



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-19

Meeting Date: August 18, 2015

To: Board of Supervisors

From: Kevin R. Hamblin, Director, Planning and Building Department *KRH*

Subject: **Release from Conveyance and Agreement to Allow Construction of Second Residential Unit on Lot 1 (Currently APN 511-084-020) of the Morgan Final Map Subdivision**
Assessor Parcel Number 511-084-020
Case Number PRK-15-002
1418 Underwood Court, McKinleyville area

RECOMMENDATION(S):

That the Board of Supervisors:

1. Consider the application.
2. Authorize the Chair of the Board to execute the Quitclaim and Partial Reconveyance (for Development Restrictions) for Lot 1 of the Morgan Final Map Subdivision (Attachment A).
3. Direct Planning and Building Department, Planning Division, to record the Quitclaim and Partial Reconveyance (for Development Restrictions).
4. Direct the Clerk of the Board to give notice of the decision to the applicant and any other interested party and to return original copies to the Planning Division for recording.

Prepared by Emily Benvie, Planner I

CAO Approval *Cheryl Dillingham*

REVIEW:

Auditor _____ County Counsel NAD Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Lovelace Seconded by Supervisor Sundberg
Ayes Sundberg, Lovelace, Fennell, Bohn, Bass
Nays _____
Abstain _____
Absent _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: Aug. 18, 2015
By: *Kathy Hayes*
Kathy Hayes, Clerk of the Board

SOURCE OF FUNDING:

Source of Funding is the Planning and Building Department, Current Planning Division (#277). The applicant is responsible for all costs incurred in the processing of the Quitclaim and Partial Reconveyance (for Development Restrictions), including legal document review and document recordation fees.

DISCUSSION:

The Planning and Building Department, Current Planning Division, requests a Quitclaim and Partial Reconveyance (for Development Restrictions) to allow construction of a secondary dwelling unit on Lot 1 (currently APN 511-084-020) of the Morgan Final Map Subdivision (APN 511-081-069; Case Number FMS-02-03/SNC-02-02). The parcel is located in the McKinleyville area. Lot 1 is located on the south side of Underwood Road, approximately 140 feet from the intersection of Little Pond Street and Underwood Road on the property known as 1418 Underwood Court (Attachment B).

The Subdivision was recorded with the Humboldt County Recorder on December 21, 2007 as Tract Map No. 603 in Book 24 of Maps, pages 57-59. The project involved subdivision of an approximately 5.5 acre parcel into 26 lots. The property is zoned for Residential Single Family development with a Manufactured Home, Airport Safety Review and Streamside Management Area/Wetlands combining zone (R-1-T-AP-WR). The zoning allows for development of a primary residence and secondary dwelling unit pursuant to Humboldt County Code 314-87.1. Pursuant to the Quimby Act, subdivisions require dedication of land, of the payment of a fee, for the development of parkland to serve recreational needs of new residents of the subdivision. The subdivider was required to satisfy one of the following requirements: (1) an offer of dedication of useable open space land to a public or private non-profit agency for public park or recreation use set forth in Section 314-110.1.5 of the Humboldt County Code; or (2) payment of a Parkland "In-Lieu Fee" consistent with the formula of Section 314-110.1.6. Pursuant to County Code, payment of the In-Lieu Fee for a secondary dwelling unit may be deferred by entering into a Conveyance and Agreement with the County. The Agreement provides that the County will quitclaim back to the owner the right to develop a secondary dwelling unit upon their payment of the pro-rated In-Lieu Fee amount.

The subdivider opted to defer Parkland In-Lieu Fees for second units by executing a Conveyance and Agreement (for Development Restrictions) (Attachment C). The Agreement was recorded with the Humboldt County Recorder on January 8, 2008 as Instrument Number 2008-387-7.

Furthermore, the parcels within the original subdivision (FMS-02-03/SNC-02-02) are located within Airport Zone C*, and have a density of 8 dwelling units per acre. In order to conform to this density, only 18 secondary dwelling units can be permitted within the subdivision. To date, only one secondary dwelling unit has been permitted within the subdivision and therefore the proposed secondary dwelling units meets the specified density. The Planning Division has kept a current list of all APNs within the subdivision with secondary dwelling units.

The original subdivider, Dan and Gail Morgan, remain the current owners of Lot 1 (currently APN 511-084-020). They presently requests a release from the Agreement for the above-mentioned lot. Dan and Gail Morgan request a Quitclaim and Partial Reconveyance (for Development Restrictions) to allow construction of a secondary dwelling unit on Lot 1 and have submitted a check in the amount of \$627.68 which reflects the pro-rata fee for said lot.

The requirements of County Code and the Agreement having been satisfied, Planning Division Staff supports the release from the Agreement for Lot 1. Planning Division Staff recommends that your Board approve the release and direct the Chair to execute the Quitclaim and Partial Reconveyance (for Development Restrictions).

FINANCIAL IMPACT:

There will be no impact on the General Fund. The applicant is responsible for all costs involved in processing the request. The applicant has paid the \$75 legal document review fee and \$95 deposit for conformance review with conditions per the approved Schedule of Fees and Charges, Planning Division Permit Application Fees. Recording fees will be paid by the applicant in the amount of \$32.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The terms of the Conveyance and Agreement require the Board to execute the reconveyance upon a showing that the pro-rata parkland in-lieu fee has been paid to the County. The Morgans have made this payment and have requested reconveyance. The Board could continue the matter to a future meeting if there is a question as to the calculation of the pro-rata fee or the submitted documentation.

ATTACHMENTS:

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

- Attachment A: Quitclaim and Partial Reconveyance (for Development Restrictions)
- Attachment B: Location Map
- Attachment C: Conveyance and Agreement (for Development Restrictions), Instrument No. 2008-387-7 (recorded January 8, 2008)

ATTACHMENT A

Quitclaim and Partial Reconveyance (for Development Restrictions)

Recording Requested By:
County of Humboldt
Planning and Building Department

Return To:
County of Humboldt
Planning and Building Department
3015 H Street
Eureka, CA 95501-4484

2015-016177-3
Recorded - Official Records
Humboldt County, California
Kelly E. Sanders, Recorder
Recorded by: DAN MORGAN
Rec Fee: \$32.00

DA Fraud Fee: \$3.00

Clerk: LH Total: \$35.00
Aug 19, 2015 at 11:34:47
CONFORMED COPY

QUITCLAIM AND PARTIAL RECONVEYANCE
(For Development Restrictions)

Entered Into On	}	Assessor Parcel No.:
By And Between	}	511-084-020
Danny E. Morgan and Gail Ann Morgan	}	
	}	
(hereafter referred to as OWNER)	}	
	}	Application No.: 9894
And The County Of Humboldt	}	Case No.: PRK-15-002
(hereafter referred to as COUNTY)	}	

WHEREAS, on December 11, 2007 OWNER (or OWNER's predecessor in interest) and COUNTY executed a Conveyance and Agreement which was recorded on January 8, 2008 in the Humboldt County Recorder's Office, Official Records Document Number 2008-387-7; and

WHEREAS, said Conveyance and Agreement restricted the development of the real property described therein, including Lot 1 (~~Currently APN 511-084-020~~) of Tract Map No. 603, on file in the Recorder's Office of the County of Humboldt in Book 24 of Parcel Maps, Pages 57 through 59 (hereafter "subject property"), until specified events occurred or conditions were satisfied; and

WHEREAS, said events have now occurred or said conditions have been satisfied, and COUNTY desires to quitclaim and reconvey to OWNER or OWNER's successors in interest of said Lot 1 (~~Currently APN 511-084-020~~) of Tract Map No. 603 all of the right, power and privilege granted to COUNTY by the above referenced Conveyance and Agreement for the subject property;

NOW, THEREFORE, it is mutually agreed as follows:

1. COUNTY agrees to, and hereby does, quitclaim and reconvey to OWNERS or their successors in interest all of the right, power, and privilege to develop the subject property, which right, power and privilege was relinquished and granted to COUNTY in the Conveyance and Agreement referenced above.
2. OWNER understands and agrees that this Quitclaim and Partial Reconveyance by COUNTY to OWNER or OWNER's successors in interest of the right, power and privilege to develop the

subject property does not give OWNER or OWNER's successor(s) in interest unlimited right to develop the subject property, but only reverts in OWNER or OWNER's successors in interest the right, power and privilege to apply to COUNTY for the permits and other grants of approval necessary to develop the subject property and to have such application processed in accordance with, and subject to, all laws and regulations applicable to such application at the time it is submitted.

IN WITNESS WHEREOF, the parties hereto have caused this Quitclaim and Partial Reconveyance on the date first written above.

ON August 29, 2015 BY Estelle Fennell
Chair, Board of Supervisors Estelle Fennell
County of Humboldt, State of California

CERTIFICATE OF ACKNOWLEDGMENT

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

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

On this 19 day of August, 20 15, before me, Catherine Whitman Munsee
Public Notary,

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

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

Witness my hand and official seal.

Catherine Whitman Munsee
Signature

(seal)



OWNER(S)

Danny E. Morgan
Sign above. Print name here: Danny E. Morgan

Gail Ann Morgan
Sign above. Print name here: Gail Ann Morgan

Sign above. Print name here:

CERTIFICATE OF ACKNOWLEDGMENT

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

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

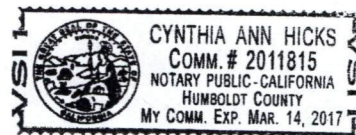
On this 13 day of July, 2015, before me, Cynthia Ann Hicks Public

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

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

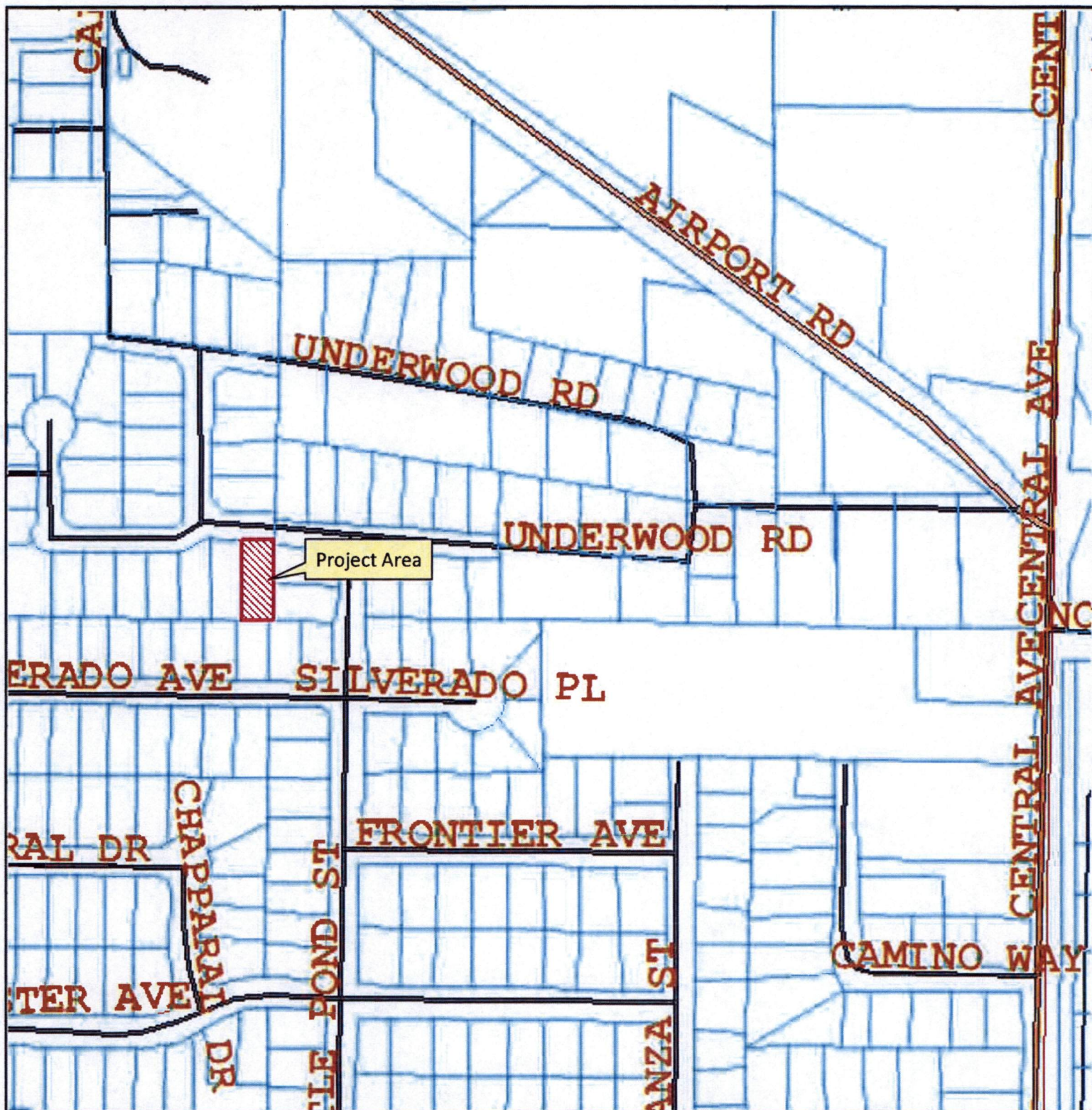
Witness my hand and official seal.

Cynthia Ann Hicks (seal)
Signature



ATTACHMENT B

Location Map




LOCATION MAP

PROPOSED MORGAN
PARKLAND FEE
MCKINLEYVILLE AREA

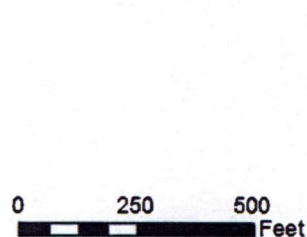
PRK-15-002

APN: 511-081-020

T4N R01W HB&M

Project Area = 

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



ATTACHMENT C

Conveyance and Agreement (for Development Restrictions)
Instrument No. 2008-387-7
(recorded January 8, 2008)

Recording Requested By:
HUMBOLDT COUNTY PLANNING DIVISION
EXEMPT PURSUANT TO
GOVERNMENT CODE SECTION 27383

Return To:
Humboldt County
Community Development Services
3015 H Street
Eureka, CA 95501-4484

2008-387-7
Recorded — Official Records
Humboldt County, California
Carolyn Crnich, Recorder
Recorded by FIDELITY NATIONAL TITLE C
Exempt from payment of fees
Clerk: MM Total: 0.0
Jan 8, 2008 at 10:00

CONVEYANCE AND AGREEMENT
(for Development Restrictions)

ENTERED INTO ON December 11, 2007

BY AND BETWEEN)

-MORGAN, Dan and Gail)

(hereinafter referred to as OWNER)

AND THE COUNTY OF HUMBOLDT)

(hereinafter referred to as COUNTY))

RE: MORGAN PROJECT

Case No. FMS-02-03/SNC-02-02

File No. APN 511-081-69

WITNESSETH

WHEREAS, OWNER has applied to COUNTY for permits and other grants of approval necessary to carry out a project which is described within a project application filed with the Humboldt County Community Development Services as the Case Number and File Number referenced above (hereinafter referred to as proposed project); and

WHEREAS, the real property upon which OWNER's proposed project is situated, is or includes the real property which is described in EXHIBIT A which is attached to this agreement and incorporated by reference herein (hereinafter referred to as the subject property); and

WHEREAS, the subject property is situated in the County of Humboldt, State of California; and

WHEREAS, COUNTY, as a condition and in consideration of approval of OWNER's proposed project, requires that OWNER grant to COUNTY all of the OWNER's right, power and privilege to develop the subject property in the manner or for the purposes described in PART 1 of EXHIBIT B which is attached to this Agreement and incorporated by reference herein; and

WHEREAS, OWNER is willing and desires to grant to COUNTY the OWNER's right, power, and privilege to develop the subject property in the manner or for the purposes described in Part 1 of EXHIBIT B attached hereto;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. OWNER hereby relinquishes and grants to COUNTY all of the OWNER's right, power and privilege to develop the subject property in the manner or for the purposes described in Part 1 of EXHIBIT B attached hereto. Concurrently with this grant, OWNER agrees not to develop the subject property in the manner or for the purposes described in PART 1 of EXHIBIT B unless and until COUNTY quitclaims to OWNER or OWNER's successors in interest in said property, all rights, power and privilege granted to COUNTY by this conveyance.
2. Both parties acknowledge that this agreement and the grant of the right to develop by OWNER to COUNTY contained herein are made in consideration of approval by COUNTY of OWNER's proposed project.
3. COUNTY agrees to quitclaim to OWNER, or OWNER's successor(s) in interest, the right, power and privilege to develop the subject property in the manner or for the purposes described in PART 1 of EXHIBIT B attached hereto, if and when both of the following events occur:
 - A. OWNER or OWNER's successor(s) in interest applies to COUNTY for a reconveyance to the OWNER or OWNER's successor(s) of the right, power and privilege herein granted to COUNTY.
 - B. OWNER or OWNER's successor(s) in interest shows to COUNTY's satisfaction either that the conditions specified in PART 2 of EXHIBIT B attached hereto have been satisfied by the owner of the subject property, or that because of changed circumstances the conditions specified in PART 2 of EXHIBIT B are no longer applicable.
4. OWNER understands and agrees that the quitclaim by COUNTY to OWNER or OWNER's successor(s) in interest of the right, power and privilege herein granted to COUNTY, as provided above, will not give OWNER or OWNER's successor(s) in interest the unlimited right to develop the subject property, but will only revert in OWNER or OWNER's successor(s) in interest the right, power and privilege to apply to COUNTY for the permits and other grants of approval necessary to develop the subject property and to have such application processed in accordance with, and subject to, all laws and regulations applicable to such applications at the time it is submitted.
5. OWNER agrees to insert in any document which transfers title to the subject property, or any part thereof, a provision excepting from such transfer the right, power and privilege to develop the subject property in the manner or for the purposes described in PART 1 of EXHIBIT B attached hereto unless and until COUNTY has executed and delivered to OWNER or OWNER's successor(s) in interest the quitclaim deed provided for above. OWNER further agrees to include in any such

transfer document a provision by the terms of which the transferee, and each subsequent transferee, agrees to each and every condition contained in this Conveyance and Agreement, including the requirement contained in this paragraph.

IN WITNESS WHEREOF, the parties hereto have caused this Conveyance and Agreement to be executed by their duly authorized officers on December 11, 2007.

COUNTY OF HUMBOLDT

By Bonnie Neely
Chairman of the Board of Supervisors of the County of Humboldt, State of California

ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF HUMBOLDT }

On December 11, 2007 before me, KATHY HAYES, Clerk of the Board of Supervisors, personally appeared Bonnie Neely, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Nikki Turner - Deputy
SIGNATURE

Seal

OWNER(S):*

Danny E. Morgan
Gail Ann Morgan

By _____
Title _____

Danny E. Morgan and Gail Ann Morgan, Trustees of The Danny E. Morgan and Gail Ann Morgan Family Trust of 2003

*Attach separately full page Notary Acknowledgment

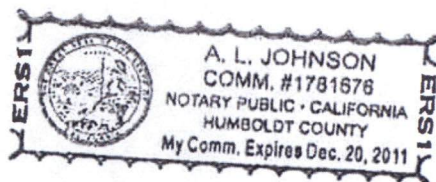
State of California)
County of Humboldt)

On January 8, 2008 before me,
A. L. Johnson, Notary Public (here insert name and title of the officer),
personally appeared Danny E. Morgan and Gail Ann Morgan,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that
by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

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

WITNESS my hand and official seal.

Signature  (Seal)



ACKNOWLEDGEMENT

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

On August 27, 2007
DATE

before me, Yvette M. Mendes, Notary Public,
NAME, TITLE OF OFFICER

personally appeared Danny E. Morgan and
NAME(S) OF SIGNER(S)

Gail Ann Morgan
NAME(S) OF SIGNER(S)

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

Witness my hand and official seal.

Yvette M. Mendes
SIGNATURE OF NOTARY



OPTIONAL DATA (not required by law)

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)
- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
- ☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

Conveyance and Agreement
(for development restrictions)

RE: FM 02-03

H.C.P.D. File No. APN 511-081-69

EXHIBIT A

PROPERTY DESCRIPTION

All that real property situated in the South half of the Northeast quarter of Section 30, Township 7 North, Range 1 East, Humboldt Meridian, in the County of Humboldt, State of California, described as follows:

Lot 1 through 26 of Morgan Subdivision, Tract No. 603,
filed in Book 24 of Maps, Pages 57, 58 & 59,
Humboldt County Records.

End of Description



2 NOV, 2007

Conveyance and Agreement

RE: FMS 102-03

H.C.P.D. File No. APN 511-081-69

EXHIBIT B

DEVELOPMENT RESTRICTIONS

PART 1

The OWNER relinquishes and grants to the County of Humboldt the right, power and privilege to develop the real property described in Exhibit "A" for:

second or secondary dwelling units on lots 1 through 26

PART 2

The condition referred to in Paragraph B of Section 3 of the agreement to which this exhibit is attached is as follows:

Release from the Conveyance and Agreement may be pursued upon payment of the parkland dedication fee balance and upon a change in the restrictions set forth by the Airport/Land Use Compatibility Matrix, i.e. number of dwelling units per acre. A copy of the Conveyance and Agreement form with pro-rata dedication payments amounts for each lot calculated will be provided by the Planning Department upon the election of this option by the applicant once the Final Map is prepared and approved for recordation. These fees may be paid for by individual lot owners on a pro-rata basis at the time individual lot owners apply for a permit to construct a second or secondary dwelling unit.