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**COASTAL PERMIT ADMINISTRATOR  
STAFF REPORT – CDP STANDARD**

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**CDP\_2015-0031  
JULY 26, 2017**

**SUMMARY**

**OWNER/APPLICANT:** LARRY AND VIRGINIA BOWEN  
384 EAGLE TRACE DRIVE  
HALF MOON BAY, CA 94019

**AGENT:** BLAIR FOSTER, WYNN COASTAL PLANNING  
703 NORTH MAIN STREET  
FORT BRAGG, CA 95437

**REQUEST:** Standard Coastal Development Permit to install a 3' tall redwood fence, with 2" cedar grape stake infill, along the eastern property line; install freestanding 4' tall redwood posts, 6' on center, along the western and southern property lines.

**DATE DEEMED COMPLETE:** March 25, 2016

**LOCATION:** In the Coastal Zone, 2± miles north of the Town of Mendocino, lying on the north side of Drifters Reef Drive (private road), approximately 1/2-mile west of its intersection with Point Cabrillo Drive at 45500 Drifters Reef Drive Mendocino (APN: 118-200-11)

**TOTAL ACREAGE:** 1.41± acres

**GENERAL PLAN:** RR5(1) — (Rural Residential, 5-acre minimum with variable density)

**ZONING:** RR:5 — (Rural Residential, 5-acre minimum)

**SUPERVISORIAL DISTRICT:** 4

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt per CEQA Section 15303(e) — new construction of accessory structures, including fences.

**RECOMMENDATION:** Approve with conditions

**STAFF PLANNER:** ROBERT DOSTALEK

**BACKGROUND**

The project is the result of Zoning Violation #ZC 2015-0018, whereby fencing and freestanding posts were installed on the subject property without benefit of permit. A Standard Coastal Development Permit is required for the proposed development because the property is located between the sea and the first public road paralleling the sea (Public Resources Code §30603 — California Coastal Act).

**PROJECT DESCRIPTION:** The applicant proposes to install a 3' tall redwood fence with 2" cedar grape stake infill along the eastern property line and freestanding 4' tall redwood posts (6' on center) along the western and southern property lines. The purpose is to create a visual barrier, discourage public vehicular access and demarcate the parcel boundary. Both fence and freestanding posts would extend to, but not beyond, the 50' ESHA buffer around the identified wetland. The project also includes the installation of native landscaping along the eastern and western property lines within the 50' ESHA buffer to the limit,

but not beyond, the identified Carex obnupta.

**RELATED APPLICATIONS:** Zoning Violation #ZC 2015-0018 (installation of fence and fence posts without benefit of Coastal Development Permit). Coastal Development Permit Exclusion #CE 25-93 (authorized a single family residence, well, septic system and curtain drain).

**SITE CHARACTERISTICS:** The project site is situated near the terminus of Drifters Reef Drive, one parcel east of the commonly owned blufftop parcel of the Drifters Reef Subdivision. Following clearance of Coastal Development Permit Exclusion #CE 35-93 on November 1, 1993, a well and curtain drain were installed on the property during the 1990's. However, a residence and septic system were never constructed, and since that time, environmentally sensitive habitat areas (ESHAs) have been identified on and around the subject parcel.

A zoning violation case (#ZC 2015-0018) was opened in 2015 to address unauthorized construction of a redwood fence along the eastern property boundary and freestanding posts along the southern property boundary. This application serves to validate the existing unpermitted development and authorize the newly proposed fence and post installations. A subsequent modified or new Coastal Development Permit will be required for future developments on the site.

**SURROUNDING LAND USE AND ZONING:**

	GENERAL PLAN	ZONING	LOT SIZES	USES
<b>NORTH</b>	RR5(1)	RR:5	8.9±	Residential
<b>EAST</b>	RR5(1)	RR:5	1.3±	Residential
<b>SOUTH</b>	RR5(1)	RR:5	1.3±	Vacant
<b>WEST</b>	RR5(1)	RR:5	1.9±	Residential

**PUBLIC SERVICES:**

ACCESS: DRIFTERS REEF DRIVE (PRIVATE)  
 FIRE DISTRICT: MENDOCINO FIRE PROTECTION DISTRICT  
 WATER DISTRICT: N/A (PRIVATE WELL)  
 SEWER DISTRICT: N/A  
 SCHOOL DISTRICT: MENDOCINO UNIFIED

**AGENCY COMMENTS:**

REFERRAL AGENCY	RESPONSE	COMMENTS	ATTACHED	ON FILE
Department of Transportation	No comment			3/29/16
Building - FB	No comment			6/17/16
Environmental Health	No comment			3/31/16
Planning – FB	No comment			4/11/16
CA Dept. Fish & Wildlife	Comments	Reduce ESHA impacts Review landscape palette		4/15/17 12/29/16
Coastal Commission	Comments	ESHA and coastal access		2/10/17
CalFire	No comment			4/6/16
Assessor	No response			-
Sherwd. Valley Pomo	No response			-
Redwd. Vly Rancheria	No response			-
Cloverdale Rancheria	No response			-
Mendo. Fire Prot. Dist.	No response			-

### KEY ISSUES

**1. General Plan and Zoning Consistency:** The subject parcel is zoned Rural Residential, 5-acre minimum (RR:L-5) as depicted on the attached zoning display map. A Coastal Development Permit Exclusion #CE 35-93 was approved on November 1, 1993 which authorized development of a single-family residence, a well, septic system and curtain drain. Following the approval of #CE 25-93, the well and curtain drain were installed on the property. The Categorical Exclusion (#CE 25-93) expired on November 1, 1996, and to date, a single family residence and septic system have not been constructed.

On July 16, 2015, a Zoning Violation case (#ZC 2015-0018) was opened on the property for the installation of fencing, freestanding posts without benefit of a Coastal Development Permit. The applicant now pursues validation of the development to rectify the violation. The project proposal includes additional fencing to that identified in the violation case. Mendocino County Code (MCC) §20.456.010(B) allows construction of an accessory structure prior to construction of a dwelling on the premises.

However, the free-standing posts on the south portion of the property were positioned within the required corridor preservation setback (CPS). MCC §20.444.020 states:

*“There is hereby established a corridor preservation setback. A corridor preservation setback shall apply to all lots or parcels that abut a publicly maintained street or highway. A corridor preservation setback shall be in addition to front yard setbacks prescribed elsewhere in this Division and shall apply in districts that prescribe no front-yard setback. Corridor preservation setbacks shall be measured perpendicular from the center line of the existing right-of-way of record or, where no recorded right-of-way exists, from the center of the physical road.”*

Further, MCC Section 20.444.015(C) states:

*“If a roadway easement or access easement serves, or has the potential to serve, more than four (4) lots or parcels, said easement shall be considered a street for the purpose of establishing a front-yard setback or corridor preservation setback.”*

Accordingly, Drifters Reef Drive constitutes a local road for the purpose of establishing a CPS. Local roads require a 25-foot CPS, measured in accordance with the provision above. This setback is in addition to the 20-foot front yard setback. Structural development is prohibited in the CPS. However, non-view obscuring fences are allowed in the front yard setback.

The proposed site plan illustrates that the centerline of the 40-foot easement for Drifters Reef Drive corresponds with the southern property line of the subject parcel (see Drifters Reef Tract Map — attached). Accordingly, Condition #9 requires the applicant to submit a revised site plan to demonstrate the fencing and freestanding posts will be positioned outside the required corridor preservation setback (i.e. 25 feet from the centerline of the easement of record for Drifters Reef Drive).

**2. Environmentally Sensitive Habitat Areas:** A Biological Scoping Survey and Reduced Buffer Analysis were prepared for the project by NCRM (dated November 4, 2015). However, pursuant to California Department of Fish & Wildlife protocol, the surveys conducted for the report were not seasonally appropriate. Therefore, a subsequent Biological Report of Compliance and Wetland Delineation dated October 26, 2016 was prepared for the project by Wynn Coastal Planning.

The biological surveys in 2015 and 2016 confirmed the presence of wetland ESHA on the northern portion of the property. Within the boundary of the Coastal Act Wetland, two additional ESHA types were observed: *Carex obnupta* herbaceous alliance (G4 S3) and *Hosackia gracilis* (CNPS rank 4.2). Though *Hosackia gracilis* is CNPS rank 4.2, it will be treated as ESHA as it is believed to be a larval food plant of the Federally Endangered lotis blue butterfly (*Lycaeides argyrognomon ssp. lotis*).

The majority of the parcel is non-native grassland. However, the California Department of Fish and Wildlife considers any plant communities ranked as S3 or lower, such as the *Carex obnupta* alliance, as ESHA. The *Carex obnupta* (Slough sedge swards) herbaceous alliance is ESHA and has been recorded

along the northern coast of California. On this parcel, this alliance is found along the entire length of the northern boundary, extending approximately 29 feet into the parcel along the westerly boundary and 8 feet into the parcel along the easterly boundary. *Carex obnupta* dominates this community (> 70 %) and is considered an obligate wetland plant by the USFWS Wetland Inventory (2016) Other species observed throughout this plant community include *Oenanthe sarmatosa* (water parsley), *Gallium aparine* (common bedstraw), *Carex tumelicola* (foothill sedge), *Symphotrichium chillense* (California aster), *Carex hartfordii* (Hartford's sedge), *Juncus brewerii* (Brewer's rush), *Juncus bufonius* (toad rush) and *Rubus ursinus* (California blackberry).

The project includes a request to reduce the required 100-foot ESHA buffer to 50 feet. CDFW reviewed the biological report and is amenable to the buffer reduction to 50 feet (see emails in file dated December 29, 2016 and May 5, 2017 from CDFW staff). The biological assessment includes a reduced buffer analysis component. Condition #10 requires the incorporation of the recommendations of the Biological Report dated October 26, 2016 into project construction.

**3. Environmental Protection:** The project is Categorically Exempt from the California Environmental Quality Act (CEQA), Class 3, Section 15303(e). This exemption consists of:

***“Accessory (appurtenant) structures including garages, carports, patios, swimming pools and fences.”***

The proposed project is for installation of a fence and free-standing posts only. Therefore, the Class 3 exemption would appropriately apply to this project.

#### **RECOMMENDATION**

By resolution, accept the Categorical Exemption and grant the Coastal Development Permit for the Project, as proposed by the applicant, based on the facts and findings and subject to the conditions of approval.

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DATE

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ROBERT DOSTALEK

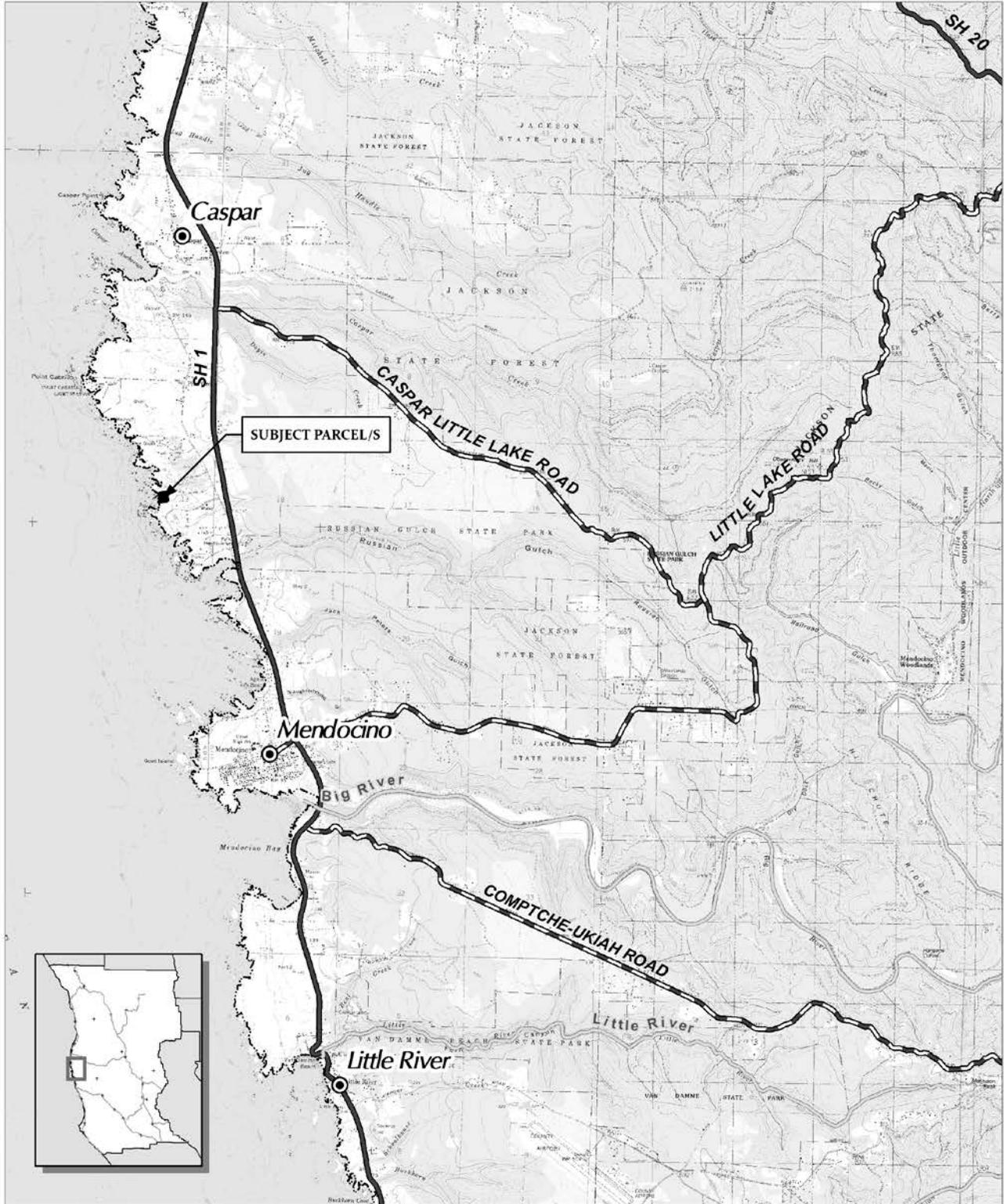
Appeal Period: 10 Days  
Appeal Fee: \$1,616.00

#### **EXHIBIT A: RESOLUTION AND CONDITIONS OF APPROVAL**

#### **EXHIBIT B: STAFF ANALYSIS OF THE EVIDENCE SUPPORTING THE REQUIRED FINDINGS**

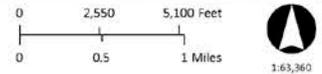
#### **ATTACHMENTS:**

- A. Location Map
- B. Aerial Map
- C. Site Plan
- D. Zoning Display Map
- E. General Plan Designations Map
- F. LCP Land Use Map 15: Caspar
- G. Adjacent Parcels Map
- H. Fire Hazard Zones and Responsibility Areas Map
- I. Drifters Reef Tract Map



CASE: CDP 2015-0031  
 OWNER: BOWEN, Larry & Virginia  
 APN: 118-200-11  
 APLCT: Larry Bowen  
 ADDRESS: 45500 Drifters Reef Dr., ME

-  Major Towns & Places
-  Major Roads
-  Major Rivers
-  Highways



LOCATION MAP

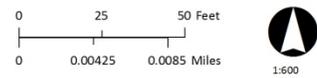
Map produced by the Mendocino County Planning & Building Services, January, 2016  
 All spatial data is approximate. Map provided without warranty of any kind.

ATTACHMENT B



Imagery Date: 8/17/2013 39°20'10.55" N 122°

**CASE: CDP 2015-0031**  
**OWNER: BOWEN, Larry & Virginia**  
**APN: 118-200-11**  
**APLCT: Larry Bowen**  
**ADDRESS: 45500 Drifters Reef Dr., ME**

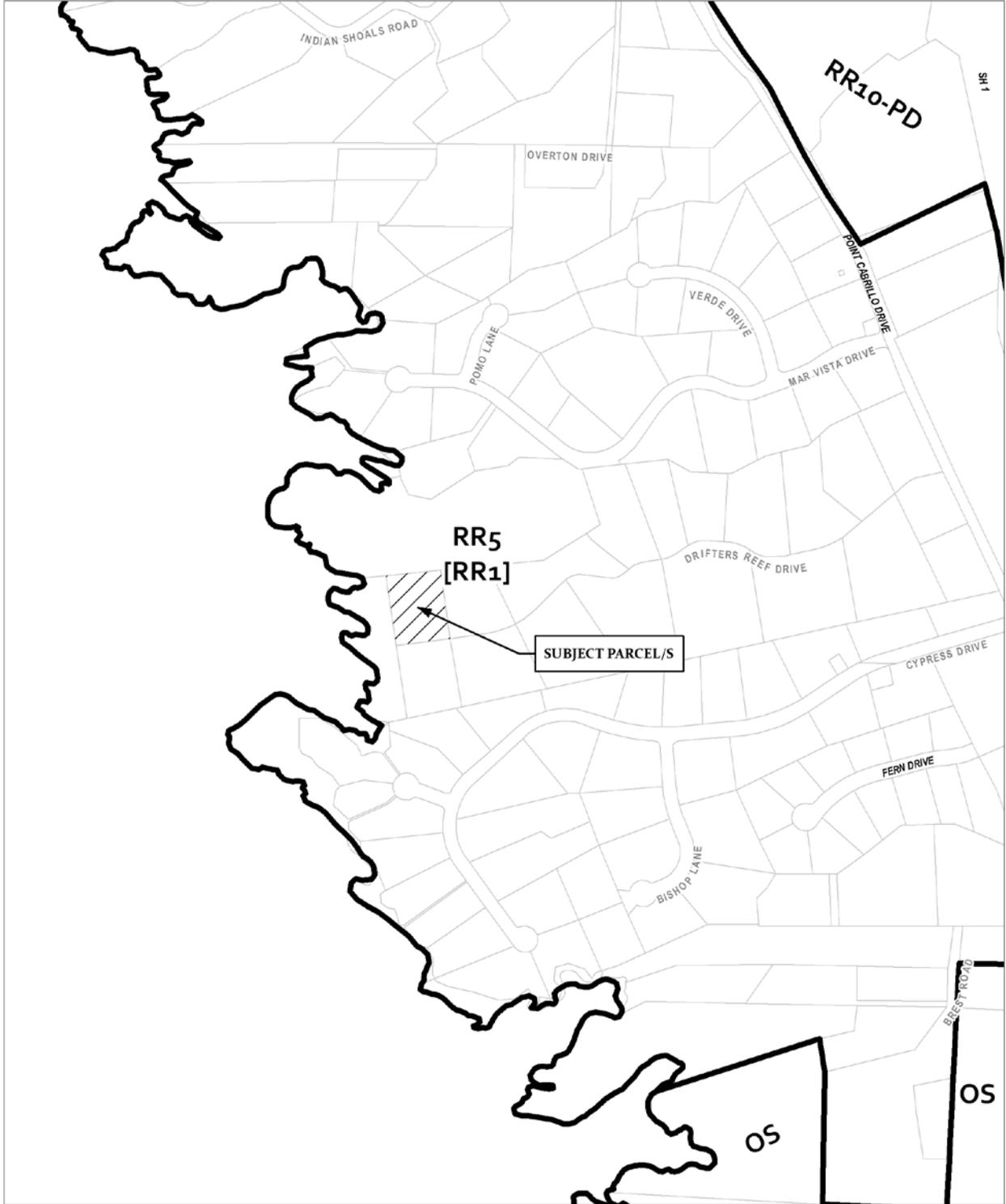


**GOOGLE EARTH IMAGERY**  
IMAGERY DATE: 8-17-2013

Map produced by the Mendocino County Planning & Building Services, January, 2016  
All spatial data is approximate. Map provided without warranty of any kind.



ATTACHMENT D



CASE: CDP 2015-0031  
OWNER: BOWEN, Larry & Virginia  
APN: 118-200-11  
APLCT: Larry Bowen  
ADDRESS: 45500 Drifters Reef Dr., ME

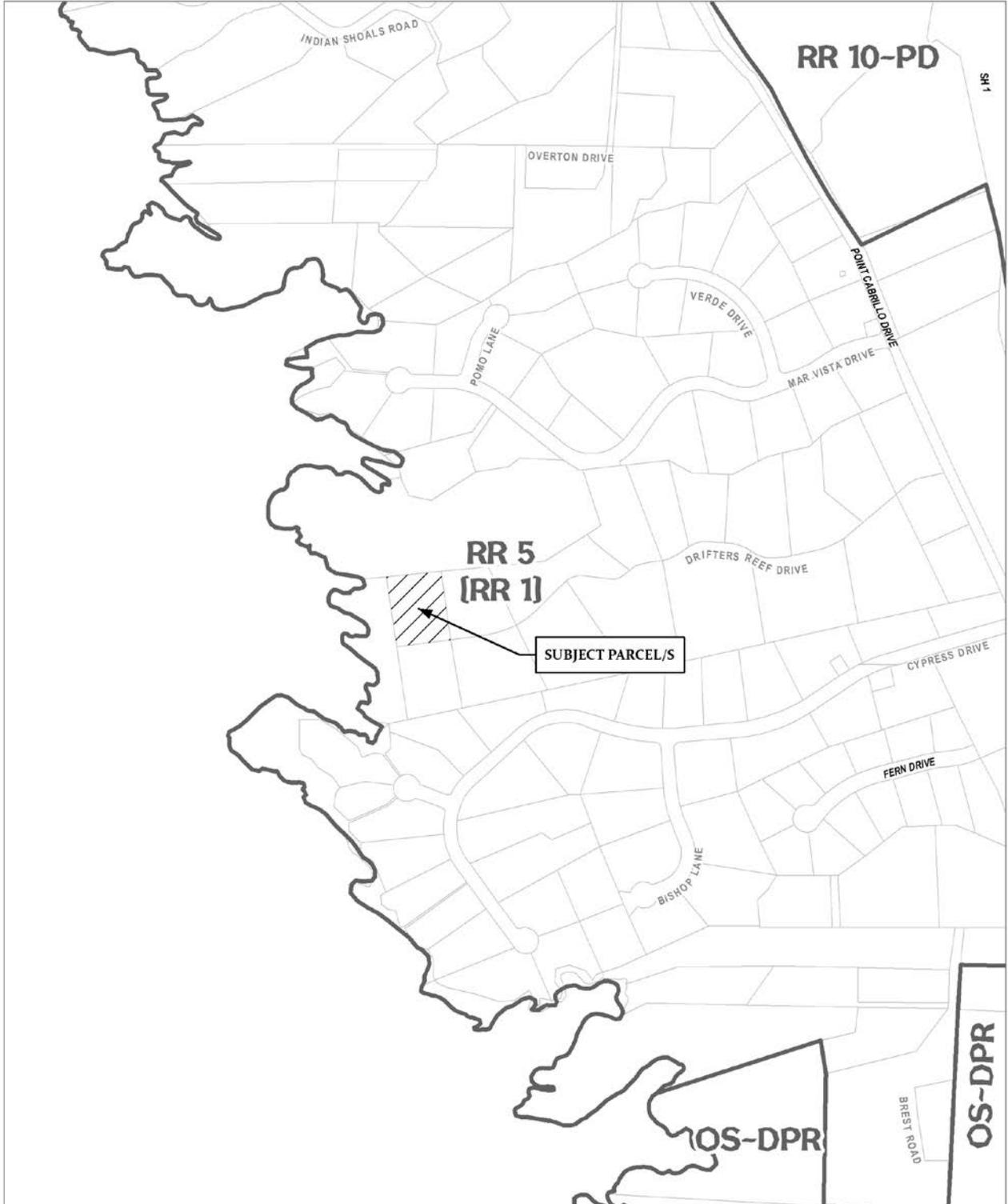
 Zoning Master



ZONING DISPLAY MAP

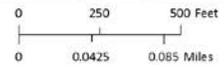
Map produced by the Mendocino County Planning & Building Services, January, 2016  
All spatial data is approximate. Map provided without warranty of any kind.

ATTACHMENT E



CASE: CDP 2015-0031  
OWNER: BOWEN, Larry & Virginia  
APN: 118-200-11  
APLCT: Larry Bowen  
ADDRESS: 45500 Drifters Reef Dr., ME

 General Plan Master

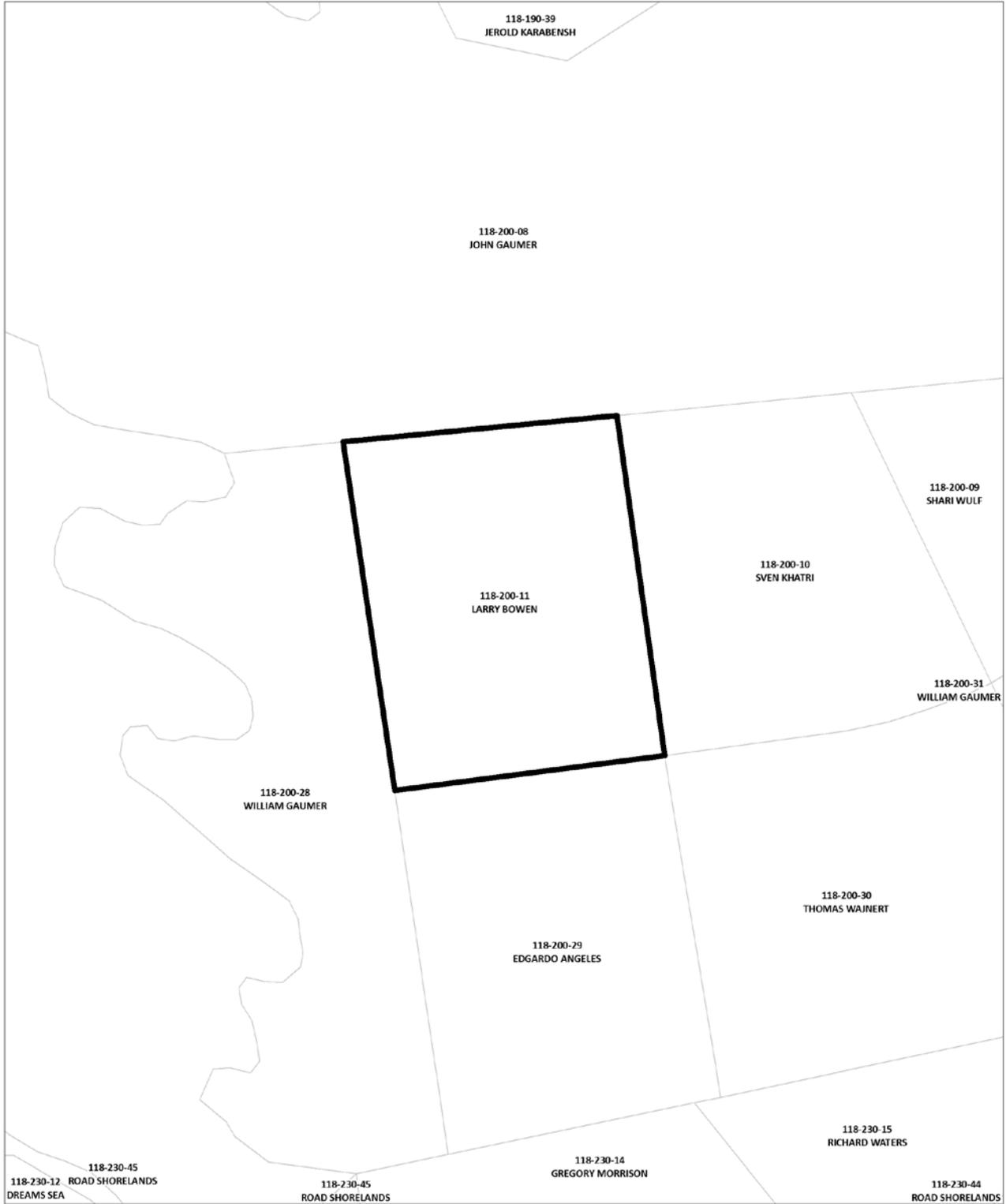


GENERAL PLAN CLASSIFICATIONS

Map produced by the Mendocino County Planning & Building Services, January, 2016  
All spatial data is approximate. Map provided without warranty of any kind.



ATTACHMENT G

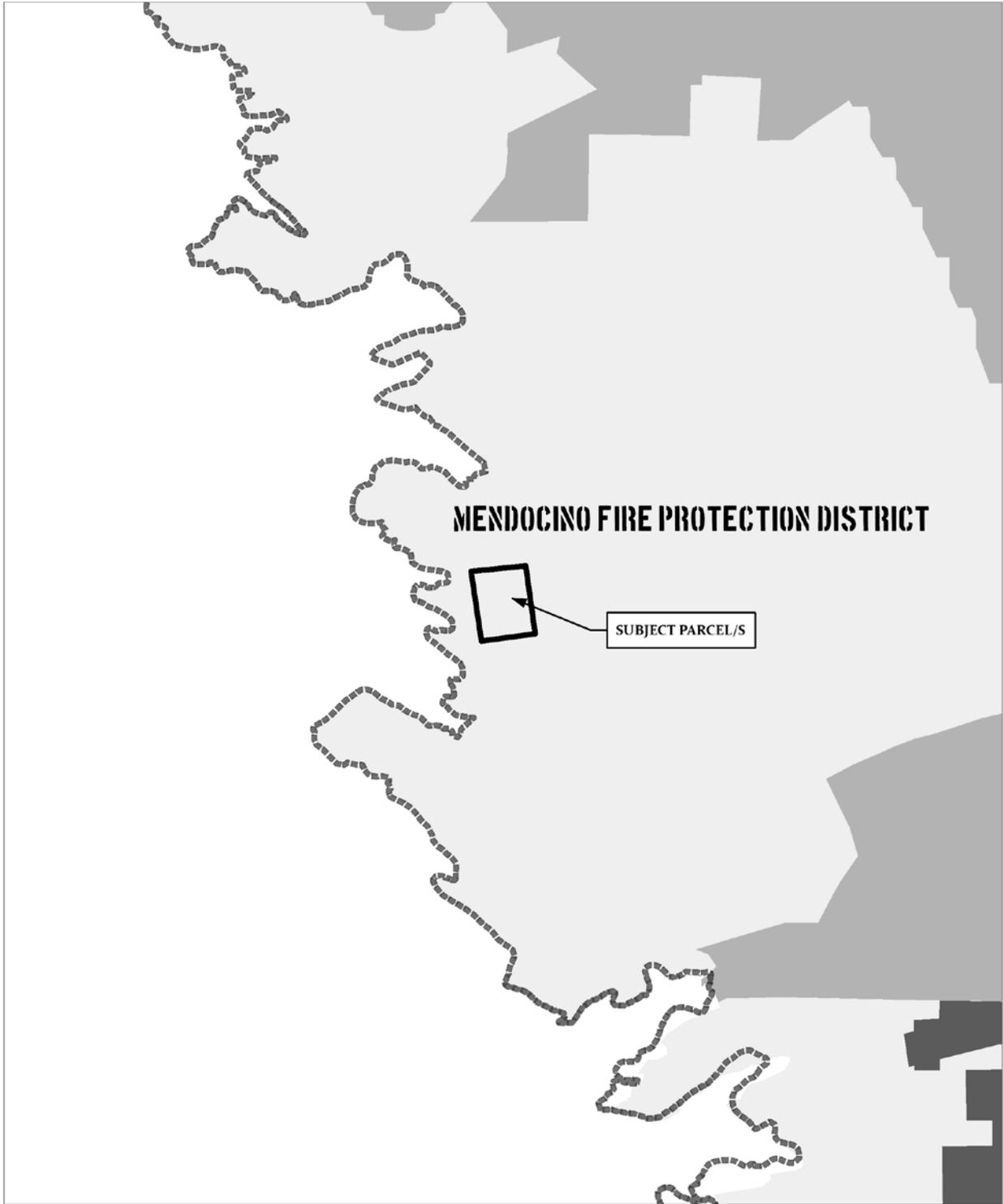


CASE: CDP 2015-0031  
OWNER: BOWEN, Larry & Virginia  
APN: 118-200-11  
APLCT: Larry Bowen  
ADDRESS: 4550 Drifters Reef Dr., ME



ADJACENT PARCELS

Map produced by the Mendocino County Planning & Building Services, January, 2016  
All spatial data is approximate. Map provided without warranty of any kind.



CASE: CDP 2015-0031  
OWNER: BOWEN, Larry & Virginia  
APN: 118-200-11  
APLCT: Larry Bowen  
ADDRESS: 45500 Drifters Reef Dr., ME

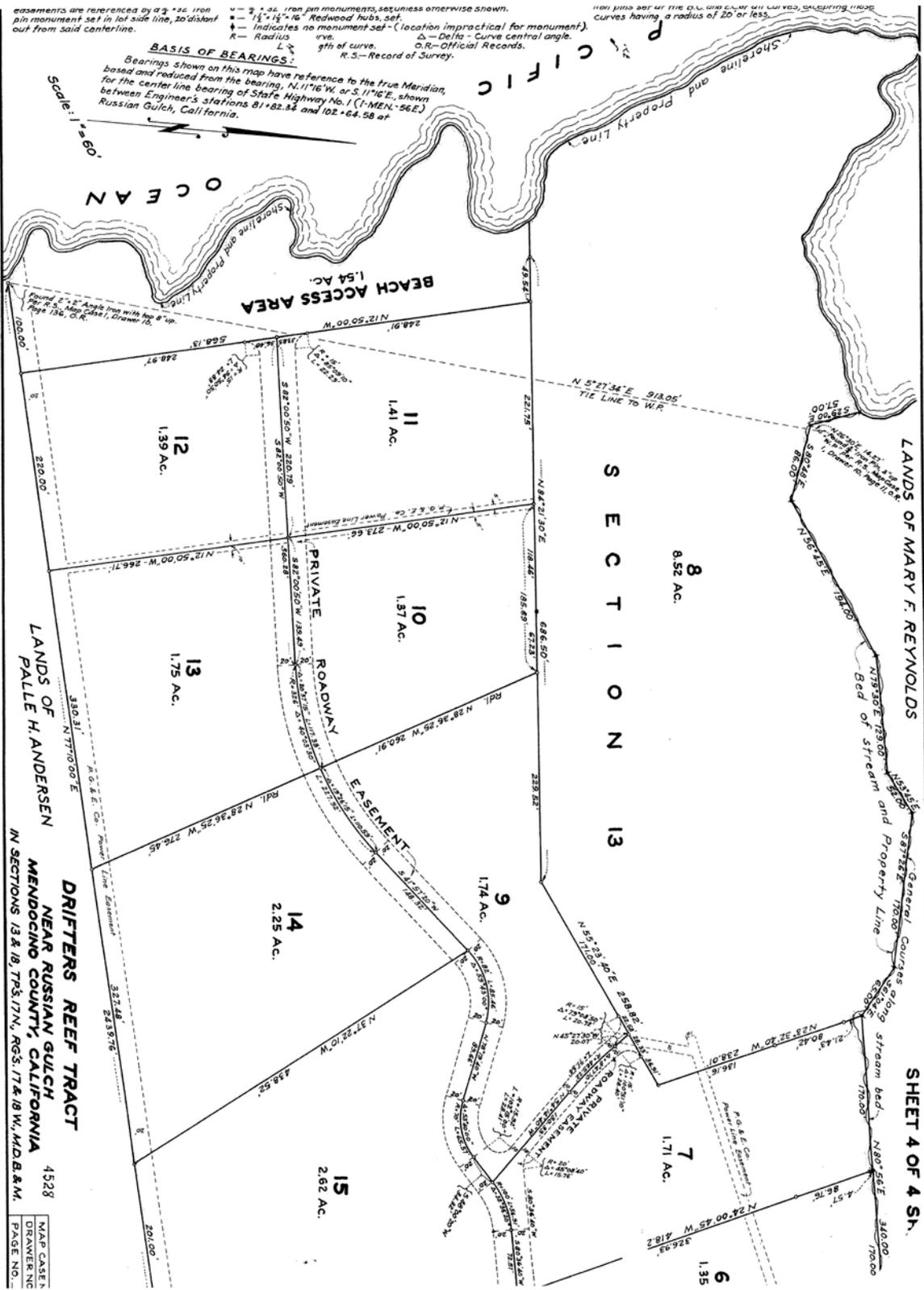
 County Fire Districts  
 Very High Fire Hazard  
 High Fire Hazard

 Moderate Fire Hazard

0 250 500 Feet  
0 0.0425 0.085 Miles



FIRE HAZARD ZONES & RESPONSIBILITY AREAS  
STATE RESPONSIBILITY AREA



Resolution Number \_\_\_\_\_

County of Mendocino  
Ukiah, California

CDP 2015-00031 (Bowen)

RESOLUTION OF THE COASTAL PERMIT ADMINISTRATOR, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, FINDING THE PROJECT CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND GRANTING A COASTAL DEVELOPMENT PERMIT FOR FENCING AND FREESTANDING POSTS.

WHEREAS, the applicant, Larry and Virginia Bowen, filed an application for a standard Coastal Development Permit with the Mendocino County Department of Planning and Building Services to authorize installation of fencing and free-standing posts. In the Coastal Zone, 2± miles north of the Town of Mendocino, lying on the north side of Drifters Reef Drive (private road), approximately 1/2-mile west of its intersection with Point Cabrillo Drive at 45500 Drifters Reef Drive, Mendocino (APN:118-200-11); RR5(1) General Plan classification; RR:5 Zoning; Supervisorial District 4; (the "Project"); and

Whereas, pursuant to the California Environmental Quality Act of 1970, and State and County Guidelines thereto, this project has been found to be Categorically Exempt from environmental review; and

WHEREAS, in accordance with applicable provisions of law, the Coastal Permit Administrator held a public hearing on, July 26, 2017, at which time the Coastal Permit Administrator heard and received all relevant testimony and evidence presented orally or in writing regarding the Categorical Exemption and the Project. All interested persons were given an opportunity to hear and be heard regarding the Categorical Exemption and the Project; and

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

NOW, THEREFORE, BE IT RESOLVED, that based on the evidence and analysis in Exhibit B of the Coastal Permit Administrator Staff Report attached hereto, the Coastal Permit Administrator makes the following findings;

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment, and meets the criteria for a Categorical Exemption pursuant to Section 15303(e) of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and

6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development; and

**ADDITIONAL FINDING FOR DEVELOPMENT LOCATED BETWEEN THE FIRST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER:**

7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

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

BE IT FURTHER RESOLVED that the Coastal Permit Administrator designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the 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 Coastal Permit Administrator action shall be final on the 11<sup>th</sup> 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: VICTORIA DAVIS  
Commission Services Supervisor

By: \_\_\_\_\_

BY: IGNACIO GONZALEZ  
Interim Director

MARY LYNN HUNT  
Coastal Permit Administrator

\_\_\_\_\_

\_\_\_\_\_

**CONDITIONS OF APPROVAL:**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - a. The permit was obtained or extended by fraud.
  - b. One or more of the conditions upon which the permit was granted have been violated.
  - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. 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.
8. 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 one hundred (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.

**SPECIAL CONDITIONS:**

9. Prior to issuance of a Coastal Development Permit, the applicant shall submit a revised site plan which illustrates and/or identifies the following:
  - A. The centerline of the existing roadway easement for Drifters Reef Drive.
  - B. The extent of the corridor preservation setback which extends 25 feet north of the centerline of the roadway easement for Drifters Reef Drive.
  - C. The new location of the freestanding posts and fence to be positioned outside the 25-foot corridor preservation setback.

The relocation of the freestanding posts and fencing positioned within the corridor preservation setback shall be removed or relocated prior to commencement or installation of any new freestanding posts or fencing. The relocation or removal shall occur no later than ninety (90) days following Coastal Development Permit issuance. Should the applicant fail to secure an issued Coastal Development Permit within ninety (90) days following the Coastal Permit Administrator's decision, the case shall be referred back to Code Enforcement for elevated enforcement procedures.

10. Construction/installation and ongoing maintenance of the fencing and freestanding posts shall adhere to all recommended avoidance and protective measures contained on page 24 of the Biological Report of Compliance and Wetland Delineation prepared by Wynn Coastal Planning dated October 26, 2016. Prior to installing or repositioning any new freestanding posts or fencing, the portion of fencing on which extends into the delineated 50-foot ESHA buffer shall be removed.
11. Prior to issuance of a Coastal Development Permit, a Final Landscaping Plan shall be submitted to the Department of Planning and Building Services. Said plan shall be subject to review and approval by the Coastal Permit Administrator and the California Department of Fish and Wildlife. The Final Landscaping Plan shall consist of locally-sourced native plant species compatible with adjacent plant communities and shall not include any invasive plants.
12. The 50-foot buffer established for the three identified EHSAs on the property (Coastal wetland, *Hosakia gracilis* and *Carex obnupta*) shall remain in a natural and undisturbed state. Mowing, trimming, removal of vegetation and/or soil disturbance within the delineated 50-foot ESHA buffers shall be prohibited. Maintenance, pruning and replacement of approved landscaping within the 50-foot buffer shall be permissible.

### STAFF ANALYSIS OF THE EVIDENCE SUPPORTING REQUIRED FINDINGS

**Required Findings:** To approve this project, the Coastal Administrator must determine that the applicants submitted evidence in support of making required findings 1 through 7 in the analysis below:

**Finding 1: The proposed development is in conformity with the certified Local Coastal Program.**

The Local Coastal Program sets goals and policies for managing resource protection and development activity in the Coastal Zone of Mendocino County, an area that extends from the Humboldt County line to the Gualala River. The Local Coastal Program addresses topics such as shoreline access and public trails; development in scenic areas, hazardous areas, and coastal bluff tops; environmentally sensitive habitat areas; cultural resources; transportation; public services; and more. The Local Coastal Program serves as an element of the General Plan and includes Division II of Title 20 of the Mendocino County Code (MCC), and its policies must be consistent with the goals of the California Coastal Act.

Various aspects of the Local Coastal Program are specifically addressed by separate Required and Supplemental Findings for Coastal Development Permits, including utilities, transportation, zoning, CEQA, archaeological resources, public services, coastal access, and resource protection. The following is a discussion of elements of the Local Coastal Program not specifically addressed elsewhere in this checklist.

**General Plan Land Use – Rural Residential:** The subject parcel is classified Rural Residential, which is intended to encourage local small scale food production (farming) in areas which are not well suited for large scale commercial agriculture, defined by present or potential use, location, mini-climate, slope, exposure, etc. The Rural Residential classification is not intended to be a growth area and residences should be located as to create minimal impact on agricultural viability (Chapter 2.2 of the County of Mendocino General Plan Coastal Element).

The subject parcel is positioned within the Drifters Reef Subdivision and is poised for future residential development as it is improved with an existing well and curtain drain. The proposed project is therefore consistent with the Rural Residential land use classification of the Coastal Element of the Mendocino County General Plan.

**Public Access:** See discussion in Finding 7 below.

**Hazards:** The proposed development would be located on slopes which are less than 20% and the development does not present any issues relative to erosion and/or slope failure. There are no known faults, landslides or other geologic hazards in close proximity to the proposed development. A project referral was sent to CalFire and a “no comment” response was received on April 6, 2016.

**Visual Resources:** Coastal Element Policy 3.5-1 of the Mendocino County General Plan states:

*“State Highway 1 in rural areas of the Mendocino County coastal zone shall remain a scenic two-lane road.*

*The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.”*

The project site is not located in a designated Highly Scenic Area or prominently visible from public view areas. Adjacent parcels to the east and southeast are residentially developed. As such, the proposed 3-4 foot high, natural redwood and cedar perimeter fencing and free-standing posts would not adversely affect visual resources.

Natural Resources: A Biological Scoping Survey and Reduced Buffer Analysis were prepared for the project by NCRM (dated November 4, 2015). However, pursuant to California Department of Fish & Wildlife protocol, the surveys conducted for the report were not seasonally appropriate. Therefore, a subsequent Biological Report of Compliance and Wetland Delineation dated October 26, 2016 were prepared for the project by Wynn Coastal Planning.

The biological surveys in 2015 and 2016 confirmed the presence of wetland elements considered to be ESHAs per the Mendocino County Local Coastal Program on the northern portion of the property. Within the boundary of the Coastal Act Wetland, two additional ESHA types were observed: *Carex obnupta* herbaceous alliance (G4 S3) and *Hosackia gracilis* (CNPS rank 4.2). Though *Hosackia gracilis* is CNPS rank 4.2, it will be treated as ESHA as it is believed to be a larval food plant of the Federally Endangered lotis blue butterfly (*Lycaeides argyrognomon ssp. lotis*).

The majority of the parcel is non-native grassland. However, the California Department of Fish and Wildlife considers any plant communities ranked as S3 or lower, such as the *Carex obnupta* alliance, as ESHA. The *Carex obnupta* (Slough sedge swards) herbaceous alliance is ESHA and has been recorded along the northern coast of California. On this parcel, this alliance is found along the entire length of the northern boundary, extending approximately 29 feet into the parcel along the westerly boundary and 8 feet into the parcel along the easterly boundary. *Carex obnupta* dominates this community (> 70 %) and is considered an obligate wetland plant by the USFWS Wetland Inventory (2016) Other species observed throughout this plant community include *Oenanthe sarmatosa* (water parsley), *Gallium aparine* (common bedstraw), *Carex tumelicola* (foothill sedge), *Symphotrichium chillense* (California aster), *Carex hartfordii* (Hartford's sedge), *Juncus brewerii* (Brewer's rush), *Juncus bufonius* (toad rush) and *Rubus ursinus* (California blackberry).

The project includes a request to reduce the required 100-foot ESHA buffer to 50 feet for the above identified resources (the biological assessment includes a reduced buffer analysis component). Staff referred the project to the California Department of Fish and Wildlife (CDFW). CDFW reviewed the biological report and is amenable to the buffer reduction to 50 feet (see emails in file dated December 29, 2016 and May 5, 2017 from CDFW staff). Condition #10 is recommended to require the incorporation of the Biological Report recommendations, dated October 26, 2016, into project construction.

Groundwater Resources: The proposed perimeter fencing and free-standing posts are not a type of development which would require water service. However, an existing well is situated on the northern third of the parcel which was authorized by Categorical Exclusion #35-93 and Environmental Health well permit #7394-F.

**Finding 2: The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities.**

The parcel is located in the Drifters Reef Tract subdivision which was recorded with the County Recorder on June 11, 1959. The project site is developed with an existing well and curtain drain to facilitate a future on-site wastewater disposal system. Drifters Reef Drive provides vehicular access to the parcel and electricity has been extended to adjacent parcels in the subdivision.

However, the proposed development is for fencing and freestanding posts only — which would not place significant demand on utilities, roads, drainage or other utilities. Therefore, this finding can be made.

**Finding 3: The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district.**

The subject parcel is zoned Rural Residential, 5-acre minimum (RR:L-5) as depicted on the attached zoning display map. A Coastal Development Permit Exclusion #CE 35-93 was approved on November 1, 1993 which authorized development of a single-family residence, a well, septic system and curtain drain. Following the approval of #CE 25-93, the well and curtain drain were installed on the property. The

Categorical Exclusion (#CE 25-93) expired on November 1, 1996, and to date, a single family residence and septic system have not been constructed.

On July 16, 2015 a Zoning Violation case (#ZC 2015-0018) was opened on the property for the installation of fencing and grading without benefit of a Coastal Development Permit. The applicant now pursues validation of the development to rectify the violation. The proposal also includes additional fencing and freestanding post installation to that identified in the violation case. Mendocino County Code (MCC) §20.456.010(B) allows construction of an accessory structure prior to construction of a dwelling on the premises.

MCC §20.444.015(E) provides general provisions for height, type and location of fencing — it states:

*“Fences in rear or side yards not having street frontage may not exceed eight (8) feet (Fences over six feet require building permits). Fences and hedges in front yards and any rear or side yards having street frontage, where vehicle access is maintained, may not exceed three and one-half (3½) feet. The above fence height limitations shall apply to view obstructing fences such as board fences and picket fences. Fences for the containment of animals, such as barbed wire, chicken wire, hog wire, and similar loose-meshed wire fences or non-view-obscuring fences such as cyclone fences shall not be subject to the above fence height restrictions.”*

The provided site plan incorrectly illustrates the southernmost extent of the proposed 3-foot tall fencing (along the east property line) as being positioned 27 feet north of the south property line. Photo documentation from the violation case and page 25 of the biological report shows the existing fencing extending to, or nearly to, the southern property boundary. Neither the fence nor the freestanding posts would be view obstructing. Therefore, as it relates to height and location, the proposed structures would comply with the general fence provision above. However, the fence and free-standing posts on the south portion of the property were positioned within the required corridor preservation setback (CPS). MCC §20.444.020 states:

*“There is hereby established a corridor preservation setback. A corridor preservation setback shall apply to all lots or parcels that abut a publicly maintained street or highway. A corridor preservation setback shall be in addition to front yard setbacks prescribed elsewhere in this Division and shall apply in districts that prescribe no front-yard setback. Corridor preservation setbacks shall be measured perpendicular from the center line of the existing right-of-way of record or, where no recorded right-of-way exists, from the center of the physical road.”*

Further, MCC Section 20.444.015(C) states:

*“If a roadway easement or access easement serves, or has the potential to serve, more than four (4) lots or parcels, said easement shall be considered a street for the purpose of establishing a front-yard setback or corridor preservation setback.”*

Accordingly, Drifters Reef Drive constitutes a local road for the purpose of establishing a CPS. Local roads require a 25-foot CPS, measured in accordance with the provision above. This setback is in addition to the 20-foot front yard setback. Structural development is prohibited in the CPS.

The centerline of the easement for Drifters Reef Drive corresponds with the southern property boundary of the subject parcel. Accordingly, Condition #9 requires the applicant to submit a revised site plan to demonstrate the fencing and posts will be positioned outside the required corridor preservation setback.

Otherwise, the project would be consistent with the purpose and intent of the RR:L-5 zone district and all other provisions of Division II of Title 20 of the MCC.

**Finding 4: The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment, and meets the criteria for Categorical Exemption Class 3 within the meaning of the California Environmental Quality Act (CEQA).**

The proposed project is found Categorically Exempt from CEQA pursuant to Section 15303(e) [Class 3]. Class 3 consists of construction and location of limited numbers of new, small facilities or structures — including accessory structures such as fences.

**Finding 5: The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.**

For small development projects such as remodels, additions and small outbuildings (i.e. projects with minimal earthwork), Mendocino County Department of Planning and Building Services (PBS) procedure is to not refer these types of projects to either California Historic Resource Information System (CHRIS) or the Mendocino County Archaeological Commission. PBS procedure (as detailed in a staff memorandum) was reviewed by the Mendocino County Archaeological Commission in 2005 and again in 2014 and was determined to be an appropriate guidance document for what projects should require archaeological review. The proposed project consists of fencing and free-standing posts that are placed directly into the ground, without a permanent foundation. County staff determined that due to the small scale of the proposed development and nominal ground disturbance, no archaeological review would be required.

At such time more substantial development and earthwork is proposed for the parcel (e.g., a single family residence), an archaeological survey may be required as a component of the project analysis. Notwithstanding, Standard Condition Number 8 is recommended, advising the applicant of the requirements of the County's Archaeological Ordinance (Chapter 22.12 of the Mendocino County Code) in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

**Finding 6: Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.**

The parcel is accessed by, and near the terminus of, Drifters Reef Drive — a private road. The proposed development is for perimeter fencing and free-standing posts only. According to the applicant, an objective of the fencing and posts is to deter vehicular trespass from occurring on the subject parcel.

The scope of development, as described immediately above, would not require or place demand on any public service, including: water, sewer, solid waste, police and fire protection or roadways. Therefore this finding can be made.

**Finding 7: The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.**

The applicant has indicated the purpose of the proposed project is to deter purported pedestrian and vehicular trespass on the subject parcel. The subject parcel is located in the Jug Handle Creek to Russian Gulch Planning Area per the Coastal Element of the General Plan. Pages 177 and 178 of the Coastal Element of the General Plan provide analysis and policies for the Jug Handle Creek to Russian Gulch Planning Area. Specifically, the Russian Gulch Headlands Area subheading includes the following commentary:

*“Several property owners have been required to make access offers of dedication as a condition of permit approval. Offers by Bower, Kibbee, Ferrero and Barham have been recorded; agreements with Powers, Hansen, Davies and Bergin have not yet been signed and recorded. The Land Use Plan recommends that all offers of dedication be relinquished. The area between Indian Shoals Subdivision and Russian Gulch State Park*

*will not be needed for a blufftop trail; the bluffs themselves are fragile and a trail could not be completed using dedication offers because key parcels have been developed without dedication offers.”*

Further, Policy 4.6-12 of the Coastal Element states:

*“All offers of dedication which have been recorded for public access required as a condition of permit approval within the Russian Gulch Headlands area shall be relinquished finding that there is sufficient access at Caspar Cove and Russian Gulch and that access has been requested at Point Cabrillo. The area between Point Cabrillo and Russian Gulch is already parcelled out into several subdivisions and partially developed. Public testimony has established the fragility of the area.”*

Pursuant to the above discussion, the proposed project would not adversely affect coastal access. Therefore, this finding can be made.