

2024-25 Mendocino County Civil Grand Jury

June 6, 2025

PLANNING AND BUILDING DEPARTMENT STRUCTURAL ISSUES: EXPOSING THE CRACKS



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SUMMARY

The Mendocino County Planning and Building Services (PBS) has faced significant challenges trying to regulate non-standard and unpermitted construction since the 1970s. In the State of California (State), the construction industry is governed by a comprehensive set of regulations known as the California Building Code. These codes are designed to ensure the safety, health and welfare of the public by regulating the design, construction and maintenance of buildings within the State. This is the job of PBS in each county.

The 2024-25 Mendocino County Civil Grand Jury (Grand Jury) received a complaint regarding a misuse of the Class K permitting process at PBS. This complaint contained evidence of a lack of communication between divisions within PBS, misuse of discretion, failure to perform onsite inspections, overlooked code violations, dumping of trash on Jackson State Forest property, permitting commercial structures as Class K, ignoring toxic waste in Class K structures, finalizing permits prior to compliance with CALFIRE Public Resource Code (PRC) § 4290 fire safe regulations, and other violations. An onsite visit by Grand Jury members confirmed these findings.

Three additional, separate complaints, all similar in nature, were received during the Grand Jury year, further exposing the severity of the problems that exist within Mendocino County PBS. These complaints contained evidence of a lack of organized structure and communication between and within departments, divisions and staff. These inconsistencies in the interpretation and application of State law and County ordinances give the perception of favoritism and double standards.

In 2017, Mendocino County (County) was ravaged by the massive Redwood Complex wildfire, burning 36,523 acres, destroying 543 structures, damaging 41 other structures and taking the lives of nine people. By neglecting the requirements of PRC § 4290 rather than enforcing it, the PBS is setting the stage for another catastrophic life safety event that could be at least as devastating and costly, if not more, as the Redwood Complex wildfire.

Public safety must be the number one priority for the Mendocino County Board of Supervisors (BOS). Clear and concise directions need to be given to PBS to adhere to State law and County ordinances.

GLOSSARY

Appurtenant Structures: Appurtenant structures are habitable dwellings directly correlated to an inhabited dwelling or living space on the associated parcel, e.g., a detached bedroom as outlined in California Code of Regulations (CCR) Title 25, Division 1, Chapter 1, Article 8, § 74 (purpose), CCR Title 25, Division 1, Chapter 1, Article 8, § 76 (intent), Mendocino County Code (MCC) Chapter 18.23 §§ 18.23.020, 18.23.030 and 18.23.230.

California Building Code: This code, also known as Title 24 of the CCR, is the building code for the State of California. It contains general building design and construction requirements relating to fire, life safety, structural safety and access compliance.

Class K (Limited Density Rural Dwelling): This permit is a deviation of the California Building Code and was adopted in 1981 by Mendocino County with the intent to provide the absolute minimum safety requirements for the protection of life, welfare and property of habitable dwellings. This alternative permit was designed to allow homeowners to use unconventional means and materials, rather than relying on licensed contractors to build their homes using conventional and often expensive methods.

Clean Slate: This program was developed in Mendocino County in the early 1980s to encourage property owners to bring nonstandard, unpermitted homes into compliance with the recently adopted Class K building permit without penalty or violations. The current version of the Clean Slate program is now identified as an “Amnesty Program.”

Limited Density Rural Dwellings (Class K): These structures consist of one or more habitable rooms, not exceeding two and one-half stories, intended or designed to be occupied by one family with facilities for living and sleeping, with use restricted to rural areas. MCC Chapter 18.23 § 18.23.250.

California Public Resources Code section 4290: These regulations apply to the perimeters and access to all residential, commercial and industrial building construction within the State responsibility areas approved after January 1, 1991, and within lands classified and designated as very high fire hazard severity zones. The intent is to provide:

- Road standards for fire equipment,
- standards for signs identifying streets, roads, and buildings,
- minimum private water supply reserves for emergency fire use, and
- fuel breaks and greenbelts.

Rural: Those unincorporated areas of the County designated and zoned for one-acre minimums or larger. MCC, Chapter 18.23 § 18.23.260.

BACKGROUND

The Grand Jury received four separate complaints directed at PBS, specifically Code Enforcement (CED) and Building Divisions (BD). The issues identified in the complaints included lack of accountability, inability and/or unwillingness to enforce State law and local ordinances and a tendency to misuse discretion in interpreting the law. Since 2016, the Grand Jury has reported on PBS and CED in two separate reports.

During the investigation process the Grand Jury conducted personal interviews with all complainants, as well as site visits to all locations that were identified in the complaints, to fully understand the facts. The investigation revealed that two of the properties in question had a significant number of recurring complaints that had been submitted to PBS and CED, dating back to 2004. The site visits confirmed that PBS had failed to adhere to State law and local ordinances; this failure allowed complaints to escalate into multi-year disputes between PBS, the complainants and adjacent property owners.

The Grand Jury also found a lack of comprehensive policies and procedures governing all PBS staff. In most divisions, policies and procedures are non-existent. Building codes are designed to ensure the safety, health and welfare of the public by regulating the design, construction, and maintenance of buildings. Policies and procedures ensure that building codes are enforced consistently and fairly. Success of any department or division can be correlated to the thoroughness of the policies and procedures necessary to operate effectively. This is a weakness within PBS, especially with the threat of wildfire so prevalent in our State and County.

METHODOLOGY

When the Grand Jury receives a complaint, it is presented in a plenary session where it is confidentially discussed, after which a vote is taken to reject, table or investigate the

complaint. If rejected, no other action is taken. If tabled, the complaint may be considered in the following year by a new Grand Jury. If the vote is to investigate, a committee is chosen to begin research and investigation. Interviews are conducted with complainants and other stakeholders.

The 2024-25 Grand Jury investigation focused on 77 properties located throughout Mendocino County. Information was gathered by submitting Public Records Act (PRA) requests and direct requests to department heads, managers and staff of PBS. The Grand Jury also utilized the County-based eTRAKit, Zoning Web Map and Tax Search by Parcel Number systems to collect and verify information. The committee used Zillow and Airbnb websites for property information. Satellite imagery from Google Earth Pro was used to obtain information dating back to 1985.

After processing the majority of the requested information from the PRAs, the Grand Jury conducted interviews with the complainants and then performed site visits. Site visits were essential to verifying information gathered from the PRAs and interviews.

Beginning October 21, 2024, the Grand Jury began interviewing Mendocino County department heads, managers, supervisors and staff. In addition to interviewing County employees, the Grand Jury interviewed State officials, elected officials and former County employees. In all, more than 20 interviews were conducted.

The Grand Jury reviewed the following documents:

- California Code of Regulations, Title 24,
- California Code of Regulations, Title 25, Chapter 1, Subchapter 1, Article 8,
- California Department of Housing and Community Development website,
- California Health and Safety Code 17958.2,
- Mendocino County BOS agendas and minutes,
- Mendocino County Chief Executive Officer (CEO) Reports,
- Mendocino County Class Specification Bulletin,
- Mendocino County Code, Chapter 18.23, Ordinances No. 4404 and 4526,
- Mendocino County General Plan, Chapters 2, 3, and 5,
- Mendocino County Grand Jury reports 2016-17 and 2020-21,
- Mendocino County PBS metrics,
- Mendocino County Strategic Plan 2022-27,
- PRC 4290, and
- *The Mendocino Voice* article “Supes committee examines Class K building code.”

DISCUSSION

The primary objective of PBS is to safeguard the public's health, safety and welfare by regulating the design, construction and maintenance of buildings within the County. Unfortunately, this mandate has been neglected. During interviews with department staff, the Grand Jury found that while there was broad agreement on the necessity of the Class K permit, interviewees felt it was being misused.

1. The Misuse of the Limited Density Rural Dwelling Permit

Mendocino County is a relatively rural county consisting of 3,878 square miles and a population of 91,601 (per 2020 census). In the early 1970s, the County experienced a significant back-to-the-land movement that resulted in a plethora of non-conventional, unpermitted residential structures.

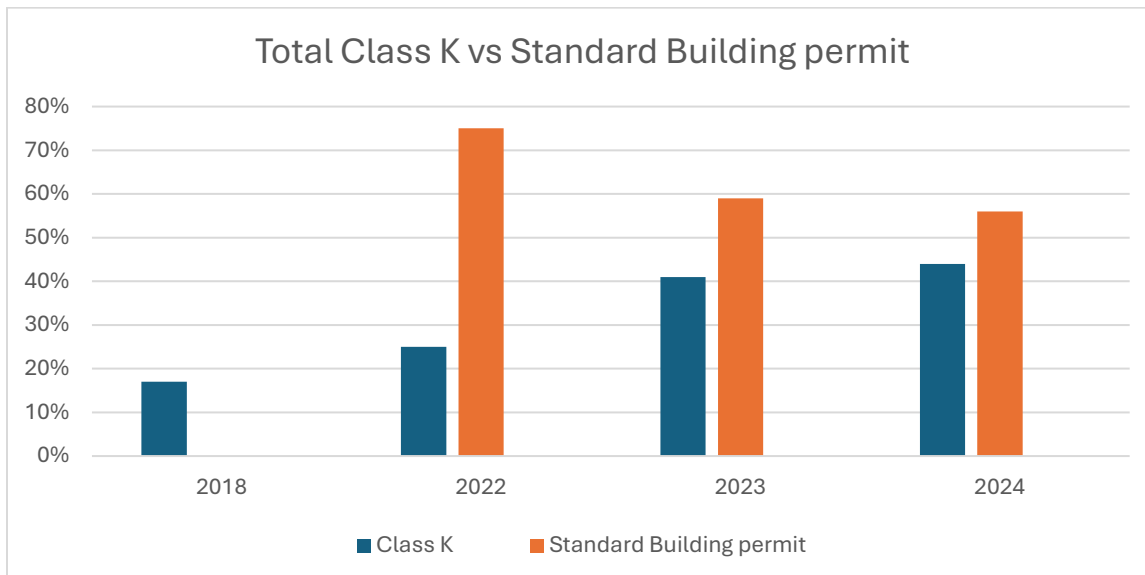
In 1981, Mendocino County introduced a relaxed construction standard called Limited Density Rural Dwelling, referred to as Class K, as part of their building code. The goal was to regulate inhabitable structures built and occupied by their owners in rural areas and make sure they met the minimum safety requirements for the protection of life, welfare and property. To comply with eligibility requirements for a Class K permit, the structure could not be commercial, industrial or uninhabited. In addition, the dwelling must be inhabited by the owner/builder, be constructed on a one-acre or larger lot, must not be more than two and one-half stories tall and must comply with state fire safety regulations.

The intent of the Class K building permit in the 1980s was to give property owners an alternative path for home construction in remote rural areas of Mendocino County. It allowed the landowner to build their own home without using a general contractor but with resources such as lumber, rammed earth, straw and stone harvested from their own land. Only minimal safety requirements and a single building inspection were necessary for final approval. During the same period, Mendocino County introduced for a limited time "Clean Slate" to help bring conformity to the Class K building permit process. This was to ensure that Class K buildings met the minimum safety requirements for all inhabitable dwellings and that building codes were applied consistently, reasonably and fairly to all permit applications for inhabited structures.

In 2018, the Mendocino County Board of Supervisors established an *ad hoc* committee to investigate the misuse of the Class K permit (see *Appendix A*). The findings from that committee revealed a significant increase in the number of Class K building permits being issued. In fact, 17% of all permits issued that year were for Class K housing. With the adoption of County Ordinance No. 4404, changes were implemented including:

- Three required inspections instead of one (foundation, rough in framing, and final),
- adherence to fire safe building materials (roof, siding, windows and venting), and
- limiting the size of the structure to 2,000 square feet.

Since 2022, the percentage of Class K building permits has more than doubled compared with 2018. In 2024, Class K building permits reached a record high of 44% of all issued building permits. The following graph, created by the Grand Jury, does not include data for solar, roofing or electrical upgrades:



The sharp increase in Class K permits is concerning; nearly half the building permits issued would be considered substandard if the criteria outlined in the California Building Code (CBC) were applied. When exceptions become the norm and many habitable dwellings in the County fail to meet the minimum standards of CBC, it creates a serious safety risk for all residents of Mendocino County, particularly given the heightened threat of wildfire.

In 2023, the Board of Supervisors approved Ordinance No. 4526, that modified Class K regulations to permit homes of unlimited size. After the amendment, the intent of Class K as outlined in the California Health and Safety Code 17958.2, and Mendocino County Code Chapter 18.23 § 18.23.030, stated: *“It is the intent of this Chapter that the requirements contained herein shall apply to seasonally or permanently occupied dwellings, hunting shelters, guest cottages, vacation homes, recreational shelters and*

detached bedrooms located in rural areas.” The current practice in PBS allows for Class K permits to be issued for a range of structures that do not meet the criteria described in California Health and Safety Code 17958.2, and Mendocino County Code Chapter 18.23 § 18.23.030, such as:

- barns
- hoop houses
- pole barns
- sheds
- storage sheds
- commercial barns
- workshops
- auto shops
- green houses
- accessory structures such as a pizza oven

These examples clearly deviate from the Health and Safety Code 17958.2; California Code of Regulations, Title 25, Chapter 1, Subchapter 1, Article 8; and Mendocino County Code Chapter 18, § 18.23.030, all of which establish stricter guidelines. The practice is not in alignment with the established regulations and represents a significant violation.

Evidence gathered during the Grand Jury investigation revealed that the current building inspection practices of PBS Class K do not consistently follow what is outlined in the Mendocino County Code Chapter 18.23.160:

“A minimum of three (3) inspections shall be required for all new buildings or structures at the following stages of construction:

- 1. Foundation (prior to placing concrete),*
- 2. rough in (prior to closing walls, in order to inspect electrical, mechanical, plumbing and framing),*
- 3. final inspection (after the structure(s)) is completed and ready for occupancy, in order to determine compliance with the provisions of this Chapter).”*

For example, the current practice for inspecting electrical wiring on an illegally constructed, unpermitted preexisting home is to forgo a visual inspection and solely rely on the owner/builder’s word that it was done in compliance with the current electrical code.

The MCC Chapter 18.23 § 18.23.310 clearly states the intent is to use uniform technical codes and building codes as a basis for approval in new and preexisting Class K permits.

“Except as otherwise required by this chapter, dwellings and appurtenant structures constructed pursuant to this part need not conform with the construction requirements prescribed by the latest applicable editions of the codes that make up the California Building Standards Code, Title 24, California Code of Regulations, or other applicable technical codes; however, it is not the intent of this § to disregard nationally accepted technical and scientific principles relating to design, materials, methods of construction, and structural requirements for the erection and construction of dwelling and appurtenant structures as are contained in the uniform technical codes. Such codes shall be a basis for approval. Notwithstanding the previous paragraph and any § of this Chapter to the contrary, if application is made for a permit pursuant to this Chapter for a building constructed prior to the application date without any building permits, the building may be reviewed pursuant to the building codes (as the basis for approval) applicable at the time of the construction of the building, if the applicant is able to substantiate the date of construction to the satisfaction of the Department of Planning and Building Services.”

Another example of the misuse of the issuance of the Class K permit is outlined in Ordinance No. 4526, adopted on September 12, 2023, by the Mendocino County Board of Supervisors. In the Ordinance Findings, the number one reason supporting the continuance of the Class K permit is due to the *“County’s mountainous terrain and lack of developed roads.”* However, the Grand Jury’s investigation revealed a substantial number of Class K permits have been issued in areas that are neither mountainous nor lacking developed roads.

2. PRC 4290

One of the most significant concerns identified by the Grand Jury, and which creates the greatest threat to safety, is the misconception within PBS that pre-existing, unpermitted homes constructed after 1991 are exempt from PRC 4290. The confusion arises because the State of California does not recognize unpermitted, illegally constructed structures. If Mendocino County chooses to permit and finalize pre-existing, illegally constructed habitable or commercial structures, the enforcement of PRC 4290 is the sole responsibility of the County PBS. Per State law, it is clear there are NO EXEMPTIONS from PRC 4290 for habitable and commercial structures located in the State Responsibility Area (SRA). As a reminder, local ordinances may be more restrictive, but not less restrictive than State law. The Grand Jury’s investigation revealed the current practice by PBS is to not enforce the requirements of PRC 4290 on illegally constructed, unpermitted pre-existing habitable structures and commercial properties.

The Mendocino County Grand Jury report for 2020-21 highlighted the loss of homes due to wildfire and PBS’s failure to meet the County’s permit needs. Today, with the ever-

increasing risks of climate change, prolonged droughts, hotter summers and the increasing frequency of catastrophic wildfires, this failure becomes more concerning. When PBS permits and finalizes a pre-existing habitable or commercial structure that does not meet PRC 4290, the question arises: who is held responsible?

All building division staff interviewed believed that the current Class K compliance waiver (see *Appendix B*) addressed all issues of liability. However, the waiver only addresses the structure itself, with no mention of PRC 4290. Ignoring the requirements of PRC 4290 by County officials may create opportunities for litigation that could significantly impact the taxpayers of Mendocino County. It puts the personal safety of every resident at risk, along with the safety of every First Responder.

3. Policies and Procedures

The lack of Policies and Procedures has been an unresolved problem for over a decade. As far back as June of 2013 the previous PBS Director, in a memorandum to the BOS (see *Appendix C*), had been “...*working to create and implement a Policy & Procedure Manual for the Code Enforcement Division to provide for the uniform enforcement...*”. At the time of our investigation these vital resources remained underdeveloped and incomplete.

With the appointment of the current director in 2022, there has been little or no effort in establishing desperately needed policies and procedures required for each division. Entire departments continue to operate on the adage “This is how we have always done it” and on the guidance of senior staff. The backbone of any department or division is the quality of its Policies and Procedures. The absence of comprehensive policies and procedures that are enforced within PBS is a sign of poor leadership. Without modern and effective procedures, a department or division operates without consistency and is unable to evenly apply the applicable laws and ordinances, resulting in disparate enforcement and the potential for litigation.

4. Code Enforcement Division

The current Code Enforcement Division model was developed in 2017 with the anticipation of the expansion of the cannabis industry. The Grand Jury found that while CED had very limited Policies and Procedures, it still lacks a strong procedural structure. Under the current written policy established by the BOS, CED is limited to being reactive, as opposed to proactive, when investigating a complaint on properties for code violations. For example, visible health and safety code violations not specifically identified in writing in the complaint, but are apparent on the same property, cannot be addressed. Early in

its investigation it became evident to the Grand Jury that this restriction is very costly to the County in time and money.

It is concerning that CED does not always resolve complaints. This causes citizens to repeatedly refile the same complaint. For example, on one reviewed property, continuous complaints remained unresolved dating back to 2004. On another, the complaints go back to 2018, again with no resolution. This lack of enforcement and resolution causes disputes between neighbors resulting in continued complaints. The reactive approach by CED could lead to a perception of favoritism, bias and possible discrimination.

The 2016-17 Grand Jury Report identified that CED was using a reactive approach to code enforcement, addressing only what is in the complaint at the time of the on-site inspection. This policy prevents code enforcement officers from addressing other visible violations not specifically identified in the complaint, resulting in multiple trips to the same site wasting both time and resources. In 2017, CED maintained it takes this reactive approach due to staff vacancies. In contrast, in 2025, the CED staff interviewed by the Grand Jury indicated that current staffing is adequate. However, the BOS has not changed the directive to CED to include a proactive approach to code enforcement.

In one site visit it appeared CED was purposefully singling out one individual property in the neighborhood, ignoring violations on adjacent properties. The violations identified during site visits to the subject property, as well as on adjacent properties, are substantial and remain unresolved. Outstanding issues include:

- demolition of permitted structures without proper permits beforehand
- destruction of sensitive vegetation and habitat
- destruction of State property
- expired building permits
- structurally unsound buildings (safety hazard)
- unpermitted barns
- unpermitted car ports
- unpermitted encroachment
- unpermitted fence (height)
- unpermitted homes
- unpermitted hoop houses

The items listed above were all in plain view on the sites. CED took no action on the neighboring properties' blatant code violations because, according to staff, it would have been considered proactive.

5. PBS Accountability

Under the current PBS management style, there is little or no accountability for violators of the building code. This fosters a mindset among property owners and the public of *“build now and ask for forgiveness when you are caught.”*

As it stands today, Mendocino County is still trying to bring nonconforming and unpermitted homes into compliance. There are several factors that have a significant impact on the continued misuse of the County’s permitting system:

- The overwhelming absence of strong leadership in PBS,
- incomplete or non-existent Policies and Procedures,
- a mindset of *“this is how we have always done it,”*
- no accountability or consequences for property owners who violate codes,
- lack of enforcement of building codes and laws,
- antiquated (eTRAKit) tracking software and operating systems,
- a tendency to *“check the box”* but not thoroughly inspect the building, and
- no quality assurance program.

As examples of the type of evidence uncovered by the Grand Jury, the following five properties from the 77 properties investigated exemplify the lack of policies and procedures and accountability within PBS. The attached appendices are just a few documents of the many collected that support the Grand Jury’s concerns:

PROPERTY ONE: The approval of an unpermitted 4,000 square foot, three-story home built in 2014 shows the perception of favoritism, bias and lack of accountability caused by the absence of policies and procedures.

The first permit issued for this structure was in 2018, violating Mendocino County Code Chapter 18.23, Ordinance No. 4403, § 18.23.250. At that time, the Ordinance clearly stated: *“...a limited density rural dwelling is any structure consisting of one or more habitable rooms, intended or designed to be occupied by one family with facilities for living and sleeping, with use restricted to rural areas that fulfills the requirements of this chapter, and is both of the following:*

- 1. Not exceeding two- and one-half stories; and*
- 2. Not exceeding two thousand (2,000) square feet of conditioned habitable space.”*

Timeline for Property One:

- April 18, 2018 - the original building permit was issued for the preexisting unpermitted home, a clear violation of local ordinance.

- April 18, 2021 - the original building permit expired.
- September 12, 2023 - the BOS approved Ordinance No. 4526, § 18.23.250, *“... Limited Density Rural Dwelling, is hereby amended to read as follows: Sec. 18.23.250 - Limited Density Rural Dwelling. A "limited density rural dwelling" is any structure consisting of one (1) or more habitable rooms, and not exceeding two and one-half stories, intended or designed to be occupied by one (1) family with facilities for living and sleeping, with use restricted to rural areas that fulfills the requirements of this chapter.”* This change allowed unlimited square footage for Class K structures.
- September 21, 2023 - a notification letter was issued by PBS that the original building permit had been expired for more than one year and that the permit was now null and void.
- September 23, 2023 - a request by the landowner to reinstate the original 2018 permit was submitted.
- September 11, 2024 - the 2018 Class K amnesty permit was reinstated and reissued, despite violating the current height restrictions outlined in Ordinances 4403 and 4526, which limit residences to a maximum of two and one-half stories.

It is the understanding of the Grand Jury that the expired 2018 permit was reinstated to allow the owner to utilize building codes in effect in 2018. Not only did the original permit violate the 2018 County Code, but it is also in violation of the current County ordinance and is a clear misuse of the Class K permit and the result of non-existent Policies and Procedures.

PROPERTY TWO: Multiple unpermitted homes and illegal cannabis cultivation showing lack of accountability due to insufficient policies in CED.

The CED received complaints about this property but never performed complete investigations and the property still has two unpermitted, untaxed homes that are currently being used as Airbnb rentals.

Timeline for Property Two:

- March 25, 2013 - a complaint was received by CED for an unpermitted home. The next data entry was “Not as stated, permit on file” and the case was closed. However, no site inspection was conducted or any other resources consulted in order to draw this conclusion.
- August 31, 2020 - a complaint was received regarding unpermitted cannabis cultivation.
- September 16, 2020 - CED closed the complaint and stated they could not locate the address. *(Note: The Grand Jury had no problem locating the property.)*

Using the same technology available to CED, the Grand Jury located the property and discovered the property had one permitted home and, also, two unpermitted homes on the property. It also determined there was unpermitted cannabis cultivation located on the property.

PROPERTY THREE: Unpermitted homes and illegal operation of a commercial business in a residential zone creates the perception of favoritism, bias and lack of accountability caused by the absence of policies and procedures.

The CED received more than a dozen complaints for a wide range of violations on this property, including operating a business without a license, operating a business in a residential area, noise, spilled hazardous materials, destruction of State property and destruction of a sensitive species, the Mendocino Cypress and its habitat. After CED investigation, it was determined that an unpermitted auto shop was operating illegally in a neighborhood zoned for residential use only.

Timeline for Property Three:

- September 16, 2011 - the existing home on the property was “Tagged” by Environmental Heath, mandating an expansion of the leach field when the property was sold. However, the property had been transferred to a new owner five years after the “Tag” and the leach field was never expanded to meet the requirements.
- November 18, 2016 - a Class K barn permit was issued for the pre-existing auto shop, a clear violation of Chapter 18.23. The issued Class K permit was for “No Services to the building” (e.g., allowing no plumbing or electricity to the building).
- August 2, 2018 - the first complaint concerning the property was received by CED about an illegal auto shop with multiple vehicles stored on the property.
- October 12, 2018 - an email was sent from a former CED manager to the current PBS director and Senior Planner, informing them of an illegally operating auto shop.
- October 22, 2018 - the Planning Division issued a letter to the property owner denying a use permit for an auto shop, stating it did not meet the criteria outlined in county ordinances (*see Appendix D*).
- November 18, 2018 - an email was sent from the property owner to the current PBS director, asking for assistance with permitting the auto shop.
- March 1, 2019 - a mobile repair business license was issued to the property owner, further prohibiting any work being done on site.

- July 12, 2019 - a letter was issued by the Planning Division to allow a Cottage Industry Use Permit for an auto shop to move forward.
- November 18, 2019 - the Class K permit for the auto shop expired.
- December 1, 2020 - a Cottage Industries Use Permit for an auto shop was issued with specific conditions, including specific limitations, that if violated, could cause the permit to be revoked. (see *Appendix E*).
- Between December 1, 2020 and November 19, 2022 - CED did not follow up or investigate any complaints, allowing ample time for the property owner to come into compliance.
- August 31, 2020 - the California Secretary of State suspended the issued business license and the business was flagged as “not in good standing.”
- April 13, 2021 - an email from the current PBS director was sent to the complainant, citing staffing shortages as the cause of a lack of enforcement on the open complaint.
- September 6, 2022 - an email from an adjacent property owner was sent to all members of the Board of Supervisors, asking for assistance with the unanswered complaints between December 2020 and September 2022.
- September 6, 2022 - the email referenced above was forwarded from the former District One Supervisor to the current PBS director and CED manager, asking why the codes were not being enforced.
- September 27, 2022 - a response to the email chain referenced above, from the current PBS Director, was sent to the former District One Supervisor and indicated the items in the complaint were challenging to enforce and, as the use permit would expire on November 19, 2022, the violations would become null and void.
- November 19, 2022 - the use permit expired; none of the conditions outlined in the permit were met.
- December 23, 2022 - the Class K barn permit for the auto shop is reinstated.
- January 24, 2023 - an email from the California Environmental Protection Agency was sent to CED, inquiring about an unpermitted auto shop. CED did not respond.
- April 7, 2023 - the Class K barn permit (not a permit for an auto shop) was finalized. Of the three inspections required by the County, only the final inspection had been completed, neglecting the necessary inspections for foundation, framing and electrical.
- March 19, 2024 - a notification was sent to Mendocino County Environmental Health, indicating the hazardous materials permit for the auto shop had expired.

- March 19, 2024 - a new business license was issued to the auto shop for retail merchant/service, a business type not allowable in zoning RR10.
- October 14, 2024 - the Grand Jury conducted a site visit and confirmed that:
 - There is power and plumbing to the auto shop,
 - a second unpermitted home is on the property,
 - the auto shop does not meet the required setback from the property line,
 - the road and turn-around standards for emergency vehicles outlined in PRC 4290 were ignored,
 - destruction of State Forest property had occurred including use of a bulldozer to pile up debris, tires and other trash on the property,
 - destruction of a sensitive species habitat in violation of environmental requirements,
 - there is no ADA accessibility to the auto shop,
 - there is an illegal encroachment to the County Road,
 - nineteen vehicles were stored on the property around the auto shop, and
 - stacks of tires and car parts were observed all around the auto shop.
- October 30, 2024 - a new complaint about this property was received.
- October 31, 2024 - the complaint was logged as a secondary priority by CED.
- February 28, 2025 - The complainant sent an email to the current Director of PBS asking why this auto shop is still running and why no one has followed up on the active complaint.
- February 28, 2025 - The current Director of PBS responded to the complainant's email, writing, *"I have reached out to Code Enforcement staff to obtain an update on the complaints you have filed and will respond once I've had a chance to review the circumstances."*
- March 5, 2025 - The complainant sent a second email to the current Director of PBS, asking for additional clarification from CED.
- March 12, 2025 - The current Director of PBS responded to the complainant in an email, writing, *"We are actively investigating your current complaints and are still in the processing (sic) of reviewing the site and activities there before any determinations are made. Therefore, I do not feel I can respond to your questions about "what is it going to take" to demonstrate an unpermitted use."*

- March 20, 2025 - the current Director of PBS responded to complainant's email dated February 28, 2025, writing, *"I understand that given the currently submitted complaints that there is a question of if the structure is being used for personal use or as a commercial business and through the County's investigation we would determine if the structure required an occupancy change to be considered commercial."*
- April 11, 2025 - the complainant received an email from CED stating that a determination request had been submitted to the Planning Division. The Planning Division had already issued a letter determining that it was illegal to operate an auto shop at that location (see *Appendix D*).

Using documentation provided by CED and a Grand Jury site visit, the Grand Jury identified blatant violations at this location that have yet to be addressed. Seven years later, the business is still operating, without proper permitting or compliance.

PROPERTY FOUR: Commercial business being targeted due to the owner's previous interactions with PBS shows the perception of favoritism, possible retaliation, bias and lack of accountability caused by the absence of policies and procedures.

A single anonymous complaint was submitted to CED regarding unpermitted buildings and CED immediately investigated the complaint. After the site inspection, it was determined that all buildings were, in fact, permitted. Instead of closing the case as CED had done with numerous other complaints, a determination request was submitted to the Planning Division, seeking clarification of the types of businesses that could operate on the property. After nearly two months, the Director of PBS personally determined that the type of business license issued for the property was not allowed. A cease-and-desist notice was issued to the property owner seven days before Christmas, to immediately shut down all business. The business in question has been in operation for over a decade without any complaints.

Timeline for Property Four:

- September 9, 2024 - a single anonymous complaint was received by CED.
- September 18, 2024 - a determination request was submitted to the Planning Division for deed and Associated Parcel Number (APN).
- September 20, 2024 - a Senior Planner issued the determination request.
- October 30, 2024, 10:47 am - CED inspected the property and found that all buildings and grounds were well-kept and organized, with no visible violations observed.

- October 30, 2024, 4:28 pm - a second determination request was submitted by CED to the Planning Division for allowable business types.
- December 10, 2024 - the current Director of PBS determined that the current business type was not allowed in commercial Zone C1.
- December 17, 2024 - CED reviewed the second determination request from the PBS Director and issued a cease-and-desist notice to property owner.
- January 14, 2025 - CED was contacted by the law firm representing the property owner.
- March 18, 2025 - CED closed the case and issued an email to the defendant's law firm stating the case was closed without any explanation.

PROPERTY FIVE: Blatant misuse of the Class K permit, unpermitted structures and lack of policy and procedures.

This property clearly shows disregard for Mendocino County Code Chapter 18.23 and PRC 4290. All habitable structures were constructed illegally without permits and were permitted after the fact, disregarding PRC 4290 and all Wildland Urban Interface (WUI) requirements for building materials. The two solar systems that provide power to the property are unpermitted and uninspected.

Timeline for Property Five:

- June 29, 2011 - PBS issued a permit for a Class K shop. The permit includes the notation: "NEEDS CALFIRE."
- July 25, 2011 - property owner applied for a Class K residential permit.
- August 17, 2011 - satellite imagery showed that both the Class K shop and residence have been constructed and are in use.
- March 27, 2014 - the residential permit was issued three years later.
- June 28, 2014 - the shop permit expired.
- December 8, 2015 - an application for a Class K addition to the residence was received.
- February 3, 2016 - the Class K addition permit was issued.
- March 27, 2017 - the permit for the Class K residence expired without being finalized.
- February 3, 2019 - the permit for the Class K addition expired without being finalized.
- July 31, 2023 - the permit for the Class K residence and Class K addition were reinstated, violating Mendocino County Code Chapter 18.23, Ord. No 4403, § 18.23.250.

- June 18, 2024 - both of the Class K permits were finalized despite having only one inspection for both permits, and not in compliance with PRC 4290 and WUI.
- March 7, 2025 - the above property was listed for sale, continuing to violate the terms of the Class K permit.
- The shop and both solar systems located on the property are still **not permitted** and the residence does **not** meet the requirements outlined in PRC 4290. This is a blatant misuse of the Class K permit.

The examples above concern only five of the 77 properties inspected by the Grand Jury. Many of the other properties show inconsistencies, bias and lack of accountability by County staff due to the lack of comprehensive policies and procedures, resulting in a potential for litigation involving the County and the taxpayers of Mendocino County.

6. Staffing

During the Grand Jury interviews with PBS staff, it was asked whether current staffing levels were adequate. The consensus, at all levels, was that staffing was sufficient in each division, despite several vacancies, but lack of staffing is often offered as an excuse for lack of follow-up to complaints.

7. Training

The minimum requirements for certification and training outlined in job descriptions were fulfilled in each division. However, it was clear that staff in every division had very little knowledge of, or training in, these four statutes:

- California Code of Regulations, Title 25, Chapter 1, Subchapter 1, Article 8,
- Health and Safety Code § 17958.2,
- Mendocino County Code, Chapter 18.23, and
- PRC 4290.

There is no documented training for Planning, Building or CED staff on how to identify acceptable nonstandard building materials, or identifying design and construction methods as identified in Mendocino County Code, Chapters 18.23.300, 18.23.310, and 18.23.340. This lack of training and knowledge suggests PBS staff may be working outside the scope of their own job descriptions. Without providing extensive on-going training and a comprehensive understanding of all required building codes, PBS is jeopardizing public safety.

8. Application of Fees

The current Fee Schedule provides discretion in fee applications, but without clear Policies and Procedures this flexibility results in inconsistent fee assessment across all levels of review. The issue was first identified by the Mendocino Grand Jury in its 2016-17 report on PBS, noting Code Enforcement's inconsistency when charging fees and fines. This year's Grand Jury found this same problem still exists, creating the public perception that fees are negotiable.

CONCLUSION

The Mendocino County Planning and Building Services is floundering in a quagmire of serious issues. Forty-four percent of all County building permits are for Class K housing. To comply with eligibility requirements for a Class K permit, a structure cannot be commercial, industrial or uninhabited. It is also required that the dwelling be inhabited by the owner/builder, constructed on a one-acre lot or larger, cannot be more than two and one-half stories tall and must comply with state regulations for fire safety. Grand Jury research found that PBS issues many finalized permits that do not meet the minimum building code requirements for Class K dwellings.

The potential for litigation with the County is enormous when a finalized permit ignores the required CALFIRE PRC 4290 inspection, for which there are no exceptions. The threat of a house fire in a remote area turning into a wildfire goes from possibility to probability. The safety of all County residents is jeopardized by PBS personnel who are not trained in policies and procedures that would allow permits to be finalized in a consistent, reasonable and fair process for all applicants, and that structures being permitted have met the minimum safety requirements for the protection of life, welfare and property.

A mechanism is needed for oversight to ensure PBS is effectively and efficiently meeting the needs of the residents of Mendocino County and to ensure staff is not working outside the scope of their job descriptions. The Grand Jury identified the following areas urgently in need of oversight:

- Policies and Procedures
- training
- building permits
- building inspections
- administration of fees
- allowing CED to be proactive when inspecting a complaint

The inability of PBS staff to fairly and evenly enforce the law has caused residents of Mendocino County to incur unwarranted financial burdens.

The Civil Grand Jury recommendations will help lower costs for taxpayers while generating income for Mendocino County.

FINDING

F1. Mendocino County Planning and Building Services is misusing the intent of the Limited Density Rural Dwelling Permit/Class K resulting in inconsistent processing of applications.

F2. Class K permits are currently being issued for uninhabitable structures that do not meet the established criteria in MCC Chapter 18.23, threatening the life, welfare and property of our County residents.

F3. Mendocino County Planning and Building Services has failed to enforce PRC 4290 in the State Responsibility Area on pre-existing habitable, commercial and industrial buildings, creating a significant life safety hazard.

F4. The current inspection practice by PBS for pre-existing unpermitted homes is a deviation from the required inspection process outlined in MCC Title 18, Chapter 18.23.160. This deviation from the County Code threatens the life safety of any person inhabiting the structure.

F5. There is a lack of comprehensive formalized policies and procedures within all divisions in PBS. This lack of clearly written guidelines leads to inconsistent practices, an increased risk of non-compliance and inefficiencies, including but not limited to the handling of permits, inspections and fees.

F6. The lack of formalized policies and procedures has resulted in the absence of a clear framework for assessing staff performance in the timely processing of permits, inspections and fees. Without mechanisms for employees or managers to evaluate performance, there are no checks and balances in place to ensure compliance with best practices or established expectations, leaving room for inefficiencies and inconsistent results.

F7. The lack of a comprehensive structured training process leaves employees struggling to understand their roles, responsibilities and expectations, leading to errors in the office and in the field.

F8. The lack of enforcement of the PRC 4290 by PBS has created an environment that allows hundreds, possibly thousands, of homes to be built that cannot be accessed by emergency personnel and their vehicles.

F9. The absence of established training programs and policies and procedures creates life safety hazards that threaten all residents in Mendocino County and places all first responder personnel at risk.

F10. The Board of Supervisors has not provided adequate leadership, which allows PBS to remain mired in a cycle of ineffective past practices. Change and accountability are critical.

F11. Without the foundation of solid policies and procedures, the current practice of allowing discretion by staff creates an environment for potential litigation for the County.

F12. The Limited Density Rural Dwelling/Class K Ordinance, originally justified as a tool to address Mendocino County's housing shortage, has not served this purpose. Instead of facilitating the construction of needed housing, the ordinance has primarily allowed builders to circumvent standard building codes and regulations.

F13. The Class K Compliance Waiver may not relieve the County's potential liability when PBS Building Inspectors finalize a new or pre-existing Class K structure without conducting all required inspections. The failure to conduct these inspections exposes the County to potential legal and financial risks, as well as undermines public safety.

F14. The Class K Compliance Waiver does not waive the requirements outlined in PRC 4290 for pre-existing habitable structures. Although the waiver provides certain exceptions, it does not exempt Class K structures from compliance with fire safety standards. Failure to adhere to these requirements jeopardizes public safety, allowing non-compliant structures to remain in use.

F15. The failure of PBS to respond to code enforcement complaints in a timely manner has created significant financial hardship for residents, who have been forced to seek legal representation to resolve disputes with PBS. This prolonged inaction has left many residents with unresolved issues, leading to financial burdens from legal fees and ongoing frustration.

RECOMMENDATIONS

R1. The Grand Jury recommends the Board of Supervisors give direction to the Mendocino County Chief Executive Officer to instruct Planning and Building Services to immediately enforce Public Resource Code 4290 for all new permits pertaining to pre-existing and habitable structures, commercial and industrial buildings, by July 1, 2025.

R2. The Grand Jury recommends the Board of Supervisors give direction to the Chief Executive Officer to create an oversight committee to ensure that Planning and Building Services adhere to requirements outlined in Public Resource Code 4290 in the State Response Area, by January 1, 2026.

R3. The Grand Jury recommends the Board of Supervisors give direction to the Chief Executive Officer to implement a plan to cease issuance of Class K permits that are not solely intended for habitable living space as prescribed by law, by July 1, 2025.

R4. The Grand Jury recommends the Board of Supervisors give direction to the Chief Executive Officer to create an oversight committee by January 1, 2026, to ensure that Planning and Building Services adheres to requirements outlined specifically in:

- California Code of Regulations, Title 25, Chapter 1, Subchapter 1, Article 8
- Health and Safety Code 17958.2
- Mendocino County Code Chapter 18.23
- Public Resource Code 4290.

R5. The Grand Jury recommends the Board of Supervisors give direction to the Chief Executive Officer to have a working draft of Policies and Procedures for all divisions within Planning and Building Services. The guidelines should be comprehensive, standardized and easily accessible to all staff members to ensure that the processes are consistently followed and comply with regulatory requirements, by January 1, 2026.

R6. The Grand Jury recommends the Board of Supervisors give direction to the Chief Executive Officer to instruct Planning and Building Services to have a final version of Policy and Procedures for all divisions, by April 1, 2026.

R7. The Grand Jury recommends the Board of Supervisors instruct the Chief Executive Officer to implement new software applications for tracking all processes in Planning and Building Services, including but not limited to permits, inspections, fees and Code Enforcement complaints, by April 1, 2026.

R8. The Grand Jury recommends the Board of Supervisors direct the Chief Executive Officer to implement a monitoring process for Planning and Building Services that includes supervisory checks and audits to ensure adherence to the established policies and procedures, and to identify areas for improvement, by April 1, 2026.

R9. The Grand Jury recommends the Board of Supervisors give direction to the Chief Executive Officer to develop a structured training program within Planning and Building Services based on all laws, codes, ordinances and any new policies and procedures. This program should include both initial training for new hires and ongoing refresher courses for existing staff, by April 1, 2026.

R10. The Grand Jury recommends the Board of Supervisors give direction to the Chief Executive Officer to establish and document clear roles and responsibilities for all Planning and Building Services staff involved in the permitting, inspection and fee collection processes, by April 1, 2026.

R11. The Grand Jury recommends the Board of Supervisors give direction to the Chief Executive Officer to create a communication framework that establishes regular meetings, addresses challenges and shares best practices to ensure all staff are aligned with the policies and procedures within Planning and Building Services, by July 1, 2025.

REQUESTS FOR RESPONSES

Pursuant to California Penal Code §§ 933 and 933.05, the Civil Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines.

Responses to Findings shall be either:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons, therefor.

Responses to Recommendations shall be one of the following:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not been implemented but will be in the future, within a specific period.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time shall not exceed six months from the date of the publication of the Civil Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, therefor.

REQUIRED RESPONSE – Within 90 days

1. The Mendocino County Board of Supervisors (All Findings and All Recommendations)

INVITED RESPONSE – Within 60 days

2. Mendocino County Chief Executive Officer (All Findings and All Recommendations)
3. Mendocino County Director of Planning and Building Services (All Findings and All Recommendations)

Responses are to be sent to:

The Honorable Judge Ann Moorman
Mendocino County Superior Court
100 North State Street, Dept. E
Ukiah CA 95482

Office of the County Counsel
County of Mendocino
501 Low Gap Road, Room 1030
Ukiah CA 95482

Mendocino County Civil Grand Jury
County of Mendocino
501 Low Gap Road, Room 1500
Ukiah CA 95482

This report was issued by the Mendocino County Civil Grand Jury 2024-25.

IMPORTANT NOTE ABOUT CIVIL GRAND JURY FINDINGS

The Civil Grand Jury derives Findings from testimony and evidence. All testimony and evidence given to the Civil Grand Jury remains confidential by law, and it is the Civil Grand Jury's responsibility to maintain it. California Penal Code § 929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the Civil Grand Jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits Civil Grand Jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

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County Counsel

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MEMORANDUM

DATE: January 12, 2018

TO: Board of Supervisors
Department of Planning and Building Services

FROM: Matthew T. Kiedrowski, Deputy County Counsel *MK*

SUBJECT: Opinion #18-002: Class K Housing

Question 1: Is the County required to permit Class K buildings only under the standards of the current version of the California Building Standards Code, or may the County look to earlier versions of the California Building Standards Code?

Short Answer 1: The County may modify the State's Limited Density Owner-Built Rural Dwellings Regulations pursuant to Health and Safety Code section 17958.2, after making findings based on local conditions. In addition, Section 126 of the State's Limited Density Owner-Built Rural Dwellings Regulations provides that current technical codes are to be used as a basis for approval, but are not absolutely required. It appears that the County has the authority to modify its regulations to review buildings pursuant to standards other than those found in the current California Building Standards Code, after making required findings. However, there is minimal review of this code section and how it may need to be reconciled with other statutes.

Question 2: Is the County able to exempt construction pursuant to the State's Limited Density Owner-Built Rural Dwellings Regulations from building requirements related to fire sprinklers or wildland-urban interface ("WUI") standards?

Short Answer 2: The County has the authority to adopt and modify the State's Limited Density Owner-Built Rural Dwellings Regulations pursuant to Health and Safety Code section 17958.2, after making findings based on local conditions. Based on this section, the County may have the authority to exempt such buildings from the fire sprinkler requirements in the California Building Standards Code, but other statutes exist that complicate the analysis. It does not appear that the County may exempt such buildings from the WUI standards.

Discussion

1. Relevant Statutes and Regulations

Adoption of the California Building Standards Code. The State Housing Law (Health and Safety Code section 17910 *et seq.*) expressly requires cities and counties to adopt the minimum building

standards to be established by the state. (*Leslie v. Superior Court*, 73 Cal.App.4th 1042, 1048.) In enacting the State Housing Law, the Legislature has clearly expressed its intent to fully occupy the field of building standards. Consequently, local governments are precluded from enacting building standards that differ from state standards unless a state statute specifically authorizes a local government to do so. (*Id.*) Pursuant to Health and Safety Code section 17958, the provisions of the California Building Standards Code (“CBSC”) shall be applicable to a city and county and shall become effective 180 days after publication by the California Building Standards Commission (“Commission”). Cities and counties specifically have the ability to amend, add or repeal ordinance or regulations to impose the CBSC requirements or make changes or modifications in those requirements upon express findings.

Health and Safety Code section 17958.5 provides that a city or county may make modifications to the requirements published in the CBSC that it determines are reasonably necessary because of local climatic, geological or topographical conditions. Health and Safety Code section 17958.7 requires that such findings and determinations be filed with the Commission. No modification or change is effective until filed with the Commission and the Commission may reject a modification or change if no finding is submitted. However, the California Attorney General has issued an opinion that the State is not required or permitted to undertake any review or interpretation of the propriety of the findings made by the city or county. (55 Cal.Ops.Atty.Gen. 157) This is not to say that the findings could not otherwise be challenged through the filing of a legal action.

Adoption of the State Regulations for Limited Density Owner-Built Rural Dwellings. Health and Safety Code section 17958.2, adopted in 1980, provides for the adoption by cities and counties of the State’s regulations for limited-density owner-built rural dwellings, which are codified at Title 25, Code of California Regulations, section 74 *et seq* (“State Regulations”). Section 17958.2 provides that the State Regulations only become operative in a city or county after the governing body makes an express finding that the application of those regulations is “reasonably necessary” because of “local conditions.” Section 17958.2 also permits a city or county to make any changes or modifications to the State’s regulations that the city or county determines are “reasonably necessary,” again because of local conditions.

Section 80 of the State Regulations additionally provides that the governing body shall adopt regulations imposing the same requirements as the State Regulations, pursuant to Health and Safety Code sections 17958, 17958.5 and 17958.7. This reference would appear to require the adoption of the State Regulations by the city or county to include findings not just regarding the “local conditions” pursuant to Health and Safety Code section 17958.2 but the “local climatic, geological or topographical conditions” pursuant to Health and Safety Code section 17958.5. Research has not revealed any case law review of either Health and Safety Code section 17958.2 or the State Regulations.

Implementation of the State Regulations. The State Regulations contain several sections that appear to provide local governments with flexibility as to applying the California Building Standards Code. The starting point for construction under the State Regulations is found in Section 122, which provides that structures shall be constructed in accordance with applicable requirements found in Title 24 of the California Code of Regulations – the CBSC.

Section 126 provides for flexibility, stating that except as otherwise provided by the State Regulations, dwellings and appurtenant structures constructed pursuant to the State Regulations “need not conform with the construction requirements prescribed by the latest applicable editions of the Uniform Building, Plumbing, and Mechanical Codes, the National Electrical Code, or other applicable technical codes.” Subsequent sections specify certain mechanical, electrical, and plumbing requirements. Section 126 does temper the initial flexibility, additionally stating that “it is not the intent of this section to disregard nationally accepted technical and scientific principles relating to design, materials, methods of construction, and structural requirements for the erection and construction of dwelling and appurtenant structures as are contained in the uniform technical codes.”

Lastly, Section 124 contains a statement of intent for the application of the general requirements of Section 122. It states that the purpose of the State Regulations is to facilitate alternatives to the uniform technical codes “to the extent that a reasonable degree of health and safety is provided by such alternatives, and that the materials, methods of construction, and structural integrity of the structure shall perform in application for the purpose intended.”

California Fire Sprinkler Requirement. Beginning with the 2010 CBSC cycle, California Residential Code section R313.2 requires that an automatic residential fire sprinkler system be installed in one- and two-family dwellings. Section R313.2 explicitly states that such sprinkler systems shall not be required for additions or alterations to existing buildings that are not already provided with an automatic sprinkler system. Government Code section 65852 provides that accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

California Wildland-Urban Interface Fire Area Requirements. Requirements related to WUI fire areas are found in several locations, including California Government Code section 51175 *et seq.*, California Health and Safety Code section 13108.5, California Public Resources Code section 4291, Chapter 7A of the California Building Code, Chapter 49 of the California Fire Code, California Residential Code section R337, Title 14 California Code of Regulations section 1299.01 *et seq.*, and Title 19 California Code of Regulations section 3.07. The requirements generally encompass building standards and maintenance of vegetation and fuels surrounding buildings.

Fire Protection Statutes. Health and Safety Code section 18941.5 generally provides that nothing in either the State Building Standards Law (Health and Safety Code section 18901 *et seq.*), nor the application of the CBSC itself, shall limit the authority of a city or county to establish more restrictive building standards that are reasonably necessary because of local climatic, geological or topographical conditions. Health and Safety Code section 13143.5 provides that notwithstanding either the State Building Standards Law or the State Housing Law (which includes Health and Safety Code section 17958.2), any city or county may make changes or modifications that are more stringent than the CBSC relating to fire and panic safety.

Health and Safety Code section 13143.5 was reviewed at length in *Bldg. Indus. Ass'n v. City of Livermore*, 45 Cal. App. 4th 719. That case reviewed whether a city could require fire sprinklers

to be installed in new residential construction, at a time when the California Fire Code did not require sprinklers. The case found that local governments had the ability to adopt more restrictive standards than the building code. The case did not involve a local government that had adopted the State Regulations.

2. *Ability to Modify What Requirements Apply to Class K Type Buildings*

Pursuant to Health and Safety Code section 17958.2 and section 80 of the State Regulations, the County may adopt and modify the State Regulations, so long as the County adopts findings stating the local climatic, geological or topographical conditions that make adopting and modifying the State Regulations reasonably necessary. Adoption and modification of the State Regulations would take the form of an ordinance creating a chapter of the County Code incorporating the State Regulations (such as the County's existing Chapter 18.23), and making modifications to various sections based on the local condition findings.

The baseline requirement of the State Regulations is compliance with the CBSC. Section 122 of the State Regulations provides that buildings shall be constructed in accordance with applicable requirements contained in subchapters 2 through 12 of Title 24 of the California Code of Regulations, which is the CBSC. The CBSC is updated every three years; in making a general reference to Title 24 and the CBSC, the State Regulations are most reasonably read as requiring that buildings under the State Regulations be reviewed against the current version of the CBSC.

This baseline requirement is softened by other sections of the State Regulations. Section 124 provides that alternatives to the specifications of the uniform technical codes should be facilitated to the extent that a "reasonable degree of health and safety" is still provided by such alternatives. The enforcement agency is to exercise "reasonable judgment" in determining compliance. Section 126 additionally provides that conformance with "requirements prescribed by the latest applicable editions" of the codes is not required (except as specifically required by the State Regulations), but that the codes should be used as a basis for approval. Section 126 provides some guidance in further stating that the intent is not to disregard "nationally accepted technical and scientific principles" relating to design, materials, methods of construction and structural requirements.

Without modification, the State Regulations appear to provide discretion to the enforcement agency as to what provisions of the CBSC must be applied. However, the ability to modify the State Regulations pursuant to Health and Safety Code section 17958.2 appears to enable the County to more particularly specify what provisions of the building, plumbing, mechanical, electrical "or other applicable technical codes" do not apply within the County. Upon making the local condition findings, the County would seemingly have the ability to modify the requirements of the California Residential Code, or provide that older versions of the CBSC could be relied upon for permit review and issuance.

However, there has been minimal review of Health and Safety Code section 17958.2 or the State Regulations at any level, either administrative or judicial. This makes it difficult to discuss limitations or boundaries on the grant of authority provided to local governments under these provisions, or how these provisions can or should be reconciled with other state statutes that

govern amendments to the CBSC.

3. *Ability to Exempt from Fire Sprinkler Requirements*

As discussed above, the provisions of Health and Safety Code section 17958.2 are potentially broad enough to permit amending the State Regulations (as applied through a local ordinance) to refer to older versions of the CBSC – though only based on findings showing that doing so is reasonably necessary based on local conditions. In this case, the older code version may predate the fire sprinkler requirement so a specific exemption is not necessary. Alternatively, if the local ordinance follows the State Regulations and refers generally to the CBSC, the County would need to specifically exempt construction from the fire sprinkler requirement.

The requirement to install fire sprinklers in dwelling units is found in the California Residential Code, which contains the construction requirements for dwelling units and is analogous to either the “building” code as referenced in Section 126 or is an “other applicable technical code.” As such, the overarching ability of the County to amend the State Regulations would appear to allow for amending how provisions found in the California Residential Code apply to construction under the State Regulations within the County.

However, it is not clear whether or to what extent the ability to modify the State Regulations under Health and Safety Code section 17958.2 must be reconciled with other statutory provisions. Health and Safety Code section 13143.5 prompts particular concerns. This section was initially adopted in 1990, years after the initial adoption of Health and Safety Code section 17958.2, and years before the inclusion of the fire sprinkler requirement in the California Residential Code in 2010 (which was also the first time the California Residential Code was adopted).

The permissive grant of authority of Health and Safety Code section 13143.5 is that a city or county may make changes or modifications that are *more stringent* than those in the CBSC relating to fire and panic safety, and the other regulations adopted pursuant to Part 2 of Division 12 of the Health and Safety Code, regarding Fire Protection. What is not granted by the section is the ability to adopt *less stringent* requirements relating to fire and panic safety.

Generally, as a political subdivision of the State, the County has the authority provided to it by law. In the context of Health and Safety Code section 13143.5, this would mean that the County could only adopt more restrictive fire and panic safety standards.

That being said, other counties have revised fire sprinkler requirements in their respective “Class K” ordinances. Mono County, which adopted a Class K-type ordinance only as a pilot program (for up to 5 houses or until December 31, 2014, whichever occurs last), provides in Section 15.50.140 of its county code that fire sprinklers are not required. Butte County, in Section 26-91 of its county code, only requires that fire sprinklers be installed in residential structures over 1,250 square feet in size (the Butte County ordinance only applies in a specified area of the County affected by a 2008 fire). Sonoma County, in section 7A-34 of its county code, only requires the installation of fire sprinklers in structures greater than 640 square feet, where a pressurized water delivery system is incorporated into the structure, and where the structure is

located a minimum of 100 feet from all other buildings.

The sections of the California Residential Code requiring fire sprinklers do not contain mechanisms for either reducing in part or completely eliminating the requirement for sprinklers. The only way to do so would be pursuant to the authority of a separate statute, the most on point of which would be Health and Safety Code section 17958.2.

We have been unable to locate research or materials that indicate whether or not changes made pursuant to Health and Safety Code section 17958.2 must be reconciled with other methods for CBSC amendment. The actions of other counties lends support to the idea that the ability to amend the State Regulations pursuant to Health and Safety Code section 17958.2 can be used to revise or eliminate fire sprinkler requirements. But there is no explicit authority showing that the section can be relied upon to avoid the provisions of other sections which would require modifications to be more restrictive.

4. *Ability to Exempt from WUI Requirements*

Unlike the requirement to install fire sprinklers, requirements related to WUI standards are not found only in the CBSC but are imposed through California statute itself. Health and Safety Code section 13108.5 not only provides for the establishment of fire protection building standards, but specifies where they apply: in fire hazard severity zones as designated by the Director of Forestry and Fire Protection pursuant to Public Resources Code section 4200 *et seq.*, or in very high fire hazard severity zones designated pursuant to Government Code section 51175 *et seq.* The section additionally provides that the building standards adopted pursuant to that section shall also apply to buildings located in “urban wildland interface communities,” which is defined as a community listed in a specific report produced by the Department of Forestry and Fire Protection.

Health and Safety Code section 13108.5 also allows local agencies to include or exclude certain areas from the requirements imposed by that section. A local agency may, at its discretion, include or exclude from the requirements of the building standards imposed by that section “any area in its jurisdiction following a finding supported by substantial evidence in the record at a public hearing that the requirements of these building standards are necessary or not necessary, respectively, for effective fire protection within the area. Changes made by a local agency to an urban wildland interface community area following a finding supported by substantial evidence in the record shall be final and shall not be rebuttable.

Health and Safety Code section 17958.2 provides statutory authority to adopt the State Regulations and make changes to the State Regulations as supported by local condition findings. While this is a broad grant of authority to revise CBSC requirements via the State Regulations, this grant of authority does not supersede the requirements of a separate state statute imposing certain building requirements. Since Health and Safety Code section 13108.5 is statutorily imposing the WUI building requirements, the County does not have the ability to amend the State Regulations to exempt Class K buildings from these requirements.

In addition, Health and Safety Code section 13108.5 creates a more specific process for

excluding certain areas from the application of the WUI building standards. This process involves a public hearing and making a finding that the WUI building standards are not necessary for effective fire protection, based on substantial evidence. This is a more onerous standard compared to that required for a typical ordinance, which is normally that there is a rational basis for the regulation. By creating a more specific and onerous process for exemption (or inclusion) in Health and Safety Code section 13108.5, the Legislature indicated that areas should only be removed from the application of WUI standards under those circumstances. If Health and Safety Code section 17958.2 was used to revise the State Regulations to exempt buildings from WUI standards, the more specific statutory process would be undermined.

MTK/jc



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482

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JULIA KROG, DIRECTOR

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pbs@mendocinocounty.gov

www.mendocinocounty.gov

CLASS-K COMPLIANCE WAIVER

DATE: _____

OWNER'S NAME: _____

PROPERTY ADDRESS: _____

ASSESSORS PARCEL #: _____

.....

I, _____, DECLARE THAT ALL REQUIRED INSPECTIONS
PRIOR TO FINAL WILL TAKE PLACE. I HEREBY DECLARE THAT ALL WORK CONDUCTED AT SITE ADDRESS:

_____, WILL BE IN COMPLIANCE WITH
THE PROVISIONS OF CHAPTER 18.23 (REGULATIONS FOR LIMITED DENSITY RURAL DWELLINGS) OF THE
MENDOCINO COUNTY CODE, WHICH ALLOWS DEVIATION FROM THE REQUIREMENTS OF THE STANDARD
UNIFORM CONSTRUCTION CODES. I UNDERSTAND THAT THE CONSTRUCTION PLANS AND IMPROVEMENTS
AUTHORIZED BY PERMIT # _____ WILL NOT BE REVIEWED OR INSPECTED TO ADDRESS
STRUCTURAL RESISTANCE TO THE LATERAL FORCES PRODUCED BY WIND AND EARTHQUAKES. I

UNDERSTAND THAT THIS PERMIT IS VALID FOR THREE YEARS FROM THE DATE OF PERMIT ISSUANCE AND
THAT I MUST HAVE A FINAL INSPECTION APPROVED BY THE BUILDING INSPECTION DIVISION PRIOR TO
EXPIRATION.

SIGNATURE: _____

.....

PERMIT # _____ WAS RECORDED WITH THE COUNTY RECORDER'S OFFICE IN
COMPLIANCE WITH THE PROVISIONS OF CHAPTER 18.23.

NAME: _____

DATE: _____

APPENDIX C



COUNTY OF MENDOCINO

Steve Dunnicliff, Director
Telephone 707-463-4281
FAX 707-463-5709

DEPARTMENT OF PLANNING AND BUILDING SERVICES Ft. Bragg Phone 707-964-5379

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MEMORANDUM

DATE: June 11, 2013

TO: Honorable Board of Supervisors, CEO Carmel J. Angelo

FROM: Steve Dunnicliff — Director, Planning & Building Services

SUBJECT: Director's Report

Administration

- Planning & Building Services (PBS) has been working with Environmental Health and the Department of Transportation to implement and standardize the use of an upgraded version of CRW TRAKiT software. Staff has completed training, and our migration to the new system is essentially complete. This software enhances the ability of staff to track the progress/status of permits, and now allows staff to schedule inspectors electronically. The budgeted purchase of an additional module in FY 13-14 will allow for certain building permits to be issued online. ■ Renewed emphasis on regular activity reporting has allowed staff to identify reports that don't import necessary data, and inconsistencies in currently available data. We are working to address these issues, and best practices will be implemented moving forward.
- The Department created and released a 2012 Activity Report, which provides an overview of activities encompassing the three primary divisions of this department (Planning, Building, and Code Enforcement). A revised report will be released once the data has been standardized and is fully accessible.
- A capacity assessment of the Department's Planning Division has been submitted to the Executive Office in the form of an Action Plan. This document compares the division's current ability to provide service against a comprehensive list of mandates and responsibilities. (A list of implementation items contained within the General Plan, Housing Element, and Ukiah Valley Area Plan has been attached to this report as supplemental information) The Action Plan recommends organizational changes to enhance PBS' ability to implement these mandates and responsibilities, which will reduce outstanding liability to the County. The Executive Office has approved recruitments that do not push the Department's FY 13-14 budget beyond net County cost assignments; full implementation of this plan will require Board approval of the Department's submitted budget.
- Staff has begun standardizing the naming protocols used in PBS' fee schedule, and reorganizing the structure to facilitate further review and analysis. It is expected that a related item will come before the Board in FY 13-14.

- Initial PBS stakeholder meetings were held in Ukiah and Fort Bragg at the end of 2012; followup stakeholder meetings will be held in both locations in early July. These meetings are intended as an open forum for our stakeholders to communicate with department leadership.
 - In addition to many meetings with individual members of the community, the Director was invited as a speaker to a recent meeting of the Ukiah Rotary Club.
 - In response to questions and concerns regarding the County's authority to regulate grading activities, information has been posted on the website which provides general information and specific sources of authority. The page remains a work in progress.
 - Code Enforcement Officers, Building Inspectors, and Planners are in the field every day with a very limited ability to communicate in the event of an emergency. With support from the Sheriff, the Department is procuring public safety band radios for all vehicles. We are additionally pursuing new cell phone service and equipment that should provide more opportunities for staff to remain connected while working in rural areas of Mendocino County.
 - The County's Fish & Game Commission is poised to resume operations with additional funding available for administration and reduced overhead costs made possible through changes in State legislation and County allocation of charges. Dr. Jeanine Pfeiffer has been engaged to provide the Commission with administrative support; the Department facilitated processing of the related contract.
 - In January, the Director issued a Determination of Vested Rights for surface gravel mining activities which have historically occurred at the Rowland Gravel Bar, located at the confluence of the Main Eel and Middle Fork Eel Rivers.
 - While archiving ten years of planning files within the Ukiah office, staff recognized many old records eligible for destruction in accordance with County policy. PBS has begun compiling these records, and will work collaboratively to ensure necessary approvals are in place for any action pursued.
 - To enhance the public's ability to track positions and recommendations of the Department on matters which come before the Planning Commission, a new section titled "Recommended Action" has been added to Planning Commission agendas.
 - To provide the public with a more timely record of actions taken during meetings of the Planning Commission, a "Notice of Decision" similar to "action minutes" is now posted after meetings.
- The Notice of Determination does not replace or modify the form of official meeting minutes. ■ Preliminary information indicates the California Department of Fish & Wildlife will be releasing a technical memo on recommended setbacks from waterways. More information will be provided to the Board as it becomes available.

Personnel

- On January 28, Andy Gustavson began work as the County's Chief Planner. The skills and abilities Mr. Gustavson brings to this role greatly complement existing resources within the Department. In addition to working as a planning consultant, he has served as a planner for the Counties of San Mateo, Sonoma, and the City of Healdsburg.
- Supervising Code Enforcement Officer, Ray Madrigal, resigned from County employment effective February 14, in order to move closer to extended family. Supervision of the Code Enforcement Division has been assumed by the Director.
- Effective Monday, May 14, Mark Kendra is serving as a Staff Assistant for the Department, providing support and re-establishing capacity within the Fort Bragg office of PBS. To enhance the consistency of practices between PBS' two locations, Mr. Kendra was trained in Ukiah for two weeks.
- Effective Monday, June 24, Jim Kerr will begin working for the County as a Code Enforcement Officer I.
- Adrienne Thompson, the Commission Services Supervisor, is out on leave for approximately three months. The Department has trained an extra help employee to fill this role on a temporary basis; critical duties include clerking for meetings of the Planning Commission, creation of agendas, and legal noticing.
- A recruitment is underway to bring a Staff Assistant III back into the Ukiah office of PBS. In addition to other duties, the selected employee will provide back-up for some of the missioncritical tasks of the Department that currently can be performed solely by the Commission Services Supervisor.

- As partial implementation of the Planning Division's Action Plan, a recruitment is underway to bring an experienced Senior Planner back in to the Department's Fort Bragg office. This position will re-establish onsite leadership and support for planning staff in that satellite office. Additionally, one opportunity in Fort Bragg and two opportunities in Ukiah have been created to allow qualified Planning staff to promote into positions with greater responsibility.

Community Development

- Staff is working to bring the Mendocino County Lodging Association (MCLA) and Mendocino County Promotional Alliance (MCPA) contracts before the Board for consideration on June 18. ■
Mendocino County's Economic & Demographic Profile is a report that was generated on an annual basis until FY 2010-2011. Funds have been requested in the FY 2013-2014 budget to resume creation of this document, which is useful for both the private and public sector.
- In 2006, the County received a HOME grant award of approximately \$570,000, for investment in the affordable, self-help Lakewood Homes subdivision located on Lake Mendocino Drive. The subsequent economic downturn made it impossible for the developer, Rural Communities Housing Development Corporation (RCHDC) to finish the required number of units according to the established timeline. These project delays forced the County out of compliance with the grant agreement. Recognizing the unusual circumstances, Housing & Community Development agreed this month to amend their agreement with the County as necessary to allow the County back into compliance with the program.
- On behalf of the County, the Community Development Commission of Mendocino County (CDC) operates a Downpayment Assistance Program in the form of deferred payment subordinate loans for income-qualified individuals. This program is typically funded with Community Development Block Grant (CDBG) or HOME grant awards. In March, the County received its first ever request to approve a "short sale". A participant in this program was selling their home, and the market price would not generate enough revenue to fully repay the County's loan. CDBG staff indicated the approval of this short sale was a local decision; it was approved by the Director.
- Efforts are underway to establish capacity within the Health & Human Services Agency Workforce Investment Act (WIA) unit to oversee the CDBG program. To assist in meeting the immediate demands of that Program, this Department is hiring a contractor. Essential tasks in the contract will include assisting the County in clearing a program audit, requesting an extension of time for completion of studies in the Noyo Harbor, meeting special conditions of a new grant, and procuring a contractor for the County's Microenterprise Technical Assistance Program.
- The Director was designated as the County's WIA Conflict Resolution Officer, and a request for a hearing has been received from the Mendocino Private Industry Council. This will be scheduled and held in the near future.

Building Division

- Every year, a number of permits are issued for projects that never received necessary inspections. PBS does not currently have a mechanism to determine whether these projects were canceled prior to construction, or if they were completed without benefit of inspections (and therefore completed without benefit of permit). While it is clearly the responsibility of the public to ensure their projects are compliant with regulations and have received all necessary inspections, the Department will be considering options to implement a methodical approach in contacting property owners with permits indicated by our records as expired/inactive, and reminding them of outstanding responsibilities.
- The California Building Code is updated every three years. It is expected the newest edition of the Code will be released June, 2013, with implementation of the new Code to begin January 1, 2014. The Department will be bringing the Code to the Board for consideration and adoption after its release. ■
The California Building Code requires permitting for both buildings and structures (such as private bridges). In recognition of expertise the County's Department of Transportation has with bridges, PBS has re-established a partnership with that Department to review plans and engineering as necessary for permitting of these structures.
- On May 14, 2012, the Board authorized a Fee Waiver program for building projects which result in the creation of either permanent new jobs or temporary construction jobs for non-residential projects. The program ran from June 1, 2012 until November 30, 2012, and resulted in approximately \$40,000 in waived fees for a total of four projects. It is expected that these projects will directly create 28 permanent new jobs in the county upon completion, with additional jobs created over time.

- Over the years, many policies have been created and implemented by the Department with primary goals that include clarification of Building Code and standardization of service delivery. Based on input from stakeholders, we are working to update these policies and will post them online.

Code Enforcement

- To facilitate the sale of two unrelated coastal properties harboring long-standing public nuisance cases, the Department entered into agreements to reduce fees and penalties assessed by PBS. In return for this cooperation, the new owners of these parcels signed agreements to substantially abate the documented violations within one year.

- We are working to create and implement a Policy & Procedure Manual for the Code Enforcement Division to provide for the uniform enforcement of all applicable county and state building and zoning regulations by staff, and establish minimum standards of professionalism. A first draft was released to staff for review in early 2013. The final version will be used as the regulatory guideline in the day-to-day operations for staff, and for use in the training of new personnel. It can also be used as a tool to educate citizens in the methods used by code enforcement, as well as the limits of code enforcement responsibilities and procedures. The purpose of the Manual is to document guidelines for the following:

1. Departmental requirements for employees in the Code Enforcement Unit.
2. Prioritization of code enforcement cases.
3. Complaint procedure and initiation of cases.
4. Investigation and enforcement of county codes.
5. Prosecutions and legal aspects of code enforcement.
6. Basic duties and procedures of code enforcement staff.

- Efforts are underway to ensure our limited resources are spent resolving "high priority" complaints/cases. A formal procedure is being tested that prioritizes and ranks complaints received by code enforcement officers. This system is intended to provide a fair and consistent means to rank complaints and/or open cases after a preliminary review is undertaken in

accordance with the manual. Any complaint which does not meet the minimum required ranking is assigned a number and placed in a complaint file. The number is assigned sequentially based upon the month and year it is received. The complaint information is kept on a log page that is maintained at the front of the complaint file. In the event multiple complaints are received with regard to the violation, its numerical ranking may rise and cause a response from staff. ■ Through proper management of current cases, our Code Enforcement Officers are regularly achieving voluntary compliance from violators. They have also begun a focused effort to reduce a case backlog that spans decades, and recently exceeded 2,200 open cases. The Officers have been reviewing old cases, starting from the most -longstanding violations and moving towards present day. We have found some of these cases are duplicates, some were incorrectly closed, and others can be reviewed and closed with little investigative effort due to changes in ownership, etc. The focus and effort of our staff in this regard has allowed the Division to close almost 400 active cases, and reduce the total number of open cases down to approximately 1,840.

Year Cases Closed (From Jan 1- May 8)

2013:	292
2012:	43
2011:	10
2010:	32

- The Abandoned Vehicle Abatement (AVA) Program is in the process of being restarted. The City of Willits recently adopted its resolution adopting the service authority. We are circulating paperwork between the Cities for signatures, and will be submitting a completed packet to the California Highway Patrol (CHP) which will include a Joint Powers Agreement signed by the County, Ukiah, Willits, and Fort Bragg. Assuming the CHP approves the submittal, it will then be forwarded to the Department of Motor Vehicles (DMV) where a program will be created to extract the one dollar tax from vehicles registered within the County. After the program is created, we will then be able to re-launch the program. Recognizing that abandoned, low value, trailers and recreational vehicles (RV's)

are an attractive nuisance that can create a "dumping ground" if left for too long, a temporary process has been setup to address these vehicles by abating pursuant to Chapter 15.28 of the Mendocino County Code.

- Code Enforcement staff organized a two-day regional training opportunity at the County Administration Center. Holding this training event in Ukiah brought staff to the area from the Cities of Sonoma, Cotati, Rohnert Park, and it lowered (or eliminated) travel expenses for staff participating from the City of Willits and County of Mendocino.

Water Agency and Stormwater Compliance

- Mendocino County was inspected for compliance with its Storm Water Management Program in May of 2012 by the North Coast Regional Water Quality Control Board (Regional Board) and Environmental Protection Agency. Three of the six "minimum control measures" outlined in the County's Stormwater Management Plan (SWMP) were reviewed during the audit inspection, with comments provided on two additional minimum control measures reviewed post-inspection. The compliance inspection resulted in the notification of programs in need of improvement or attention. The County subsequently received a Notice of Violation letter, dated November 7, 2012, and Municipal Separate Storm Sewer System (MS4) Compliance Inspection Report, dated August 27, 2012.
- PBS staff has reconvened the stormwater working group, which includes staff from DOT, GSA, and Environmental Health. The Department has also contracted with LACO & Associates, for technical support in meeting initial deadlines established in the County's response to the stormwater audit. The budgets submitted for PBS and the Water Agency allocate resources to continue bringing the County into compliance with the current permit and requirements of the new permit.
- A stormwater update is scheduled before the Board on June 18, which will request a decision as to whether the County should remain a Phase II Permit holder, or switch to a Phase I Permit. Additional information will be available for that discussion, along with a recommendation from the Department.
- Planning & Building has identified an opportunity to better leverage the staffing and financial resources of the County and the Water Agency in meeting the needs of both entities. To this end, time from a Planner has been specifically allocated in FY 13-14 to continue leading the Stormwater Program, and we will be working to better integrate the County's Hydrologist position into the PBS staffing structure. Integration of the Hydrologist position is currently envisioned through a Planning Division Technical Services Unit which would include the Department's Cartographer, with both positions reporting to the Chief Planner.
- As outlined in a February 22, 2008 memo from Roland Sanford to the Board of Supervisors, the 2004 sediment release incident at the Mill Creek Dams resulted in specific tasks for completion by the County. On April 24, the Mendocino County Resource Conservation District agreed to conduct investigation on PBS' behalf to determine the current status of these tasks, and identify any outstanding issues. Numbering of items below is consistent with numbering used in the 2008 memo.
 1. Obtain Streambed Alteration Agreement to allow for refilling of Upper reservoir. Status: completed.
 2. Prepare and implement Stream Restoration Plan. Status: completed. On June 12, 2008, a "Feasibility Assessment of Restoration Options for Mill Creek" was completed by Entrix Environmental Associates. The Regional Water Quality Control Board (RWQCB) subsequently issued Order IB05127WNME for the repair/replacement of a failed gate valve at the base of the upper dam on Mill Creek, east of the City of Ukiah. At the time, the RWQCB indicated minor restoration work at the site would satisfy part of the compensatory mitigation and major compensatory mitigation was deferred and to be determined at a later date. On February 1, 2012, Mendocino County DOT filed the application for water quality certification for the removal of the Feliz Creek dam. Condition #5 of WDID No. 1B 12012WNME indicates that the dam removal satisfies the compensatory mitigation requirements for the Mill Creek Dams' previous Order (IB05127WNVE).
 3. Obtain Streambed Alteration Agreement for Long-Term Operations and

Maintenance of Mill Creek Dams. Status: in process. The County's Hydrologist has been tasked with completion of this item.

4. Select and Begin Implementation of Off-Site Fish Passage Improvement Projects. Status: substantially complete; waiting for written verification from CDFW. The Feliz Creek Dam was removed in September, 2012. Staff from the California Department of Fish and Wildlife (CDFW) indicate that upon completion of a five-year monitoring plan, all required mitigation per CDFW will be satisfied. This position was expressed by CDFW in 2011, and a letter to the County, memorializing the position, has been in process since March of this year. On the County's behalf, the MCRCDD followed up with CDFW on March 6, and again on May 30. At this time, there is no firm commitment from CDFW as to when the letter will be sent.
5. Items 5, 6, and 7 from the 2008 memo are related to the long-term maintenance and management of the Mill Creek Dams. These items are addressed in the Department of Transportation Director's Report dated June 10.

Planning Division

- The Department received and provided comment on the City of Ukiah's Draft Environmental Impact Report (DEIR) for the potential Costco development.
- The Department received and provided comment on the City of Ukiah's request to amend their Sphere of Influence (SOI)
- The Mendocino Town Plan Update (MTPU) was initiated by PBS in 2011. The update process included a series of community meetings to gather input, and the current draft was considered by the Planning Commission at meetings in the Town of Mendocino in February and May of this year. The public has been very engaged in providing comment, and discussion on the more controversial elements of the MTPU did occur among Commissioners. The MTPU is scheduled to be brought back to the Planning Commission July 1st for further deliberation. After receiving Planning Commission recommendations on the MTPU, the Board of Supervisors will consider the Town Plan Update and take action on the revised Town Plan and Zoning Code amendments. The resulting Local Coastal Program Amendment will be submitted for certification to the California Coastal Commission.
- Staff is meeting weekly to develop criteria for two new zoning districts; Mixed Use General (MU2) and Mixed Use North State Street (MUNS). Successful adoption of these zoning districts will represent partial implementation of Ukiah Valley Area Plan (UVAP) direction and also facilitate compliance with the Housing Settlement Agreement. As specified in the UVAP, this effort will include development of Design Review Guidelines, established through Development Standards. Staff anticipates bringing this to the property owners in July, with an anticipated review by the Planning Commission in August.
- Compliance with both the County's Housing Element and the Housing Settlement Agreement requires 24 acres of land, preferably within the Ukiah Valley area, be rezoned to allow for higher density housing opportunities (specifically, R-3 or "Mixed Use"). To this end, the Board has completed the rezoning of 8 acres of land next to the Brush St. Triangle, and decided against rezoning land along Lovers Lane. PBS staff met with the community on February 20 to discuss opportunities for rezoning some portion of the remaining 16 acres of land along S. State St. to R3. This meeting was primarily attended by neighbors who were concerned about the increased development density this rezoning would allow.
- PBS staff is subsequently working to continue compliance by bringing a recommendation forward that would rezone to R-3 three acres of land on Laws Avenue which is zoned R1, but developed with apartment complexes. The proposed rezone will be brought to the Planning Commission for consideration on July 1st.
- PBS staff has identified land along S. and N. State Streets which will allow the County to complete the outstanding requirement for rezoning through the Mixed Use zoning designation. These parcels will be brought forward for rezoning upon adoption of the Mixed Use ordinance.
- Staff has completed a draft update to the Planning Commission's "Guidelines for the Development of Wireless Facilities". On a separate but related project, and at the direction of the Planning Commission, staff has drafted language to be inserted into the zoning code, identifying a new permitting process for certain types of wireless facilities (i.e. collocation applications, adding antennas to existing structures.) At the June meeting of the Planning Commission, staff will request

establishment of an ad-hoc working group of Commissioners to review both the Guidelines and Zoning Code update, and to work with staff in moving these

items forward. Depending on changes to be made, staff would either schedule another stakeholder meeting or take the items to the full Commission.

- The Director issued an unclassified use determination in January establishing that a small indoor green material composting facility is a type of General Industrial use, as defined by the Zoning Ordinance. This determination was made in response to a new composting facility that C&S Waste Solutions proposes to establish in a pear packing plant building in south Ukiah. The determination was appealed to the Planning Commission, with a claim that all composting facilities should be classified as "Significant Impact Services and Utilities" uses. The Planning Commission upheld the Planning Director's determination. Two appeals of this determination were then made to the Board of Supervisors; a hearing is scheduled for June 10.

- Two coastal development permits involving State Agencies are scheduled for Coastal Permit

Administrator (CPA) hearings in June. The first is a Ten Mile Dune Restoration project in MacKerricher State Park. States Parks will remove the deteriorated northern portion of the old haul road, which runs along the coast north of Fort Bragg and through the park, to help reestablish the dune ecology. The Coastal Commission and community are concerned this project may reduce public coastal access. The second project is a Caltrans Highway 1 repair project, north of Fort Bragg that will realign a short segment of the roadway. The Coastal Commission is concerned the repair may impact coastal wetland resources and agricultural land, and may appeal. ■ Regulation of County mining operations in general required by both SMARA and the County Surface Mining and Reclamation Ordinance (County Code Chapter 22.16) is ongoing with annual inspection reports currently being prepared for the 2012 mining season. These will be submitted to OMR within the coming weeks. Annual inspections typically take place in the late Fall/early Winter months, and will be scheduled for later in the calendar year. In addition, cost estimates and updated financial assurance mechanisms, which are also required annually but submitted at different times throughout the year by individual operators, continue to be monitored by PBS staff for adequacy.

- In 2011, the California Department of Conservation Office of Mine Reclamation (OMR) conducted an audit of the County's administration of the State Surface Mining and

Reclamation Act (SMARA) program. A report was prepared by OMR's Lead Agency Review Team (LART), and submitted to the State Mining and Geology Board (SMGB) in July

2012. Subsequent to a review of the LART report by SMGB, the County received a 45-Day Notice to Correct Deficiencies (Notice) (dated December 21, 2012). The types of issues raised in the Notice involved mines that had been classified as "idle" under SMARA without a required Interim Management Plan (IN(P) or operations that have gone more than one year without updating annual cost estimates and financial assurances. A response to the 45 Day Notice was prepared by Planning and Building staff in February 2013 addressing the issues raised in the notice, which is scheduled to be discussed before the SMGB at its regular monthly hearing on June 13, in Sacramento. The Director and a staff planner will attend the SMGB's June meeting. ■ Temporary events with more than 1,000 attendees require a minor use permit. On May 17, the

Zoning Administrator approved the Northern Nights Music Festival which is scheduled to occur July 19, 20, and 21 in Cooks Valley. This approval has been appealed to the Board, and will be heard on June 18. On May 29, the Zoning Administrator approved the Enchanted Forest Festival, which is scheduled to occur June 28 — July 1 in Navarro.

- The County General Plan Housing Element is scheduled for an update in 2014; this project will need to be prioritized for timely completion.
- The 2013 Regional House Needs Allocation data, released by the California Department of Housing and Community Development earlier this year, establishes the total number of housing units needed to accommodate projected household growth. These numbers are then used to calculate affordable housing targets for the County and the cities within the county for the 2014 Housing Element Update. The 2013 RHNA allocation for the entire county dropped dramatically since the 2008, reflecting the recession and the related slow-down in housing growth. As a result the County's total fair share of countywide housing fell from 2,552 in 2008 to 168 in 2014. Staff worked with the Mendocino County Council of Governments (MCOG) on the 2013 allocation process, and recommends that the allocation reflect the capacity of jurisdictions within the County to provide services needed to support housing, and not simply be based on proportionate population.



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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October 22, 2018

[REDACTED]

Re: Use Permit Application, U_2018-0022

Dear Mr. Statham,

This letter is in regards to the above noted Use Permit application submitted to the Mendocino County Planning and Building Department's coast office in Fort Bragg to ostensibly construct a 1,764 square foot pole barn in order to operate an automobile repair facility located at [REDACTED]. The following information is a timeline of events leading up to the above noted Use Permit Application with Mendocino County:

- On November 3, 2016, a building permit (BU_2016-0970) was issued to allow for the demolition of a pole barn due to the building's advanced state of rot.
- On November 18, 2016, you were issued a building permit (BU_2016-0971) to rebuild a new workshop, and under the Class K rules for unpermitted, but already constructed facilities, to replace the above noted pole barn. This building permit has not received a final building inspection and is set to expire on November 18, 2019.
- On June 30, 2017, you applied for a business license (BL_2017-0254) to operate an auto repair business at [REDACTED]. This business license application has been put on hold by the Mendocino County Planning Department pending the outcome of the Use Permit application as detailed below.
- On August 2, 2018, the Mendocino County Code Enforcement Department received an anonymous complaint about the property located at [REDACTED] operating an auto repair business in the above noted Class K structure and the parking of several vehicles on the property. A Code Enforcement representative visited the site and took photographs documenting the use of the structure as an automotive repair facility.
- On September 19, 2018, a Use Permit application (U_2018-0022) was received at the County of Mendocino's coastal office to utilize a: "1,764 sq. ft. pole barn to be converted to automotive repair facility. Additional rock to be laid for road and parking to flatten and keep smooth." This permit application was also to operate an automotive repair business as a cottage industry.

The above noted timeline is the sequence of events leading up to the most frequent use permit application to open a cottage industry business consisting of the automotive repair business. Staff has noted a number of issues with this application as detailed below:

- Section 20.452.025 (A) of the Mendocino County Coastal Zoning Ordinance does allow Automotive and Equipment: Repairs, Light as a cottage industry with the approval of a Use Permit.

- Section 20.452.020 contains multiple restrictions upon a cottage industry that your proposed business does not comply with including the following subsections; (B) *"The cottage industry shall be clearly incidental and subordinate to the residential use of a parcel containing a dwelling occupied as a principal residence of the owner or operator of the Cottage Industry."* Upon reviewing site photographs taken recently, it would appear that the already existing automotive repair business is **not** subordinate to the residential use of the property. By my estimate referring to an aerial photograph dated July 2, 2018, there appears to be at least twenty-five vehicles parked around the existing Class K building, which is a substantial number of vehicles for a purported cottage industry and does not meet the above noted intent and purpose of section 20.452.020 (B); (H) *"No equipment or process used in the Cottage Industry shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by single family residential uses in the neighborhood..."* It can be expected that an auto repair facility will generate excess amounts of noise, fumes, dust and odors as a consequence of daily operations that would be far in excess of a shade tree mechanic working on their own vehicle. The idling of vehicles along with revving them up would contribute to both noise and fumes, the driving of vehicles upon the property on the gravel driveway and parking area would contribute to dust, while the use of various welding apparatus for at a minimum exhaust system repairs would be at least one component that would contribute to unwanted smoke. Given all of these contributing factors, it would be extremely difficult for Mendocino County to support your cottage industry use permit application.
- The building permit (BU_2016-0971) was issued to you in order to allow for the already constructed accessory structure shown in the site photographs to remain as built as a Class K structure.
- In discussions and various emails from both the Building Department and the Code Enforcement Department, staff has determined that an accessory structure constructed under the Class K regulations can only be utilized for one family for living and sleeping and is not to be used to operate a cottage industry auto repair business from.

From the issues brought up in this letter, staff feels that it would be infeasible to proceed with your Cottage Industry Use Permit application at this time, given that your business does not fall under the requirements of a cottage industry, nor is your business allowed to operate within a Class K accessory structure. If I were to move forward with this application, I would be recommending denial of this cottage industry use permit application. Within thirty days of receipt of this letter, please submit to me in writing what your intention is. I will then proceed accordingly. If you have any questions, please feel free to contact me.

Thank You,



Keith Gronendyke
Mendocino County
Planner III

Email: gronendykek@mendocinocounty.org

Phone: (707) 234-6650

Cc: Michael Oliphant, Building Official of Mendocino County
Trent Taylor Interim Manager Code Enforcement Division of Mendocino County
Dan Hamburg, Board of Supervisors of Mendocino County

APPENDIX E

Resolution Number _____

County of Mendocino
Ukiah, California

November 12, 2020

U_2018-0022 SAYRE & AMY STATHAM

RESOLUTION OF THE ZONING ADMINISTRATOR, COUNTY OF MENDOCINO, STATE OF CALIFORNIA GRANTING A MINOR USE PERMIT FOR A COTTAGE INDUSTRY GENERAL

WHEREAS, the applicant, [REDACTED], filed an application for a Minor Use Permit with the Mendocino County Department of Planning and Building Services to facilitate a cottage industry consisting of an automobile repair facility located within an existing accessory structure. Located 3.6± miles east of Mendocino town center, lying north of [REDACTED] (Private), 0.2± miles west of its intersection with Powers Road (Private) Addressed at [REDACTED]; General Plan RR10; Zoning RR10; Supervisorial District 5; (the "Project"); and

WHEREAS, a NEGATIVE DECLARATION was prepared for the Project and noticed and made available for agency and public review on October 15, 2020 in accordance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Zoning Administrator public hearing on November 12, 2020, at which time the Zoning Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Zoning Administrator has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Zoning Administrator regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Administrator makes the following findings;

1. **General Plan Findings:** The subject property is classified Rural Residential (RR 10) under the General Plan. The project is consistent with the General Plan Policies DE-14 and DE-51.
2. **Zoning Findings:** The subject property is zoned Rural Residential (RR 10). The project is consistent with County Zoning per Section 20.048.015, which allows for the establishment of a cottage industry-general on RR 10 zoned properties with the approval of a Minor Use Permit
3. **Use Permit Findings:** The project, subject to the conditions of approval found in Exhibit A of the resolution, fulfill the following use permit findings:
 - a. That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;
 - b. That adequate utility, access roads, drainage and other necessary facilities have been or are being provided.
 - c. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.
 - d. That such use preserves the integrity of the zoning district.

BE IT FURTHER RESOLVED that the Zoning Administrator hereby grants the requested Use Permit, subject to the Conditions of Approval in Exhibit "A", attached hereto.

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

BE IT FURTHER RESOLVED that the Zoning Administrator action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

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

ATTEST: JAMES F. FEENAN
Commission Services Supervisor

BY: BRENT SCHULTZ
Zoning Administrator

EXHIBIT A

CONDITIONS OF APPROVAL

NOVEMBER 12, 2020

U_2018-0022 – [REDACTED]

APPROVED PROJECT DESCRIPTION: Use Permit to facilitate a Cottage Industry - General, consisting of an automobile repair facility located within an existing accessory structure.

CONDITIONS OF APPROVAL:

General:

1. The permit shall become effective on the 11th day after Zoning Administrator approval and shall expire and become null and void at the expiration of two years after the effective date except where use of the property in reliance on such permit has been initiated prior to its expiration.
2. The use of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
3. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and that compliance therewith is mandatory, unless a modification has been approved by the Zoning Administrator.
4. This permit shall be subject to revocation or modification by the Zoning Administrator upon a finding of any 1 or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

5. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
6. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

Cottage Industry Conditions:

7. No more than three (3) employees may work on the premises at any given time, in addition to the members of the family residing on the premises.
8. Applicant shall obtain appropriate building classification and final inspection for the existing structure used for auto repairs.

9. Aspects of the cottage industry, including equipment storage and parking related thereto, shall not exceed 2,000 sq. ft. Given the existing structure, the applicant is limited to 246 sq. ft. of outdoor parking for customer vehicles. Customer vehicle parking can be accommodated by any arrangement (e.g. parallel, angle, tandem), but a parking plan shall be provided, reviewed and approved by the Department of Planning and Building Services. Customer parking shall be permitted only in designated parking areas accessed from the driveway, and each parking space shall be surfaced with gravel, permeable pavers or other surfacing materials to encourage onsite infiltration of stormwater runoff.
 - a. For any vehicle that is leaking any type of liquid associated with a motor vehicle including but not limited to: motor oils, transmission fluids, antifreeze, brake fluid, power steering fluid, rear axle fluid, windshield washing fluid and gasoline, including diesel gasoline, a suitable drip pan capable of storing the amount and the specific type of liquid the vehicle is leaking shall be placed under the vehicle until said leak is repaired.
10. One non-illuminated sign not to exceed four square feet shall be permitted. All signage shall require approval by the Planning Department prior to display. No permanent off-site signs advertising the site are authorized by this permit.
11. The sale of merchandise not produced on the premises (except mail order only businesses) shall be incidental to the merchandise or service produced by the cottage industry and shall not be advertised in any manner.
12. Applicant shall not have customers at the site; all pick-up and delivery of customer vehicles and monetary transactions shall be conducted off-premises.
13. All external lighting shall be shielded and downcast to prohibit light from being cast beyond the property boundaries. Outdoor lighting shall be turned off at 7:00 p.m. in the evenings and not be turned back on until the following day after 6:00 a.m. in the morning. (Twenty-four hour security lighting would be exempt from this time requirement; however said exterior security lighting installed on the property shall utilize motion-sensor activation.) All lighting along the property boundaries shall be setback a minimum of 20 feet from all property lines.
14. Best management practices regarding the proper storage and handling of hazardous material and hazardous wastes should be employed. A Hazardous Materials Management Plan is required if any hazardous material/waste on-site exceeds 55 gallons (liquid), 500 lbs. (solids), or 200 cubic feet (gasses) in quantity.

Transportation:

15. A commercial road approach shall be constructed onto Little Lake Road (CR 408) from W Road (Private), in accordance with Mendocino County Road and Development Standards No. A51B, or as modified by applicant and approved by Department of Transportation staff during field review, to be paved with asphalt, concrete or comparable surfacing to the adjacent road. Concrete driveways shall not be permitted.
16. The permit holder shall obtain an encroachment permit from the Mendocino County Department of Transportation for any work within County rights-of-way.

Noise:

17. No long term idling or excessive revving of engines shall be allowed in the parking area.
18. Excessive noise, as identified in Appendix C - Exterior Noise Limits shall be limited to the hours of 8:00 a.m. through 8:00 p.m.
19. The use of air driven power tools shall be prohibited outdoors.
20. No equipment or process used shall create noise, vibration, glare, fumes, dust, odors, smoke, electrical interference or other impacts in excess of those customarily generated by residential uses in the neighborhood.

Air Quality and Hazardous Materials Conditions:

21. Stored hazardous materials in excess of fifty-five gallons of liquids, 200 cubic feet of gases, or 500 pounds of solids shall require review by the Mendocino County Environmental Health Department. More information can be found at: <http://cers.calepa.ca.gov>.
22. This project is subject to District Regulation 1 regarding air quality permits. The permit holder shall obtain an 'Authority to Construct' permit from the Mendocino County Air Quality Management District (MCAQMD) prior to beginning construction and/or installation of any equipment within the shop. If equipment has already been installed, MCAQMD shall be contacted prior to continued use of said equipment.
23. Any stationary on-site diesel internal combustion engines fifty horsepower or greater (i.e. large power generators or pumps), or any propane or natural gas engines 250 horsepower or greater, shall require a permit from MCAQMD.
24. The applicant shall register any portable diesel powered equipment used on-site with the State Portable Equipment Registration Program (PERP), or obtain necessary permits from MCAQMD.
25. Per MCAQMD, heavy duty truck idling and off-road diesel equipment, or other diesel idling is limited to less than five (5) minutes.
26. The project is subject to the requirements of Regulation 1, Rule 492 (National Emission Standards for Hazardous Air Pollutants), of MCAQMD. The applicant shall (per Part 61, Chapter 1, Title 40, of the Code of Federal Register) submit proof of asbestos inspection to MCAQMD prior to being issued a Demolition/Renovation Permit. Additionally, the applicant shall notify MCAQMD prior to removal of asbestos-containing materials and submit payment of any fees, if applicable.
27. Any stationary on-site internal combustion engines over 50 horsepower (i.e. large power generator or pumps) may require a permit from MCAQMD, depending on fuel source and level of operation. Engines less than 50 horsepower are subject to registration by MCAQMD for emissions inventory purposes. The Applicant shall contact MCAQMD prior to use of any such engines. Additionally, a list of on-site internal combustion engines shall be provided to the Department of Planning & Building Services.

28. No painting shall be conducted on-site. Should the applicant wish to conduct on-site painting, approval from the MCAQMD shall be required. The applicant shall adhere to all applicable requirements established by MCAQMD regarding on-site painting.
29. Per comments provided by MCAWMD, the Applicant shall not have customers on-site. Pick-up and delivery of customer vehicles and monetary transactions shall be conducted off-premises. Furthermore, the Applicant is limited to no more than three (3) delivery vehicles accessing the premises per day.
30. Applicant shall obtain any and all appropriate certifications and licenses deemed necessary per the MCAQMD.

Cultural Resources:

31. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within 100 feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

Building Inspection:

32. Prior to the issuance of a business license for the cottage industry auto repair facility, a building permit shall be obtained from the Mendocino County Building Department to convert the existing accessory structure from a class K limited density rural dwelling construction type to a fully permitted commercial structure that fully complies with all required building code requirements associated with commercial structures. Proof of this requirement shall also be submitted to the Planning Department.
33. If any sinks, parts washing facilities, or bathroom facilities are added to the accessory structure, the Environmental Health Department of Mendocino County shall be contacted to determine the correct method to dispose of such waste.