, approximately one mile west of its intersection with Highway 101; AP# 147-180-13, 147-180-08, and 147-140-07.

PROJECT COORDINATOR: JOHN SPEKA

Your comments regarding the above project and/or the FEIR are invited. Written comments should be submitted to the Department of Planning and Building Services, at 860 North Bush Street, Ukiah, California 95482, no later than March 14, 2012. Oral comments may be presented to the Planning Commission during the public hearing.

The Planning Commission's action regarding this item shall be a recommendation to the Board of Supervisors and the Board of Supervisors action shall be final. If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Department of Planning and Building Services or the Planning Commission/Board of Supervisors at, or prior to, the public hearing. All persons are invited to appear and present testimony in this matter.

Additional information regarding the above noted item may be obtained by calling the Department of Planning and Building Services at 463-4281, Monday through Friday, 8:00 a.m. through 5:00 p.m. Should you desire notification of the Planning Commission's decision you may do so by requesting notification in writing and providing a self-addressed stamped envelope to the Department of Planning and Building Services.

ROGER MOBLEY, Acting Director of Planning & Building Services

OWNER: FRANK DUTRA
P.O. BOX 1566
WILLITS, CA 95490

APPLICANT: NORTHERN AGGERGATES, INC.
P.O. BOX 1566
WILLITS, CA 95490

AGENT: RAU AND ASSOCIATES, INC.
100 NORTH PINE STREET
UKIAH, CA 95482

REQUEST: An ordinance amendment to the County's Inland Zoning Code (Title 20 Division I) creating a new Mineral Processing (MP) Combining District allowing for the processing of mineral resources near the site of extraction. Processing would include the operation of asphalt and/or concrete batch plants. Said combining district would be applied only to areas with a Rangeland (R-L) zoning designation. Also requested is a concurrent rezone adding the combining district to an 18-acre portion of a larger property which includes an active hillside quarry to accommodate a proposed onsite asphalt facility.

LOCATION: Unincorporated area of Mendocino County excluding the Coastal Zone. The proposed application of the combining district (rezoning) would be located approximately seven miles south of Willits, on Black Bart Drive, approximately one mile west of its intersection with Highway 101; AP# 147-180-13, 147-180-08, and 147-140-07.

TOTAL ACREAGE: (Ordinance Amendment) Countywide excluding the Coastal Zone

(Rezone) 18± acres

GENERAL PLAN: Rangeland

ZONING: Rangeland- 160 acre minimum (RL160)

ADJACENT ZONING: North: Rangeland- 160 acre minimum and Commercial (RL160& C2)
East: Rangeland- 160 acre minimum (RL160)
South: Rangeland- 160 acre minimum (RL160)
West: Rangeland- 160 acre minimum and Rural Residential- 5 acre minimum (RL160& RR 5)

EXISTING USES: Rock Quarry, Rangeland

SURROUNDING LAND USES: North: Commercial, Rangeland
East: Highway 101, Rangeland
South: Rangeland
West: Rangeland

SURROUNDING LOT SIZES: North: 4 – 142± acres
East: 33 – 38± acres

South: 80± acres
West: 80± acres

SUPERVISORIAL DISTRICT: 5

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: On June 2, 1983, the Planning Commission approved Use Permit #U 19-83 for the extraction of up to 10,000 cubic yards of rock per year from a hillside quarry for a 20 year period.

On July 5, 1990, the Planning Commission approved Use Permit Modification #UM 19-83/90, allowing for an increased rate of extraction and processing (crushing and screening) of up to 50,000 cubic yards of rock per year for a five year period. Also allowed was a one time extraction rate of 125,000 cubic yards in 1990 with the total amount not to exceed 325,000 cubic yards for the term of the permit. The permit expired on July 15, 1995.

On January 16, 1997, the Planning Commission approved Use Permit and Reclamation Plan Renewal #UR 19-83/95, allowing for the extraction and processing (crushing and screening) of up to 75,000 cubic yards of material per year from a hillside quarry for a period of 10 years. The permit expired on January 26, 2007, although the operator has since been allowed to continue under this permit during the processing of the current renewal application (#UR 19-83/2005).

A Minor Modification to the existing Reclamation Plan was approved by the Department of Planning and Building Services on September 6, 2001, allowing for the addition of a wash plant to the daily operations at the Harris Quarry. Although permission was obtained at that time, the operator did not have the equipment installed. In August 2010, a request was made to have the equipment set up. As the baseline conditions of the environmental review for the current project had been established by that time, and they did not include water usage for the plant, Planning and Building Services granted permission to install the equipment with the understanding that no water or electricity could be hooked up until the use permit renewal process had been completed.

Development Review #DR 1-2004, for the establishment of a permanent asphalt plant on North State Street in a General Industrial (I-2) zoning district, was applied for by the operator but denied by the Planning Commission on November 4, 2004, due to irreconcilable land use conflicts with existing residential development in the area. The applicant appealed the decision to the Board of Supervisors, but during the hearing withdrew the appeal after a discussion with the Board about locating the plant at the Harris Quarry. The Board directed Planning and Building Services to prepare an ordinance amendment that would allow the development of asphalt plants in association with surface mining operations so that the applicant could apply for a permit at the Harris Quarry site.

Following the Board's direction, a County initiated ordinance amendment to allow for asphalt processing was brought forward. On May 19, 2005, the Planning Commission recommended that the Board of Supervisors adopt a Negative Declaration approving Ordinance Amendment #OA 1-2005 expanding the Mining and Processing use type definition (Section 20.036.010 of Title 20 Division I [Inland Zoning Code] of the County Code) to include concrete and asphalt plants not associated with a specific construction project. As currently written, the definition of extractive use types includes the use of temporary asphalt and concrete plants for a specific construction project only. Included in the recommendation was the suggested consideration of several mitigating qualifications to be added to the ordinance language and whether an Environmental Impact Report (EIR) would be warranted for the proposal. On June 14, 2005, the Board of Supervisors denied the Ordinance Amendment without prejudice.

PROJECT BACKGROUND: The use permit and reclamation plan renewal associated with the proposed ordinance amendment and rezone was applied for in January 2005 (#UR 19-83/2005) and was originally intended to correspond with approval of the County initiated ordinance amendment noted above (#OA 1-2005). However, upon denial by the Board of Supervisors in May 2005, the applicant was considered to be responsible for amending the ordinance in order for the overall quarry project (then including both asphalt and concrete batch plants) to move forward as proposed. This resulted in the current proposal for Ordinance Amendment #OA 1-2007. Beyond the asphalt and concrete batch plants, the original proposal included a request for the annual extraction of rock at a rate of 200,000 cubic yards (cy) for approximately 90 years ("End of Life" timeframe), or until the total estimated quantity of material was extracted. In August of 2005, it was determined that an Environmental Impact Report (EIR) would be required for the project. Leonard Charles and Associates was selected by the Board of Supervisors to prepare the document and a Draft EIR was completed by December

2007. Prior to completion of the Final EIR (around December 2008), the applicant requested that the project be placed on hold until revisions could be made addressing certain concerns raised during the process.

The revisions were received in January 2010 and included substantial enough changes to the project description as to require the preparation of a "Revised" DEIR. The primary differences were the scaling back of the requested timeframe to a 30-year permit (from the original "End of Life" proposal), the elimination of the concrete batch plant facility and a reduction in the maximum annual production rate of asphalt from 250,000 tons per year to 150,000 tons per year. The proposed ordinance amendment remained as part of the project in order to allow for the asphalt processing plant which also was retained in the request. In May 2011, the Revised DEIR was released for public review with two hearings being held before the Planning Commission (June 16, 2011 and July 21, 2011) taking public comment on the document. The FEIR has now been released for the project and the public hearing process can proceed.

PROJECT DESCRIPTION: As part of a larger project including a Use Permit and Reclamation Plan Renewal/Modification (UR 19-83/2005) to allow for the expansion of an existing hillside quarry and to construct an asphalt processing facility, the applicant, Northern Aggregates, Inc., is requesting an Ordinance Amendment to the existing zoning code along with an associated Rezone of a portion of the project site. The amendment would create a Mineral Process Combining District and would only be applicable at extraction or mining sites within the Rangeland zoning district (excluding the Coastal Zone). Approval of the request would result in a new designation for the parcel subject to the quarry project as Rangeland with a Mineral Processing Combining District (RL:MP).

Section 20.196.010 of the County Code provides "original jurisdiction" to the County Planning Commission for applications involving major use permits, which would include the quarry renewal and reclamation plan modification component of the project. However, this decision cannot be made without first determining the outcome of the requested ordinance amendment and rezone and whether the asphalt facility can be considered along with the renewal of the extraction operation as a whole. Zoning code amendments and district changes, as legislative acts, must be made by the County Board of Supervisors, but only after a recommendation has been received by the Planning Commission through the public hearing process (see County Zoning Code Chapter 20.212). This report is therefore only focusing on the requested ordinance amendment and rezone, or the proposed creation of a new Mineral Processing Combining District and its application as described throughout this report.

As a result, the following procedural steps must be accomplished in the order shown:

1. Amend the Zoning Code to create the Mineral Processing Combining District (requires Board approval);
2. Apply the Combining District at the mine site by rezoning a portion of the property (requires Board approval);
3. Amend the Use Permit and Reclamation Plan as a renewal to allow expanded extraction capacity and addition of the asphalt processing facility (requires Planning Commission approval).

The proposed ordinance amendment would apply to the entire "Inland" portion of the County on areas within a Rangeland (R-L) zoning district. However, it would only be applied to areas with an active mining operation. Areas not subject to the amendment would be the Coastal Zone, any areas within a Flood Plain Combining District as established in Section 20.120.010(A) of the County Zoning Code and lands within an Agricultural Preserve. Should the amendment be approved, a rezone is proposed to have the newly created Mineral Processing (MP) Combining District applied to an 18-acre portion of a larger 320-acre property owned by the applicant allowing for asphalt processing to take place for the length of an associated use permit (see above for use permit approval process).

The applicant has identified five project objectives which would be partially met with approval of the ordinance amendment and rezone (the remaining objectives would be met through an approval of the pending use permit application). These are to: 1) renew the quarry operation for a period of 30 years, 2) increase the maximum allowable extraction volume from 75,000 cubic yards (cy) per year to 200,000 cy, 3) add a new asphalt processing

facility, 4) have the new processing facility located close to the quarry site, and 5) locate the project between Willits and Ukiah, felt to be the primary area of aggregate consumption in the County.

The 18-acre site of the proposed asphalt plant is located immediately south of Black Bart Drive (CR# 370) approximately 2,000 feet west of its intersection with Highway 101 and approximately 600 feet from the northwest corner of the proposed quarry expansion. A maximum production rate of 150,000 tons of asphalt is included in the proposal. An internal access road is also proposed connecting the quarry to the proposed processing area. The site is made up of moderate to steep slopes and is vegetated by tanoak, chamise, canyon live oak shrub and grassland. Surrounding land uses are made up of open space and the existing quarry (east), undeveloped rangeland and low density rural residential (west), mobile home development (over 1.75 miles to the southeast) and roadside commercial activity (northeast along Highway 101).

ENVIRONMENTAL REVIEW: Given the complexity and high potential for environmental impacts of the proposed project, an EIR was required as a means of thoroughly evaluating areas of significant impact. Through the EIR process in general, it is expected that the public, responsible and trustee agencies and the County's decision-making body have been provided with sufficient information about the potential environmental impacts that may result from its development. The main components of the EIR consist of the draft document (DEIR), which contains the bulk of the consultant's analysis, and the Final EIR (FEIR), which contains consultant responses to agency and public comments on the DEIR. Upon review of the FEIR, the Board of Supervisors would be required to "certify" the document prior to taking any further action on the project. In certifying the EIR, the Board can disagree with the document's conclusions regarding any aspect of the project, but it is ultimately supporting the adequacy of the analysis. At that point, having been provided with sufficient information, a reasoned decision to approve or deny the project can be made.

With respect to the Countywide application of the ordinance amendment (excluding the Coastal Zone), the DEIR has identified nine other quarries within the qualifying Rangeland zoning district. While this will be discussed in more detail under the Land Use heading of this report, it is worth noting here that only three of these are not currently within an Agricultural Preserve which, according to the proposed amendment language, would disqualify them for consideration at this time (see Impact 4.10-D [DEIR pg. 338] for details of the potential cumulative impact in this area). Further, two of the three qualifying operations are either in the process of being reclaimed (Poonkinney Agricultural Rock Quarry), or are in early stages of ensuring slope stability for reclamation purposes (Perry Ridge Quarry). Thus, according to the analysis, only one other quarry (Blue Ridge Rock Quarry) besides the Harris Quarry, would feasibly qualify for the application of the new combining district. The DEIR stresses that any Countywide entitlements enabled by the ordinance amendment must first go through California Environmental Quality Act (CEQA) review after application is made for a rezone. Aside from those evaluated for the Harris Quarry site, impacts resulting from adoption of the amendment would be speculative.

The project as a whole (i.e. including the quarry component as well as the ordinance amendment, rezone and asphalt processing) would result in a total of five significant impacts. One would relate to an increase in indirect emissions of criteria pollutants above allowable thresholds of the County Air Quality Management District (AQMD). The other four involve significant visual impacts with two resulting from the quarry operation as proposed and the final two resulting from allowance of the asphalt processing facility. The following sections of this report are intended to summarize portions of the EIR analysis related to the ordinance amendment and rezone completed by the consultant with a focus on areas involving these significant and unavoidable impacts or else on those areas with the potential for environmental impacts in general.

Geology and Soils (DEIR Chapter 4.1): Specific to the Harris Quarry rezone request and the proposed asphalt plant processing site, a Grading and Drainage Plan prepared by Rau and Associates dated March 2005 (and revised January 2010), show 1h:1v (horizontal:vertical) cut slopes and 1.5h:1v fill slopes to create a level working area for the facility. An Erosion Control Plan was also prepared by Rau and Associates dated March 2005 (revised January 2010), including erosion control measures for the plant area. Impacts regarding the potential for unstable geology and slopes at the proposed asphalt plant site as well as related impacts resulting from seismic activity are discussed in the DEIR on pages 117-119. Mitigation has been identified including requirements for design level geotechnical investigations for the site performed by a qualified Certified Engineering Geologist and a Geotechnical Engineer. Implementation of these and other recommended measures would reduce the impacts resulting from the rezone and future construction of an asphalt facility to a less-than-significant level in this area.

Hydrology and Water Quality (DEIR Chapter 4.2): The project site is located within the Forsythe Creek Watershed (which itself drains into the Russian River) considered to be critical habitat for Chinook salmon. Potentially significant impacts to hydrology and water quality are discussed on pages 144 through 172 of the DEIR. With respect to the proposal for the rezoned processing area, the DEIR concludes that stormwater runoff impacts themselves would be less-than-significant. However, there is a potentially significant impact from the “increased release of [Total Petroleum Hydrocarbons] TPHs and other pollutants in stormwater discharge from the asphalt processing site and increased paved and unpaved roadway areas.”

Mitigation recommended in the DEIR includes adherence to a Stormwater Pollution Prevention Plan (SWPPP) as part of a requirement for permitting under the National Pollutant Discharge Elimination System (NPDES) and overseen by the California Regional Water Quality Control Board (RWQCB), a requirement to collect stormwater runoff samples from discharge locations, the implementation of Best Management Practices (BMPs) to reduce the potential for discharges and the development of a bio-retention basin to control point-source erosion and runoff from the plant site. As a result of the proposed mitigation, impacts would be less-than-significant with respect to water quality should the ordinance amendment and rezone be approved. Impacts to groundwater quality and quantity as well as cumulative impacts are also considered to be less-than-significant as a result of the asphalt plant development.

Biological Resources (DEIR Chapter 4.3): Surveys of the project site were conducted by North Coast Resource Management (NCRM) in order to identify special status species (2006) and special plant communities (2008 and 2010) with no sensitive species found on the site. Impacts to biological resources identified as potentially significant from development of the processing site are discussed on pages 184 through 201 of the DEIR. Recommended mitigation includes requirements for additional biological surveys prior to vegetation removal as well as wetland protection measures from the development of the on-site haul road. Impact 4.3-E (DEIR pg. 192) discusses how construction of the proposed asphalt plant and the internal haul road would result in the removal of 18 California black oaks, 49 Oregon white oaks, 9 interior live oaks, and 2 canyon live oaks. Requirements for replanting oak woodland at a ratio of 3:1 are also included within the recommended mitigation for the project. Implementation of the recommended measures would reduce any of the potentially significant or cumulatively significant impacts to biological resources to less-than-significant levels should the asphalt plant be allowed through the ordinance amendment and rezone.

Traffic and Circulation (DEIR Chapter 4.4): Development of the asphalt processing site in conjunction with approval of the quarry would entail potential impacts with regard to traffic and circulation. An evaluation of project related impacts was conducted for the year 2010, 2014 and 2030 horizons with a focus on peak production in July (peak traffic month of Highway 101) and October (peak production month) for each of the years. Pages 210 through 225 of the DEIR analyze potential impacts. According to the DEIR, less-than-significant impacts would occur as a result of the project for 2010 Intersection Levels of Service, while 2014 and 2030 horizons were considered less-than-significant after proposed mitigation widening Highway 101 in this area by providing both northbound and southbound acceleration and deceleration lanes. Nighttime and bad weather safety measures (e.g. lighting, signage) were also recommended holding potentially significant impacts to a less-than-significant level should the ordinance amendment and rezone be approved.

Noise (DEIR Chapter 4.5): Although an increase in noise levels will most likely result from construction related activities, operation and from traffic associated with the project, overall, noise impacts have been determined to be less-than-significant should the asphalt plant be permitted through the ordinance amendment and rezone. The DEIR analyzes potential impacts in this area on pages 236-243.

Air Quality and Global Climate Change (DEIR Chapter 4.6): Potential impacts to air quality and global climate change could result from approval of the ordinance amendment and rezone. Those that could occur from construction related impacts increasing air emissions from equipment operation, fugitive dust from earth-moving activities and direct emissions of criteria pollutants from on-site activities during operation of the asphalt plant would be reduced to a less-than-significant level with the implementation of recommended mitigation measures. Other potential impacts related to health risks, odors or greenhouse gases from allowances to construct the asphalt facility were also found to be less-than-significant subject to mitigation measures discussed on pages 268-301 of the DEIR.

Indirect NO_x emissions (air pollutants nitric oxide and nitrogen dioxide, generally referred to as NO_x), 99% of which would result from project related haul trucks and approximately 25% associated with asphalt delivery, was

found to exceed levels of significance as determined by the Mendocino County Air Quality Management District (AQMD) as a result of overall project approval. This would be considered a significant and unavoidable impact.

In such instances where “one or more significant environmental effects have been identified,” the County would be required to deny the request unless a Statement of Overriding Considerations has been adopted finding “[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers...” to outweigh the unavoidable impact. Specifically, CEQA Guidelines Section 15093 states, in part, that:

- (a) *CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”*
- (b) *When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.*

Should the Board of Supervisors choose to certify the EIR and approve the subject ordinance amendment and rezone allowing for the project as a whole to move forward as proposed, a Statement of Overriding Considerations will be prepared for their consideration.

Aesthetics (DEIR Chapter 4.7): The proposed ordinance amendment and rezone would allow for an asphalt processing facility on Black Bart Drive which would also be allowed to operate at night entailing environmental impacts as a result. While a total of four visually significant impacts would result from the project as a whole (i.e. including views of the quarry from Highway 101), only two of those would result from approval of the proposed amendment and rezone allowing for the asphalt facility. Figure 4.7-2 (located between pages 308 and 309 in the DEIR) provides existing views from Black Bart Drive along with photo-simulations of the proposed asphalt facility. While mitigation is recommended which would include screening trees and other landscaping, the visual impact from this vantage point is still considered to be significant and unavoidable. Figure 4.7-4 (between pages 312 and 313 in the DEIR) shows similar photo-simulations of nighttime operation of the asphalt facility which are also considered to be significant and unavoidable. As noted above, the Board of Supervisors will need to certify the EIR before any decisions can be made on the subject ordinance amendment and rezone. However, approval of the overall request as proposed would entail the adoption of a Statement of Overriding Considerations in order to have the significant impacts deemed “acceptable” per CEQA.

Public Services (DEIR Chapter 4.8): The site for the proposed asphalt plant is within the service area of the Little Lake Fire Protection District (LLFPD) and the California Department of Fire Protection (Cal-Fire). Other responsible service agencies would include the Mendocino County Sheriff’s Department and the California Highway Patrol (CHP). Potential impacts related to increased calls for services (e.g. increased fire hazard, demand for police, etc.) are either considered to be less-than-significant or else less-than-significant after implementation of recommended mitigation measures (see pages 317-323 in the DEIR). Allowances for the project to proceed as proposed would therefore not result in significant impacts with respect to public services.

Hazards and Hazardous Materials (DEIR Chapter 4.9): Approval of the ordinance amendment and rezone would allow for various hazardous materials to be used as part of the asphalt processing facility. Pages 327 through 331 discuss project related potential impacts with respect to hazards and hazardous materials. Potential safety risks from the transport, storage and use of diesel fuels and other chemicals on-site would be covered under the required Hazardous Materials Business Plan which would be overseen by the Division of Environmental Health. Additional recommended mitigation would restrict the hours which trucks transporting diesel fuel could turn left into the site. Overall, impacts would be held to a less-than-significant level subject to recommended mitigation measures.

Land Use (DEIR Chapter 4.10): The applicant has proposed a new Mineral Processing Combining District that could apply to properties with mineral resources that are zoned Rangeland. The ordinance amendment and

rezone could have an impact on land use compatibility throughout the County as well as the specific site (Harris Quarry) proposed for the rezone. The amendment as proposed would restrict the combining district to properties outside of the Coastal Zone, not within an Agricultural Preserve, nor within areas of designated floodplains. The following is a list of proposed amendments to the County Code which would allow for mineral processing with Section 20.134.010 describing the limited areas in which the new district could apply. (Underlined areas are newly proposed revisions to the zoning code or else clarifying revisions proposed by staff, which were not part of the amendment language found in Appendix A of the DEIR.)

Proposed Amended Language to:

Section 20.040.010 Combining Districts.

In addition to the districts enumerated in Section 20.040.005 combining districts may be established and designated as follows:

“AH” Special Airport Height Combining District;
“C” Cluster Combining District;
“FP” Special Flood Plain Combining District;
“IS” Isolated Service Combining District;
“L” Special Minimum Lot Size Combining District;
“MP” Mineral Processing Combining District;
“PD” Planned Development Combining District;
“P” Plan Combining District;
“SH” Special Hazards Combining District;
“SS” Seismic Study Combining District.

Section 20.036.010 Mining and Processing.

The mining and processing use type refers to places or plants primarily devoted to surface or subsurface mining of metallic and nonmetallic materials, geothermal development, oil or gas together with essential processing of only nonmetallic mineral products. Except where conducted within a Mineral Processing Combining District, and subject to the requirement for a major use permit, all such processing shall be of a temporary nature and carried on in conjunction with, and only for the duration of a specific construction project (except that portable screening and crushing equipment need not be related to a specific construction project). The sale of additional materials may be allowed for other off-site uses where such materials do not exceed ten percent (10%) of that volume specified for the primary construction project. Typical places or uses include borrow pits, gravel bars, rock quarries, oil and gas drilling rigs, or portable crushing, screening, washing, and mixing plants. (Ord. No. 3639 (part), adopted 1987)

Proposed Addition to County Code:

CHAPTER 20.134

“MP” MINERAL PROCESSING COMBINING DISTRICT

Section 20.134.005 Intent

This combining district is intended to allow, in limited circumstances, the processing of mineral resources near the site of extraction. Processing includes, but is not limited to, operation of asphalt and/or concrete batch plants. Since mineral extraction must take place on the physical site where the minerals naturally occur, special controls are needed to minimize conflicts with other land uses. The Mineral Processing Combining District functions as an “overlay district” to be applied to the area where mineral processing activities will take place.

Section 20.134.010 Regulations for “MP” Mineral Processing Combining District.

(A) Objectives: The operation of asphalt and concrete batch plants shall be allowed on properties within the Mineral Processing Combining District, subject to the issuance of a major use permit. “Asphalt and

concrete batch plants” are defined as machinery used to process raw gravel, sand, and other materials into either hot asphalt or ready—mix concrete.

(B) Locational Requirements: The Mineral Processing Combining District shall only be applied to areas with an R-L zoning designation (See Chapter 20.060) within one-half miles of a legally established and active mining or mineral extraction operation. The Mineral Processing Combining District shall not be applied to:

(1) Land within any area of special flood hazard established in Section 20.120.010(A).

(2) Land incorporated into Agricultural Preserves under Williamson Act contract.

(C) Designation: The Mineral Processing Combining District shall be designated by the symbol (MP) on the County Land Use Plan.

(D) Development Standards:

(1) The operation of asphalt and concrete batch plants shall be limited to areas within one-half mile of a legally established and active mining or mineral extraction operation.

(2) The general building height limitations for R-L districts shall not apply to mineral processing equipment located within a Mineral Processing Combining District. Instead, asphalt silos and other mineral processing equipment are subject to the seventy-five (75) foot height limitation provided in Section 20.1 52.025(C).

(3) When mining activity ceases, the mineral processing use must cease within one year.

(4) The batch plant site shall be reclaimed subject to a Reclamation Plan approved as part of the Use Permit approval provided for in Section 20.134.015.

(E) Required Information: A Mining/Reclamation Plan describing the phasing of reclamation, in relation to the phases of the mining operation, shall be submitted for land areas which are to be included within a Mineral Processing Combining District. When approving an MP use permit the County may include a condition of approval requiring the permittee to remove the MP zoning overlay upon expiration of the mining use permit.

Section 20.134.015 Uses Subject to a Use Permit.

In addition to the use types specified as uses subject to a use permit by the zoning district with which the “MP” combining district is combined, the onsite use of asphalt and concrete batch plants shall also be permitted upon issuance of a major use permit.

Proposed Amended Language to:

Section 20.152.025 Height Exceptions.

- (A) Radio and television aerials and antennae, and similar utility structures and necessary mechanical appurtenances for private reception, may be built and used to a height not more than twenty-five (25) feet above the height limit established for the district in which the structures are located, provided, however, that no such structure in excess of the allowable building height shall be used for any commercial or advertising purposes or any communication transmissions. Wind generators and their associated towers may be built and used to a height of one hundred (100) feet as measured from the ground to the highest point of the system.
- (B) Additional heights for public utility structures may be permitted upon approval by the Planning Commission. Height limitations provided herein shall not apply to electric transmission lines and towers.
- (C) Asphalt silos, and other mineral processing equipment located within Mineral Processing Combining Districts may be built and used to a height not more than seventy-five (75) feet as measured from the ground to the highest point of the equipment.

(D) The above height limitations shall be subject to laws and regulations of the State and Federal Government. And in no case may the height of any of the above structures exceed the airport height restrictions set forth in the "A-H" zoning district. (*Ord. No. 3639 (part), adopted 1987*)

As noted earlier in this report, cumulative impacts relating to the County-wide applicability of the ordinance amendment (excluding the Coastal Zone) are difficult to describe in detail without a clearer idea as to which sites the new combining district would be applied to. Impact 4.10-D (DEIR pg. 338-339) identifies the nine current surface mining operations which are zoned Rangeland, thus potentially qualified to apply for the new combining district. Of the nine sites, only three are not currently located within an Agricultural Preserve (Poonkinney Agricultural Rock Quarry, Perry Ridge Quarry and Blue Ridge Rock Quarry). The likelihood of one of these sites making application for the new combining district would be speculative at the current time, although two of the operations are in varying stages of reclamation.

Poonkinney Agricultural Rock Quarry, located off of Poonkinney Road near Dos Rios, no longer has a valid use permit and is in the process of reclaiming the site per reclamation standards approved in the past. Perry Ridge Quarry, located off of Mina Road outside of Covelo, is scheduled to expire in 2015, although the operator has recently indicated a desire to have the slopes analyzed for stability so that reclamation can begin early. The third possibility is Blue Ridge Rock Quarry, which is located near the Sonoma County line just north of Cloverdale. However, as noted on page 340 of the DEIR, existing asphalt plants are located in both Cloverdale and Ukiah placing economic constraints on any future plans to develop a facility. The speculative nature of the future plans of these or any other potential sites make it difficult to assess environmental impacts in this area.

The specific request for a rezone of the Harris Quarry site has been evaluated throughout the DEIR. With respect to land use conflicts from approval of the amendment and rezone, impacts were found to be less-than-significant. Long range impacts from future renewals of the operation were likewise felt to be speculative. However, the applicant has volunteered to apply for a rezone to have the combining district removed from the site upon expiration of the use permit and subsequent reclamation of the quarry and processing plant area. Overall, neither immediate nor cumulative impacts would reach a level of significance in this area.

Energy Use (DEIR Chapter 4.11): Were the ordinance amendment and rezone to be approved allowing development of the proposed project, energy would be consumed for generators to power equipment, well pumps, and other machinery. Truck hauling activity would also be responsible for energy consumption. Increases in energy use were analyzed on Pages 344-346 of the DEIR with both temporary and long term impacts deemed to be less-than-significant.

Cultural Resources (DEIR Chapter 4.12): An archeological survey was conducted on the project site which was evaluated and accepted by the County Archaeological Commission along with the original application materials on July 13, 2005. The site and study were again discussed at a meeting on June 8, 2011, for the current proposed project with no additional comments. By allowing for the asphalt plant to be developed, approval of the ordinance amendment and rezone would be potentially significant were cultural resources to be discovered during site preparation. Mitigation recommended on pages 347-348 of the DEIR would ensure that impacts were held to a less-than-significant level with respect to cultural resources.

Plan Consistency (DEIR Chapter 4.13): As noted in this chapter, "Plan Consistency" is not considered an environmental impact in and of itself. However, inconsistencies with General Plan policies could potentially result in significant impacts. Ultimately, the Board of Supervisors is responsible for this determination and the chapter is useful in evaluating County policies and their relationship to the project (see DEIR pages 349-357).

For instance, one of the key decisions will need to focus on the interpretation of Development Element Policy Number DE-17. The General Plan policy states, in pertinent part, as follows:

Policy DE-17 Land Use Category: RL-Range Lands

Intent: *The Range Lands classification is intended to be applied to lands which are suited for and are appropriately retained- for the grazing of livestock. The classification should include land eligible for incorporation into Type II agricultural preserves, other lands generally in range use, intermixed smaller parcels and other contiguous lands, the inclusion of which is necessary for the protection and efficient*

management of range lands. The policy of the County and the intent of this classification shall be to protect these lands from the pressures of development and preserve them for future use as designated.

General Uses: Residential uses, agricultural uses, forestry, cottage industries, residential clustering, uses determined to be related to and compatible with ranching, conservation, processing and development of natural resources, recreation, utility installations.

Based on the "General Uses" language, it would appear that approval of the ordinance amendment, rezone and proposed project could be considered consistent with the policy's provision for "processing and development of natural resources." However, such an allowance may run counter to residential or agricultural uses. On an individual basis, the uses included under the policy can seem contradictory (e.g. conservation vs. utility installations, or processing vs. recreation). This would indicate that the intent of the policy is to evaluate each use on a case by case basis when making the consistency determination. Several other relevant policies within the General Plan must also be considered, but the point here is that the policy language is typically meant to provide for flexibility and interpretation.

OTHER INFORMATION: Chapter 5 of the DEIR involves Growth Inducing Impacts and Project Alternatives. The analysis in the environmental document found Growth Inducing Impacts resulting from the project as a whole to be less-than-significant. Project Alternatives are discussed on pages 359 through 388. In all, seven alternatives were evaluated which are listed as follows:

1. No Project – No Future Development
2. No Project – Future Development Consistent with Land Use Classification
3. Quarry Only
4. Quarry and Temporary Asphalt Plant
5. Project Redesign
6. Reduced Production
7. Alternate Location

Of these seven alternatives, Alternative 1 (No Project- No Further Development) is considered the environmentally superior option, eliminating site-specific impacts and requiring immediate reclamation of the site. However, this would also likely result in the increase of regional traffic, air quality, climate change and energy use impacts and would meet none of the project objectives.

CEQA requires that a second environmentally superior alternative be identified should the "no project" alternative be found to be environmentally superior. In this case, Alternative 6 (Reduced Production) is considered the environmentally superior choice of the remaining alternatives. This alternative would reduce the annual maximum rate of extraction from 200,000 cubic yards (cy) to 75,000 cy and would eliminate the combining district and asphalt production facility. Two of the five significant impacts (visual impacts from Black Bart Drive and from nighttime asphalt processing) would be eliminated as a result of this alternative and only one of the five project objectives would be met (renewal of the existing quarry permit).

Overall, the ranking of the seven alternatives were as follows:

Alternative 1 No Project – No Future Development
Alternative 2 No Project – Future Development Consistent with Land Use Classification
Alternative 6 Reduced Production
Alternative 3 Quarry Only
Alternative 4 Quarry and Temporary Asphalt Plant
Alternative 5 Project Redesign
Project as Proposed

As noted in the EIR, not every feasible alternative has been analyzed. However, these alternatives do provide several options which would reduce or eliminate environmental impacts identified throughout the EIR. It is also noted that other alternatives would be available by selecting portions of the seven options and combining them.

ENVIRONMENTAL RECOMMENDATION: The primary purpose of an EIR is to inform the public and decision makers of the environmental consequences of a project, and to reduce impacts where feasible. While approval of

the ordinance amendment and rezone would not necessarily allow for the project to move forward as proposed (a hearing on the use permit would be needed to make that decision), the EIR has analyzed impacts of the project in its entirety, including potentially significant impacts that would result.

CEQA does require the County to certify that the EIR was prepared in conformance with the requirements of CEQA and that it has considered the EIR prior to a decision on any facet of the project including this stage, in which a decision is being made on the ordinance amendment and rezone. The project cannot be approved if the EIR is not certified. However, it is possible to certify the EIR, yet deny the project. It is staff's recommendation that the EIR be certified as meeting the requirements of CEQA.

GENERAL PLAN CONSISTENCY RECOMMENDATION: Staff recommends that the Planning Commission make the recommendation to the Board of Supervisors that the ordinance amendment and rezone components of the proposed project are consistent with applicable goals and policies of the General Plan.

RECOMMENDED MOTION FOR ENVIRONMENTAL DOCUMENT: The Planning Commission recommends that the Board of Supervisors finds that, based on substantial evidence in the record, the EIR has adequately identified all environmental impacts and mitigation, as well as the following:

1. Certification of the Final EIR for Ordinance Amendment #OA 1-2007 and Rezone #R 4-2011:

Pursuant to CEQA Guidelines Section 15090, the Planning Commission recommends that the Board of Supervisors certifies that:

- A. The Final EIR has been completed in compliance with CEQA, and
- B. The Final EIR has been presented to the decision-making body of the lead agency, and the decision-making body reviewed and considered the information contained in the Final EIR prior to approving the project, and
- C. The Final EIR reflects the lead agency's independent judgment and analysis.

2. Fish and Game Finding: The Planning Commission has evaluated the EIR and other information pertinent to the potential environmental impacts of this project and finds that this project will contribute to the overall reduction in wildlife populations and habitat from a cumulative standpoint and, therefore, the project is found to be subject to the California Department of Fish and Game fee of \$2,969.00.

3. General Plan Consistency Finding: The Planning Commission recommends that the Board of Supervisors finds that the proposed project is consistent with applicable goals and policies of the General Plan.

RECOMMENDED MOTION FOR THE ORDINANCE AMENDMENT AND REZONE: The Planning Commission recommends that the Board of Supervisors finds that the proposed ordinance amendments and rezone are consistent with the General Plan, and therefore approves Ordinance Amendment #OA 1-2007 and Rezone #R 4-2011 as follows:

- 1) The Board of Supervisors adopts Ordinance No. _____ amending Chapter 20.040.010 of Division I of Title 20 of the Mendocino County Code.
- 2) The Board of Supervisors adopts Ordinance No. _____ amending Chapter 20.036.010 of Division I of Title 20 of the Mendocino County Code.
- 3) The Board of Supervisors adopts Ordinance No. _____ amending Division I of Title 20 of the Mendocino County Code by adding a newly created Chapter 20.134.
- 4) The Board of Supervisors adopts Ordinance No. _____ amending Chapter 20.152.025 of Division I of Title 20 of the Mendocino County Code.
- 5) The Board of Supervisors adopts Ordinance No. _____ approving the rezoning of a portion of Assessor's Parcel Number 147-140-07 from RL-160 to RL-160:MP.

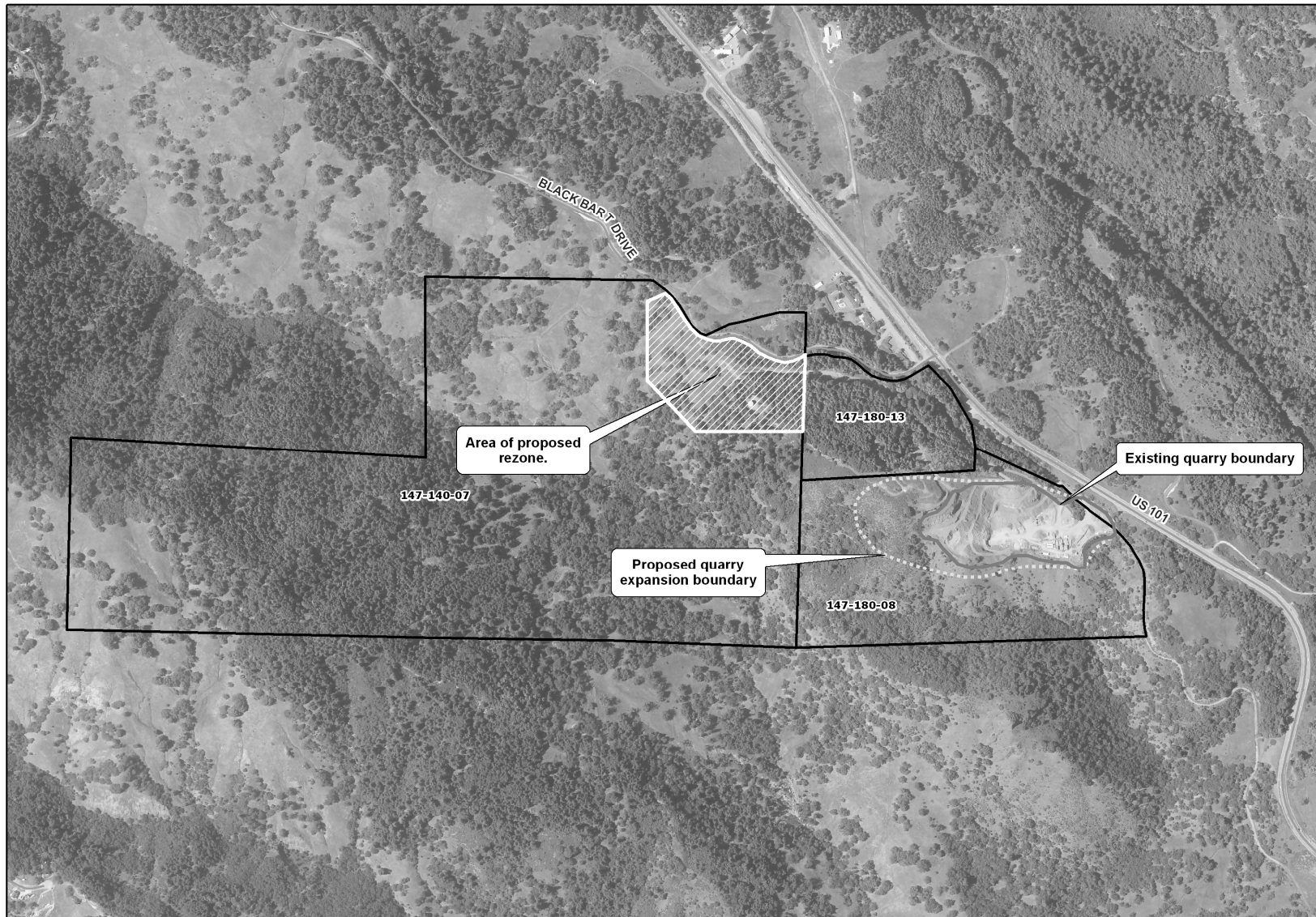
ALTERNATIVE MOTION: Staff recommends to the Planning Commission the following motion:

The Planning Commission recommends to the Board of Supervisors denial of #OA 1-2007/#R 4-2011 finding the request inconsistent with the General Plan relative to the compatibility of land uses with the project as proposed.

DATE

JS/at
February 24, 2012

JOHN SPEKA
PLANNER II

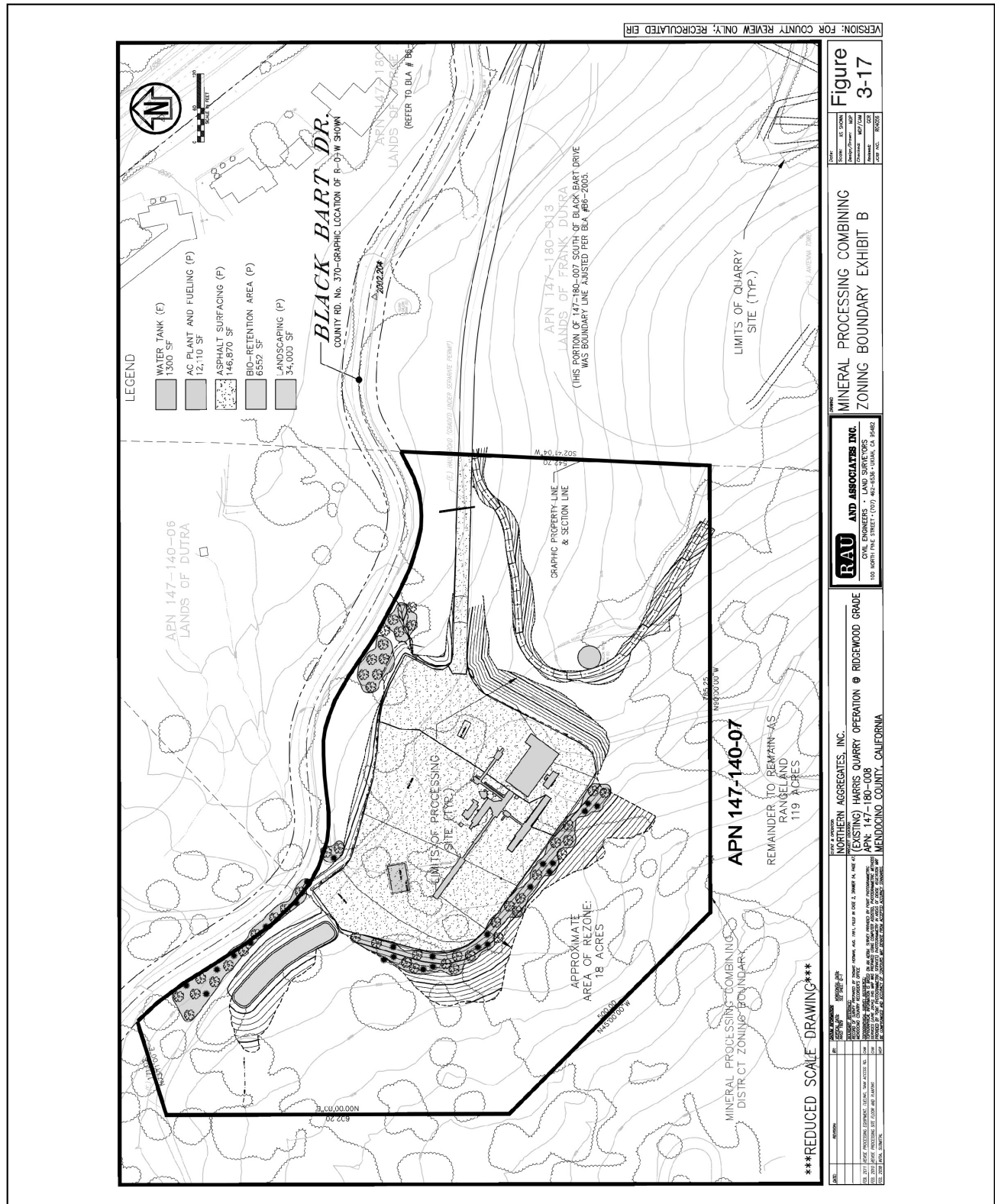


OWNER: Frank & Judy Dutra
APN: 147-140-07
CASE: OA 1-2007 / R 4-2011
ADDRESS: 16831 Black Bart Drive, Willits

PROJECT LOCATION

0 500 1,000 Feet





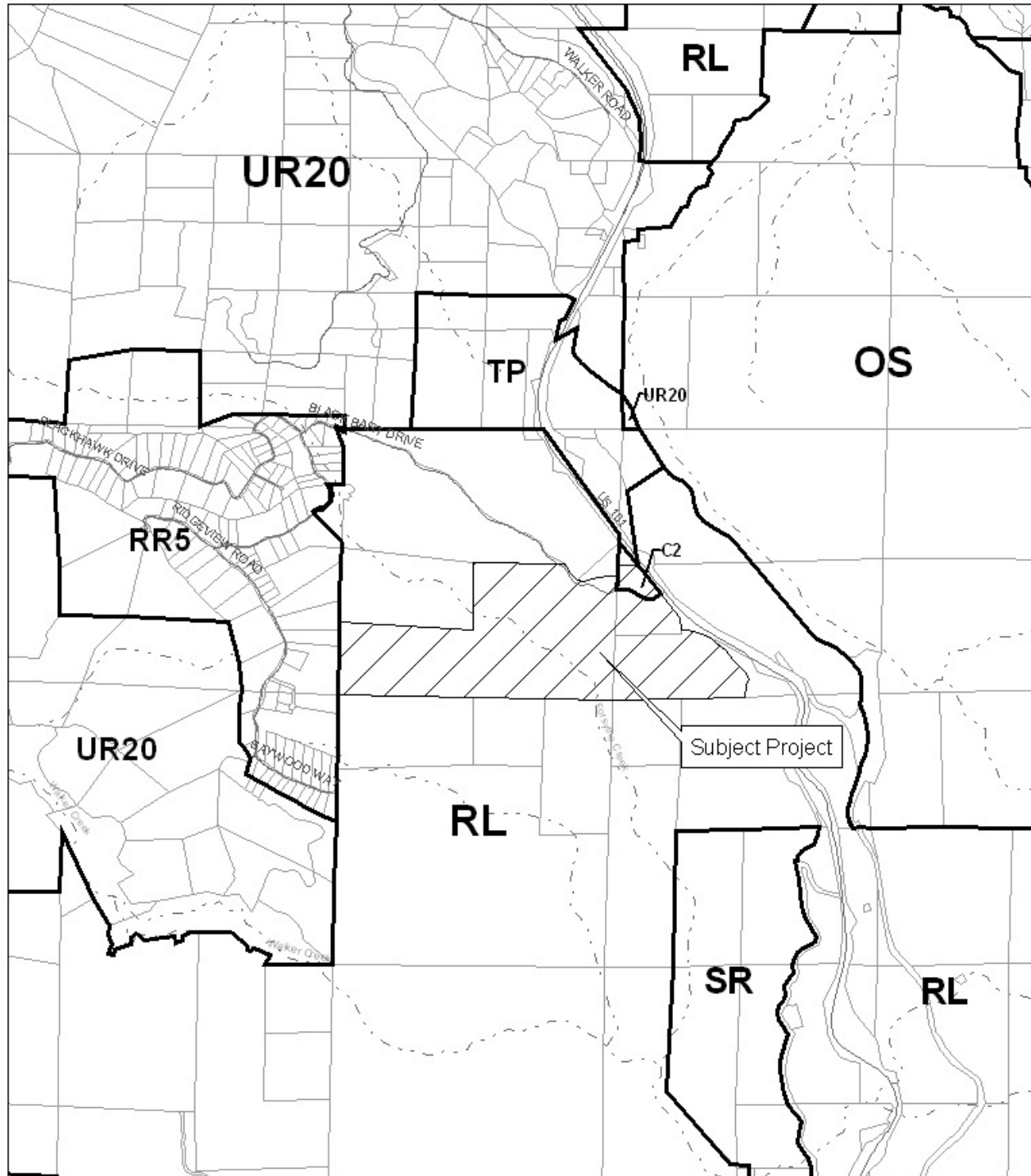
OWNER: Frank & Judy Dutra
APN: 147-140-07
CASE: OA 1-2007 / R 4-2011
ADDRESS: 16831 Black Bart Drive, Willits

EXHIBIT

NO SCALE



LOCATION MAP



ZONING DISPLAY MAP

OWNER: DUTRA, Frank, PETERS, Erica & LUNA Jorge
 APPLICANT: NORTHERN AGGREGATES, Inc.
 AGENT: McCONNELL



ORTHOPHOTO August 2004

OWNER: DUTRA, Frank, PETERS, Erica & LUNA Jorge COPYRIGHTEDRESOURCESTRATEGIES@USA.NET
APPLICANT: NORTHERN AGGREGATES, Inc.