

August 10, 2017

Nash Gonzalez, Coastal Permit Administrator Mendocino County Planning & Building Services 860 North Bush Street Ukiah, CA 95482

RE: Bowen CDP # 2015-31 45500 Drifters Reef Drive Mendocino, CA 95460 APN 118-200-11

Dear Nash,

We look forward to your continued review of this proposed project as our Coastal Permit Administrator on August 24, 2017.

I am writing in response to the staff report written by Mendocino County Planner, Robert Dostalek, regarding application for CDP #2015-31, at the address noted above in the private subdivision of Drifters Reef.

#### 1. SURROUNDING LAND USE TABLE:

One correction that we would like to point out again is on Page 2 of the Staff Report, in the Surrounding Land Use and Zoning Table. The Table erroneously notes that the Use west of the subject parcel is Residential; it is not. The use is <u>Vacant</u>; specifically, the parcel west of the subject parcel is a "Beach Access Area" parcel, jointly owned by all property owners in the Drifters Reef subdivision (**Exhibit 1**). This is essential information, as you saw in our discussion pertinent to the imposition of a Corridor Preservation Setback on the proposed project.

#### 2. SPECIAL CONDITION #11 (Landscaping)

Please note that we have already Satisfied this Condition of Approval, by submittal of our Landscape Plan that was included in our March 20, 2017 submittal to the County, which was copied to Coastal Commission Coastal Analyst, Tamara Gedik and California Department of Fish and Wildlife Senior Environmental Scientist (addressing their specific expressed concerns, for which we negotiated the resulting species list and planting locations). The Landscaping was included in our Site Plan and Narrative; for clarity's sake, we submit to you the same plan as Sheet 2 of the set, now entitled "Landscaping Plan" (Exhibit 2).

Please also note that the heights of the species conform to the 3' maximum height restriction in the View Easement that is recorded on the Bowen parcel for the benefit of APN 118-200-10 (**Exhibit 3**).

#### 3. SPECIAL CONDITION # 12 (Mowing within ESHA and ESHA Buffer):

We once again respectfully suggest that there is no reason to prohibit all mowing within the Coastal Act Wetland ESHA buffer and the *Hosackia gracilis* ESHA on this property. First, mowing is not considered development. As stated in our July 20, 2017 submittal, mowing increases the health and protection of the ESHA in question. Wynn Coastal Planning Biologist, Bethany Baibak, thoroughly addresses this topic and concludes that

the historical mowing that occurs on the Bowen property does not adversely affect the identified ESHAs and buffer (**Exhibit 4**).

Therefore, we respectfully suggest that Special Condition #12 be amended to read:

"The 50-foot buffer established for the three identified ESHAs on the property (Coastal wetland, Hosakia gracilis and Carex obnupta) shall remain in a natural and undisturbed state <u>during the blooming season</u>. Mowing, trimming, removal of vegetation and/or soil disturbance with in the delineated 50-foot ESHA buffers shall be prohibited <u>during the blooming season</u>."

Wynn Coastal Planning Biologist, Bethany Baibak, has negotiated a 5-year Mowing Monitoring Plan for the *Hosackia gracilis* (**Exhibit 5**) with California Fish & Wildlife, with feedback from US Fish and Wildlife has been reviewed and accepted by California Department of Fish and Wildlife (**Exhibits 6 & 7**).

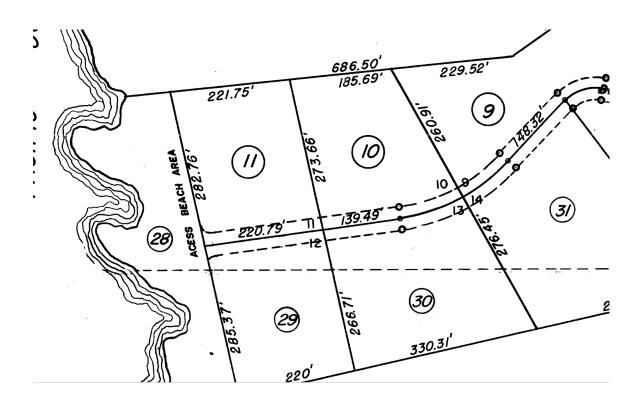
I will note that we have not concluded our review of the most recent staff report, but were anxious to provide you with the monitoring plan resulting from CDFW input and approval.

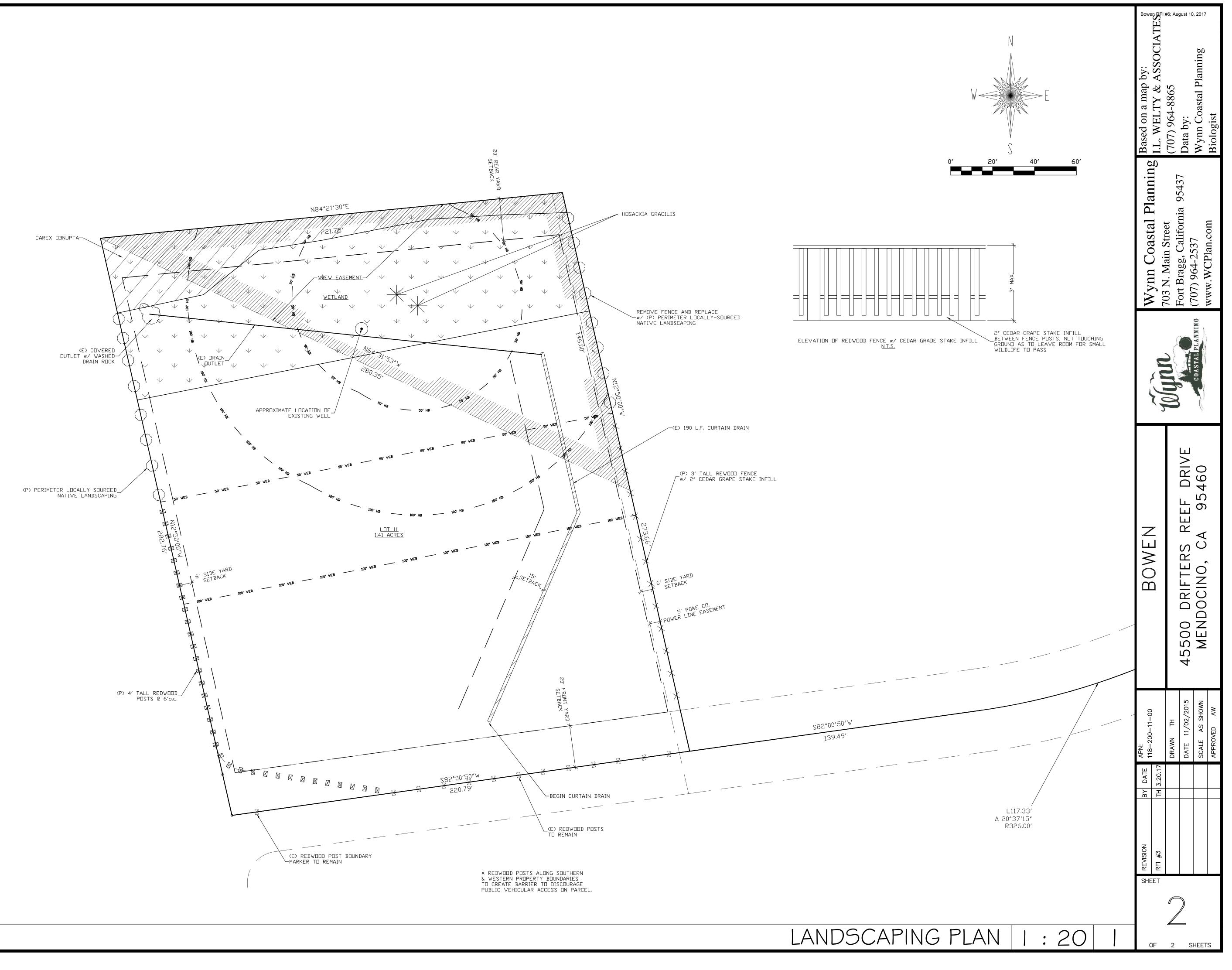
Please let me know if you have any questions or comments.

All the best,

Blair Foster, Planner







LEGEND:	
50' WEB	
100' WEB	
50' HB	—— 50′ HOSACKIA BUFFER
—— 100′ НВ	100′ HOSACKIA BUFFER
COASTAL ACT WETLAND	
CAREX DBNUPTA	
HOSACKIA GRACILIS	

Bowen RFI #6; August 10, 2017

AND WHEN RECORDED MAIL TO:

**ROSARIO R. AND CAROL MATTESSICH** 

**Redwood Empire Title Company of Mendocino** 

**RECORDING REQUESTED BY** 

MAIL TAX STATEMENTS

**ATNONY CHARLES** 

**HOBOKEN, NJ 07030** 

County



2004-21881 Recorded at the request of REDWOOD EMPIRE TITLE 09/27/2004 02:11P Fee: 16.00 No of Pages: 4

OFFICIAL RECORDS Marsha A Wharff, Clerk-Recorder Mendocino County, CA

ORDER NO.: 3202577-CW

333 RIVER STREET APT. 1012

## **GRANT DEED**

\$20.00

PAID

PCO

F ILED Exempt

THE UNDERSIGNED GRANTOR(s) DECLARE(s) **unincorporated** area THE city of

Documentary Transfer Tax is \$1.485.00 County D computed on full value of interest or property conveyed, or □ full value less value of liens or encumbrances remaining at the time of sale

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Parcel No. 118-200-10

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

LARRY T. BOWEN and VIRGINIA L. BOWEN, as Trustees of the Bowen Family Revocable Trust of July 10, 2001

hereby GRANT(s) to

ANTONY CHARLES, an unmarried man as to an undivided 50% interest and

ROSARIOR. MATTESSICH and CAROL MATTESSICH, husband and wife, as community property with rights of survivorship as to an undivided 50% interest

the following real property in the unincorporated area, County of Mendocino, State of California:

See Exhibit A attached hereto and made a part hereof.

The view easement described in Parcel Two herein is granted and accepted upon the terms and conditions contained in Exhibit B attached hereto and made a part hereof.

Dated: September 16, 2004

Inister

, before me.

Larry T. Bowen, Trustee of the Bowen Family Revocable Trust of July 10, 2001

Virginia E. Bowen, Trustee of the Bowen Family Revocable Trust of July 10, 2001

STATE OF CALIFORNIA } ss: COUNTY OF MENDOCINO

On <u>September 17, 20</u>04

Cherryl L. West

a Notary Public in and for said County and State, personally appeared Larry T. Bowen and Virginia L. Bowen

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

WITNESS my hand and official seal. Chench & West Signature

FOR NOTARY SEAL OR STAMP



Grntdepl

## Exhibit A

## **PARCEL ONE:**

Lot 10 of Drifters Reef Tract, as per map filed June 16, 1959, Map Case 2, Drawer 1, Page 12, Mendocino County Records.

APN: 118-200-10

**PARCEL TWO:** 

A view easement over that portion of Lot 11, of Drifter's Reef Subdivision, as shown and delineated on that certain Subdivision Map filed for record in Map Case 2, Drawer 1, Page 12, Official Records of the County of Mendocino, being a portion of Section 13, Township 17 North, Range 18 West, Mount Diablo Base and Meridian, described as follows:

Beginning at the Northwest corner of said Lot 11; thence from said point of beginning, North 84° 21' 30" East, along the North boundary of said Lot 11, a distance of 221.75 feet to the Northeast corner thereof; thence South 12° 50' 00" East, along the East boundary of said Lot 11, a distance of 146.00 feet; thence North 64° 31' 53" West, 280.35 feet to the point of beginning.

The above easement is an appurtenance to Lot 10 of the said Drifters Reef Subdivision.

## **PARCEL THREE:**

An undivided 1/20 interest in the "Beach Access Area" as designated on the map filed in Map Case 2, Drawer 1, Page 12.

APN: 118-200-28



## Exhibit B

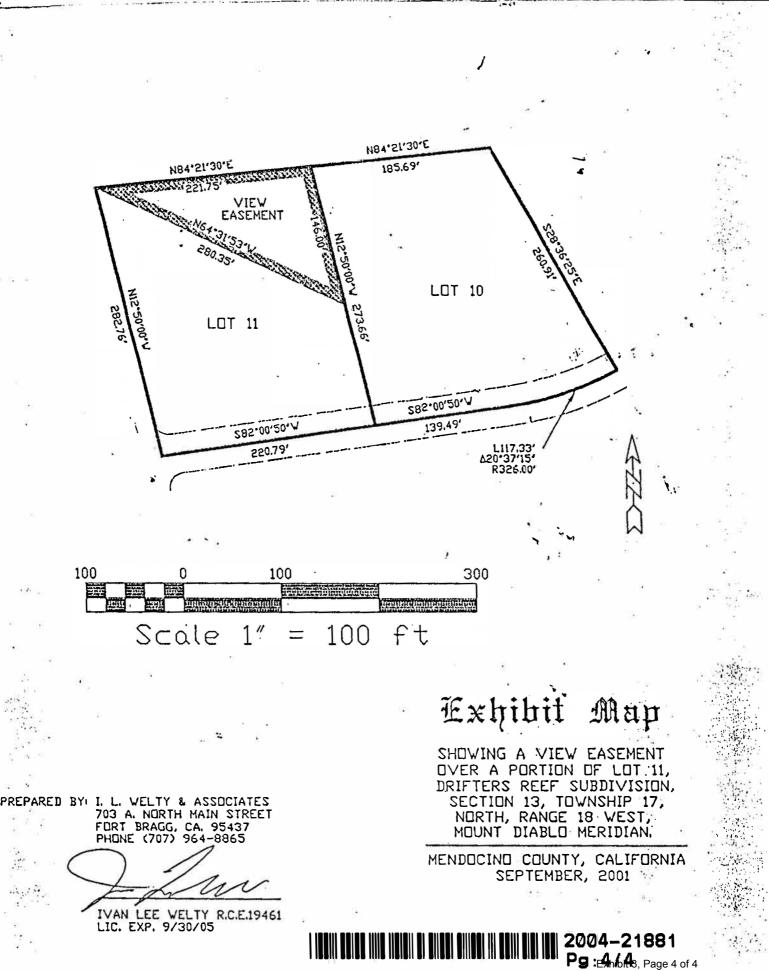
## VIEW EASEMENT

Grantee shall have a view easement as described in Parcel Two in Exhibit A, over that portion of Lot 11 depicted on the "Exhibit Map" attached hereto and made a part hereof by reference.

Grantee and their successors in interest shall have the perpetual right to enjoy the unobstructed view over the specified area of Lot 11, and Grantor, or their successors in interest, as the owners of Lot 11, shall limit any and all structures, fences, shrubs, vegetation and any other object on or over the view easement areas to a height of not more than three (3) feet above the natural grade as it exists as of the granting of this view easement.

Any obstruction of this view easement shall be removed upon demand of the Grantee at the expense of Grantor. Grantee shall have the right to injunctive relief by a court of competent jurisdiction if Grantor does not remove any obstruction of Grantee's view as defined herein within thirty (30) days after Grantee demands that it be removed. If a court action is commenced concerning the terms of this view easement, the prevailing party shall be entitled to reasonable attorney's fees and costs.

# 2004-21881 Pg:3/4





July 19, 2017

Nash Gonzalez, Coastal Permit Administrator Mendocino County Planning & Building Services 860 North Bush Street Ukiah, CA 95482

RE: CDP #2015-31 (Bowen) Response to Staff Report, Special Condition #12 45500 Drifters Reef Road Mendocino CA 95460 APN 118-200-11-00

Dear Mr. Gonzalez,

I am writing on behalf of Mr. And Mrs. Bowen, the owners of the vacant lot at the end of Drifters Reef road, specifically in response to SPECIAL CONDITION #12 of the Staff Report for CDP #2015-31 which reads:

"The 50-foot buffer established for the three identified Environmentally Sensitive Habitat Areas (ESHAs) on the property (Coastal Act Wetland, *Hosackia 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. "

As I described in our <u>Biological Report of Compliance & Wetland Delineation</u>, dated October 26, 2016, this parcel has two distinct plant communities (**Exhibit 1**):

- 1. Carex obnupta herbaceous alliance (G4 S3) ESHA
- 2. Holcus lanatus Anthoxanthum odoratum semi-natural herbaceous stand not ESHA

During our 2016 surveys, hydric soil indicators and dominant hydrophytic plants were found within Plant Community #1, which qualified this entire plant community as a two-parameter Coastal Act Wetland (**Exhibit 2**). No soil or vegetation disturbance is proposed within Plant Community #1.

Hydric soil indicators were also found in the northern portion of Plant Community #2. However, no hydrology or dominant hydrophytic plants were found anywhere in Plant Community #2. Plant Community #2 has a long history of mowing dating back to at least 1978. The landowners would like to maintain the historical mowing patterns in this plant community.

It is my professional opinion that maintaining the historical mowing patterns will have no adverse effect to the ESHAs identified and halting mowing could have negative impacts to *Hosackia gracilis* and the native grasses found interspersed throughout this grassland community (**Exhibit 2**).

Hosackia gracilis is the presumed larval food source of the Lotis Blue butterfly. Although we have not performed a formal butterfly survey to determine presence/absence of the Lotis Blue Butterfly, we recommend the protection of *Hosackia gracilis* as a measure to proactively protect this species. Regular mowing of the *Holcus lanatus - Anthoxanthum odoratum* semi-natural herbaceous stand will prevent the non-native grasses from outcompeting the *Hosackia gracilis*.

Encl: n/a

CC: Robert Dostalek, Planner, Mendocino County; Daniel Harrington, CA Department of Fish & Wildlife; Virginia and Larry Bowen, Applicants; file

The non-native grasses found in Plant Community #2 (including: *Holcus lanatus, Anthoxanthum odaratum, Briza maxima, Festuca arundinacaea* and *Cortaderia jubata*) grow vertically to maximize seed disbursement and can shade out *Hosackia gracilis,* and other laterally growing native plants (including *Danthonia californica*). Mowing creates gaps in the canopy that can help some laterally growing native plants persist by giving these plants opportunities to compete for space and sunlight.

Additionally, **mowing non-native grasses reduces fire risk**. Non-native grasses, such as those mentioned above, dry out faster than native grasses. A dropped cigarette or a spark from a car in the neighboring community-owned parcel could ignite a fire that would spread quickly through this vacant parcel were a large portion of it to remain un-mowed (according to Special Condition #12) and thereby threaten nearby homes.

Mitigation Measures identified in our Report of Compliance add sufficient protection to the ESHAs identified. I believe Special Condition #12 is unnecessarily prohibitive and has the potential to inadvertently harm the recognized resources.

Please feel free to contact me if you have any questions or require clarification.

Sincerely,

Sethoney Baibak

Bethany Baibak, Biologist

**Bethany Baibak** is a biologist for Wynn Coastal Planning. Ms. Baibak holds a Masters in Science in Biology from Humboldt State University and a Bachelors of Science in Biology from Michigan Technological University. Her diverse field experience includes botanical (NCASI - 2012; 2016-current), wildlife (Forest Service – 2010, 2016-current), forestry (State of Montana - 2006), wetland (Ducks Unlimited - 2005; USGS - 2004), and soil (USGS - 2004; MTU - 2003; 2016-current) surveys. She has received additional training to identify the presence of California Red-legged Frogs (Wildlife Research Associates - April 2016), Point Arena Mountain Beavers (USFWS - June 2016), and wetland delineation (Northwest Environmental Training Center - March 2016). In the past year, she has participated in the Redwood Sciences Symposium (September 2016), the Humboldt bay Symposium (October 2016), and NOAA's Managing Visitor Use in Coastal and Marine Protected Areas (January 2017).

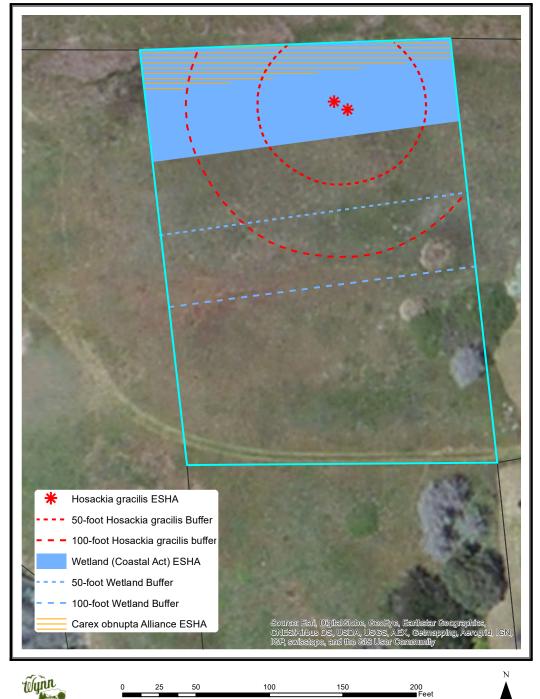
Bowen RFI #6; August 10, 2017 Bowen; Staff Report SC #12, Mowing July 19, 2017 Page 3 of 4

## Bowen Plant Communities 45500 Drifters Reef Dr APN: 118-200-11



Note: While effort has been made to assure accuracy of data, all spatial data is approximate. This map does not substitute for a proper land survey.

## Bowen ESHAs 45500 Drifters Reef Dr APN: 118-200-11



Note: While effort has been made to assure accuracy of data, all spatial data is approximate. This map does not substitute for a proper land survey.



August 9, 2017

Nash Gonzalez, Coastal Permit Administrator Mendocino County Planning & Building Services 860 North Bush Street Ukiah, CA 95482

RE: CDP #2015-31 (Bowen) **Response to DFW monitoring recommendation** 45500 Drifters Reef Road Mendocino CA 95460 APN 118-200-11-00

#### Dear Mr. Gonzalez,

I am writing on behalf of Mr. And Mrs. Bowen, the owners of the vacant residential lot at the end of Drifters Reef road, specifically in response to an email from Angela Liebenberg of the California Department of Fish and Wildlife (CDFW) regarding monitoring the *Hosackia gracilis*, dated July 25, 2017.

CDFW suggests monitoring the *Hosackia gracilis* to evaluate the impacts of mowing on the population. I observed a total of 5 plants at two locations during 2016 spring surveys in the northern portion of the property. The 2016 locations were marked with flagging (**Exhibit 1**). I visited the site on July 26<sup>th</sup>, 2017 and did not observe any plants, however, the leaves of this plant frequently recede every year so this was not unexpected. The flowers are usually observed March-May (occasionally as late as July) and natural fluctuations may occur from year-to-year due to variations in rainfall and browsing by herbivores. To account for these types of fluctuations, a 5-year monitoring plan has been recommended by CDFW.

Monitoring should occur no less than **once per year** while the plant is flowering and recognizable, typically between March-May and should include the following:

- 1. A visual survey of the area surrounding the locations where plants were previously observed.
- 2. Photographs of the plants.
- 3. A brief annual **report** that includes:
  - a) Date of survey
    - b) Count of number of individual plants observed
    - c) Date-stamped photographs of plants and surrounding conditions
    - d) Date of most recent mowing activity
    - e) Surveyor name and brief description of surveyor's plant identification experience.

The annual report should be submitted to Mendocino County Planning and Building Services by August 31<sup>st</sup> every year. Natural fluctuations may occur from year to year due to environmental factors. However, if less than 3 plants are observed two years in a row, the property will be reseeded in the area where the *Hosackia* was found with seeds from local stock. Sources of local stock can be obtained from Jug Handle Creek Farm, Mendocino Coast Botanical Gardens, or a consultant with appropriate experience and permissions to collect seed from nearby locations. In the event that re-seeding is necessary, details of seeding activity should be recorded in the annual report. Monitoring should continue for a minimum of 3 years after re-seeding, even if this extends beyond the original 5 years. If the population drops below 3 individuals a second time, CDFW

#### Encl: n/a

CC: Robert Dostalek, Planner, Mendocino County; Daniel Harrington, CA Department of Fish & Wildlife; Virginia and Larry Bowen, Applicants; file

should be contacted to provide technical assistance. If any life stages (egg, larva, pupa, or adult) of the lotis blue butterfly (Lycaeides argyrognomon lotis), or similar-looking species, or signs of larval feeding are observed on the Hosackia gracilis (a probable food plant for this species), the U.S. Fish and Wildlife Service office in Arcata, California (707-822-7201) should be contacted to provide further technical assistance.

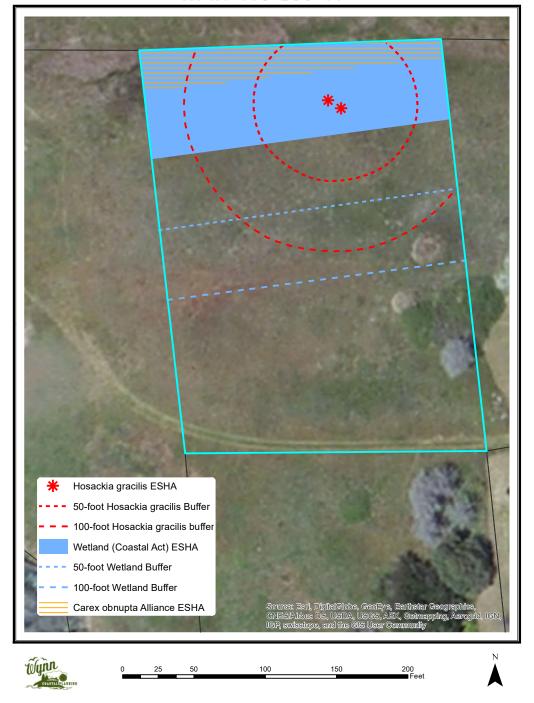
Please feel free to contact us if you have any questions or require clarification.

Sincerely,

Bethany Baibak, Biologist

Bowen RFI #6; August 10, 2017 Bowen; Response to CDFW 2017.07.25 email August 9, 2017 Page 3 of 3

## Bowen ESHAs 45500 Drifters Reef Dr APN: 118-200-11



Note: While effort has been made to assure accuracy of data, all spatial data is approximate. This map does not substitute for a proper land survey.

Figure 1. ESHA Map

From: Liebenberg, Angela@Wildlife Angela.Liebenberg@wildlife.ca.gov & M

#### Subject: Monitoring memo for Hosackia gracilis on Bowen Property

- Date: August 9, 2017 at 11:45 AM
  - To: Robert Dostalek dostalekr@mendocinocounty.org
  - Cc: Tharratt, Susie@fws.gov susie\_tharratt@fws.gov, Blair Foster Wcp Blair@WCPlan.com, Wynn, Amy@Wynn Coastal Planning amy@wcplan.com, BethanyWCPlan Bethany@WCPlan.com

## Robert –

This message is to confirm that I have reviewed and concur with the monitoring plan ("draft 3," dated August 9, 2017) proposed by Wynn Coastal Planning for CDP #2015-31 (Bowen). The monitoring plan includes plant surveys and reporting to the County for a duration of no less than 5 years, provisions for addressing a potential reduction in the population of *Hosackia gracilis*, and direction to request Technical Assistance from US Fish and Wildlife Service under certain conditions.

Please let me know if you have any questions.

These comments and recommendations are not making a determination that the proposed project is consistent with the certified Mendocino County LCP.

Thank you,

Angela

Angela M. Liebenberg Senior Environmental Scientist (Specialist) California Department of Fish and Wildlife Watershed Enforcement Team 32330 North Harbor Drive Fort Bragg, CA 95437 (707) 964-4830 angela.liebenberg@wildlife.ca.gov

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From: Bethany WCPlan Bethany@WCPlan.com @ M

- Subject: Fwd: USFWS technical assistance on Bowen Property parcel monitoring plan : Re: Last change on memo (Wynn Biological Date: August 9, 2017 at 3:30 PM
  - To: Liebenberg, angela.liebenberg@wildlife.ca.gov, Susie Tharratt susie tharratt@fws.gov
  - Cc: Blair Foster Wcp Blair@WCPlan.com, Amy Wynn amy@wcplan.com

Great! Thank you both so much for your input! I will cut and paste that directly into the memo!

#### Bethany

Begin forwarded message:

From: "Tharratt, Susie" <<u>susie\_tharratt@fws.gov</u>>

Subject: Re: USFWS technical assistance on Bowen Property parcel monitoring plan : Re: Last change on memo (Wynn Biological Date: August 9, 2017 at 2:56:38 PM PDT

To: "Liebenberg, Angela@Wildlife" < Angela.Liebenberg@wildlife.ca.gov >

Cc: Bethany WCPlan < Bethany@wcplan.com>

Thanks, Angela. We appreciate both the landowners and the State agencies cooperation with the Service in ensuring protection of this endangered butterfly (and the habitat on which it depends). Thanks to you too, Bethany for your work with the Bowens.

We look forward to the monitoring reports.

Susie

#### Susie Tharratt

Ecologist, Arcata Fish and Wildlife Office U.S. Fish and Wildlife Service 1655 Heindon Road, Arcata, CA 95521 Office: 707-825-5117 | susie\_tharratt@fws.gov

On Wed, Aug 9, 2017 at 2:12 PM, Liebenberg, Angela@Wildlife < Angela.Liebenberg@wildlife.ca.gov> wrote:

Thanks, Bethany –

I had a chance to talk with Susie, and agree with both of your changes. I've combined them below:

"If the population drops below 3 individuals, a second time, the clients should contact DFW to provide technical assistance. If any life stages (egg, larva, pupa or adult) of the lotis blue butterfly (Lycaeides argyrognomon lotis), or similar-looking species, or signs of larval feeding are observed on the Hosakia gracilis (a probable food plant for this species), the U.S. Fish and Wildlife Service office in Arcata, California (707-822-7021) should be contacted to provide further technical assistance."

Susie and I would both appreciate being cc'd on the annual reports.

Thank you,

Angela

From: Tharratt Susie [mailto:susie tharratt@fws.gov]

Sent: Wednesday, August 09, 2017 1:12 PM To: Bethany WCPlan <<u>Bethany@wcplan.com</u>> Cc: Liebenberg, Angela@Wildlife <<u>Angela.Liebenberg@wildlife.ca.gov</u>> Subject: USFWS technical assistance on Bowen Property parcel monitoring plan : Re: Last change on memo (Wynn Biological

Hi Bethany,

Might I suggest your revise to read, : "If any life stages (egg, larva, pupa or adult) of the lotis blue butterfly (*Lycaeides argyrognomon lotis*), or similar-looking species, or signs of larval feeding are observed on the *Hosakia gracilis* (a probable food plant for this species), the U.S. Fish and Wildlife Service office in Arcata, California (707-822-7021) should be contacted to provide further technical assistance."

Thank you, Bethany.

Angela, I left you a voice message today. Please call back at your convenience.

-S

usie

Susie Tharratt

Ecologist, Arcata Fish and Wildlife Office U.S. Fish and Wildlife Service 1655 Heindon Road, Arcata, CA 95521 Office: 707-825-5117 I susie\_tharratt@fws.gov

On Wed, Aug 9, 2017 at 12:42 PM, Bethany WCPlan < Bethany@wcplan.com > wrote:

Hi Angela and Susie,

I just received a call from Susie Tharratt. I misunderstood her. The USFWS only wants to be contacted if a caterpillar or butterfly is found. The USFWS does not regulate take of non-listed plants. I propose changing the recommendation to the following:

"If the population drops below 3 individuals, a second time, the clients should contact DFW to provide technical assistance. If a caterpillar or butterfly is found feeding on *Hosackia gracilis*, the USFWS office in Arcata should be contacted to provide technical assistance."

Is this agreeable to you both

Bethany

Bethany Baibak, Biologist

Wynn Coastal Planning 703 North Main St, Fort Bragg, California 95437 p. 707-964-2537 f. 707-964-2622

## www.WCPlan.com & FaceBook

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Bethany Baibak, Biologist Wynn Coastal Planning 703 North Main St, Fort Bragg, California 95437 www.WCPlan.com & FaceBook

p. 707-964-2537 f. 707-964-2622



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