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## **MEMORANDUM**

**DATE:** August 21, 2017

**TO:** Nash Gonzalez, Coastal Permit Administrator

**FROM:** Robert Dostalek, Project Planner

**RE:** CDP 2015-0031 (Bowen)

This item was continued at the July 26, 2017 Coastal Permit Administrator hearing. Since that time, the applicant has prepared and submitted a letter dated August 10, 2017. The letter contains a monitoring plan prepared by the applicant's biologist with direction and agreement from the California Department of Fish and Wildlife and the US Fish and Wildlife Service for the identified *Hosackia gracilis* ESHA on the subject property. This was prepared in response to the issue of whether unregulated mowing is an appropriate activity for the long-term viability of the species.

Accordingly, staff recommends the following modifications to the Findings Section and Condition 12 of the Staff Report, dated July 26, 2017:

**FINDING 1 on pages 9 and 10 of the Staff Report to now read:**

**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 and July 21, 2017 from CDFW staff). Condition #10 is recommended to require the incorporation of the Biological Report recommendations, dated October 26, 2016, into project construction.

To further research and ensure the long-term viability of the identified *Hosackia gracilis* ESHA, Wynn Coastal Planning Biologist, Bethany Baibak, has negotiated a 5-year Mowing Monitoring Plan for the *Hosackia gracilis* with the California Department of Fish & Wildlife (CDFW), including feedback from US Fish and Wildlife Service. The monitoring plan letter, authored by Bethany Baibak and dated August 9,

2017, has been reviewed and accepted by the California Department of Fish and Wildlife (see concurrence email from CDFW staff, Angela Liebenberg, dated August 9, 2017). The implementation of the monitoring plan for the project is recommended as Condition #12.

**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.

**CONDITION 12 on page 8 of the Staff Report to now read:**

"The 50-foot buffer established for the three identified ESHAs on the property (Coastal wetland, *Hosackia gracilis* and *Carex obnupta*) shall remain in a natural and undisturbed state **during the *Hosackia gracilis* blooming season**. Mowing, trimming, removal of vegetation and/or soil disturbance within the delineated 50-foot ESHA buffers shall be prohibited **during the *Hosackia gracilis* blooming season**. **In addition, the applicant shall conduct monitoring of the *Hosackia gracilis* population for a period of no less than five (5) years following the protocol specified below:**

Monitoring shall occur no less than once per year while the plant is flowering and recognizable, typically between March-May and shall 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 shall be submitted to the Mendocino County Department of Planning and Building Services and the California Department of Fish and Wildlife by August 31<sup>st</sup> each year. Natural fluctuations may occur from year to year due to environmental factors. However, if less than three (3) plants are observed two (2) years in a row, the property shall 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 shall be recorded in the annual report. Monitoring shall continue for a minimum of three (3) years after re-seeding, even if this extends beyond the original five (5) years. If the population drops below three (3) individuals a second time, CDFW shall 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) shall be contacted to provide further technical assistance.

**Attachment:** Letter from Blair Foster, Wynn Coastal Planning, dated August 10, 2017 (including *Hosackia gracilis* monitoring recommendation letter, dated August 9, 2017, from Wynn Coastal Planning staff biologist, Bethany Baibak).